UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed October 15, 2016, 12:00 a.m. through November 01, 2016, 11:59 p.m.

Number 2016-22
November 15, 2016

Nancy L. Lancaster, Managing Editor

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

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

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3003. Additional rulemaking information and electronic versions of all administrative rule publications are available at http://www.rules.utah.gov/.

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

Office of Administrative Rules, Salt Lake City 84114

Utah state bulletin.
Semimonthly.
1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
I. Utah. Office of Administrative Rules.

KFU440.A73S7
348.792'025--DDC 85-643197

TABLE OF CONTENTS

SPECIAL NOTICES

Commerce
Occupational and Professional Licensing

Public Notice of 2017 Board and Committee Meeting Schedules

NOTE: Meetings are subject to change - contact the Division at 801-530-6628 to confirm meetings or check the Public Meeting Notice website (www.pmn.utah.gov). Most meetings are held in the Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah.

January
4 Plumbers Licensing Board 9:00 a.m.
4 Utah Board of Accountancy 1:30 p.m.
5 Nursing Education Peer Committee 8:30 a.m.
5 Alarm System Security and Licensing Board 9:00 a.m.
11 Residence Lien Recovery Fund Advisory Board 8:15 a.m.
11 Podiatric Physician Board 8:30 a.m.
11 Substance Use Disorder Counselor Licensing Board 9:00 a.m.
12 Board of Nursing 8:30 a.m.
12 Psychologist Board 1:00 p.m.
12 UBCC Electrical Advisory Committee 2:00 p.m.
17 Board of Massage Therapy 9:00 a.m.
17 Hunting Guides and Outfitters Licensing Board 1:00 p.m.
17 UBCC Education Advisory Committee 1:30 p.m.
18 Physicians Licensing Board 9:00 a.m.
18 Professional Engineers and Professional Land Surveyors Licensing Board 9:00 a.m.
18 Speech-Language Pathology and Audiology Licensing Board 9:00 a.m.
19 Electricians Licensing Board 9:00 a.m.
19 Veterinary Board 9:00 a.m.
23 Athletic Trainer Licensing Board 9:00 a.m.
24 Utah State Board of Pharmacy 8:30 a.m.
24 Chiropractor Physician Licensing Board 9:00 a.m.
25 Construction Services Commission 9:00 a.m.
26 Hearing Instrument Specialist Licensing Board 9:00 a.m.
26 Contract Security Education Committee 10:00 a.m.
31 Optometrist Licensing Board 9:00 a.m.

February
1 Plumbers Licensing Board 9:00 a.m.
1 Utah Board of Accountancy 1:30 p.m.
2 Social Worker Licensing Board 9:00 a.m.
7 Acupuncture Licensing Board 9:00 a.m.
7 Online Prescribing, Dispensing and Facilitation Licensing Board 9:30 a.m.
8 Residence Lien Recovery Fund Advisory Board 8:15 a.m.
8 Board of Nursing 8:30 a.m.
8 Architects Licensing Board 10:00 a.m.
9 Security Services Licensing Board 9:00 a.m.
9 Osteopathic Physician and Surgeon's Licensing Board 9:00 a.m.
9 UBCC Electrical Advisory Committee 2:00 p.m.
15 Physicians Licensing Board 9:00 a.m.
15 Board of Funeral Service 9:00 a.m.
15 Certified Nurse Midwife Board 2:00 p.m.
16 Electricians Licensing Board 9:00 a.m.
21 UBCC Education Advisory Committee 1:30 p.m.
22 Construction Services Commission 9:00 a.m.
23 Professional Geologists Licensing Board 10:00 a.m.
27 Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board 9:00 a.m.

28 Utah State Board of Pharmacy 8:30 a.m.
28 Health Facility Administrators Licensing Board 9:00 a.m.

March
1 Plumbers Licensing Board 9:00 a.m.
1 Utah Board of Accountancy 1:30 p.m.
2 Alarm System Security and Licensing Board 9:00 a.m.
2 UBCC Plumbing/Health Advisory Committee 9:00 a.m.
2 UBCC Structural Advisory Committee 3:00 p.m.
3 Dentist and Dental Hygienist Licensing Board 9:00 a.m.
7 UBCC Architectural Advisory Committee and Unified Code Analysis Council 9:00 a.m.
8 Residence Lien Recovery Fund Advisory Board 8:15 a.m.
8 Dietitian Board 9:00 a.m.
8 Uniform Building Code Commission 9:00 a.m.
8 Clinical Mental Health Counselors Board 9:00 a.m.
9 Board of Nursing 8:30 a.m.
9 Radiology Technologist Licensing Board 1:00 p.m.
9 UBCC Electrical Advisory Committee 2:00 p.m.
10 Marriage and Family Therapist Licensing Board 9:00 a.m.
13 Physician Assistant Licensing Board 9:00 a.m.
13 Controlled Substances Advisory Committee 4:00 p.m.
14 UBCC Mechanical Advisory Committee 2:00 p.m.
15 Physicians Licensing Board 9:00 a.m.
15 Professional Engineers and Professional Land Surveyors Licensing Board 9:00 a.m.
16 Electricians Licensing Board 9:00 a.m.
16 Certified Court Reporter Board 2:00 p.m.
21 Building Inspector Licensing Board 9:00 a.m.
21 Physical Therapy Licensing Board 9:00 a.m.
21 Board of Massage Therapy 9:00 a.m.
21 Respiratory Care Licensing Board 1:00 p.m.
21 UBCC Education Advisory Committee 1:30 p.m.
28 Utah State Board of Pharmacy 8:30 a.m.
29 Construction Services Commission 9:00 a.m.

April
3 Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board 9:00 a.m.
4 Acupuncture Licensing Board 9:00 a.m.
4 Environmental Health Scientist Licensing Board 9:00 a.m.
5 Plumbers Licensing Board 9:00 a.m.
5 Utah Board of Accountancy 1:30 p.m.
6 Nursing Education Peer Committee 8:30 a.m.
6 Social Worker Licensing Board 9:00 a.m.
12 Residence Lien Recovery Fund Advisory Board 8:15 a.m.
12 Podiatric Physician Board 8:30 a.m.
12 Architects Licensing Board 10:00 a.m.
12 Substance Use Disorder Counselor Licensing Board 9:00 a.m.
13 Board of Nursing 8:30 a.m.
13 Genetic Counselor Licensing Board 9:00 a.m.
13 Security Services Licensing Board 9:00 a.m.
13 Psychologist Board 1:00 p.m.
13 UBCC Electrical Advisory Committee 2:00 p.m.
18 Recreational Therapy Board 9:00 a.m.
18 Hunting Guides and Outfitters Licensing Board 1:00 p.m.
18 UBCC Education Advisory Committee 1:30 p.m.
19 Physicians Licensing Board 9:00 a.m.
19 Landscape Architects Licensing Board 1:00 p.m.
19 Deception Detection Examiners Licensing Board 1:00 p.m.
19 Vocational Rehabilitation Counselor Licensing Board 2:00 p.m.

20 Electricians Licensing Board 9:00 a.m.
20 Contract Security Education Committee 10:00 a.m.
21 Licensed Direct-Entry Midwife Board 9:00 a.m.
25 Utah State Board of Pharmacy 8:30 a.m.
25 Athletic Trainer Licensing Board 9:00 a.m.
25 Chiropractor Physician Licensing Board 9:00 a.m.
25 Optometrist Licensing Board 9:00 a.m.
26 Construction Services Commission 9:00 a.m.
27 Hearing Instrument Specialist Licensing Board 9:00 a.m.

May
2 Occupational Therapy Board 9:00 a.m.
3 Plumbers Licensing Board 9:00 a.m.
3 Utah Board of Accountancy 1:30 p.m.
4 Alarm System Security and Licensing Board 9:00 a.m.
10 Residence Lien Recovery Fund Advisory Board 8:15 a.m.
11 Board of Nursing 8:30 a.m.
11 Osteopathic Physician and Surgeon's Licensing Board 9:00 a.m.
11 UBCC Electrical Advisory Committee 2:00 p.m.
16 Board of Massage Therapy 9:00 a.m.
16 UBCC Education Advisory Committee 1:30 p.m.
17 Professional Engineers and Professional Land Surveyors Licensing Board 9:00 a.m.
17 Physicians Licensing Board 9:00 a.m.
17 Board of Funeral Service 9:00 a.m.
17 Certified Nurse Midwife Board 2:00 p.m.
18 Electricians Licensing Board 9:00 a.m.
23 Utah State Board of Pharmacy 8:30 a.m.
31 Construction Services Commission 9:00 a.m.

June
1 UBCC Plumbing/Health Advisory Committee 9:00 a.m.
1 Veterinary Board 9:00 a.m.
1 UBCC Structural Advisory Committee 3:00 p.m.
2 Dentist and Dental Hygienist Licensing Board 9:00 a.m.
5 Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board 9:00 a.m.
6 Acupuncture Licensing Board 9:00 a.m.
6 UBCC Architectural Advisory Committee and Unified Code Analysis Council 9:00 a.m.
7 Plumbers Licensing Board 9:00 a.m.
7 Utah Board of Accountancy 1:30 p.m.
8 Board of Nursing 8:30 a.m.
8 Security Services Licensing Board 9:00 a.m.
8 Naturopathic Physicians Licensing Board 9:00 a.m.
8 Social Worker Licensing Board 9:00 a.m.
8 Professional Geologists Licensing Board 10:00 a.m.
8 UBCC Electrical Advisory Committee 2:00 p.m.
9 Marriage and Family Therapist Licensing Board 9:00 a.m.
12 Physician Assistant Licensing Board 9:00 a.m.
13 UBCC Mechanical Advisory Committee 2:00 p.m.
14 Residence Lien Recovery Fund Advisory Board 8:15 a.m.
14 Uniform Building Code Commission 9:00 a.m.
14 Architects Licensing Board 10:00 a.m.
15 Electricians Licensing Board 9:00 a.m.
15 Private Probation Provider Licensing Board 10:00 a.m.
18 Clinical Mental Health Counselors Board 9:00 a.m.
20 Building Inspector Licensing Board 9:00 a.m.
20 UBCC Education Advisory Committee 1:30 p.m.
21 Physicians Licensing Board 9:00 a.m.
21 Speech-Language Pathology and Audiology Licensing Board 9:00 a.m.

27 Utah State Board of Pharmacy 8:30 a.m.
28 Construction Services Commission 9:00 a.m.

July
5 Plumbers Licensing Board 9:00 a.m.
5 Utah Board of Accountancy 1:30 p.m.
6 Nursing Education Peer Committee 8:30 a.m.
6 Alarm System Security and Licensing Board 9:00 a.m.
12 Residence Lien Recovery Fund Advisory Board 8:15 a.m.
12 Podiatric Physician Board 8:30 a.m.
12 Substance Use Disorder Counselor Licensing Board 9:00 a.m.
13 Board of Nursing 8:30 a.m.
13 Psychologist Board 1:00 p.m.
13 Radiology Technologist Licensing Board 1:00 p.m.
13 UBCC Electrical Advisory Committee 2:00 p.m.
18 Utah State Board of Pharmacy 8:30 a.m.
18 Physical Therapy Licensing Board 9:00 a.m.
18 Board of Massage Therapy 9:00 a.m.
18 UBCC Education Advisory Committee 1:30 p.m.
19 Professional Engineers and Professional Land Surveyors Licensing Board 9:00 a.m.
19 Physicians Licensing Board 9:00 a.m.
20 Electricians Licensing Board 9:00 a.m.
20 Contract Security Education Committee 10:00 a.m.
25 Optometrist Licensing Board 9:00 a.m.
25 Chiropractor Physician Licensing Board 9:00 a.m.
25 Athletic Trainer Licensing Board 9:00 a.m.
26 Construction Services Commission 9:00 a.m.
27 Hearing Instrument Specialist Licensing Board 9:00 a.m.

August
1 Hunting Guides and Outfitters Licensing Board 1:00 p.m.
2 Plumbers Licensing Board 9:00 a.m.
2 Utah Board of Accountancy 1:30 p.m.
7 Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board 9:00 a.m.
8 Acupuncture Licensing Board 9:00 a.m.
9 Residence Lien Recovery Fund Advisory Board 8:15 a.m.
9 Uniform Building Code Commission 9:00 a.m.
9 Architects Licensing Board 10:00 a.m.
10 Board of Nursing 8:30 a.m.
10 Osteopathic Physician and Surgeon's Licensing Board 9:00 a.m.
10 Security Services Licensing Board 9:00 a.m.
10 Social Worker Licensing Board 9:00 a.m.
15 Online Prescribing, Dispensing and Facilitation Licensing Board 9:30 a.m.
15 UBCC Education Advisory Committee 1:30 p.m.
16 Physicians Licensing Board 9:00 a.m.
16 Board of Funeral Service 9:00 a.m.
16 Certified Nurse Midwife Board 2:00 p.m.
17 Electricians Licensing Board 9:00 a.m.
22 Utah State Board of Pharmacy 8:30 a.m.
22 Health Facility Administrators Licensing Board 9:00 a.m.
30 Construction Services Commission 9:00 a.m.

September
1 Dentist and Dental Hygienist Licensing Board 9:00 a.m.
6 Plumbers Licensing Board 9:00 a.m.
6 Utah Board of Accountancy 1:30 p.m.
7 Alarm System Security and Licensing Board 9:00 a.m.
8 Marriage and Family Therapist Licensing Board 9:00 a.m.

11 Physician Assistant Licensing Board 9:00 a.m.
11 Controlled Substances Advisory Committee 4:00 p.m.
13 Residence Lien Recovery Fund Advisory Board 8:15 a.m.
13 Dietitian Board 9:00 a.m.
13 Clinical Mental Health Counselors Board 9:00 a.m.
13 Uniform Building Code Commission 9:00 a.m.
14 Board of Nursing 8:30 a.m.
19 Physical Therapy Licensing Board 9:00 a.m.
19 Board of Massage Therapy 9:00 a.m.
19 Building Inspector Licensing Board 9:00 a.m.
19 Respiratory Care Licensing Board 1:00 p.m.
19 UBCC Education Advisory Committee 1:30 p.m.
20 Professional Engineers and Professional Land Surveyors Licensing Board 9:00 a.m.
20 Physicians Licensing Board 9:00 a.m.
20 Deception Detection Examiners Licensing Board 1:00 p.m.
21 Electricians Licensing Board 9:00 a.m.
26 Utah State Board of Pharmacy 8:30 a.m.
27 Construction Services Commission 9:00 a.m.

October
2 Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board 9:00 a.m.
3 Acupuncture Licensing Board 9:00 a.m.
4 Plumbers Licensing Board 9:00 a.m.
4 Environmental Health Scientist Licensing Board 9:00 a.m.
4 Utah Board of Accountancy 1:30 p.m.
5 Nursing Education Peer Committee 8:30 a.m.
5 Veterinary Board 9:00 a.m.
11 Residence Lien Recovery Fund Advisory Board 8:15 a.m.
11 Podiatric Physician Board 8:30 a.m.
11 Architects Licensing Board 10:00 a.m.
11 Substance Use Disorder Counselor Licensing Board 9:00 a.m.
12 Board of Nursing 8:30 a.m.
12 Security Services Licensing Board 9:00 a.m.
12 Social Worker Licensing Board 9:00 a.m.
12 Professional Geologists Licensing Board 10:00 a.m.
12 Psychologist Board 1:00 p.m.
17 Recreational Therapy Board 9:00 a.m.
17 UBCC Education Advisory Committee 1:30 p.m.
18 Physicians Licensing Board 9:00 a.m.
18 Landscape Architects Licensing Board 1:00 p.m.
18 Vocational Rehabilitation Counselor Licensing Board 2:00 p.m.
19 Electricians Licensing Board 9:00 a.m.
19 Certified Court Reporter Board 2:00 p.m.
20 Licensed Direct-Entry Midwife Board 9:00 a.m.
24 Utah State Board of Pharmacy 8:30 a.m.
24 Athletic Trainer Licensing Board 9:00 a.m.
24 Optometrist Licensing Board 9:00 a.m.
24 Chiropractor Physician Licensing Board 9:00 a.m.
25 Construction Services Commission 9:00 a.m.
26 Hearing Instrument Specialist Licensing Board 9:00 a.m.

November
1 Plumbers Licensing Board 9:00 a.m.
1 Utah Board of Accountancy 1:30 p.m.
2 Alarm System Security and Licensing Board 9:00 a.m.
7 Occupational Therapy Board 9:00 a.m.
8 Residence Lien Recovery Fund Advisory Board 8:15 a.m.
9 Board of Nursing 8:30 a.m.

9 Osteopathic Physician and Surgeon's Licensing Board 9:00 a.m.
9 Naturopathic Physicians Licensing Board 9:00 a.m.
9 Radiology Technologist Licensing Board 1:00 p.m.
15 Physicians Licensing Board 9:00 a.m.
15 Board of Funeral Service 9:00 a.m.
15 Professional Engineers and Professional Land Surveyors Licensing Board 9:00 a.m.
15 Certified Nurse Midwife Board 2:00 p.m.
16 Electricians Licensing Board 9:00 a.m.
16 Contract Security Education Committee 10:00 a.m.
21 Utah State Board of Pharmacy 8:30 a.m.
21 Board of Massage Therapy 9:00 a.m.
21 Hunting Guides and Outfitters Licensing Board 1:00 p.m.
21 UBCC Education Advisory Committee 1:30 p.m.
29 Construction Services Commission 9:00 a.m.

December
1 Dentist and Dental Hygienist Licensing Board 9:00 a.m.
4 Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board 9:00 a.m.
5 Acupuncture Licensing Board 9:00 a.m.
6 Plumbers Licensing Board 9:00 a.m.
6 Utah Board of Accountancy 1:30 p.m.
8 Marriage and Family Therapist Licensing Board 9:00 a.m.
11 Physician Assistant Licensing Board 9:00 a.m.
13 Residence Lien Recovery Fund Advisory Board 8:15 a.m.
13 Clinical Mental Health Counselors Board 9:00 a.m.
13 Architects Licensing Board 10:00 a.m.
14 Board of Nursing 8:30 a.m.
14 Security Services Licensing Board 9:00 a.m.
14 Social Worker Licensing Board 9:00 a.m.
19 Utah State Board of Pharmacy 8:30 a.m.
19 Physical Therapy Licensing Board 9:00 a.m.
19 Building Inspector Licensing Board 9:00 a.m.
19 UBCC Education Advisory Committee 1:30 p.m.
20 Physicians Licensing Board 9:00 a.m.
21 Electricians Licensing Board 9:00 a.m.
21 Private Probation Provider Licensing Board 10:00 a.m.
27 Construction Services Commission 9:00 a.m.

Health
Health Care Financing, Coverage and Reimbursement Policy

Notice for December 2016 Medicaid Rate Changes

Effective December 1, 2016, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. All rate changes are posted to the web and can be viewed at:
http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php.

End of the Special Notices Section

EXECUTIVE DOCUMENTS

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

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

Calling the Sixty-First Legislature Into the Thirteenth Extraordinary Session, Utah Proclamation No. 2016-13E

P R O C L A M A T I O N

WHEREAS, since the close of the 2016 General Session of the 61st Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

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

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate only of the 61st Legislature of the State of Utah into the Thirteenth Extraordinary Session at the Utah State Capitol in Salt Lake City, Utah, on the 19th day of October 2016, at 4:00 p.m., for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2016 General Session of the Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 17th day of October 2016.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2016/13/E

NOTICES OF
PROPOSED RULES

A state agency may file a **Proposed Rule** when it determines the need for a substantive change to an existing rule. With a **Notice of Proposed Rule**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between October 15, 2016, 12:00 a.m., and November 01, 2016, 11:59 p.m. are included in this, the November 15, 2016, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on **Proposed Rules** published in this issue of the *Utah State Bulletin* until at least December 15, 2016. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **Rule Analysis**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **Proposed Rule**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through March 15, 2017, the agency may notify the Office of Administrative Rules that it wants to make the **Proposed Rule** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **Change in Proposed Rule** in response to comments received. If the Office of Administrative Rules does not receive a **Notice of Effective Date** or a **Change in Proposed Rule**, the **Proposed Rule** lapses.

The public, interest groups, and governmental agencies are invited to review and comment on **Proposed Rules**. *Comment may be directed to the contact person identified on the* **Rule Analysis** *for each rule.*

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

The Proposed Rules Begin on the Following Page

Administrative Services, Purchasing and General Services
R33-16
Protests

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40898
FILED: 10/19/2016

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 63G-6a-1602(3)(a)(ii) of the Utah Code does not define or include the term "Relevant Facts"; it merely says "facts". Therefore, the term "relevant" is being removed from the rule.

SUMMARY OF THE RULE OR CHANGE: The term "relevant" has been removed from this rule so that it complies with the definition found in Subsection 63G-6a-1602(3)(a)(ii) of the Utah Code.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63G-6a-1601 through 13G-6a-604

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There are no anticipated costs or savings that are expected as a result of the changes to this rule to the state budget. The changes to this rule simply remove the term "relevant" so that it complies with Subsection 63G-6a-1602(3)(a)(ii).
♦ LOCAL GOVERNMENTS: There are no anticipated costs or savings that are expected as a result of the changes to this rule to local government. The changes to this rule simply remove the term "relevant" so that it complies with Subsection 63G-6a-1602(3)(a)(ii).
♦ SMALL BUSINESSES: There are no anticipated costs or savings that are expected as a result of the changes to this rule to small businesses. The changes to this rule simply remove the term "relevant" so that it complies with Subsection 63G-6a-1602(3)(a)(ii).
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings that are expected as a result of the changes to this rule to persons other than small businesses, businesses, or local government entities. The changes to this rule simply remove the term "relevant" so that it complies with Subsection 63G-6a-1602(3)(a)(ii).

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for affected persons. The changes to this rule simply remove the term "relevant" so that it complies with Subsection 63G-6a-1602(3)(a)(ii).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts that this rule may have on businesses. The changes to this rule simply remove the term "relevant" so that it complies with Subsection 63G-6a-1602(3)(a)(ii).

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ADMINISTRATIVE SERVICES
PURCHASING AND GENERAL SERVICES
ROOM 3150 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Kent Beers by phone at 801-538-3143, by FAX at 801-538-3882, or by Internet E-mail at kbeers@utah.gov, or mail at PO BOX 141061, Salt Lake City, UT 84114-1061.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Kent Beers, Director

R33. Administrative Services, Division of Purchasing and General Services.
R33-16. Protests.
R33-16-101. Conduct.

Controversies and protests shall be conducted in accordance with the requirements set forth in Sections 63G-6a-1601 through 13G-6a-604. All definitions in the Utah Procurement Code shall apply to this Rule unless otherwise specified in this Rule. This administrative rule provides additional requirements and procedures and must be used in conjunction with the Procurement Code.

R33-16-101a. Grounds for a Protest.

(1) This Rule shall apply to all protests filed under Section 63G-6a-1602.

(2) In accordance with the requirements set forth in Section 63G-6a-1602(3)(a)(ii), a person filing a protest must include a concise statement of the grounds upon which the protest is made.

(a) A concise statement of the grounds for a protest should include the [~~relevant~~]facts leading the protestor to contend that a grievance has occurred, including but not limited to specifically referencing:

(i) An alleged violation of Utah Procurement Code 63G-6a;

(ii) An alleged violation of Title R33 or other applicable rule;

(iii) A provision of the request for proposals, invitation for bids, or other solicitation allegedly not being followed;

(iv) A provision of the solicitation alleged to be:

(A) ambiguous;

(B) confusing;

(C) contradictory;

(D) unduly restrictive;

(E) erroneous;

(F) anticompetitive; or

(G) unlawful;

(v) An alleged error made by the evaluation committee or conducting procurement unit;

(vi) An allegation of bias by the evaluation committee or an individual committee member; or

(vii) A scoring criteria allegedly not being correctly applied or calculated.

(b) "[~~Relevant~~]Facts" as referred to in Section 63G-6a-1602(3)(a)(ii), [~~in addition to being relevant,~~] must be specific enough to enable the protest officer to determine, if such facts are proven to be true, whether a legitimate basis for the protest exists.

(c) None of the following qualify as a concise statement of the grounds for a protest:

(i) claims made after the opening of bids or closing date of proposals that the specifications, terms and conditions, or other elements of a solicitation are ambiguous, confusing, contradictory, unduly restrictive, erroneous, or anticompetitive;

(ii) vague or unsubstantiated allegations that do not reference [~~relevant or~~]specific facts including, but not limited to, vague or unsubstantiated allegations by a bidder, offeror, or prospective contractor that:

(A) a bidder, offeror, or prospective contractor should have received a higher score or that another bidder, offeror, or prospective contractor should have received a lower score;

(B) a service or product provided by a bidder, offeror, or prospective contractor is better than another bidder's, offeror's, or prospective contractor's service or product;

(C) another bidder, offeror, or prospective contractor cannot provide the procurement item for the price bid or perform the services described in the solicitation; or

(D) any item listed in Section 63G-6a-1602(3)(a)(ii) of this Rule has occurred that is not [~~relevant or~~]specific;

(iii) Filing a protest requesting:

(A) a detailed explanation of the thinking and scoring of evaluation committee members, beyond the official justification statement described in Section 63G-6a-708,

(B) protected information beyond what is provided under the disclosure provisions of the Utah Procurement Code; or

(C) other information, documents, or explanations reasonably deemed to be not in compliance with the Utah Code or this Rule by the protest officer.

(d) In accordance with Section 63G-6a-1603(1), a protest officer may dismiss a protest if the concise statement of the grounds for filing a protest does not comply with this Rule.

R33-16-201. Verification of Legal Authority.

A person filing a protest may be asked to verify that the person has legal authority to file a protest on behalf of the public or private corporation, governmental entity, sole proprietorship, partnership, or unincorporated association.

R33-16-301. Intervention in a Protest.

(1) Application. This Rule contains provisions applicable to intervention in a protest, including who may intervene and the time and manner of intervention.

(2) Period of Time to File. After a timely protest is filed in accordance with the Utah Procurement Code, the Protest Officer shall notify awardees of the subject procurement and may notify others of the protest. A Motion to Intervene must be filed with the Protest Officer no later than ten days from the date such notice is sent by the Protest Officer. Only those Motions to Intervene made within the time prescribed in this Rule will be considered timely. The entity or entities who conducted the procurement and those who are the intended beneficiaries of the procurement are automatically considered a Party of Record and need not file any Motion to Intervene.

(3) Contents of a Motion to Intervene. A copy of the Motion to Intervene shall also be mailed or emailed to the person protesting the procurement.

(4) Any Motion to Intervene must state, to the extent known, the position taken by the person seeking intervention and the basis in fact and law for that position. A motion to intervene must also state the person's interest in sufficient factual detail to demonstrate that:

(a) the person seeking to intervene has a right to participate which is expressly conferred by statute or by Commission rule, order, or other action;

(b) the person seeking to intervene has or represents an interest which may be directly affected by the outcome of the proceeding, including any interest as a:

(i) consumer;

(ii) customer;

(iii) competitor;

(iv) security holder of a party; or

(v) the person's participation is in the public interest.

(5) Granting of Status. If no written objection to the timely Motion to Intervene is filed with the Protest Officer within seven calendar days after the Motion to Intervene is received by the protesting person, the person seeking intervention becomes a party at the end of this seven day period. If an objection is timely filed, the person seeking intervention becomes a party only when the motion is expressly granted by the Protest Officer based on a determination that a reason for intervention exists as stated in this Rule. Notwithstanding any provision of this Rule, an awardee of the procurement that is the subject of a protest will not be denied their Motion to Intervene, regardless of its content, unless it is not timely filed with the Protest Officer.

(6) Late Motions. If a motion to intervene is not timely filed, the motion shall be denied by the Protest Officer.

R33-16-401. Protest Officer May Correct Noncompliance, Errors and Discrepancies.

(1) At any time during the protest process, if it is discovered that a procurement is out of compliance with any part of the Utah Procurement Code or Administrative Rules established by the applicable rule making authority, including errors or discrepancies, the protest officer, chief procurement officer, or head of a procurement unit with independent procurement authority, may take administrative action to correct or amend the procurement to

bring it into compliance, correct errors or discrepancies or cancel the procurement.

KEY: conduct, controversies, government purchasing, protests
Date of Enactment or Last Substantive Amendment: [~~August 21, 2015~~]2016
Authorizing, and Implemented or Interpreted Law: 63G-6a

Agriculture and Food, Regulatory Services
R70-101
Bedding, Upholstered Furniture and Quilted Clothing

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40918
FILED: 10/28/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule governs the filling material for bedding, upholstered furniture, and quilted clothing products in addition to their registration and inspection in the state. Changes in the rule are due to the passage of H.B. 314 during the 2016 General Session which requires sterilization facilities to license.

SUMMARY OF THE RULE OR CHANGE: The rule changes outline the license/permit requirements for sterilization facilities and the procedures to be followed by those facilities.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-10-14 and Subsection 4-2-2(i)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Due to the changes in registration the Department will gain some registrations fees. The fee for this new license will bring in approximately $30,000 in revenue. There will be a minimal increase in employee workload which the Department should be able to absorb.
♦ LOCAL GOVERNMENTS: There are no sterilization facilities within the state.
♦ SMALL BUSINESSES: The changes to the rule have an effect on bedding and upholstered furniture businesses that bring in filling material. Requiring sterilization was already required; therefore, there are no new costs associated with the changes for small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Large businesses producing filled clothing will incur a one-time fee of approximately $30 to update their labels and then an annual fee of $105. Large businesses producing bedding and upholstered furniture already put the required information on their labels and will, therefore, only incur the $105 annual fee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to the rule will add an additional license fee of $105 to each sterilization facility per year. Producers of quilted clothing may incur a one-time fee of approximately $30 to change their labels.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: H.B. 314 (2016) for the sterilization of wool, feathers, down, shoddy, or hair was introduced due to a request from industry. This change will bring Utah in line with other states that require sterilization facilities to license. The fees for the license are also in line with the charge from other states and similar licenses issued by the department.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
REGULATORY SERVICES
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
♦ Michelle Jack by phone at 801-538-7151, by FAX at 801-538-4949, or by Internet E-mail at mjack@utah.gov
♦ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov
♦ Travis Waller by phone at 801-538-7150, by FAX at 801-538-7124, or by Internet E-mail at twaller@utah.gov, or mail at PO BOX 146500, Salt Lake City, UT 84114-6500.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: LuAnn Adams, Commissioner

R70. Agriculture and Food, Regulatory Services.
R70-101. Bedding, Upholstered Furniture and Quilted Clothing.
R70-101-1. Authority and Purpose.

Pursuant to Section 4-10-3, this rule establishes the standards, practices and procedures for the manufacture, repair, sale, and distribution of bedding, upholstered furniture, quilted clothing products, and filling materials.

R70-101-2. Definitions.

1) "Clean" means free from stains, dirt, trash, filth, pulp, sludge, oil, grease, fat, skin, epidermis, excreta, vermin, insects,

insect eggs, insect carcasses, contamination, hazardous materials, residual or objectionable substances or odors.

2) "Department" means the Utah Department of Agriculture and Food.

3) "Law Label or Label" means a tag attached to a product that provides information about the product to the consumer.

4) "Manufacture" means the making, processing, or preparing of new or secondhand bedding, upholstered furniture, quilted clothing, or filling material.

5) "Manufacturer" means a person who makes or has employees make any bedding, upholstered furniture, quilted clothing, filling material, or any part thereof.

6) "Non-resident" means a person licensed under these rules who does not have premises in the State of Utah.

7) "Person" means an individual, partnership, association, firm, auctioneer, trust, limited liability company, or corporation, and agents, and employees of them.

8) "Premises" means all places where bedding, upholstered furniture, quilted clothing, or filling material is sold, offered for sale, exposed for sale, stored, renovated or manufactured and the delivery vehicles used in their transportation.

9) "Supply dealer" means a person who manufactures, processes, or sells at wholesale any felt, batting, pads, or other filling, loose in bags, in bales or in containers, concealed or not concealed, intended for use in bedding, upholstered furniture, or quilted clothing.

10) "Second Hand Law Tag or Tag" means a tag attached to a product or filling material that has previously been used.

11) "Sterilization Permit Number" means the number issued by a state to be used on filling materials or on the label for bedding, upholstered furniture, or quilted clothing to identify the sterilizing facility, person, or company.

12) "Sterilize" means a process used to make wool, feathers, down, shoddy, or hair free from bacteria or other living microorganisms.

13) "Sterilizer" means a person who sterilizes wool, feathers, down, shoddy, or hair.

[~~11~~)]14) "Uniform Registry Number or URN" means the number issued by a state to be used on the law label of bedding, furniture, or filling materials to identify the manufacturing facility, person, or company.

R70-101-3. Application of Rule.

1) This rule shall apply to all persons engaged in the business of manufacturing, retailing, wholesaling, processing, repairing, sterilizing, and selling items of bedding, upholstered furniture, quilted clothing and filling materials, regardless of their point of origin.

R70-101-4. Licensing Requirements for Manufacturers, Repairers, and Wholesalers.

1) Any person, who advertises, solicits, or contracts to manufacture or repair bedding, upholstered furniture, quilted clothing, or filling materials shall secure a license from the department.

a) This license must be obtained before such products are offered for sale in Utah.

2) Any person seeking a license shall provide the following to the department:

a) a complete registration application form,

b) a sample of the identification label that will be used, and

c) a sample tag

i) wholesale bedding, upholstered furniture dealers, upholstery supply dealer, and quilted clothing manufacturers are exempted from providing a sample tag to the department.

3) A licensing fee will be assessed annually. This fee shall be paid before January 1 or a late fee will be assessed. All fees are listed in the department's fee schedule approved by the legislature.

R70-101-5. Sterilization Permit Requirements for Sterilizers.

1) Any person, who advertises, solicits, or contracts as a sterilizer shall secure a sterilization permit from the department.

a) This permit must be obtained before such products are offered for sale in Utah.

2) Any person seeking a sterilization permit shall provide to the department a sterilization permit application completed by a department authorized third party inspector.

3) A permit fee will be assessed annually. This fee shall be paid before January 1 or a late fee will be assessed. All fees are listed in the department's fee schedule approved by the legislature.

4) Inspections for sterilization permits shall be conducted every three years

a) Copies of the inspection reports shall be submitted to the department with the renewal form for that year.

R70-101-[5]6. Revocation of License or Permit.

1) The department shall have the authority to suspend or revoke a license or permit for any violation of these provisions.

2) A suspension or revocation shall be in accordance with section 4-1-5.

R70-101-[6]7. Sanitation Requirements.

1) The premises, delivery equipment, machinery, appliances, and devices shall at all times be kept free from refuse, dirt, contamination, or insects.

2) No person shall use in the making, repairing, or renovating of bedding, upholstered furniture, or quilted clothing any filling material that:

a) contains any bugs, vermin or filth,

b) is not clean, or

c) contains burlap or other material that has been used for baling.

3) Bedding, quilted clothing, and filling materials shall be stored four inches off the floor.

4) New and used products shall be stored separately.

R70-101-8 Sterilization Requirements for New Fill Material.

1) All wool, feathers, down, shoddy, and hair shall be cleaned and sterilized before being used as new filling material.

2) Methods for Sterilization

a. Pressure Steam: The material shall be subjected to treatment by steam at 15 PSI (.104 mPA) for 30 minutes or 20 PSI (.0138 mPA) for 20 minutes.

i. The gauge for registering steam pressure must be visible from outside of the room or chamber.

b. Streaming Steam: Two applications of streaming steam maintained for a period of one hour each, applied at intervals of not less than six nor more than 24 hours, may be used.

i. Valved outlets shall be provided near the bottom and the top of the room or chamber when streaming steam is employed.

c. Heat: a teamperature of 235° F held for a period of 2 hours, within a closed container is considered satisfactory for proper sterilization.

d. Other methods as may be approved by the department upon petition.

R70-101-[~~7~~]9. Manufacturing, Wholesale, Sterilizers, and Supply Dealer Labeling Requirements for Quilted Clothing.

1) The department adopts by reference the Rules and Regulations under the Textile Fiber Products Identification Act, Fur Products Labeling Act, and Wool Products Labeling Act found in 16 CFR parts 300, 301, and 303.

2) Articles of plumage-filled clothing shall meet the following label requirements:

a) Any label stating the contents of Down, Goose Down, or Duck Down shall also state the minimum percentage of Down, Goose Down, or Duck Down that is contained in the article. The down label is a qualified general label and shall include in parentheses the minimum percentage of down in the product which must be 75% or greater.

b) Down and Waterfowl Feathers: may be used to designate any plumage product containing between 50% (minimum) and 74% down and plumules. The percentage of both must be stated on the sewn-in label and hang tags,

c) Waterfowl Feathers and Down: may be used to designate any plumage product containing between 5% (minimum) and 49% down and plumules. The percentage of both must be stated on the sewn-in label and hang tags.

d) Waterfowl Feathers: may be used to designate any plumage product containing less than 5% down and plumules.

e) Quill Feathers are not permitted unless disclosed.

f) Other Plumage Products which do not meet the requirements for any of the above listed categories must be labeled accurately with each component listed separately in order of predominance.

3) The sterilization permit number (PER. NO.) shall be listed on the textile label

a) manufacturers of quilted clothing shall have five years compliance period, starting January 1, 2017, for the inclusion of the sterilization permit number on the textile label.

[~~3~~)]4) The form of identification used on labels and tags shall be the same as those supplied to the department with the registration application.

R70-101-[8]10. Filling Material.

1) All terms and definitions of filling materials shall be those terms which have been submitted and approved by International Association of Bedding Law Officials (IABFLO), except as otherwise required by this rule.

2) All plumage materials shall follow the standards as set forth in the "USA-2000 Labeling Standards- Down and Feather Products" and ASTM D-4522.

3) All other filling materials shall be clean.

4) "Imperfect, irregular foam" means any foam products which show major imperfections or that fall below the foam manufacturer's usual standards or specifications and must be stated on the tag as "imperfect" or "irregular" along with the generic name of the foam.

5) "Imperfect, irregular fibers" shall mean fibers that have imperfections or that fall below the fiber manufacturer's usual standards or specifications and must be stated on the tag as "imperfect" or irregular" along with the generic name of the fiber.

6) The terms "Prime", "Super", "Northern" and similar terms shall not be used unless the fill can be proved to be of superior quality and meet the terms of the qualifying statement.

R70-101-[9]11. Generic Names, Grades, Descriptive Terms, and Definitions of Filling Material.

1) Filling material shall be described on the label and on the tag using the:

a) true generic name,

b) grade,

c) description terms, or

d) definitions of the filling material which have been approved by the department.

2) When more than one kind of filling material is used in a mixture, the percentage by weight shall be listed in order of predominance.

a) Federal fiber tolerance standards are applicable, except as pertains to plumage products.

b) Blends may be described in accordance with section [~~8~~]10 of this rule.

3) When different filling materials are used in various parts of the garment, the areas of the garment shall be named, followed by the name of the filling material used in that area.

R70-101-[~~10~~]12. Manufacturer Identification and Law Label Requirements For Bedding and Upholstered Furniture.

1) The form of identification used on labels and tags shall be the same as those supplied to the department with the registration application.

2) For articles of bedding and upholstered furniture, the law label shall use the format adopted by the IABFLO, as listed in the "Manual of Labeling Laws" of the International Sleep Products Association (ISPA). A copy of the current edition of the "Manual of Labeling Laws" is available for public inspection at the Utah Department of Agriculture and Food, 350 North Redwood Road, Salt Lake City, Utah.

(3) The law label for newly manufactured products shall meet the following requirements:

a) white on all sides of the label,

b) made of material that cannot be torn,

c) printed in black ink

d) printed in English,

e) printed clearly and legibly, and

f) firmly attached to the article

4) All required information shall be printed on one side of the label with the opposite side remaining blank.

5) Each law label shall state the following:

a) the phrase "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" shall

appear in bold at the top of the label in capital letters no less than 1/8 inches in height,

b) the phrase "ALL NEW MATERIAL" shall appear in the next section in bold, capital letters no less [~~the~~]than 1/8 inch[~~es~~] in height, followed by the phrase "CONSISTING OF", no case or height requirements, followed by the filling contents in bold capital letters no less than 1/8 inch in height,

c) the phrase, "Certification is made that the materials in this article are described in accordance with law" shall appear in the next section of the tag,

d) the URN issued by the state in which the firm is first registered shall appear next,[~~and~~]

e) the Sterilization Permit Number of the sterilization facility from which the material was obtained, in bold capital letters no less than 1/8 inch in height,

f) the words "CONTENTS STERILIZED" in bold capital letters no less than 1/8 inch in height, and

[~~e~~)]g) the name and complete address of the manufacturer, importer, or vendor of the article shall appear next.

6) The law label shall be easily accessible to the consumer for examination.

a) Products which are offered for sale in boxes or in some other packaging which make the law labels inaccessible shall reproduce a legible facsimile of the law label on the outer container or covering.

7) No mark, label, printed matter, illustration, sticker, or any other device shall be placed upon the label.

8) The firm's license with the state that issued the URN must be kept current for the number to be valid in the state of Utah.

9) Every firm doing business under more than one state-issued URN or permit shall obtain a license or permit for each number used on products that are offered for sale in Utah.

R70-101-[~~11~~]13. Second Hand Law Tags and Tagging Requirements.

1) Tags for second hand materials shall be:

a) a minimum of 2 inches by 3 inches,

b) yellow on both sides of the tag,

c) made of material that cannot be torn,

d) printed in English,

e) printed in black ink,

f) printed clearly and legibly, and

g) firmly attached to the article.

2) All required information shall be printed on one side of the tag with the opposite side remaining blank.

3) Second hand tag shall contain the following information:

a) the phrase "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" shall appear in bold at the top of the label in capital letters, no less than 1/8 inch in height,

b) the phrase, "THIS ARTICLE CONTAINS SECOND HAND MATERIAL CONSISTING OF CONTENTS UNKNOWN" shall appear in the next section of the tag. The words "second hand material" and "contents unknown" shall be in capital letters, size not less than 1/8 inches in height,

c) the phrase, "Certification is made that the materials in this article are described in accordance with law" shall appear in the next section of the tag, and

d) the store name and complete corporate address shall appear next.

4) The tag shall be easily accessible to the consumer for examination.

5) No mark, label, printed matter, illustration, sticker, or any other device shall be placed upon the tag.

R70-101-[~~12~~]14. Second Hand Tag and Tagging Requirements for Repaired, Reupholstered, and Renovated Products.

1) Tags for repaired, reupholstered, and renovated products shall be:

a) a minimum of 2 inches by 3 inches,

b) yellow on both sides of the tag,

c) made of material that cannot be torn,

d) have the required information printed on one side of the tag with the opposite side remaining blank,

e) printed in English,

f) printed in black ink,

g) printed clearly and legibly, and

h) firmly attached to the article.

[~~2) All required information shall be printed on one side of the tag with the opposite side remaining blank.~~]

[~~3~~)]2) Second hand tag shall contain the following information:

a) the phrase, "UNDER PENALTY OF LAW THIS TAG[~~E~~] NOT TO BE REMOVED EXCEPT BY THE CONSUMER" shall appear in bold at the top of the label in capital letters, no less than 1/8 inch in height,

b) the phrase, "THIS ARTICLE IS NOT FOR SALE OWNER'S MATERIAL" shall appear next in bold in capital letters, no less than 1/8 inch in height,

c) the phrase, "CERTIFICATION IS MADE THAT THIS ARTICLE CONTAINS THE SAME MATERIAL IT DID WHEN RECEIVED FROM THE OWNER AND THAT ADDED MATERIALS ARE DESCRIBED IN THE ACCODANCE WITH LAW, AND CONSIST OF THE FOLLOWING:" followed by a description of the filling materials,

d) a description of the work that was done on the product,

e) the URN number,

f) the name and address of the renovator or repairer, and

g) the date of pick-up, owner's name, and address.

R70-101-[~~13~~]15. Used Mattresses.

1) Retailers selling customer returns, refurbished, or used mattresses shall follow the second hand law tag requirements as set out in R70-101-[~~11~~]13.

2) In addition, retailers must also display on such mattresses a tag stating "USED" in bold capital letters.

3) The Used tag shall be:

a) a minimum 3 inches by 6 inches,

b) yellow on both sides of the tag,

c) the font shall be a minimum of one inch in height,

d) printed in black ink, and

e) printed in English.

4) All required information shall be printed on one side of the tag with the opposite side remaining blank.

5) The USED tag shall be clearly visible to the consumer at all times.

R70-101-[~~14~~]16. Variance.

1) The department may issue variances on labeling and tagging requirements.

2) Requests for a variance must be made to the department in writing and must contain the following information:

a) For what product you are requesting the variance,

b) where you are going to be using the variance,

c) an explanation of the need for a variance,

d) a description of how the variance will be used in practice, and

e) an example of the label or tag that will be used in place of the required label or tag.

3) Approval of variances will be given from the department in writing.

4) All variances shall be subject to a period of review.

R70-101-[~~15~~]17. Making or Selling Material or Parts.

1) A person shall not purchase, make, process, prepare, or sell, directly or indirectly, at wholesale or retail, or otherwise, any filling material or other component parts to be used in bedding, upholstered furniture, or quilted clothing, unless such material is appropriately tagged.

R70-101-[~~16~~]18. Retailer Responsibilities.

1) Retailers shall:

a) ensure that any article of bedding, upholstered furniture, quilted clothing, or filling material they sell is labeled and tagged correctly,

b) comply with the department's laws and rules governing false and misleading advertisement, and

c) ensure that all manufacturers from whom they purchase products hold a valid license with the department.

2) Retailers shall provide the identity of the manufacturer or wholesaler of any article of bedding, upholstered furniture, quilted clothing, or filling material sold upon request of the department.

3) A retailer may register in lieu of the manufacturer or wholesaler if the manufacturer or wholesaler is not registered.

R70-101-[~~17~~]19. Violation of [~~t~~]This Rule.

1) Each improperly labeled or tagged article of bedding, upholstered furniture, quilted clothing, or filling material made or sold shall be a separate violation of this rule.

2) No person shall be in violation if he has received, from the person by whom the articles were manufactured or from whom they were received, a guarantee in good faith that the articles are not contrary to the provisions of these rules in the form prescribed by the Federal Textile Fiber Products Identification Act, Federal Wool Products Labeling Act, and the Federal Trade Commission Rules and Regulations.

3) No person shall remove, or cause to be removed, any tag, or device placed upon any article of bedding, upholstered furniture, quilted clothing, or filling material by an inspector.

4) No person may remove an article that has been condemned and ordered held on inspection notice.

5) No person shall interfere with, obstruct, or hinder any inspector of the department in the performance of their duties.

6) Any article of bedding, upholstered furniture, quilted clothing, or filling material manufactured or wholesaled by the manufacturer or wholesaler who is not registered or permitted may be withheld from sale until the manufacturer or wholesaler registers or obtains a permit.

R70-101-[~~18~~]20. Products Not Intended for Use[s] Subject to This Rule.

1) The Commissioner may exclude from this rule textile fiber products which:

a) Have insignificant or inconsequential textile fiber content, or

b) The disclosure of the textile fiber content is not necessary for the protection of the consumer.

KEY: quality control, labeling, inspections, registration
Date of Enactment or Last Substantive Amendment: [~~July 22, 2015~~]2016
Notice of Continuation: March 16, 2015
Authorizing, and Implemented or Interpreted Law: 4-10-3

Alcoholic Beverage Control, Administration
R81-3-14
Type 5 Package Agencies

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40922
FILED: 10/31/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule amendment is necessary to streamline provisions for type 5 package agencies.

SUMMARY OF THE RULE OR CHANGE: This rule amendment clarifies what products may be sold by the agency, and changes language related to who may pick up a licensee order to match statutory language.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32B-2-202 and Subsection 32B-2-601(4) and Subsection 32B-2-605(13)(b)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: None--This rule streamlines provisions for type 5 package agencies; there are no anticipated cost or savings as the department's responsibilities remain the same.
♦ LOCAL GOVERNMENTS: None--This rule streamlines provisions for type 5 package agencies. This rule change affects the department and the licensee. There are no anticipated cost or savings to local government.
♦ SMALL BUSINESSES: This rule streamlines provisions for type 5 package agencies. Any additional cost or savings to small businesses would result from a business' decision

related to how and where it manufactures product for sale at its agency, or for coming into compliance with statutory requirements related to licensee sales and pickup.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--This rule streamlines provisions for type 5 package agencies. There are no anticipated costs or savings to persons other than small businesses, businesses or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule streamlines provisions for type 5 package agencies. Any compliance costs would result from a business's decision related to how and where it manufactures product for sale at its agency, or for coming into compliance with statutory requirements related to licensee sales and pickup.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--This rule streamlines provisions for type 5 package agencies. Any additional cost or savings to businesses would result from a business's decision related to how and where it manufactures product for sale at its agency, or for coming into compliance with statutory requirements related to licensee sales and pickup.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov, or mail at PO BOX 30408, Salt Lake City, UT 84114-4008.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Sal Petilos, Executive Director

R81. Alcoholic Beverage Control, Administration.
R81-3. Package Agencies.
R81-3-14. Type 5 Package Agencies.

(1) Purpose. A type 5 package agency is for the limited purpose of allowing a winery, distillery, or brewery to sell at its manufacturing location the packaged liquor product it actually produces to the general public for off-premise consumption. This rule establishes guidelines and procedures for type 5 package agencies.

(2) Authority. 32B-2-504, 605; 32B-5-303.

(3) Definitions. Reserved.

(4) Application of Rule.

(a) The package agency must be located at a manufacturing facility that has been granted a manufacturing license by the commission. For purpose of this rule, a manufacturing facility includes the parcel of land and/or building(s) leased or owned by the manufacturing licensee immediately surrounding the manufacturing premise.

(b) The package agency may only sell products produced by the manufacturing licensee[~~at the winery, distillery, or brewery,~~] and may not carry the products of other alcoholic beverage manufacturers. For the purpose of this rule, products produced by the manufacturing licensee include products that would be assessed tax for sale as determined by 27 CFR Parts 19, 24 and 25.

(c) The product produced by the manufacturing licensee[~~winery, distillery, or brewery~~] and sold in the type 5 package agency need not be shipped from the winery, distillery, or brewery to the department[~~warehouse~~] and then back to the package agency. The bottles for sale may be moved directly from the manufacturer's storage area to the package agency provided that proper record-keeping is maintained [~~on forms provided~~]in a form and manner as required by the department.

(d) Records required by the department shall be kept current and available to the department for auditing purposes[~~. Records must be maintained~~] for at least three years.

(e) The package agency shall submit to the department a completed monthly sales report [~~form~~]which specifies the variety and number of bottles sold from the package agency in a form and manner as required in the package agency contract.[~~This report must be submitted to the department within the first five working days of the month. A club or restaurant purchases form must be filled out for every licensee purchase.~~]

(d) Direct deliveries to licensees are prohibited. Products must be purchased and picked up by the licensees or their staff[~~designated agents~~] at the Type 5 package agency. Sales to the manufacturer's retail licenses may be transported from the manufacturer's storage area directly to the retail licensed premise provided that a record is maintained showing a sale from the type 5 package agency to the retail licensee at the retail price.

(e) The type 5 package agency shall sell products at a price fixed by the commission and follow the same laws, rules, policies, and procedures applicable to other package agencies as to the retail price of products.

(f) The days and hours of sale of the type 5 package agency shall be in accordance with 32B-2-605(13) and R81-3-13.

KEY: alcoholic beverages
Date of Enactment or Last Substantive Amendment: [~~July 28, 2015~~]2016
Notice of Continuation: May 2, 2016
Authorizing, and Implemented or Interpreted Law: 32B-2-202; 32B-2-601(4); 32B-2-605(13)(b)

Alcoholic Beverage Control, Administration
R81-4
Retail Licenses

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 40924
FILED: 10/31/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is necessary to implement S.B. 217, passed in the 2016 General Session, by moving the definition of "Hotel" from Subsection R81-4D-1(1)(a) to Rule R81-4 to apply to all types of retail licenses, rather than just the Banquet Catering License.

SUMMARY OF THE RULE OR CHANGE: This rule begins the process of streamlining provisions for retail licenses by creating Rule R81-4, Retail Licenses, and moves the definition of "Hotel" from Subsection R81-4D-1(1)(a) to Rule R81-4 to apply to all types of retail licenses, rather than just the Banquet Catering License.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32B-2-202 and Subsection 32B-1-102(46) and Subsection 32B-8b-102(2)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: None--This rule begins the process of streamlining provisions for retail licenses by creating Rule R81-4, Retail Licenses, and moves the definition of "Hotel" from Subsection R81-4D-1(1)(a) to Rule R81-4 to apply to all types of retail licenses, rather than just the Banquet Catering License. There are no anticipated costs or savings as the department's responsibilities to approve tasting areas and audit manufacturing licensees is an extension of duties already required.
♦ LOCAL GOVERNMENTS: None--This rule begins the process of streamlining provisions for retail licenses by creating Rule R81-4, Retail Licenses, and moves the definition of "Hotel" from Subsection R81-4D-1(1)(a) to Rule R81-4 to apply to all types of retail licenses, rather than just the Banquet Catering License. This rule change effects the department and the licensee. There are no anticipated cost or savings to local government.
♦ SMALL BUSINESSES: None--This rule begins the process of streamlining provisions for retail licenses by creating Rule R81-4, Retail Licenses, and moves the definition of "Hotel" from Subsection R81-4D-1(1)(a) to Rule R81-4 to apply to all types of retail licenses, rather than just the Banquet Catering License. There are no anticipated costs or savings to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--This rule begins the process of streamlining provisions for retail licenses by creating Rule R81-4, Retail Licenses, and moves the definition of "Hotel" from Subsection R81-4D-1(1)(a) to Rule R81-4 to apply to all types of retail licenses, rather than just the Banquet Catering License. There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule begins the process of streamlining provisions for retail licenses by creating Rule R81-4, Retail Licenses, and moves the definition of "Hotel" from Subsection R81-4D-1(1)(a) to Rule R81-4 to apply to all types of retail licenses, rather than just the Banquet Catering License. There are no anticipated costs to comply based on this new rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--This rule begins the process of streamlining provisions for retail licenses by creating Rule R81-4, Retail Licenses, and moves the definition of "Hotel" from Subsection R81-4D-1(1)(a) to Rule R81-4 to apply to all types of retail licenses, rather than just the Banquet Catering License. There is no anticipated fiscal impact that this rule could have on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov, or mail at PO BOX 30408, Salt Lake City, UT 84114-4008.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Sal Petilos, Executive Director

R81. Alcoholic Beverage Control, Administration.
R81-4. Retail Licenses.
R81-4-1. Authority.
Reserved.

R81-4-2. Purpose.
Reserved.

R81-4-3. Definitions.
Pursuant to the authority and purpose given in 32B-6-202, 32B-8b-102(2), and 32B-1-102(46) the commission shall define the following as such:
(1) "Hotel" means a commercial lodging establishment:
(a) that offers temporary sleeping accommodations for compensation;
(b) that is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract;
(c) that has adequate kitchen or culinary facilities on the premises of the hotel to provide complete meals; and

(d) that has at least 1000 square feet of function space consisting of meeting and/or dining rooms that can be reserved for private use under a banquet contract that can accommodate a minimum of 75 people, provided that in cities of the third, fourth or fifth class, unincorporated areas of a county, and towns, the commission shall have the authority to waive the minimum function space size requirements.

KEY: alcoholic beverages
Date of Enactment or Last Substantive Amendment: 2016
Authorizing, Implemented, or Interpreted Law: 32B-8b-102(2); 32B-2-202; 32B-1-102(46)

Alcoholic Beverage Control, Administration
R81-8
Manufacturer Licenses (Distillery, Winery, Brewery)

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40923
FILED: 10/31/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule amendment is necessary to streamline provisions for Manufacturing Licenses and to implement H.B. 228, passed in the 2016 General Session.

SUMMARY OF THE RULE OR CHANGE: This rule amendment streamlines provisions for manufacturing licenses, defines "Educational Information", and reserves a place to further define "Substantial Food", if necessary.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32B-2-202 and Subsection 32B-11-208(9) and Subsections 32B-11-210(7) and (12)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: None--This rule amendment streamlines provisions for manufacturing licenses, defines "Educational Information", and reserves a place to further define "Substantial Food", if necessary. There are no anticipated cost or savings as the department's responsibilities to approve tasting areas and audit manufacturing licensees is an extension of duties already required.
♦ LOCAL GOVERNMENTS: None--This rule amendment streamlines provisions for manufacturing licenses, defines "Educational Information", and reserves a place to further define "Substantial Food", if necessary. This rule change effects the department and the licensees. There are no anticipated costs or savings to local government.
♦ SMALL BUSINESSES: None--This rule amendment streamlines provisions for manufacturing licenses, defines "Educational Information", and reserves a place to further define "Substantial Food", if necessary. The rule is broadly defined to meet the needs of each business type. Therefore, any additional costs or savings to small businesses would result from a business's decision related to what educational materials to use when conducting tastings.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--This rule amendment streamlines provisions for manufacturing licenses, defines "Educational Information", and reserves a place to further define "Substantial Food", if necessary. There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule amendment streamlines provisions for manufacturing licenses, defines "Educational Information", and reserves a place to further define "Substantial Food", if necessary. The rule is broadly defined to meet the needs of each business type. Therefore, any compliance costs would result from a business's decision related to what educational materials to use when conducting tastings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--This rule amendment streamlines provisions for manufacturing licenses, defines "Educational Information", and reserves a place to further define "Substantial Food", if necessary. The rule is broadly defined to meet the needs of each business type. Therefore, any additional costs or savings to businesses would result from a business's decision related to what educational materials to use when conducting tastings.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov, or mail at PO BOX 30408, Salt Lake City, UT 84114-4008.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Sal Petilos, Executive Director

R81. Alcoholic Beverage Control, Administration.
R81-8. Manufacturing[er] and Related Licenses[~~(Distillery, Winery, Brewery)~~].
R81-8-1. Purpose.
Reserved.

R81-8-2. Authority.
(1) This rule is enacted pursuant to Subsections 32B-2-202, 32B-11-208(9), and 32B-11-210(7) and (12).

R81-8-3. Definitions.
(1) "Substantial Food." RESERVED.
(2) "Educational Information" means a presentation of information whose primary purpose is imparting knowledge related to the history, culture, significance, agriculture, manufacture, flavor profiles and/or the effects of alcohol.

R81-8-[~~1~~]4. Application Guidelines.
(1) No license application will be included on the agenda of a monthly commission meeting for consideration for issuance of a manufacturing[~~er (distillery, winery, brewery)~~] license until:
(a) A complete application including all documents and supplemental materials listed on the department's application checklist have been submitted to the department.[~~The applicant has first met all requirements of Sections 32B-1-304 and 32B-11-205 (qualifications to hold the license), and 32B-11-203, -205 and -207 (submission of a completed application, payment of application and licensing fees, written consent of local authority, a statement of the purpose for which the applicant is applying for the license, evidence that the person is authorized by the United States to manufacture an alcoholic product, a bond, and public liability insurance); and~~]
(b) the department has inspected the manufacturer premise[~~.~~]; and
(c) an investigation is conducted and a recommendation can be made as required by 32B-11-206.
(2)(a) All application requirements of Subsection (1)(a) must be filed with the department no later than the 10th day of the month in order for the application to be included on that month's commission meeting agenda unless the 10th day of the month is a Saturday, Sunday, or state or federal holiday, in which case all application requirements of Subsection (1)(a) must be filed on the next business day after the 10th day of the month.
(b) An incomplete application will be returned to the applicant.
(c) A completed application filed after the deadline in Subsection (2)(a) will not be considered by the commission that month, but will be included on the agenda of the commission meeting the following month.

R81-8-5[~~2~~]. Out of State Business.
(1) Purpose. Pursuant to 32B-11-201(4), brewers located outside the state must obtain a certificate of approval from the department before selling or delivering beer containing an alcohol content of less than 4% alcohol by volume to licensed beer wholesalers in this state, or if a small brewer, to licensed beer wholesalers or retailers in this state. These certificates must be renewed annually.
In addition to issuing certificates of approval to brewers who actually produce the beer, the department has also issued certificates to (1) importers that hold federal permits, and have the contractual rights to distribute and market beer for foreign breweries; and (2) marketing agents that distribute and market beer for domestic breweries. The department has also allowed brewers with a certificate of approval to market the products on behalf of other brewers under that certificate. However, this has resulted in a loss of direct regulatory authority over the breweries that actually produce the beer.
This rule ensures that each producer of beer obtain its own certificate of approval to allow its beer to be sold or delivered in this state.
(2) Application of Rule.
(a) A certificate of approval to sell or deliver beer in this state under 32B-11-201(4) may be issued only to the company that is ultimately responsible for producing the beer. The company holding the certificate may not allow another brewery to sell or deliver beer to this state under the certificate holder's certificate. A certificate of approval may not be issued to any third party such as an importer or marketing agent that does not actually manufacture or produce alcoholic beverages.
(b) This rule does not preclude the company that holds the certificate of approval from having its brand of beer produced by another brewery under contract under the brand name of the certificate holder's company. However, the certificate holder is responsible to ensure that any beer produced by the contract-brewery complies with the alcoholic beverage laws of this state. Any violations committed by the contract brewery will be the responsibility of the certificate holder.
(c) A distillery or winery that has beer produced for it by a brewery under contract under the distillery's or winery's brand name is deemed to be a "brewery" for purposes of 32B-11-201(4), and may be issued a certificate of approval. However, the distillery or winery is responsible to ensure that any beer produced by the contract-brewery complies with the alcoholic beverage laws of this state. Any violations committed by the contract brewery will be the responsibility of the distillery or winery that holds the certificate.

[~~**R81-8-3. Winery Tasting Facilities.**~~
~~(1) Purpose. Pursuant to 32B-11-303, a licensed winery may allow the consumption of samples of wine on the premises of the winery as long as food is available. This rule establishes guidelines for tasting facilities on winery premises.~~
~~(2) Application of Rule. A winery licensee may operate on its manufacturing premises a tasting facility allowing the consumption of wine samples at a site approved by the department under the following conditions:~~
~~(a) The tasting area must be located on the winery premises.~~
~~(b) Food must be available in the tasting area.~~
~~(c) Records required by the department shall be kept current and available to the department for auditing purposes. This includes a daily record of all products and quantities tasted.~~
~~(d) The storage area floor plan for the tasting facility must be approved by the department and may not be relocated without department approval.~~
~~(e) Wine samples may not exceed two ounces per glass.~~
~~(f) Samples may not be removed from the winery premises.~~

~~(g) Sample tastings may not be conducted off of the winery premises.~~]

KEY: alcoholic beverages
Date of Enactment or Last Substantive Amendment: [~~May 22, 2012~~]2016
Notice of Continuation: May 2, 2016
Authorizing, and Implemented or Interpreted Law: [~~32A-1-107~~]32B-2-202; 32B-11-208(9); 32B-11-210(7) and (12)

Commerce, Consumer Protection
R152-6
Utah Administrative Procedures Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40920
FILED: 10/28/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The main purpose is to clarify that a party may move to convert an informal administrative proceeding to formal. In addition, the amendment removes a redundant reference to the fact that hearings must be timely requested, which is satisfactorily addressed elsewhere in the rules and Utah Code. It also removes a department rule citation that is no longer up to date.

SUMMARY OF THE RULE OR CHANGE: The amended Rule R152-6 expressly permits a party to convert an informal proceeding to a formal proceeding by motion.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 13-2-5(1)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division of Consumer Protection (Division) anticipates conversion of proceedings will be rare and have a minimal impact on the state budget. A formal proceeding is more expensive to conduct than an informal proceeding. However, holding a formal proceeding is less expensive than holding both an informal proceeding and defending the matter on a trial de novo before a district court. As a result, the state may save resources if complex matters are converted to formal proceedings. A formal proceeding avoids the possibility of holding two trials on a matter, one at the administrative level and a trial de novo with a Utah district court. In such instances, the state will likely save on attorneys' time or fees, filing fees, and other expense involved in litigating the matter twice. If a case is converted to a formal proceeding that would have been resolved through the informal process, the cost to the state would be higher to proceed with the formal proceeding. The Division anticipates that most cases that would be converted to formal proceedings would also be likely candidates for an appeal to a judicial court following an informal proceeding. As a result, the net result should be a savings to the state budget. The net savings cannot be estimated because the circumstance for each proceeding will vary.
♦ LOCAL GOVERNMENTS: The proposed amendment does not affect local governments' costs because the amendment only addresses the procedural rights of parties to an administrative proceeding before the Division to move to convert informal adjudicative proceedings to formal adjudicative proceedings.
♦ SMALL BUSINESSES: The Division anticipates a minimal aggregate impact to small businesses. Those small businesses that are the subject of a Division administrative proceeding that is converted to a formal proceeding may save money by avoiding a second trial at the district court level. However in some cases, if the person would not have appealed to district court, the cost of conducting a formal proceeding will likely be higher than the cost would have been in an informal proceeding. The net savings/cost cannot be estimated because the circumstance for each proceeding will vary.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The Division anticipates a minimal aggregate impact to other persons. Those persons who are the subject of a Division administrative proceeding that is converted to a formal proceeding may save money by avoiding a second trial at the district court level. However in some cases, if the person would not have appealed to district court, the cost of conducting a formal proceeding will likely be higher than the cost would have been in an informal proceeding. The net savings/cost cannot be estimated because the circumstance for each proceeding will vary.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule governs an action that may be taken by a party, namely the ability to move to convert informal adjudicative proceedings to formal adjudicative proceedings. As such, there are no foreseeable compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule change permits either party to a proceeding before the Utah Division of Consumer Protection to move to convert an informal adjudicative proceeding into a formal adjudicative proceeding. The motion cannot be granted unless the presiding officer determines that the proceeding does not unfairly prejudice the rights of any party. This determination would include a consideration of the fiscal impact to the business named in the citation. There could be increased costs in formal proceedings, particularly the costs related to discovery procedures that are not permitted in informal proceedings. However, the costs for both parties of a de novo trial in the district court, as the appeal mechanism for the parties in an informal proceeding, would be eliminated. This creates a basis for potential cost savings. A negligible fiscal impact to businesses is anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
CONSUMER PROTECTION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jacob Hart by phone at 801-530-6636, or by Internet E-mail at jfhart@utah.gov, or mail at PO BOX 146704, Salt Lake City, UT 84114-6704.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

THIS RULE MAY BECOME EFFECTIVE ON: 12/23/2016

AUTHORIZED BY: Daniel O'Bannon, Director

R152. Commerce, Consumer Protection.
R152-6. Utah Administrative Procedures Act Rules.
R152-6-1. Designation of Adjudicative Proceedings.

A. All adjudicative proceedings within the Division [~~shall~~]are designated as[~~be~~] informal proceedings.

B. Notwithstanding Subsection A, a party may move to convert proceedings to formal adjudicative proceedings in accordance with the provisions of Subsection 63G-4-202(3).

C[~~B~~]. No hearing will be held unless specifically allowed or required under any laws administered by the Division, or by the Utah Administrative Procedures Act.[~~If a hearing is allowed, it will be held only if timely requested pursuant to Department Rule 151-46b-10.~~]

R152-6-2. Designation of Presiding Officer.

The presiding officer in any proceeding shall be the director of the division. The director may designate another person to act as presiding officer in any proceeding or portion thereof.

KEY: administrative procedures, government hearings, consumer protection
Date of Enactment or Last Substantive Amendment: [~~1992~~]2016
Notice of Continuation: March 26, 2012
Authorizing, and Implemented or Interpreted Law: 13-2-5(1)

Commerce, Occupational and Professional Licensing
R156-17b
Pharmacy Practice Act Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40899
FILED: 10/20/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and Utah State Board of Pharmacy reviewed the rule and determined the following changes are being proposed. This rule filing clarifies the pharmacy license classifications and administrative rules governing central prescription processing pharmacies, third party logistic providers, and veterinarian pharmaceutical facility pharmacies; and amends the name of methadone clinic pharmacies, requirements for closing a pharmacy, temporary pharmacist license requirements, and the supervision under which a pharmacy technician trainee can work.

SUMMARY OF THE RULE OR CHANGE: Subsections R156-17b-102(7) and (8) are deleted because "central prescription processing" is already defined in Subsection 58-17b-102(9). Subsection R156-17b-102(37) is added to define a "non drug or device handling central prescription processing pharmacy" in rule. Subsection R156-17b-102(54) is modified to change the license classification for third party logistic providers from class C to class E. Subsection R156-17b-102(58) is updated to reflect the most current version of the United States Pharmacopeia-National Formulary (USP-NF) to include Supplement 2, dated 12/01/2016. Section R156-17b-302 is modified to: 1) change the name of methadone clinic pharmacies to narcotic treatment program pharmacies; 2) move veterinarian pharmaceutical facility pharmacies from class B to class E; 3) add non drug or device handling central prescription processing pharmacy to class E; and 4) add third party logistic providers to class E. Section R156-17b-304 is modified to allow individuals licensed and in good standing in another state or territory of the United States to apply for a temporary license in Utah. Section R156-17b-601 is modified to clarify the ratio of pharmacy technician trainee to pharmacist working in a pharmacy at any given time. Section R156-17b-604 is modified to require that pharmacies that are closing surrender their license to the Division. Section R156-17b-614f is modified to: 1) clarify existing language; 2) establish that non drug handling central prescription processing pharmacies are required to obtain a class E license; and 3) establish that all other central prescription processing pharmacies are required to obtain licensure in the appropriate license classification consistent with their business practices. Section R156-17b-617a is modified to clearly establish that all class E pharmacies are required to follow all applicable state and federal laws.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-17b-101 and Section 58-37-1 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a) and Subsection 58-17b-601(1)

MATERIALS INCORPORATED BY REFERENCE:

♦ Updates USP 39-NF 34 through Supplement 2 , published by United States Pharmacopeia Convention, 12/01/2016

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: The Division will incur minimal costs of approximately $75 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

♦ LOCAL GOVERNMENTS: The proposed amendments apply only to licensees provided in Title 58, Chapter 17b. As a result, the proposed amendments do not apply to local governments.

♦ SMALL BUSINESSES: The proposed filing primarily adds or modifies definitions and makes clarifications that are consistent with existing practices in the industry. Additionally, affected pharmacies may experience cost savings from the elimination of unnecessary regulation. This includes: 1) defining a "non drug or device handling central prescription processing pharmacy" and "veterinary pharmaceutical facility pharmacies" as class E pharmacies that do not require a pharmacist-in-charge (PIC) where previously these pharmacies were licensed under other classifications that required a PIC; and 2) allowing licensed applicants from out of state to obtain temporary licensure while passing the required examinations for licensure in Utah. The number of businesses affected and the amount of cost savings are unknown and cannot be quantified by the Division due to a wide range of circumstances for each licensee or applicant.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Likewise, with regard to large businesses. The proposed filing primarily adds or modifies definitions and makes clarifications that are consistent with existing practices in the industry. Additionally, affected pharmacies may experience cost savings from the elimination of unnecessary regulation. This includes: 1) defining a "non drug or device handling central prescription processing pharmacy" and "veterinary pharmaceutical facility pharmacies" as class E pharmacies that do not require a pharmacist-in-charge (PIC) where previously these pharmacies were licensed under other classifications that required a PIC; and 2) allowing licensed applicants from out of state to obtain temporary licensure while passing the required examinations for licensure in Utah. The number of businesses affected and the amount of cost savings are unknown and cannot be quantified by the Division due to a wide range of circumstances for each licensee or applicant.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed filing primarily adds or modifies definitions and makes clarifications that are consistent with existing practices in the industry. Additionally, affected pharmacies may experience cost savings from the elimination of unnecessary regulation. This includes: 1) defining a "non drug or device handling central prescription processing pharmacy" and "veterinary pharmaceutical facility pharmacies" as class E pharmacies that do not require a pharmacist-in-charge (PIC) where previously these pharmacies were licensed under other classifications that required a PIC; and 2) allowing licensed applicants from out of state to obtain temporary licensure while passing the required examinations for licensure in Utah. It is also noted that there is no cost associated with the update to USP 39-NF 34 as Supplement 2, dated 12/01/2016, is included with the yearly subscription price. The number of affected pharmacies and the amount of cost savings are unknown and cannot be quantified by the Division due to a wide range of circumstances for each licensee or applicant.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule changes primarily add or modify definitions and make clarifications that are consistent with existing practices in the industry. Affected pharmacies may experience cost savings from the elimination of unnecessary regulation. This includes defining a "non drug or device handling central prescription processing pharmacy" and "veterinary pharmaceutical facility pharmacies" as Class E pharmacies that do not require a pharmacist-in-charge (PIC) where previously these pharmacies were licensed under other classifications that required a PIC. Any other fiscal impact is negligible.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Dane Ishihara by phone at 801-530-7632, by FAX at 801-530-6511, or by Internet E-mail at dishihara@utah.gov, or mail at PO BOX 146741, Salt Lake City, UT 84114-6741.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 11/15/2016 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-17b. Pharmacy Practice Act Rule.
R156-17b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 17b, as used in Title 58, Chapters 1 and 17b or this rule:

(1) "Accredited by ASHP" means a program that:

(a) was accredited by the ASHP on the day the applicant for licensure completed the program; or

(b) was in ASHP candidate status on the day the applicant for licensure completed the program.

(2) "ACPE" means the American Council on Pharmaceutical Education or Accreditation Council for Pharmacy Education.

(3) "Analytical laboratory":

(a) means a facility in possession of prescription drugs for the purpose of analysis; and

(b) does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are pre-diluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in-vitro diagnostic use.

(4) "ASHP" means the American Society of Health System Pharmacists.

(5) "Authorized distributor of record" means a pharmaceutical wholesaler with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drugs. An ongoing relationship is deemed to exist between such pharmaceutical wholesaler and a manufacturer, as defined in Section 1504 of the Internal Revenue Code, when the pharmaceutical wholesaler has a written agreement currently in effect with the manufacturer evidencing such ongoing relationship, and the pharmaceutical wholesaler is listed on the manufacturer's current list of authorized distributors of record.

(6) "Authorized personnel" means any person who is a part of the pharmacy staff who participates in the operational processes of the pharmacy and contributes to the natural flow of pharmaceutical care.[

~~(7) "Centralized Prescription Filling" means the filling by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order.~~

~~(8) "Centralized Prescription Processing" means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, drug utilization review (DUR), claims adjudication, refill authorizations, and therapeutic interventions.~~]

([~~9~~]7) "Chain pharmacy warehouse" means a physical location for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of the prescription drugs to a group of chain pharmacies that have the same common ownership and control.

([~~10~~]8) "Co-licensed partner" means a person that has the right to engage in the manufacturing or marketing of a co-licensed product.

([~~11~~]9) "Co-licensed product" means a device or prescription drug for which two or more persons have the right to engage in the manufacturing, marketing, or both consistent with FDA's implementation of the Prescription Drug Marketing Act as applicable.

([~~12~~]10) "Cooperative pharmacy warehouse" means a physical location for drugs that acts as a central warehouse and is owned, operated or affiliated with a group purchasing organization (GPO) or pharmacy buying cooperative and distributes those drugs exclusively to its members.

([~~13~~]11) "Counterfeit prescription drug" has the meaning given that term in 21 USC 321(g)(2), including any amendments thereto.

([~~14~~]12) "Counterfeiting" means engaging in activities that create a counterfeit prescription drug.

([~~15~~]13) "Dispense", as defined in Subsection 58-17b-102(22), does not include transferring medications for a patient from a legally dispensed prescription for that particular patient into a daily or weekly drug container to facilitate the patient taking the correct medication.

([~~16~~]14) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, or other similar or related article, including any component part or accessory, which is required under Federal law to bear the label, "Caution: Federal or State law requires dispensing by or on the order of a physician."

([~~17~~]15) "DMP" means a dispensing medical practitioner licensed under Section 58-17b, Part 8.

([~~18~~]16) "DMP designee" means an individual, acting under the direction of a DMP, who:

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

(A) Chapter 67, Utah Medical Practice Act;

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

(C) Chapter 70a, Physician Assistant Act;

(D) Chapter 31b, Nurse Practice Act;

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

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

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

(ii) is a medical assistant as defined in Subsection 58-67-102 (9);

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

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

([~~19~~]17) "DMPIC" means a dispensing medical practitioner licensed under Section 58-17b, Part 8 who is designated by a dispensing medical practitioner clinic pharmacy to be responsible for activities of the pharmacy.

([~~20~~]18) "Drop shipment" means the sale of a prescription drug to a pharmaceutical wholesaler by the manufacturer of the drug; by the manufacturer's co-licensed product partner, third party logistics provider, or exclusive distributor; or by an authorized distributor of record that purchased the product directly from the manufacturer or from one of these entities; whereby:

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

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

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

([~~21~~]19) "Drug therapy management" means the review of a drug therapy regimen of a patient by one or more pharmacists for the purpose of evaluating and rendering advice to one or more practitioners regarding adjustment of the regimen.

([~~22~~]20) "Drugs", as used in this rule, means drugs or devices.

([~~23~~]21) "Durable medical equipment" or "DME" means equipment that:

(a) can withstand repeated use;

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

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

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

(e) may include devices and medical supplies.

([~~24~~]22) "Entities under common administrative control" means an entity holds the power, actual as well as legal to influence the management, direction, or functioning of a business or organization.

([~~25~~]23) "Entities under common ownership" means entity assets are held indivisibly rather than in the names of individual members.

([~~26~~]24) "ExCPT", as used in this rule, means the Exam for the Certification of Pharmacy Technicians.

([~~27~~]25) "FDA" means the United States Food and Drug Administration and any successor agency.

([~~28~~]26) "FDA-approved" means the federal Food, Drug, and Cosmetic Act, 21 U.S.C.A. Section 301 et seq. and regulations promulgated thereunder permit the subject drug or device to be lawfully manufactured, marketed, distributed, and sold.

([~~29~~]27) "High-risk, medium-risk, and low-risk drugs" refers to the risk to a patient's health from compounding sterile preparations, as referred to in USP-NF Chapter 797, for details of determining risk level.

([~~30~~]28) "Hospice facility pharmacy" means a pharmacy that supplies drugs to patients in a licensed healthcare facility for terminal patients.

([~~31~~]29) "Hospital clinic pharmacy" means a pharmacy that is located in an outpatient treatment area where a pharmacist or pharmacy intern is compounding, admixing, or dispensing prescription drugs, and where:

(a) prescription drugs or devices are under the control of the pharmacist, or the facility for administration to patients of that facility;

(b) prescription drugs or devices are dispensed by the pharmacist or pharmacy intern; or

(c) prescription drugs are administered in accordance with the order of a practitioner by an employee or agent of the facility.

([~~32~~]30) "Legend drug" or "prescription drug" means any drug or device that has been determined to be unsafe for self-medication or any drug or device that bears or is required to bear the legend:

(a) "Caution: federal law prohibits dispensing without prescription";

(b) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian"; or

(c) "Rx only".

([~~33~~]31) "Maintenance medications" means medications the patient takes on an ongoing basis.

([~~34~~]32) "Manufacturer's exclusive distributor" means an entity that contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the drug's sale or disposition. Such manufacturer's exclusive distributor shall be licensed as a pharmaceutical wholesaler under this chapter and be an "authorized distributor of record" to be considered part of the "normal distribution channel".

([~~35~~]33) "Medical supplies" means items for medical use that are suitable for use in a health care facility or in the home and that are disposable or semi-disposable and are non-reusable.

([~~36~~]34) "MPJE" means the Multistate Jurisprudence Examination.

([~~37~~]35) "NABP" means the National Association of Boards of Pharmacy.

([~~38~~]36) "NAPLEX" means North American Pharmacy Licensing Examination.

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

([~~39~~]38) "Normal distribution channel" means a chain of custody for a prescription drug that goes directly, by drop shipment as defined in Subsection (19), or via intracompany transfer from a manufacturer; or from the manufacturer's co-licensed partner, third-party logistics provider, or the exclusive distributor to:

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

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

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

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

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

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

([~~40~~]39) "Other health care facilities" means any entity as defined in Utah Code Subsection 26-21-2(13)(a) or Utah Administrative Code R432-1-3(55).

([~~41~~]40) "Parenteral" means a method of drug delivery injected into body tissues but not via the gastrointestinal tract.

([~~42~~]41) "Patient's agent" means a:

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

(b) if requested by the patient or the individual under Subsection (40)(a), one of the following facilities:

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

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

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

([~~43~~]42) "Pedigree" means a document or electronic file containing information that records each distribution of any given prescription drug.

([~~44~~]43) "PIC", as used in this rule, means the pharmacist-in-charge.

([~~45~~]44) "Prepackaged" or "Prepackaging" means the act of transferring a drug, manually or by use of an automated pharmacy system, from a manufacturer's or distributor's original container to another container in advance of receiving a prescription drug order or for a patient's immediate need for dispensing by a pharmacy or practitioner authorized to dispense in the establishment where the prepackaging occurred.

([~~46~~]45) "Prescription files" means all hard-copy and electronic prescriptions that includes pharmacist notes or technician notes, clarifications or information written or attached that is pertinent to the prescription.

([~~47~~]46) "PTCB" means the Pharmacy Technician Certification Board.

([~~48~~]47) "Qualified continuing education", as used in this rule, means continuing education that meets the standards set forth in Section R156-17b-309.

([~~49~~]48) "Refill" means to fill again.

([~~50~~]49) "Repackage" means repackaging or otherwise changing the container, wrapper, or labeling to further the distribution of a prescription drug, excluding that completed by the pharmacist or DMP responsible for dispensing the product to a patient.

([~~51~~]50) "Research facility" means a facility where research takes place that has policies and procedures describing such research.

([~~52~~]51) "Reverse distributor" means a person or company that retrieves unusable or outdated drugs from a pharmacy for the purpose of removing those drugs from stock and destroying them.

([~~53~~]52) "Sterile products preparation facility" means any facility, or portion of the facility, that compounds sterile products using aseptic technique.

([~~54~~]53) "Supervisor" means a licensed pharmacist or DMP in good standing with the Division.

([~~55~~]54) "Third party logistics provider" means anyone who contracts with a prescription drug manufacturer to provide or coordinate warehousing, distribution, or other similar services on behalf of a manufacturer, but does not take title to the prescription drug or have any authoritative control over the prescription drug's sale.[~~Such third party logistics provider shall be licensed as a pharmaceutical wholesaler under this chapter and be an "authorized distributor of record" to be considered part of the "normal distribution channel".~~]

([~~56~~]55) "Unauthorized personnel" means any person who is not participating in the operational processes of the pharmacy who in some way would interrupt the natural flow of pharmaceutical care.

([~~57~~]56) "Unit dose" means the ordered amount of a drug in a dosage form prepared for a one-time administration to an individual and indicates the name, strength, lot number and beyond use date for the drug.

([~~58~~]57) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 17b, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-17b-502.

([~~59~~]58) "USP-NF" means the United States Pharmacopeia-National Formulary (USP 39-NF 34), 2016 edition, which is official from May 1, 2016 through Supplement 2, dated December 1, [~~2015~~]2016, which is hereby adopted and incorporated by reference.

([~~60~~]59) "Wholesaler" means a wholesale distributor who supplies or distributes drugs or medical devices that are restricted by federal law to sales based on the order of a physician to a person other than the consumer or patient.

([~~61~~]60) "Wholesale distribution" means the distribution of drugs to persons other than consumers or patients, but does not include:

(a) intracompany sales or transfers;

(b) the sale, purchase, distribution, trade, or other transfer of a prescription drug for emergency medical reasons, as defined under 21 CFR 203.3(m), including any amendments thereto;

(c) the sale, purchase, or trade of a drug pursuant to a prescription;

(d) the distribution of drug samples;

(e) the return or transfer of prescription drugs to the original manufacturer, original wholesale distributor, reverse distributor, or a third party returns processor;

(f) the sale, purchase, distribution, trade, or transfer of a prescription drug from one authorized distributor of record to one additional authorized distributor of record during a time period for which there is documentation from the manufacturer that the manufacturer is able to supply a prescription drug and the supplying authorized distributor of record states in writing that the prescription drug being supplied had until that time been exclusively in the normal distribution channel;

(g) the sale, purchase or exchange of blood or blood components for transfusions;

(h) the sale, transfer, merger or consolidation of all or part of the business of a pharmacy;

(i) delivery of a prescription drug by a common carrier; or

(j) other transactions excluded from the definition of "wholesale distribution" under 21 CFR 203.3 (cc), including any amendments thereto.

R156-17b-302. Pharmacy Licensure Classifications - Pharmacist-in-Charge or Dispensing Medical Practitioner-In-Charge Requirements.

In accordance with Subsection 58-17b-302(4), the classification of pharmacies holding licenses are clarified as:

(1) A Class A pharmacy includes all retail operations located in Utah and requires a PIC.

(2) A Class B pharmacy includes an institutional pharmacy that provides services to a target population unique to the needs of the healthcare services required by the patient. All Class B pharmacies require a PIC or DMPIC except for pharmaceutical administration facilities and [~~methadone clinics~~]narcotic treatment program pharmacies. Examples of Class B pharmacies include:

(a) closed door pharmacies;

(b) hospital clinic pharmacies;

(c) [~~methadone clinic pharmacies~~]narcotic treatment program pharmacies;

(d) nuclear pharmacies;

(e) branch pharmacies;

(f) hospice facility pharmacies;

(g) [~~veterinarian pharmaceutical facility pharmacies;~~

~~(h)~~]pharmaceutical administration facility pharmacies;

([~~i~~]h) sterile product preparation facility pharmacies; and

([~~j~~]i) dispensing medical practitioner clinic pharmacies.

(3) A Class C pharmacy includes a pharmacy that is involved in:

(a) manufacturing;

(b) producing;

(c) wholesaling;

(d) distributing; or

(e) reverse distributing.

(4) A Class D pharmacy requires a PIC licensed in the state where the pharmacy is located and includes an out-of-state mail order pharmacy. Facilities with multiple locations shall have licenses for each facility and each component part of a facility.

(5) A Class E pharmacy does not require a PIC and includes:

(a) analytical laboratory pharmacies;

(b) animal control pharmacies;

(c) durable medical equipment provider pharmacies;

(d) human clinical investigational drug research facility pharmacies;

(e) medical gas provider pharmacies;[~~and~~]

(f) animal narcotic detection training facility pharmacies

(g) third party logistics providers;

(h) non drug or device handling central prescription processing pharmacies; and

(i) veterinarian pharmaceutical facility pharmacies.

(6) All pharmacy licenses shall be converted to the appropriate classification by the Division as identified in Section 58-17b-302.

(7) Each Class A and each Class B pharmacy required to have a PIC or DMPIC shall have one PIC or DMPIC who is employed on a full-time basis as defined by the employer, who acts as a PIC or DMPIC for one pharmacy. However, the PIC or DMPIC may be the PIC or DMPIC of more than one Class A or Class B pharmacy, if the additional Class A or Class B pharmacies are not open to provide pharmacy services simultaneously.

(8) A PIC or DMPIC shall comply with the provisions of Section R156-17b-603.

R156-17b-304. Temporary Licensure.

(1) In accordance with Subsection 58-1-303(1), the Division may issue a temporary pharmacist license to a person who meets all qualifications for licensure as a pharmacist in Utah except for the passing of the required examination, if the applicant:

(a) is a graduate of an ACPE accredited pharmacy school within two months immediately preceding application for licensure, [~~or~~]enrolled in a pharmacy graduate residency or fellowship program, or licensed, in good standing, to practice pharmacy in another state or territory of the United States;

(b) submit a complete application for licensure as a pharmacist except the passing of the NAPLEX and MJPE examinations;

(c) submits evidence of having secured employment conditioned upon issuance of the temporary license, and the employment is under the direct, on-site supervision of a pharmacist with an active, non-temporary license that may or may not include a controlled substance license; and

(d) has registered to take the required licensure examinations.

(2) A temporary pharmacist license issued under Subsection (1) expires the earlier of:

(a) six months from the date of issuance;

(b) the date upon which the Division receives notice from the examination agency that the individual has failed either examination twice; or

(c) the date upon which the Division issues the individual full licensure.

(3) An individual who has failed either examination twice shall meet with the Board to request an additional authorization to test. The Division, in collaboration with the Board, may require additional training as a condition for approval of an authorization to retest.

(4) A pharmacist temporary license issued in accordance with this section cannot be renewed or extended.

R156-17b-601. Operating Standards - Pharmacy Technician and Pharmacy Technician Trainee.

In accordance with Subsection 58-17b-102(56), practice as a licensed pharmacy technician is defined as follows:

(1) A pharmacy technician may perform any task associated with the physical preparation and processing of prescription and medication orders including:

(a) receiving written prescriptions;

(b) taking refill orders;

(c) entering and retrieving information into and from a database or patient profile;

(d) preparing labels;

(e) retrieving medications from inventory;

(f) counting and pouring into containers;

(g) placing medications into patient storage containers;

(h) affixing labels;

(i) compounding;

(j) counseling for over-the-counter drugs and dietary supplements under the direction of the supervising pharmacist as referenced in Subsection 58-17b-102(56);

(k) accepting new prescription drug orders left on voicemail for a pharmacist to review;

(l) performing checks of certain medications prepared for distribution filled or prepared by another technician within a Class B hospital pharmacy, such as medications prepared for distribution to an automated dispensing cabinet, cart fill, crash cart medication tray, or unit dosing from a prepared stock bottle, in accordance with the following operating standards:

(i) technicians authorized by a hospital to check medications shall have at least one year of experience working as a pharmacy technician and at least six months experience at the hospital where the technician is authorized to check medications;

(ii) technicians shall only check steps in the medication distribution process that do not require the professional judgment of a pharmacist and that are supported by sufficient automation or technology to ensure accuracy (e.g. barcode scanning, drug identification automation, checklists, visual aids);

(iii) hospitals that authorize technicians to check medications shall have a training program and ongoing competency assessment that is documented and retrievable for the duration of each technician's employment and at least three years beyond employment, and shall maintain a list of technicians on staff that are allowed to check medications;

(iv) hospitals that authorize technicians to check medications shall have a medication error reporting system in place and shall be able to produce documentation of its use;

(v) a supervising pharmacist shall be immediately available during all times that a pharmacy technician is checking medications;

(vi) hospitals that authorize technicians to check medications shall have comprehensive policies and procedures that guide technician checking that include the following:

(A) process for technician training and ongoing competency assessment and documentation;

(B) process for supervising technicians who check medications;

(C) list of medications, or types of medications that may or may not be checked by a technician;

(D) description of the automation or technology to be utilized by the institution to augment the technician check;

(E) process for maintaining a permanent log of the unique initials or identification codes that identify each technician responsible for checked medications by name; and

(F) description of processes used to track and respond to medication errors; and

(m) additional tasks not requiring the judgment of a pharmacist.

(2) A pharmacy technician trainee may perform any task in Subsection (1) with the exception of performing checks of certain medications prepared for distribution filled or prepared by another technician within a Class B hospital pharmacy as described in Subsection (1)(l).

(3) The pharmacy technician shall not receive new prescriptions or medication orders as described in Subsection 58-17b-102(56)(b)(iv), clarify prescriptions or medication orders nor perform drug utilization reviews. A new prescription, as used in Subsection 58-17b-102(56)(b)(iv), does not include authorization of a refill of a legend drug.

(4) Pharmacy technicians shall have general supervision by a pharmacist in accordance with Subsection R156-17b-603(3)(s).

(5) [~~No more than one pharmacy technician trainee per shift shall practice in a pharmacy. A pharmacy technician trainee shall practice only under the direct supervision of a pharmacist.~~]A pharmacy technician trainee shall practice only under the direct supervision of a pharmacist and in a ratio not to exceed one pharmacy technician trainee to one pharmacist.

R156-17b-604. Operating Standards - Closing a Pharmacy.

At least 14 days prior to the closing of a pharmacy, the PIC or DMPIC shall comply with the following:

(1) If the pharmacy is registered to possess controlled substances, send a written notification to the appropriate regional office of the Drug Enforcement Administration (DEA) containing the following information:

(a) the name, address and DEA registration number of the pharmacy;

(b) the anticipated date of closing;

(c) the name, address and DEA registration number of the pharmacy acquiring the controlled substances; and

(d) the date the transfer of controlled substances will occur.

(2) If the pharmacy dispenses prescription drug orders, post a closing notice sign in a conspicuous place in the front of the prescription department and at all public entrance doors to the pharmacy. Such closing notice shall contain the following information:

(a) the date of closing; and

(b) the name, address and telephone number of the pharmacy acquiring the prescription drug orders, including refill information and patient medication records of the pharmacy.

(3) On the date of closing, the PIC or DMPIC shall remove all prescription drugs from the pharmacy by one or a combination of the following methods:

(a) return prescription drugs to manufacturer or supplier for credit or disposal; or

(b) transfer, sell or give away prescription drugs to a person who is legally entitled to possess drugs, such as a hospital or another pharmacy.

(4) If the pharmacy dispenses prescription drug orders:

(a) transfer the prescription drug order files, including refill information and patient medication records, to a licensed pharmacy within a reasonable distance of the closing pharmacy; and

(b) move all signs or notify the landlord or owner of the property that it is unlawful to use the word "pharmacy", or any other word or combination of words of the same or similar meaning, or any graphic representation that would mislead or tend to mislead the public that a pharmacy is located at this address.

(5) Within 10 days of the closing of the pharmacy, the PIC or DMPIC shall forward to the Division a written notice of the closing that includes the following information:

(a) the actual date of closing;

(b) a surrender of the license issued to the pharmacy;

(c) a statement attesting:

(i) that an inventory as specified in Subsection R156-17b-605(4) has been conducted; and

(ii) the manner in which the legend drugs and controlled substances possessed by the pharmacy were transferred or disposed;

(d) if the pharmacy dispenses prescription drug orders, the name and address of the pharmacy to which the prescription drug orders, including refill information and patient medication records, were transferred.

(6) If the pharmacy is registered to possess controlled substances, a letter shall be sent to the appropriate DEA regional office explaining that the pharmacy has closed. The letter shall include the following items:

(a) DEA registration certificate;

(b) all unused DEA order forms (Form 222) with the word "VOID" written on the face of each order form; and

(c) copy #2 of any DEA order forms (Form 222) used to transfer Schedule II controlled substances from the closed pharmacy.

(7) If the pharmacy is closed suddenly due to fire, destruction, natural disaster, death, property seizure, eviction, bankruptcy or other emergency circumstances and the PIC or DMPIC cannot provide notification 14 days prior to the closing, the PIC or DMPIC shall comply with the provisions of Subsection (1) as far in advance of the closing as allowed by the circumstances.

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

(9) Notwithstanding the requirements of this section, a DMP clinic pharmacy that closes but employs licensed practitioners who desire to continue providing services other than dispensing may continue to use prescription drugs in their practice as authorized under their respective licensing act.

R156-17b-614f. Operating Standards - [~~Class A, B, D, and E -~~] Central Prescription Processing[~~ and Filling~~].

In accordance with Subsection 58-17b-601(1), the following operating standards apply to [~~Class A, Class B, Class D and Class E -~~]pharmacies that engage in central prescription processing as defined in Subsection 58-17b-102(9)[~~or central prescription filling. The operating standards include~~]:

(1) [~~A pharmacy may perform c~~]Centralized prescription processing [~~or centralized prescription filling -~~]services may be performed [~~for a dispensing pharmacy -~~]if the parties:

(a) have common ownership or common administrative control; or

(b) have a written contract outlining the services to be provided and the responsibilities and accountabilities of each party in fulfilling the terms of said contract[~~ in compliance with federal and state laws and regulations~~]; and

(c) share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to fill or refill a prescription drug order.

(2) The parties performing or contracting for centralized prescription processing [~~or filling -~~]services shall maintain a policy and procedures manual, and documentation of implementation, which shall be made available to the Division upon inspection and which includes the following:

(a) a description of how the parties will comply with federal and state laws and regulations;

(b) appropriate records to identify the responsible pharmacists and the dispensing and counseling process;

(c) a mechanism for tracking the prescription drug order during each step in the dispensing process;

(d) a description of adequate security to protect the integrity and prevent the illegal use or disclosure of protected health information; and

(e) a continuous quality improvement program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems.

(3) "Non drug or device handling central prescription processing pharmacies", as defined in Subsection R156-17b-102(37), shall be licensed as Class E pharmacies. All other central prescription processing pharmacies shall be licensed in the appropriate pharmacy license classification.

R156-17b-617a. Class E Pharmacy Operating Standards - General Provisions.

(1) In accordance with Section 58-17b-302 and Subsection 58-17b-601(1), Class E pharmacies shall have a written pharmacy care protocol that includes:

(a) the identity of the supervisor or director;

(b) a detailed plan of care;

(c) the identity of the drugs to be purchased, stored, used and accounted for; and

(d) the identity of any licensed healthcare provider associated with the operation.

(2) [~~A Class E pharmacy preparing sterile compounds shall follow the USP-NF Chapter 797 Compounding for sterile preparations~~]Class E pharmacies shall comply with all applicable federal and state laws.

KEY: pharmacists, licensing, pharmacies
Date of Enactment or Last Substantive Amendment: [~~July 11,~~]2016
Notice of Continuation: January 5, 2015
Authorizing, and Implemented or Interpreted Law: 58-17b-101; 58-17b-601(1); 58-37-1; 58-1-106(1)(a); 58-1-202(1)(a)

Commerce, Occupational and Professional Licensing
R156-17b
Pharmacy Practice Act Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40902
FILED: 10/24/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 236, passed by the Legislature during the 2016 General Session, created a charitable prescription drug recycling program and required the Division to make rules to implement the program in consultation with the Utah State Board of Pharmacy. The Division is filing these proposed new sections to accomplish this mandate.

SUMMARY OF THE RULE OR CHANGE: In Section R156-17b-904, the authorizing statute prohibits a pharmacy from accepting or dispensing a drug under the program after either the drug label's beyond-use date, the expiration date

recommended by the manufacturer, or any later date that has been established by division rule. This section makes clear that the division in collaboration with the Utah State Board of Pharmacy has not established any dates later than the beyond-use dates or the manufacturer's recommended expiration dates. Section R156-17b-905 establishes the handling fees an eligible pharmacy may charge for accepting or dispensing a drug under the program. Section R156-17b-907a establishes the registration requirements to become an eligible pharmacy allowed to participate in the program. Section R156-17b-907b establishes the formulary of eligible prescription drugs for the program. Section R156-17b-907c establishes the program standards and procedures that eligible pharmacies must create and maintain. Section R156-17b-907d establishes that the division will coordinate annual meetings between: 1) the Department of Health and eligible pharmacies to obtain input to establish program standards and procedures for assisted living and nursing care facilities; and 2) between the Division of Substance Abuse and Mental Health and eligible pharmacies to obtain input to establish program standards and procedures for mental health and substance abuse clients. Section R156-17b-907e requires an eligible pharmacy to create and maintain a training program for its pharmacists and pharmacy technicians to complete before they participate in the program, and requires the pharmacy to maintain a two-year record of such training.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-17b-101 and Section 58-37-1 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a) and Subsection 58-17b-601(1)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division will incur minimal costs of approximately $75 to print and distribute the rule once the proposed amendments are made effective. Any printing and distribution costs incurred will be absorbed in the Division's current budget. Additional costs of registration and regulatory enforcement were included in the Legislature's consideration of H.B. 236 (2016).
♦ LOCAL GOVERNMENTS: Local governments that choose to participate in the program in coordination with an eligible pharmacy may be impacted by the costs of program management and recordkeeping. However, costs of participation would likely be offset by the savings resulting from enhanced health services to medically indigent persons within the local government's jurisdiction, which could result in a cost savings to the local government and to its community as a whole. One or more citizens may have their lives saved or be able to work or be able to better take care of their own needs and activities of daily living due to the availability of prescriptions issued pursuant to this program. This may translate into a cost savings for those persons, as well as for their friends and families and the local government that provides them services. The Division is not able to determine any exact amount of costs or savings due to varying circumstances.
♦ SMALL BUSINESSES: Small-business pharmacies that choose to participate in the program may be impacted by the costs of program management and recordkeeping, as well as lost revenue if they substitute time they could be billing for professional services to provide these services under the program. These costs may be slightly offset by the allowed handling fees, and the small-business pharmacies may also receive "goodwill" benefits in their community from their volunteer services, and benefit from increased traffic to their location. The amount of the cost or savings cannot be estimated as it will vary from business to business depending on the services provided.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Pharmacists are not required to participate in the program. This rule creates no fiscal impact for pharmacists beyond those identified in H.B. 236 (2016). Medically indigent persons who could not obtain medication but for an eligible pharmacy's participation in this program will receive the financial benefit of obtaining medication at little to no cost, and may receive a significant financial benefit due to improved health. One or more medically indigent persons may have their lives saved or be able to work or be able to take better care of their needs and activities of daily living due to the availability of prescriptions issued pursuant to this program. This may translate into a cost savings for those persons, as well as for their friends and families and the businesses who provide them goods and services. However, the Division is not able to determine any exact amount of savings due to varying circumstances.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A pharmacy that chooses to participate in the program may be impacted by the costs of program management and recordkeeping, as well as lost revenue if the pharmacy substitutes time it could be billing for professional services to provide these services under the program. These costs may be slightly offset by the allowed handling fees, and the pharmacy may also receive "goodwill" benefits in its community from such volunteer services, and benefit from increased traffic to the pharmacy's location. The amount of the cost or savings cannot be estimated as it will vary from business to business depending on the services provided. A medically indigent individual who could not obtain medication but for an eligible pharmacy's participation in this program will receive the financial benefit of obtaining medication at little to no cost, and may receive a significant financial benefit due to improved health. An individual may have his or her life saved or be able to work or be able to take better care of his or her own needs and activities of daily living due to the availability of prescriptions issued to them pursuant to this program. This may translate into a cost savings for this individual, as well as for his or her friends and families and the businesses who provide the individual with goods and services. However, the Division is not able to determine any exact amount of savings due to varying circumstances.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These new rules establish procedures that permit a pharmacy to participate in a recycling program of prescription drugs in order to benefit indigents requiring medication. The rules are created to fulfill the mandate to the Division to adopt rules to implement H.B. 236 (2016), passed by the Legislature in the 2016 General Session. Although certain costs of record keeping and training of pharmacists and licensed pharmacy technicians are inherent in the rules, no costs to business are anticipated beyond those addressed in adoption of H.B. 236 (2016). Participation in the program is wholly voluntary by the pharmacy. Further, the pharmacy is permitted to charge a small handling fee, which will offset costs of the program to the participating pharmacies. Minimal fiscal impact to businesses is anticipated.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Dane Ishihara by phone at 801-530-7632, by FAX at 801-530-6511, or by Internet E-mail at dishihara@utah.gov, or mail at PO BOX 146741, Salt Lake City, UT 84114-6741.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 11/15/2016 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-17b. Pharmacy Practice Act Rule.

R156-17b-904. Criteria for Eligible Prescription Drug - Beyond-use Date or Expiration Date.

The division in collaboration with the board has not established a date later than the beyond use date or the expiration date recommended by the manufacturer for a specific prescription drug.

R156-17b-905. Fees.

As authorized by Subsection 58-17b-905(2)(e), an eligible pharmacy may charge the following handling fees:

(1) Before accepting a prescription drug under the program: $0 - $10; and

(2) Before dispensing a prescription drug under the program: $0 - $5.

R156-17b-907a. Registration Requirements - Eligible Pharmacy.

(1) A pharmacy seeking registration with the division as an eligible pharmacy shall submit an application on a form provided by the division.

(2) The division's form shall at a minimum require the applicant pharmacy to establish that:

(a) the applicant is currently licensed and in good standing with the division;

(b) the applicant agrees to maintain, subject to inspection by the division, written standards and procedures in compliance with Section R156-17b-907c;

(c) the applicant agrees to create and maintain, subject to inspection by the division, a special training program in accordance with Section R156-17b-907e; and

(d) as required by Subsection 58-17b-902(8), the applicant is operated by a county, county health department, a pharmacy under contract with a county health department, the Department of Health, the Division of Substance Abuse and Mental Health, or a charitable clinic.

R156-17b-907b. Formulary.

The formulary established under Subsection 58-17b-907(2) shall include all prescription drugs approved by the federal Food and Drug Administration that meet Section 58-17b-904 criteria, except for:

(1) controlled substances;

(2) compounded drugs; and

(3) drugs that can only be dispensed to a patient registered with the drug's manufacturer per federal Food and Drug Administration requirements.

R156-17b-907c. Standards and Procedures - Eligible Pharmacies.

An eligible pharmacy shall maintain written standards and procedures available for inspection by the division that:

(1) satisfy the requirements of Section 58-17b-907; and

(2) satisfy labeling requirements of Subsections 58-17b-602(5) through (8), and ensure that labels clearly identify the eligible drug was dispensed under the program.

R156-17b-907d. Standards and Procedures - Facilities and Mental Health and Substance Abuse Clients.

(1) In accordance with Subsection 58-17b-907(4)(a), the division shall schedule and facilitate an annual meeting between the Department of Health and eligible pharmacies to establish program standards and procedures for assisted living facilities and nursing care facilities; and

(2) In accordance with Subsection 58-17b-907(4)(b), the division shall schedule and facilitate an annual meeting between the Division of Substance Abuse and Mental Health and eligible pharmacies to establish program standards and procedures for mental health and substance abuse clients.

R156-17b-907e. Special Training Program.

An eligible pharmacy shall:

(1) create and maintain a special training program that its pharmacists and licensed pharmacy technicians shall complete before participating in the program; and

(2) maintain a record for at least two years of all pharmacists and licensed pharmacy technicians that have completed the special training program.

KEY: pharmacists, licensing, pharmacies
Date of Enactment or Last Substantive Amendment: [~~July 11,~~] 2016
Notice of Continuation: January 5, 2015
Authorizing, and Implemented or Interpreted Law: 58-17b-101; 58-17b-601(1); 58-37-1; 58-1-106(1)(a); 58-1-202(1)(a)

Commerce, Occupational and Professional Licensing
R156-24b
Physical Therapy Practice Act Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40896
FILED: 10/18/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and Physical Therapy Licensing Board reviewed this rule and determined proposed amendments should be filed. The purpose of this filing is to: 1) revise the requirements for review of foreign credentials; 2) update definitions related to review of foreign credentials; 3) revise the required continuing education hours of ethics/laws to be more consistent with professional course offerings; 4) revise which approval bodies the Board will accept for the approval of trigger point dry needling courses; and 5) eliminate a redundant requirement for general supervision for trigger point dry needling courses.

SUMMARY OF THE RULE OR CHANGE: In Section R156-24b-102, the proper name of the approved credential evaluations agency was updated and the abbreviation included in the definitions. In Section R156-24b-302a, the credential evaluation completed by the Foreign Credentialing Commission on Physical Therapy (FCCPT) was changed to a Type I review. The currently required FCCPT credentials evaluation did not include verification of English proficiency. The Type I review includes verification of English proficiency. The Board determined that the rule needed to be changed to be consistent with Subsection 58-24b-302(1)(e) and that the applicant must be able to read, write, speak, understand, and be understood in the English language. In Subsections R156-24b-303b(1)(a) and (b), the number of hours required for continuing education in ethics/law is decreased from a minimum of three hours to a minimum of two hours. Physical therapists have identified for the Division that many ethics/law continuing education offerings are two-hour courses. The Board concurred that a two-hour requirement is more consistent with current continuing education offerings. The Board also determined that completion of two hours of ethics/law continuing education is sufficient for the profession. In Subsection R156-24b-505(1)(a), the approval bodies for trigger point dry needling courses was expanded to include any of the sections or local chapters of the American Physical Therapy Association (APTA). The Board determined that any of the sections or local chapters for the APTA would require similar rigor and would ensure the consistency and quality of the offerings. In Subsection R156-24b-505(2), the level of supervision and the requirements for the licensure requirements of the supervisor were determined to be redundant. Approved trigger point dry needling courses meet industry standards, and the requirement for supervision and licensure status is redundant and unnecessary.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-24b-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The only identified cost for the state budget and to the Division is a minimal cost of approximately $50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. The simplification of rule requirements for trigger point dry needling courses may decrease the time needed to process applications and may, therefore, increase efficiency for the Division.
♦ LOCAL GOVERNMENTS: The proposed amendments apply only to licensed physical therapists and physical therapist assistants and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.
♦ SMALL BUSINESSES: The proposed amendments apply only to licensed physical therapists and physical therapist assistants and applicants for licensure in those classifications. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments apply only to licensed physical therapists and physical therapist assistants and applicants for licensure in those classifications. There are no identified costs or savings for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed change to the FCCPT Type I review will increase costs for the applicant from $525 to $810. These costs are consistent with other national organizations that evaluate foreign credentials and English proficiency for licensure. An added benefit is that the FCCPT will maintain the English proficiency results indefinitely and the applicant will be able to access the results should the need arise. No additional costs

for affected persons are anticipated for the proposed changes to the continuing education requirements for dry needling. The licensed physical therapist and physical therapy assistant will have more options for completion of the decreased number of required ethics/law continuing education hours. The additional continuing education options could actually decrease the individual costs for completion of the required continuing education hours. Licensed physical therapists seeking registration for trigger point dry needling will have more options for completion of the required coursework. Adding the option of any trigger point dry needling coursework approved by the American Physical Therapy Association or any of its sections or local chapters will provide the physical therapist with more options and opportunities without decreasing quality.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule changes address: 1) requirements and definitions relating to the review of foreign credentials, and 2) requirements relating to trigger point dry needling courses. Any fiscal impact is negligible.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Suzette Farmer by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at sfarmer@utah.gov, or mail at PO BOX 146741, Salt Lake City, UT 84114-6741.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/21/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 12/20/2016 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 402 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/28/2016

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-24b. Physical Therapy Practice Act Rule.
R156-24b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 24b, as used in Title 58, Chapters 1 and 24b or this rule:

(1) "A recognized accreditation agency", as used in Subsections 58-24b-302(1)(c) and (2)(c), means a college or university:

(a) accredited by CAPTE; or

(b) a foreign education program which is equivalent to a CAPTE accredited program as determined by the FCCPT[~~FSBPT's Foreign Credentialing Commission on Physical Therapy~~].

(2) "Credential evaluation", as used in Subsections R156-24b-302a(2) and (3), means the appropriate Course Work Tool (CWT) adopted by the Federation of State Boards of Physical Therapy. The appropriate CWT means the CWT in place at the time the foreign educated physical therapist or physical therapist assistant graduated from the physical therapy program.

(3) "CAPTE" means Commission on Accreditation in Physical Therapy Education.

(4) "FCCPT" means the Foreign Credentialing Commission on Physical Therapy.

([~~4~~]5) "FSBPT" means the Federation of State Licensing Boards of Physical Therapy.

([~~5~~]6) "Joint mobilization", as used in Subsection 58-24b-102(14)(d), means passive and active movements of the joints of a patient, including the spine, to increase the mobility of joint systems; but, does not include specific vertebral adjustment and manipulation of the articulation of the spine by those methods or techniques which are generally recognized as the classic practice of chiropractic.

([~~6~~]7) "Routine assistance", as used in Subsections 58-24b-102(10) and 58-24b-401(3)(b) means:

(a) engaging in assembly and disassembly, maintenance and transportation, preparation and all other operational activities relevant to equipment and accessories necessary for treatment; and

(b) providing only that type of elementary and direct patient care which the patient and family members could reasonably be expected to learn and perform.

([~~7~~]8) "Supportive personnel", as used in Subsection R156-24b-503(1), means a physical therapist assistant or a physical therapy aide and does not include a student in a physical therapist or physical therapist assistant program.

([~~8~~]9) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 24b, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-24b-502.

R156-24b-302a. Qualifications for Licensure - Education Requirements.

(1) In accordance with Subsection 58-24b-302(1)(c), the accredited school of physical therapy for a physical therapist shall be accredited by CAPTE at the time of graduation.

(2) In accordance with Subsection 58-24b-302(3), an applicant for licensure as a physical therapist who is educated outside the United States [~~whose degree was not accredited by CAPTE~~]shall document that the applicant's education is equal to a CAPTE accredited degree and that the applicant is able to read, write, speak, understand, and be understood in the English language by submitting to the Division a [~~credential evaluation~~]Type I review from the FCCPT[~~ from the Foreign Credentialing Commission on Physical Therapy~~]. Only educational deficiencies in pre-professional subject areas may be corrected by completing college

level credits in the deficient areas or by passing the College Level Examination Program (CLEP) demonstrating proficiency in the deficient areas. Pre-professional subject areas include the following:

(a) humanities;
(b) social sciences;
(c) liberal arts;
(d) physical sciences;
(e) biological sciences;
(f) behavioral sciences;
(g) mathematics; or
(h) advanced first aid for health care workers.

(3) In accordance with Subsection 58-24b-302(2), a physical therapist assistant shall complete one of the following CAPTE accredited physical therapy education programs:

(a) an associates, bachelors, or masters program; or

(b) in accordance with Section 58-1-302, an applicant for a license as a physical therapist assistant who has been licensed in a foreign country whose degree was not accredited by CAPTE shall document that the applicant's education is substantially equivalent to a CAPTE accredited degree by submitting to the Division a credential evaluation from the Foreign Credentialing Commission on Physical Therapy. Only educational deficiencies in pre-professional subject areas may be corrected by completing college level credits in the deficient areas or by passing the College Level Examination Program (CLEP) demonstrating proficiency in the deficient areas. Pre-professional subject areas include the following:

(a) humanities;
(b) social sciences;
(c) liberal arts;
(d) physical sciences;
(e) biological sciences;
(f) behavioral sciences;
(g) mathematics; or
(h) advanced first aid for health care workers.

(4) An applicant who has met all requirements for licensure as a physical therapist except passing the FSBPT National Physical Therapy Examination-Physical Therapist may apply for licensure as a physical therapist assistant.

R156-24b-303b. Continuing Education.

(1) Required Hours. In accordance with Subsection 58-24b-303(2), during each two year renewal cycle commencing on June 1 of each odd numbered year:

(a) A physical therapist shall be required to complete not fewer than 40 contact hours of continuing education of which a minimum of [~~three~~]two contact hours must be completed in ethics/law.

(b) A physical therapist assistant shall be required to complete not fewer than 20 contact hours of continuing education of which a minimum of [~~three~~]two contact hours must be completed in ethics/law.

(c) Examples of subjects to be covered in an ethics/law course for physical therapists and physical therapist assistants include one or more of the following:

(i) patient/physical therapist relationships;
(ii) confidentiality;
(iii) documentation;
(iv) charging and coding;
(v) compliance with state and/or federal laws that impact the practice of physical therapy; and
(vi) any subject addressed in the American Physical Therapy Association Code of Ethics or Guide for Professional Conduct.

(d) The required number of contact hours of continuing education for an individual who first becomes licensed during the two year renewal cycle shall be decreased in a pro-rata amount.

(e) The Division may defer or waive the continuing education requirements as provided in Section R156-1-308d.

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

(a) Time. Each contact hour of continuing education course credit shall consist of not fewer than 50 minutes of education. Licensees shall only receive credit for lecturing or instructing the same course up to two times. Licensees shall receive one contact hour of continuing education for every two hours of time spent:

(i) lecturing or instructing a course;
(ii) in a post-professional doctorate or transitional doctorate program; or
(iii) in a post-professional clinical residency or fellowship approved by the American Physical Therapy Association.

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

(i) The content of the course shall be relevant to the practice of physical therapy and shall be completed in the form of any of the following course types:

(A) department in-service;
(B) seminar;
(C) lecture;
(D) conference;
(E) training session;
(F) webinar;
(G) internet course;
(H) distance learning course;
(I) journal club;
(J) authoring of an article or textbook publication;
(K) poster platform presentation;
(L) specialty certification through the American Board of Physical Therapy Specialties;
(M) post-professional clinical residency or fellowship approved by the American Physical Therapy Association;
(N) post-professional doctorate from a CAPTE accredited program;
(O) lecturing or instructing a continuing education course; or
(P) study of a scholarly peer-reviewed journal article.

(ii) The following limits apply to the number of contact hours recognized in the following course types during a two year license renewal cycle:

(A) a maximum of 40 contact hours for initial specialty certification through the American Board of Physical Therapy Specialties (ABPTS);

(B) a maximum of 40 contact hours for hours spent in a post-professional doctorate or transitional doctorate CAPTE accredited program;

(C) a maximum of 40 contact hours for hours spent in a post-professional clinical residency or fellowship approved by the American Physical Therapy Association;

(D) a maximum of half of the number of contact hours required for renewal for lecturing or instructing in courses meeting these requirements;

(E) a maximum of ten percent of the number of contact hours required for renewal for supervision of a physical therapist or physical therapist assistant student in an accredited college program and the licensee shall receive one contact hour of credit for every 80 hours of clinical instruction;

(F) a maximum of 15 contact hours required for renewal for serving as a clinical mentor for a physical therapy residency or fellowship training program at a credentialed program and the licensee shall receive one contact hour of credit for every ten hours of residency or fellowship;

(G) a maximum of half of the number of contact hours required for renewal for online or distance learning courses that include examination and issuance of a completion certificate;

(H) a maximum of 12 contact hours for authoring a published, peer-reviewed article;

(I) a maximum of 12 contact hours for authoring a textbook chapter;

(J) a maximum of ten contact hours for personal or group study of a scholarly peer-reviewed journal article;

(K) a maximum of six contact hours for authoring a non-peer reviewed article or abstract of published literature or book review; and

(L) a maximum of six contact hours for authoring a poster or platform presentation.

(c) Provider or Sponsor. The course shall be approved by, conducted by, or under the sponsorship of one of the following:

(i) a recognized accredited college or university;

(ii) a state or federal agency;

(iii) a professional association, organization, or facility involved in the practice of physical therapy; or

(iv) a commercial continuing education provider providing a course related to the practice of physical therapy.

(d) Objectives. The learning objectives of the course shall be clearly stated in course material.

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

(f) Documentation. Each licensee shall maintain adequate documentation as proof of compliance with this Section, such as a certificate of completion, school transcript, course description, or other course materials. The licensee shall retain this proof for a period of three years after the end of the renewal cycle for which the continuing education is due.

(i) At a minimum, the documentation shall contain the following:

(A) the date of the course;

(B) the name of the course provider;

(C) the name of the instructor;

(D) the course title;

(E) the number of contact hours of continuing education credit; and

(F) the course objectives.

(ii) If the course is self-directed, such as personal or group study or authoring of a scholarly peer-reviewed journal article, the documentation shall contain the following:

(A) the dates of study or research;

(B) the title of the article, textbook chapter, poster, or platform presentation;

(C) an abstract of the article, textbook chapter, poster, or platform presentation;

(D) the number of contact hours of continuing education credit; and

(E) the objectives of the self-study course.

(6) Extra Hours of Continuing Education. If a licensee completes more than the required number of contact hours of continuing education during the two-year renewal cycle specified in Subsection (1), up to ten contact hours of the excess may be carried over to the next two year renewal cycle. No education received prior to a license being granted may be carried forward to apply towards the continuing education required after the license is granted.

R156-24b-505. Trigger Point Dry Needling - Education and Experience Required - Registration.

(1) A course approved by one of the following organizations meets the standards of Section 58-24b-505 if it includes the hours and treatment sessions specified in Section 58-24b-505:

(a) [~~Utah Physical Therapy Association (UPTA);~~

~~(b)~~]American Physical Therapy Association (APTA) or any of its sections or local chapters; or

([~~e~~]b) Federation of State Boards of Physical Therapy (FSBPT).[

~~(2) The level of supervision required during the course established under Section 58-24b-505 is general supervision, as defined in R156-1-102a(4)(e).~~

~~(3) General supervision shall be provided by a licensed health care provider who:~~

~~(a) has a scope of practice that includes dry needling; and~~

~~(b) can demonstrate two years of dry needling practice techniques.~~]

KEY: licensing, physical therapy, physical therapist, physical therapist assistant

Date of Enactment or Last Substantive Amendment: [~~March 24, 2015~~]2016

Notice of Continuation: November 15, 2011

Authorizing, and Implemented or Interpreted Law: 58-24b-101; 58-1-106(1)(a); 58-1-202(1)(a)

Commerce, Occupational and Professional Licensing

R156-31b

Nurse Practice Act Rule

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 40897
FILED: 10/18/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and Board of Nursing reviewed the rule and are proposing amendments to the rule to: 1) clarify, add, or delete definitions as identified by the Board of Nursing; 2) update the duties of the Advisory Peer Education Committee; 3) clarify licensure by equivalency for practical nurses; 4) clarify intern licensure requirements for advanced practice registered nurses specializing in psychiatric mental health; 5) revise requirements for limited-time approval of nursing education programs to be congruent with Section 58-31b-601 as revised by S.B. 56 during the 2016 General Session; 6) clarify delegation of medication administration in school settings; and 7) allow advanced practice registered nurses to concurrently hold licensure as an advanced practice registered nurse and as a registered nurse.

SUMMARY OF THE RULE OR CHANGE: In Section R156-31b-102, the definition of "approved continuing education" was revised to include continuing education approved by any state board of nursing. This inclusion will allow licensees additional options for completion of continuing education requirements. The definition of "approved re-entry program" was added to establish minimum requirements for re-entry programs and enhance consistency among re-entry programs. The definition of "licensure by equivalency" was revised to allow students currently enrolled in any accredited registered nurse education program to sit for the practical nursing licensure examination. The current limitation of licensure by equivalency for those enrolled in Utah-based programs created barriers to licensure, particularly for those Utah residents who live near the border of another state. The requirements for those who have completed a registered nurse education program to sit for the practical nursing licensure examination were revised to ensure consistency for those who apply for licensure by equivalency. The definition of "practica" was added to clarify the meaning of the term as used in Section R156-31b-609. In Section R156-31b-202, the duties of the Advisory Peer Education Committee were revised to be consistent with statute. Limited-time approval of nursing education programs was eliminated when Section 58-31b-601 was revised during the 2016 General Session. In Section R156-31b-301, the current language requiring the automatic superseding of a registered nurse license upon issuance of an advanced practice registered nurse license was revised to allow the nurse to hold both licenses, if desired. Most other states require that applicants for licensure in their states hold licensure as both a registered nurse and an advanced practice nurse. The current rule for Utah creates an unnecessary barrier and potential delays when the licensee is seeking licensure by endorsement in another state. In Subsection R156-31b-301(a), the requirements for licensure by equivalency as a practical nurse were updated to be consistent with the definition of "licensure by equivalency". In Section R156-31b-309, the three-year term of intern licensure for an advanced practice registered nurse specializing in psychiatric mental health was eliminated in order to be consistent with a six-month term of intern licensure for all other advanced practice registered nurse specialties. The supervisory requirements for intern licensure as an advanced practice registered nurse specializing in psychiatric mental health nursing were added in order to be consistent with Subsection R156-31b-301c(2). In Section R156-31b-602, the requirements for limited-time approval of non-accredited nursing education programs were revised to be consistent with Section 58-31b-602 as revised during the 2016 General Session. The revisions clarify that those programs granted limited-time approval will continue to be an approved education program for initial licensure in Utah until 12/31/2020 or the date on which they are granted accreditation in accordance with Subsection R156-31b-102(2) and Section 58-31b-602. In Section R156-31b-701a, the current rule limits the ability of the nurse to delegate medication administration in the school setting to routine medications as defined in Subsection 58-31b-102(18). The definition of routine medications in Subsection 58-31b-102(18) is specific to the practice of a medication aide certified as defined in Subsection 58-31b-102(13). The current rule, therefore, limits the ability of the nurse to effectively delegate the administration of medications in the school setting. The proposed revision revises the language to allow delegation of medication administration to medications that are routine for the specific patient. In Section R156-31b-703b, the current rule states that "An individual license in good standing in Utah as an APRN (advanced practice registered nurse) and residing in this state may practice as an RN (registered nurse) in any Compact state." In order to practice in a compact state the nurse must hold a current compact license. This rule cannot be enforced as it gives no consideration to the requirements or expectations of the other compact states. The proposed revision clarifies the need for an individual to hold a current compact license in order to practice in a compact state.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-31b-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The identified costs for the state budget include the costs of reprinting the rule and mailing it to APRNs. APRNs will need to be informed about the option to maintain licensure as both a RN and an APRN. They will also need to be informed about the expectation that they hold compact licensure as a RN if they practice in a compact state as a RN. Estimated cost for reprinting the rule is $300. Estimated cost for a mailing to APRNs $2,500. Processing the application for each APRN who wants to concurrently hold a RN license will depend on the number of licensees wanting to hold both. The estimated processing time for each RN application is 15 minutes. At $20 per hour for staff, each application would cost the state $5. The costs to the state will be offset when the applicant pays the $58 renewal fee. The

estimated percentage of APRNs who would want to hold a concurrent RN license is 50% or less. If 1,250 APRNs apply for RN licensure, this would cost the state $6,250; however, the state would recover $72,500 in fees. Costs for rule revisions related to S.B. 56 passed during the 2016 General Session were included in the fiscal note for the bill.
♦ LOCAL GOVERNMENTS: The proposed amendments apply only to license classifications regulated under Title 58, Chapter 31b, and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.
♦ SMALL BUSINESSES: The Division is not aware of any small businesses which would be affected by the proposed rule amendments. Therefore, there are no identified costs to savings for small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Due to the increased specificity of the student notification requirements for non-accredited nursing education programs, or nursing education programs that lose their accreditation; nursing education programs may incur additional costs for student notification. The notification costs may range from $1 to $3 per nursing student for these programs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed change to allow nurses to hold both a RN and an APRN license will increase licensure renewal costs for those who want to hold both licenses. The current RN renewal fee is $58 every 2 years. No nurse living and practicing in Utah would be required to hold both licenses; therefore, increased renewal costs will only affect those who make the informed decision to hold both licenses. However, APRNs who holds concurrent RN licensure will be able to license in another state more easily, saving the licensees time and decreasing their frustration with the licensure by endorsement process in another state.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes clarify, add, or delete certain definitions; update the duties of the Advisory Peer Education Committee; clarify licensure by equivalency for practical nurses; clarify intern licensure requirements for certain APRNs; revise requirements for limited-time approval of nursing education programs to be congruent with statutory provisions adopted during the 2016 General Session; clarify delegation of medication administration in school settings; and allow APRNs to hold concurrent licensure in certain circumstances. A negligible fiscal impact to businesses is anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Suzette Farmer by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at sfarmer@utah.gov, or mail at PO BOX 146741, Salt Lake City, UT 84114-6741.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 12/08/2016 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-31b. Nurse Practice Act Rule.
R156-31b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 31b, as defined or used in this rule:

(1) "Accreditation" means formal recognition and approval of a nurse education program by an accrediting body for nursing education that is approved by the United States Department of Education.

(2) "Administering" means the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person.

(3) "APRN" means advanced practice registered nurse.

(4) "APRN-CRNA" means advanced practice registered nurse with registered nurse anesthetist certification.

(5) "Approved continuing education" means:

(a) continuing education that has been approved by a nationally or internationally recognized approver of professional continuing education for health-related industries;

(b) nursing education courses offered by an approved education program as defined in Subsection R156-31b-102(7);

(c) health-related coursework taken from an educational institution accredited by a regional or national institutional accrediting body recognized by the U.S. Department of Education;[~~and~~]

(d) continuing education approved by any state board of nursing; or

(e) training or educational presentations offered by the Division.

(6) "Approved education program" means any nursing education program that meets the standards established in Section 58-31b-601 or Section R156-31b-602.

(7) "Approved re-entry program" means:

(a) a program designed to evaluate nursing competencies for nurses;

(b) approved by a state board of nursing; or

(c) offered by an accredited nursing education program; and

(d) includes a minimum of 150 hours of supervised clinical learning.

([~~7~~]8) "CGFNS" means the Commission on Graduates of Foreign Nursing Schools.

([~~8~~]9) "Comprehensive nursing assessment" means:

(a) conducting extensive initial and ongoing data collection:

(i) for individuals, families, groups or communities; and

(ii) addressing anticipated changes in patient conditions as well as emergent changes in patient health status;

(b) recognizing alterations to previous patient conditions;

(c) synthesizing the biological, psychological, spiritual, and social aspects of the patient's condition;

(d) evaluating the impact of nursing care; and

(e) using data generated from the assessments conducted pursuant to this Subsection (a) through (d) to:

(i) make independent decisions regarding patient health care needs;

(ii) plan nursing interventions;

(iii) evaluate any possible need for different interventions; and

(iv) evaluate any possible need to communicate and consult with other health team members.

([~~9~~]10) "Contact hour" in the context of continuing education means 60 minutes, which may include a 10-minute break.

([~~10~~]11) "Delegate" means:

(a) to transfer to another nurse the authority to perform a selected nursing task in a selected situation;

(b) in the course of practice of an APRN who specializes in psychiatric mental health nursing, to transfer to any individual licensed as a mental health therapist selected psychiatric APRN supervisory clinical experiences within generally-accepted industry standards; or

(c) to transfer to an unlicensed person the authority to perform a task that, according to generally-accepted industry standards or law, does not require a nursing assessment as defined in Sections R156-31b-102(8) and (14).

([~~11~~]12) "Delegatee" means one or more persons assigned by a delegator to act on the delegator's behalf.

([~~12~~]13) "Delegator" means a person who assigns to another the authority to perform a task on behalf of the person.

([~~13~~]14)(a) "Disruptive behavior" means conduct, whether verbal or physical, that:

(i) is demeaning, outrageous, or malicious;

(ii) occurs during the process of delivering patient care; and

(iii) places a patient at risk.

(b) "Disruptive behavior" does not include criticism that is offered in good faith with the aim of improving patient care.

([~~14~~]15) "Focused nursing assessment" means an appraisal of a patient's status and situation at hand, including:

(a) verification and evaluation of orders; and

(b) assessment of:

(i) the patient's nursing care needs;

(ii) the complexity and frequency of the required nursing care;

(iii) the stability of the patient; and

(iv) the availability and accessibility of resources, including appropriate equipment, adequate supplies, and other appropriate health care personnel to meet the patient's nursing care needs.

([~~15~~]16) "Foreign nurse education program" means any program that originates or occurs outside of the United States.

([~~16~~]17) "Individualized healthcare plan" or "IHP" means a written document that outlines the provision of student healthcare services intended to achieve specific student outcomes.

([~~17~~]18) "Licensure by equivalency" applies only to the licensed practical nurse and may be warranted if the person seeking licensure:

(a)(i) has, within the two-year period preceding the date of application, successfully completed course work in a [~~Utah-based~~] registered nurse education program that meets the criteria established in Sections 58-31b-601 and R156-31b-602;[~~or~~] and

(ii) has been unsuccessful on the NCLEX-RN at least one time; or

(b)(i) is currently enrolled in an accredited [~~Utah-based~~] registered nurse education program; and

(ii) has completed course work that is certified by the education program provider as being equivalent to the course work of an ACEN-accredited practical nursing program, as verified by the nursing education program director or administrator.

([~~18~~]19) "LPN" means licensed practical nurse.

([~~19~~]20) "MAC" means medication aide certified.

([~~20~~]21) "Medication" means any prescription or nonprescription drug as defined in Subsections 58-17b-102(24), (37) or (61) of the Pharmacy Practice Act.

([~~21~~]22) "NCLEX" means the National Council Licensure Examination of the National Council of State Boards of Nursing.

([~~22~~]23) "Non-approved education program" means any nurse prelicensing course of study that does not meet the criteria of Section 58-31b-601, including a foreign nurse education program.

([~~23~~]24) "Nurse" means:

(a) an individual licensed under Title 58, Chapter 31b as:

(i) a licensed practical nurse;

(ii) a registered nurse;

(iii) an advanced practice registered nurse; or

(iv) an advanced practice registered nurse-certified registered nurse anesthetist; or

(b) a certified nurse midwife licensed under Title 58, Chapter 44a.

([~~24~~]25) "Other specified health care professionals," as used in Subsection 58-31b-102(15), means an individual, in addition to a registered nurse or a licensed physician, who is permitted to direct the tasks of a licensed practical nurse, and includes:

(a) an advanced practice registered nurse;

(b) a certified nurse midwife;

(c) a chiropractic physician;

(d) a dentist;

(e) an osteopathic physician;

(f) a physician assistant;

(g) a podiatric physician;

(h) an optometrist;

(i) a naturopathic physician; or

(j) a mental health therapist as defined in Subsection 58-60-102(5).

([~~25~~]26) "Patient" means one or more individuals:

(a) who receive medical and/or nursing care; and

(b) to whom a licensee owes a duty of care.

([~~26~~]27) "Patient surrogate" means an individual who has legal authority to act on behalf of a patient when the patient is unable to act or make decisions unaided, including:

(a) a parent;

(b) a foster parent;

(c) a legal guardian; or

(d) a person legally designated as the patient's attorney-in-fact.

([~~27~~]28) "PN" means an unlicensed practical nurse.

([~~28~~]29) "Psychiatric mental health nursing specialty" means an expertise in psychiatric mental health, whether as a clinical nurse specialist or nurse practitioner licensed as an APRN.

(30) "Practica" means working in the nursing field as a student; not exclusive to patient care activities.

([~~29~~]31) "Practitioner" means a person authorized by law to prescribe treatment, medication, or medical devices.

([~~30~~]32) "RN" means a registered nurse.

([~~31~~]33) "School" means any private or public institution of primary or secondary education, including a charter school, pre-school, kindergarten, or special education program.

([~~32~~]34) "Supervision" is as defined in Subsection R156-1-102a(4).

([~~33~~]35) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 31b is further defined in Section R156-31b-502.

R156-31b-202. Advisory Peer Education Committee Created - Membership - Duties.

(1) In accordance with Subsection 58-1-203(1)(f), there is created the Advisory Peer Education Committee.

(2) The duties and responsibilities of the Advisory Peer Education Committee are to:

(a) review applications for approval of [~~nursing education~~]medication aide training programs;

(b) monitor a nursing education program that is approved for a limited time under Section R156-31b-602 as it progresses toward accreditation; and

(c) advise the Division as to nursing education issues.

(3) The composition of the Advisory Peer Education Committee shall be:

(a) seven RNs or APRNs actively involved in nursing education, including at least one representative from public, private, and proprietary nursing programs; and

(b) any member of the Board who wishes to serve on the committee.

R156-31b-301. License Classifications - Professional Upgrade.

(1) A licensed practical nurse license shall be superseded upon the issuance of a registered nurse license.

(2) An advanced practice registered nurse may hold both an APRN and an RN license in Utah.

(3) Unless the APRN requests that both the APRN and RN licenses remain active, the registered nurse license shall be superseded upon the issuance of an advanced practice registered nurse license.

[~~Upon issuance by the Division of an increased scope of practice license:~~

~~(1) the increased licensure supersedes the lesser license;~~

~~(2) the lesser license is automatically expired; and~~

~~(3) the licensee shall immediately destroy any print or physical copy of the lesser license.~~]

R156-31b-301a. LPN License -- Education, Examination, and Experience Requirements.

(1) An applicant who has never obtained a license in any state or country shall:

(a) demonstrate that the applicant:

(i) has successfully completed a PN prelicensing education program that meets the requirements of Section 58-31b-601;

(ii) has successfully completed a PN prelicensing education program that is equivalent to an approved program under Section 58-31b-601;[~~or~~]

(iii)(A) has completed an RN prelicensing education program that meets the requirements of Section 58-31b-601; and

(B) has taken, but not passed the NCLEX-RN at least one time; or

([~~iii~~]v)(A) is enrolled in [~~an RN prelicensing~~]a registered nurse education program that meets the requirements of Section 58-31b-601; and

(B) has completed coursework that is equivalent to the coursework of an accredited practical nurse program;

(b) pass the NCLEX-PN examination pursuant to Section R156-31b-301e; and

(c) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

(2) An applicant who holds a current LPN license issued by another country or state shall:

(a) demonstrate that the license issued by the other jurisdiction is active and in good standing as of the date of application;

(b) demonstrate that the PN prelicensing education completed by the applicant:

(i) is equivalent to PN prelicensing education approved in Utah as of the date of the applicant's graduation; and

(ii) if a foreign education program, meets all requirements outlined in Section R156-31b-301d;

(c) pass the NCLEX-PN examination pursuant to Section R156-31b-301e; and

(d) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

(3) An applicant who holds a current LPN license in an interstate compact state shall apply for a license within 90 days of establishing residency in Utah and complete all requirements pursuant to R156-31b-301a(2).

(4) An applicant who has been licensed previously in Utah, but whose license has expired or lapsed, shall:

(a) if the applicant has not practiced as a nurse for up to five years, document current compliance with the continuing competency requirements as established in Subsection R156-31b-303(3);

(b) if the applicant has not practiced as a nurse for more than five years but less than eight years:

(i) pass the NCLEX-PN examination within 60 days following the date of application; or

(ii) successfully complete an approved re-entry program;

(c) if the applicant has not practiced as a nurse for more than eight years but less than 10 years:

(i) successfully complete an approved re-entry program; and

(ii) pass the NCLEX-PN examination within 60 days following the date of application; or

(d) if the applicant has not practiced as a nurse for 10 years or more, comply with this Subsection (1).

(5) An applicant who has been licensed in another state or country, but whose license has expired or lapsed, shall:

(a) comply with this Subsection (2)(b); and

(b) comply with this Subsection (4) as applicable; and

(c) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

R156-31b-309. APRN Intern License.

(1) An individual who has completed all requirements outlined in Subsection R156-31b-301c(1) except the certification examination requirement may apply for an APRN intern license.

(2) In accordance with Section 58-31b-306, and unless this Subsection (3) or (4) applies, an intern license expires the earlier of:

(a) 180 days from the date of issuance;

(b) 30 days after the Division receives notice pursuant to this Subsection (4) that the applicant has failed the specialty certification examination; or

(c) upon issuance of an APRN license.

(3) The Division in collaboration with the Board may extend the term of any intern license upon a showing of extraordinary circumstances beyond the control of the applicant.

(4) An individual holding an APRN intern license specializing in psychiatric mental health nursing must work under the supervision of an APRN pursuant to R156-31b-301c.

(5) It is the professional responsibility of an APRN intern:

(a) to inform the Division of examination results within ten calendar days of receipt; and

(b) to cause the examination agency to send the examination results directly to the Division.

R156-31b-602. Requirements for Limited-time Approval of Non-accredited Nursing Education Programs.

(1)(a) Pursuant to Subsection 58-31b-601(2), a nursing education program may, prior to obtaining an accreditation described in Subsection 58-31b-601(1), qualify for a limited time as an approved education program if the program [~~provider demonstrates~~]was granted limited-time approval on or before May 15, 2016 and had demonstrated to the satisfaction of the Board that the program:

(i) [~~has~~]established a timeline which allows for the initial accreditation visit to occur before the first students graduate;

(ii) understands the accreditation standards of its selected accrediting body as demonstrated in a written report which includes plans and processes consistent with the accrediting body for:

(A) curricular organization and delivery method;

(B) student learning outcomes;

(C) student support;

(D) program administration and organization;

(E) learning environment and facilities;

(F) clinical learning and placements; and

(G) faculty and nurse administrator qualifications;

(iii) clearly informs students and potential students about its accreditation status and the potential implications for future practice; and

[~~(b) If the program provider is seeking accreditation from an accrediting body for nursing education as defined in Subsection R156-31b-102(1), the limited-time approval shall expire after 12 months unless Subsection (2) applies.~~

~~(c) If the program provider is seeking accreditation from the COA, the limited-time approval shall expire at the end of the COA initial review process unless this Subsection (2) applies.~~

~~(2)(a) A program that is granted limited-time approval pursuant to this Subsection (1) shall retain that approval if, during the applicable time period outlined in Subsection (1) it achieves candidate, applicant, or initial status with an accrediting body for nursing education that is approved by the United States Department of Education.~~

~~(b) A program that meets the qualifications described in this Subsection (2)(a) shall retain its limited-time approval until such time as the accrediting body makes a final determination on the program's application for accreditation.~~

~~(c) A program shall achieve full accreditation within five years of receiving candidate, applicant, or review status with the approved accrediting body.~~]

([~~3~~]2) The provider of a program [~~that receives~~]with limited-time approval pursuant to this Subsection (1) and (2) shall, pursuant to this Subsection ([~~4~~]3), disclose to each student who enrolls:

(a) that program accreditation is pending;

(b) that any education completed prior to the accrediting body's final determination will satisfy, at least in part, state requirements for prelicensing education; and

(c) that, if the program fails to achieve accreditation on or before December 31, 2020, any student who has not yet graduated will not be made eligible for the NCLEX by the state of Utah[~~be unable to complete a nurse prelicensing education program through the provider~~].

([~~4~~]3) The disclosure required by this Subsection ([~~3~~]2) shall:

(a) be signed by each student who enrolls with the provider; and

(b) at a minimum, state the following: "The nursing program in which you are enrolling has not yet been accredited. The program is being reviewed by the (accrediting body). Any education you complete prior to December 31, 2020 or a final determination by the (accrediting body) will satisfy associated state requirements for licensure. [~~However, i~~]If the (accrediting body) ultimately determines that the program does not qualify for accreditation, you will not be made eligible for the NCLEX by the state of Utah[~~you will need to transfer into a different program in order to complete your nurse prelicensing education. There is no guarantee that another institution will accept you as a transfer student. If you are accepted, there is no guarantee that the institution you attend will accept the education you have completed at (name of institution providing disclosure) for credit toward graduation~~]."

([~~5~~]4) If an accredited program receives notice or determines that its accreditation status is in jeopardy, the institution offering the program shall:

(a) immediately notify the Board of its accreditation status;

(b) immediately and verifiably notify all enrolled students in writing of the program's accreditation status, including:

(i) the estimated date on which the accrediting body will make its final determination as to the program's accreditation; and

(ii) the potential impact of a program's accreditation status on the graduate's ability to secure licensure and employment or transfer academic credits to another institution in the future; and

(c) attempt negotiations with other academic institutions to establish a transfer articulation agreement.

([~~6~~]5) If a program with limited-time approval fails to achieve accreditation by December 31, 2020 or if a program loses its accreditation, the institution offering the program shall:

(a) submit a written report to the Board within ten days of receiving formal notification from the accrediting body;

(b) notify all matriculated and pre-enrollment nursing students about the program's accreditation status;

(c) inform all nursing students who will graduate from a non-accredited program that they will not be eligible for initial licensure through Utah; and

(d) submit a written plan to close the program and cease operations, if necessary.

[~~(b) meet with the Board as soon as practicable after receiving formal notification from the accrediting body to discuss programmatic options including:~~

~~(i) an appeal of the accrediting body's action;~~

~~(ii) a one-time reapplication with an approved accrediting body for applicant or candidate status with an onsite evaluation by the accrediting body to be completed within three years of the date the accreditation was lost;~~

~~(iii) a one-time reapplication for limited-time program approval pursuant to Subsections R156-31b-602(1) through (4); or~~

~~(iv) written plans to close the program and cease operations.~~

~~(7) A program that has exhausted all limited-time approval options shall submit written plans to cease enrollment and close the program.~~]

R156-31b-701a. Delegation of Tasks in a School Setting.

In addition to the delegation rule found in Section R156-31b-701, the delegation of tasks in a school setting is further defined, clarified, or established as follows:

(1) Before a registered nurse may delegate a task that is required to be performed within a school setting, the registered nurse shall:

(a) develop, in conjunction with the applicable student, parent(s) or parent surrogate(s), educator(s), and healthcare provider(s) an IHP; and

(b) ensure that the IHP is available to school personnel.

(2) Any task being delegated by a registered nurse shall be identified within the patient's current IHP.

(3)(a) A registered nurse shall personally train any unlicensed person who will be delegated the task of administering medications that are routine for the student[~~routine medication(s), as defined in Subsection 58-31b-102(17), to a student~~].

(b) The training required under this Subsection (3)(a) shall be performed at least annually.

(c) A registered nurse may not delegate to an unlicensed person the administration of any medication:

(i) with known, frequent side effects that can be life threatening;

(ii) that requires the student's vital signs or oxygen saturation to be monitored before, during or after administration of the drug;

(iii) that is being administered as a first dose:

(A) of a new medication; or

(B) after a dosage change; or

(iv) that requires nursing assessment or judgment prior to or immediately after administration.

(d) In addition to delegating other tasks pursuant to this rule, a registered nurse may delegate to an unlicensed person who has been properly trained regarding a diabetic student's IHP:

(i) the administration of a scheduled dose of insulin; and

(ii) the administration of glucagon in an emergency situation, as prescribed by the practitioner's order or specified in the IHP.

R156-31b-703b. Scope of Nursing Practice Implementation.

(1) LPN. An LPN shall be expected to:

(a) conduct a focused nursing assessment;

(b) plan for and implement nursing care within limits of competency;

(c) conduct patient surveillance and monitoring;

(d) assist in identifying patient needs;

(e) assist in evaluating nursing care;

(f) participate in nursing management by:

(i) assigning appropriate nursing activities to other LPNs;

(ii) delegating care for stable patients to unlicensed assistive personnel in accordance with these rules and applicable statutes;

(iii) observing nursing measures and providing feedback to nursing managers; and

(iv) observing and communicating outcomes of delegated and assigned tasks; and

(g) serve as faculty in area(s) of competence.

(2) RN. An RN shall be expected to:

(a) interpret patient data, whether obtained through a focused nursing assessment or otherwise, to:

(i) complete a comprehensive nursing assessment; and

(ii) determine whether, and according to what timeframe, another medical professional, a patient's family member, or any other person should be apprised of a patient's nursing needs;

(b) detect faulty or missing patient information;

(c) apply nursing knowledge effectively in the synthesis of the biological, psychological, spiritual, and social aspects of the patient's condition;

(d) utilize broad and complete analyses to plan strategies of nursing care and nursing interventions that are integrated within each patient's overall health care plan or IHP;

(e) demonstrate appropriate decision making, critical thinking, and clinical judgment to make independent nursing decisions and to identify health care needs;

(f) correctly identify changes in each patient's health status;

(g) comprehend clinical implications of patient signs, symptoms, and changes as part of ongoing or emergent situations;

(h) critically evaluate the impact of nursing care, the patient's response to therapy, and the need for alternative interventions;

(i) intervene on behalf of a patient when problems are identified so as to revise a care plan as needed;

(j) appropriately advocate for patients by:

(i) respecting patients' rights, concerns, decisions, and dignity;

(ii) identifying patient needs;

(iii) attending to patient concerns or requests; and

(iv) promoting a safe and therapeutic environment by:

(A) providing appropriate monitoring and surveillance of the care environment;

(B) identifying unsafe care situations; and

(C) correcting problems or referring problems to appropriate management level when needed;

(k) communicate with other health team members regarding patient choices, concerns, and special needs, including:

(i) patient status and progress;

(ii) patient response or lack of response to therapies; and

(iii) significant changes in patient condition;

(l) demonstrate the ability to responsibly organize, manage, and supervise the practice of nursing by:

(i) delegating tasks in accordance with these rules and applicable statutes; and

(ii) matching patient needs with personnel qualifications, available resources, and appropriate supervision;

(m) teach and counsel patient families regarding an applicable health care regimen, including general information about health and medical conditions, specific procedures, wellness, and prevention;

(n) if acting as a chief administrative nurse:

(i) ensure that organizational policies, procedures, and standards of nursing practice are developed, kept current, and implemented to promote safe and effective nursing care;

(ii)(A) assess the knowledge, skills, and abilities of nursing staff and assistive personnel; and

(B) ensure all personnel are assigned to nursing positions appropriate to their determined competence and licensure/certification/registration level; and

(iii) ensure that thorough and accurate documentation of personnel records, staff development, quality assurance, and other aspects of the nursing organization are maintained;

(o) if employed by a department of health:

(i) implement standing orders and protocols; and

(ii) complete and provide to a patient prescriptions that have been prepared and signed by a physician in accordance with the provisions of Section 58-17b-620;

(p) serve as faculty in area(s) of competence; and

(q) perform any task within the scope of practice of an LPN.

(3) APRN.

(a) An APRN who chooses to change or expand from a primary focus of practice shall, at the request of the Division, document competency within that expanded practice based on education, experience, and certification. The burden to demonstrate competency rests upon the licensee.

(b) An individual licensed as an APRN may practice within the scope of practice of an RN and an LPN.

(c) An APRN who wishes to practice as an RN is a Compact state must qualify for and obtain an RN Compact license in Utah[~~individual licensed in good standing in Utah as an APRN and residing in this state may practice as an RN in any Compact state~~].

KEY: licensing, nurses
Date of Enactment or Last Substantive Amendment: [~~December 8, 2015~~]2016
Notice of Continuation: March 18, 2013
Authorizing, and Implemented or Interpreted Law: 58-31b-101; 58-1-106(1)(a); 58-1-202(1)(a)

Commerce, Occupational and Professional Licensing
R156-37-402
Continuing Professional Education for Controlled Substance Prescribers

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 40917
FILED: 10/27/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 58-37f-304(3)(b), enacted by H.B. 375 during the 2016 General Session, requires the Division to make rules to reduce or waive the Division's continuing education requirements regarding opioid prescriptions described in Section 58-37-6.5 for prescribers whose individual utilization of the controlled substance database contribute to the life-saving and public safety purposes of that section and chapter (i.e., identifying and reducing the prescribing and dispensing of opioids in an unprofessional or unlawful manner, or in quantities or frequencies inconsistent with generally recognized standards of dosage for an opioid). The Division is filing this amendment to the rule to accomplish that mandate. The proposed language of the amendment also eliminates surplus language, reorganizes and renumbers the rule for clarity, and replaces unclear and outdated citations regarding the Division-approved continuing education courses with a reference to those courses on the Division's website.

SUMMARY OF THE RULE OR CHANGE: The rule was renumbered throughout for clarity and amended to: 1) eliminate former Subsection R156-37-402(1)'s surplus and misleading language referencing four hours of continuing professional education for prescribers; 2) replace former Subsection R156-37-402(4)(a)'s unclear and outdated citations to Subsections 58-37-6.5(1(b)(ii) and (iii), regarding the Division-approved continuing education courses, with correct references to Subsections 58-37-6.5(5), 58-37-6.5(7) and 58-37-6.5(8), and a reference to the appropriate Division-approved courses on the Division's website; 3) add a new Subsection R156-37-402(3)(c), which provides that in accordance with Subsection 58-37f-304(3), the Division shall waive the half hour continuing education requirement for the controlled substance database's online tutorial and test for a prescriber renewing a license, if the prescriber attests that in the past license period the prescriber accessed the controlled substance database, and upon information and belief such use reduced the prescribing, dispensing, and use of opioids in an unprofessional or unlawful manner, or in quantities or frequencies inconsistent with generally recognized standards of dosage for an opioid; and 4) new language was added to

renumbered Subsection R156-37-402(4), stating that the Division may review controlled substance database usage to audit an attestation provided under Subsection R156-37-402(3)(c).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 58-1-106(1)(a) and Subsection 58-37-6(1)(a) and Subsection 58-37f-301(1)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division will incur minimal costs of approximately $75 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
♦ LOCAL GOVERNMENTS: The proposed substantive amendments only apply to licensed prescribers who choose to utilize the controlled substance database. However, this rule may incentivize prescribers to utilize the database in a manner that will help ameliorate the effects of opioid abuse within communities and contribute to life saving and public safety efforts. This may reduce the cost of services provided by local government. The division is not able to determine any exact amount of cost or savings due to varying circumstances.
♦ SMALL BUSINESSES: Prescribers who own or operate a small business, and who choose to increase their utilization of the database, will be impacted by using some of their time to review the database information of their patients prior to prescribing. This may translate into a loss of income relative to the time required for review and analysis. The cost may be partially offset by the waiver of continuing education requirements. The Division is not able to determine any exact amount of cost or savings due to varying circumstances.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Prescribers who choose to increase their utilization of the database will be impacted by using some of their time to review the database information of their patients prior to prescribing. This may translate into a loss of income relative to the time required for review and analysis. The cost may be partially offset by the waiver of continuing education requirements. The increased utilization of the database which may result from this amended rule, may allow prescribers insight into their patients' utilization of controlled substances and potential abuse of opioids and benzodiazepines. This may result in less opioid misuse by patients and less addictions, and an increased health and quality of life for patients. This may even save the lives of some patients. The Division is not able to determine any exact amount of costs or savings due to varying circumstances.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A prescriber that chooses to increase his utilization of the database, will be impacted by using the prescriber's time to review the database information of the prescriber's patients prior to prescribing. This may translate into a loss of income for that prescriber, relative to the time required for review and analysis. The cost may be partially offset by the prescriber providing the required attestation upon license renewal and receiving the half hour waiver of continuing education requirements. The increased utilization of the database which may result from this amended rule, may allow insight into a particular patient's use of controlled substances and potential abuse of opioids and benzodiazepines. This may reduce that patient's opioid misuse and addiction and increase his or her quality of life, and it may even save that patient's life. The Division is not able to determine any exact amount of costs or savings due to varying circumstances.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to the rules fulfill the mandate to the Division to reduce or waive the Division's continuing education requirements regarding opioid prescriptions as directed by H.B. 375 (2016). The continuing education requirement is waived if a prescriber attests that in the past license period, the prescriber accessed the controlled substance database and believes that such use reduced the prescribing, dispensing, and use of opioids in an unprofessional or unlawful manner. Prescribers who own or operate a small business, and who choose to increase their utilization of the database, will be impacted by using some of their time to review the database information of their patients prior to prescribing. These costs may be partially offset by the waiver of the continuing education requirements. The division is not able to determine any exact amount of costs or savings due to varying circumstances.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Larry Marx by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at lmarx@utah.gov, or mail at PO BOX 146741, Salt Lake City, UT 84114-6741.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 11/17/2016 11:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 403 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-37. Utah Controlled Substances Act Rule.
R156-37-402. Continuing Professional Education for Controlled Substance Prescribers.

In accordance with Section 58-37-6.5, qualified continuing professional education requirements for controlled substance prescribers are further established as follows:

(1) [~~All licensed controlled substance prescribers shall complete four hours of qualified continuing professional education during each two year period of licensure.~~

~~(2) Qualified continuing professional education hours for licensees who have not been licensed for the entire two year period will be prorated from the date of licensure.~~

~~(3)~~]Continuing education under this section shall:

(a) be prepared and presented by individuals who are qualified by education, training and experience to provide the controlled substance prescriber continuing education; and

(b) have a method of verification of attendance and a post course knowledge assessment or examination[~~; and~~

~~(c) teach content as set forth in Subsection 58-37-6.5(2)~~].

(2) In accordance with Subsections 58-37-65.(5), 58-37-6.5(7), and 58-37-6.5(8), the controlled substance prescribing classes that satisfy the division's continuing education requirements for license renewal, and that are delivered by an accredited or approved continuing education provider recognized by the division as offering appropriate continuing education, shall be posted on the division's website at http://dopl.utah.gov/.

([~~4~~]3) Credit for continuing education shall be recognized as follows[~~in accordance with the following~~]:

(a) [~~continuing education shall be presented by an organization accredited to provide continuing medical education as set forth in Subsection 58-37-6.5(1)(b)(ii) and be approved as set forth in Subsection 58-37-6.5(1)(b)(iii); and~~

~~(b) u~~]Unlimited hours shall be recognized for continuing education completed in blocks of time of not less than 50 minutes[~~-~~];

(b) Continuing education hours for licensees who have not been licensed for the entire two-year period shall be prorated from the date of licensure;

(c) In accordance with Subsection 58-37f-304(3), the required 1/2 hour of continuing education for the online tutorial and test relating to the controlled substance database shall be waived by the division for a controlled substance prescriber renewing a license, if the prescriber attests on the license renewal form that:

(i) in the past license period, the prescriber accessed the controlled substance database; and

(ii) upon the prescriber's information and belief, the prescriber's use of the database reduced the prescribing, dispensing, and use of opioids in an unprofessional or unlawful manner, or in quantities or frequencies inconsistent with generally recognized standards of dosage for an opioid.

([~~5~~]4) A licensee shall [~~be responsible for~~]maintain[~~ing~~] competent records of completed qualified continuing professional education for a period of four years after close of the two-[~~-~~]year period to which the records pertain. The division may review controlled substance database usage by the prescriber or proxy to audit an attestation provided under Subsection R156-37-402(3)(c).

KEY: controlled substances, licensing
Date of Enactment or Last Substantive Amendment: [~~April 21,~~] 2016
Notice of Continuation: February 21, 2012
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-37-6(1)(a); 58-37f-301(1)

Commerce, Occupational and Professional Licensing
R156-37f
Controlled Substance Database Act Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40916
FILED: 10/27/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This filing implements legislative changes and requirements regarding Controlled Substance Database (database) access and reporting made during the 2016 General Session by S.B. 3001, Controlled Substance Database Modifications; H.B. 149, Death Reporting and Investigation Information Regarding Controlled Substances; and H.B. 150, Controlled Substance Prescription Notification.

SUMMARY OF THE RULE OR CHANGE: In Section R156-37f-102, adds a definition of "Originating Agency Identifier Number", which number will be used to identify the adult probation and parole officer agencies accessing the database. In Section R156-37f-203: 1) adds items to the mandatory database data fields and preferred database data fields; and 2) updates the reference to the new ASAP (American Society for Automation in Pharmacy) 4.2 format. In Section R156-37f-301: 1) adds procedures regarding database access for adult probation or parole officers employed by the Department of Corrections or a political subdivision; 2) specifies information that may be included in the accounting to an individual regarding the persons or entities who have requested or received database information about that individual; 3) adds a requirement that the written designation by a licensed practitioner allowing the practitioner's employee to obtain database information, must be manually signed by both the practitioner and the designated employee; 4) establishes procedures regarding an individual's request to the division for initiating and ceasing third-party notices when a controlled substance prescription is dispensed to that individual; and 5) makes minor technical conforming and formatting changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 58-1-106(1)(a) and Subsection 58-37f-301(1)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division will incur minimal costs of approximately $75 to print and distribute the rules once the proposed amendments are made effective. The cost to the Division to implement the new standards imposed by the proposed rules should be minimal, and should be absorbed in the Division's current budget, because implementation will be handled within regular working hours and through existing Division vendors providing ongoing maintenance and support.
♦ LOCAL GOVERNMENTS: The proposed amendments may impact local governments if they need to upgrade their software to meet the new standards. Such costs, if any, should be minimal since any required changes should be absorbed through the support costs paid to the local government's computer software vendor for ongoing maintenance and support. Some savings may be realized by local governments employing probation or parole officers who will be able to more easily access database information regarding a specific probationer or parolee under the officer's direct supervision. The amount of any cost or savings cannot be estimated as it will vary depending on circumstances.
♦ SMALL BUSINESSES: The proposed amendments may impact small business pharmacies if they need to upgrade their pharmacy software to meet the new standards. However, the cost to these pharmacies should be minimal since most of the changes should be absorbed through the support costs these pharmacies already pay to their computer software vendor for ongoing maintenance and support. The proposed amendments may provide some cost savings for pharmacies that employ pharmacy technicians and pharmacy interns, as the new procedures will allow pharmacy technicians and pharmacy interns to access database information on behalf of a licensed pharmacist. The amount of any cost or savings cannot be estimated as it will vary depending on circumstances.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings to persons other than businesses, small businesses, and local government entities, as the amendments only implement procedures regarding database access and database reporting requirements for businesses and government entities beyond those that may have been identified in fiscal notes associated with the legislative bills.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs or savings for affected persons, as the amendments only implement procedures regarding database access and database information reporting requirements for businesses and government entities.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to the rules implement legislative changes regarding the Controlled Substance Database (CSD) access and reporting made S.B. 3001, H.B. 149, and H.B. 150 (2016). The principal changes add items to the mandatory CSD data fields, add procedures regarding database access for adult probation or parole officers, specify information that may be included in the accounting to an individual regarding the persons who have received database information regarding the individual, and establish procedures regarding an individual's request to the division of initiating and ceasing third-party notice when a controlled substance prescription is dispensed to that individual. The material changes in the rules will impact pharmacies and require additional, but not excessive, expenditure of time in keeping the records for, and permitting access to, CSD information. Much of this compliance will be realized through computer software changes, which costs should not have a material effect on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Marvin Sims by phone at 801-530-6232, by FAX at 801-530-6511, or by Internet E-mail at msims@utah.gov, or mail at PO BOX 146741, Salt Lake City, UT 84114-6741.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 11/17/2016 11:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 403 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-37f. Controlled Substance Database Act Rule.
R156-37f-102. Definitions.

In addition to the definitions in Sections 58-17b-102, 58-37-2 and 58-37f-102, as used in this chapter:

(1) "ASAP" means the American Society for Automation in Pharmacy system.

(2) "DEA" means Drug Enforcement Administration.

(3) "NABP" means the National Association of Boards of Pharmacy.

(4) "NCPDP" means National Council for Prescription Drug Programs.

(5) "NDC" means National Drug Code.

(6) "ORI" means Originating Agency Identifier Number.

([~~6~~]7) "Positive identification" means:

(a) one of the following photo identifications issued by a foreign or domestic government:

(i) driver's license;

(ii) non-driver identification card;

(iii) passport;

(iv) military identification; or

(v) concealed weapons permit; or

(b) if the individual does not have government-issued identification, alternative evidence of the individual's identity as deemed appropriate by the pharmacist, as long as the pharmacist documents in a prescription record a description of how the individual was positively identified.

([~~7~~]8) "Research facility" means a facility in which research takes place that has policies and procedures describing such research.

([~~8~~]9) "Rx" means a prescription.

R156-37f-203. Submission, Collection, and Maintenance of Data.

(1) The format used as a guide for submission to the Database shall be in accordance with [~~any~~]version 4.2 of the ASAP Telecommunications Format for Controlled Substances published by the American Society for Automation in Pharmacy. The Division may approve alternative formats substantially similar to this standard. This standard is further classified by the Database as follows:

(a) Mandatory Data. The following Database data fields are mandatory:

(i) pharmacy NABP or NCPDP number;

(ii) [~~customer~~]identification number of person picking up filled prescription;

(iii) patient birth date;

(iv) patient gender code;

(v) date filled;

(vi) Rx number;

(vii) new-refill code;

(viii) metric quantity;

(ix) days supply;

(x) NDC number;

(xi) prescriber identification number;

(xii) date Rx written;

(xiii) number refills authorized;

(xiv) patient last name;

(xv) patient first name;[~~ and~~]

(xvi) patient [~~street~~]address;

(xvii) five-[-]digit zip code; and

(xviii) date sold (point of sale).

(b) Preferred Data. The following Database data fields are strongly suggested:

(i) compound code;

(ii) DEA suffix;

(iii) Rx origin code;

(iv) customer location;

(v) alternate prescriber number;[~~ and~~]

(vi) state in which the prescription is filled;

(vii) method of payment; and

(viii) dispensing pharmacist state license number.

(c) Optional Data. All other data fields in the ASAP 4.2 Format not included in Subsections (a) and (b) are optional.

(2) Upon request, the Division will consider approving alternative formats, or adjustments to the ASAP Format, as might be necessary due to the capability or functionality of Database collection instruments. A proposed alternative format shall contain all mandatory data elements.

(3) In accordance with Subsection 58-37f-203(1)(a), the data required in Subsection (1) shall be submitted to the Database through one of the following methods:

(a) electronic data sent via a secured internet transfer method, including sFTP site transfer;

(b) secure web base service; or

(c) any other electronic method approved by the Database manager prior to submission.

(4) In accordance with Subsection 58-37f-203(1)(a):

(a) Effective January 1, 2016, each pharmacy or pharmacy group shall submit data collected on a daily basis either in real time or daily batch file reporting. The submitted data shall be from the point of sale (POS) date.

(i) If the data is submitted by a single pharmacy entity, the data shall be submitted in chronological order according to the date each prescription was filled.

(ii) If the data is submitted by a pharmacy group, the data is required to be sorted by individual pharmacy within the group, and the data of each individual pharmacy within the group is required to be submitted in chronological order according to the date each prescription was filled.

(b)(i) A Class A, B, or D pharmacy or pharmacy group that has a controlled substance license but is not dispensing controlled substances and does not anticipate doing so in the immediate future may request a waiver or submit a certification of such, in a form preapproved by the Division, in lieu of daily null reporting.

(ii) The waiver or certification must be resubmitted at the end of each calendar year.

(iii) If a pharmacy or pharmacy group that has submitted a waiver or certification under this Subsection ([~~5~~]4)(b) dispenses a controlled substance:

(A) the waiver or certification shall immediately and automatically terminate;

(B) the pharmacy or pharmacy group shall provide written notice of the waiver or certification termination to the Division within seven days of dispensing the controlled substance; and

(C) the Database reporting requirements shall be applicable to the pharmacy or pharmacy group immediately upon the dispensing of the controlled substance.

R156-37f-301. Access to Database Information.

In accordance with Subsections 58-37f-301(1)(a) and (b):

(1) The Division Director may designate those individuals employed by the Division who may have access to the information in the Database (Database staff).

(2)(a) A request for information from the Database may be made:

(i) directly to the Database by electronic submission, if the requester is registered to use the Database; or

(ii) by oral or written submission to the Database staff, if the requester is not registered to use the Database.

(b) An oral request may be submitted by telephone or in person.

(c) A written request may be submitted by facsimile, email, regular mail, or in person except as otherwise provided herein.

(d) The Division may in its discretion require a requestor to verify the requestor's identity.

(3) The following Database information may be disseminated to a verified requestor who is permitted to obtain the information:

(a) dispensing/reporting pharmacy ID number/name;

(b) subject's birth date;

(c) date prescription was filled;

(d) prescription (Rx) number;

(e) metric quantity;

(f) days supply;

(g) NDC code/drug name;

(h) prescriber ID/name;

(i) date prescription was written;

(j) subject's last name;

(k) subject's first name; and

(l) subject's street address;

(4)(a) Federal, state and local law enforcement authorities and state and local prosecutors requesting information from the Database under Subsection 58-37f-301(2)(k) must provide a valid search warrant authorized by the courts, which [~~and~~]may be provided using one of the following methods:

(i) in person;

(ii) [~~be~~]by email to csdb@utah.gov;

(iii) facsimile; or

(iv) U.S. Mail.

(b) Information in the search warrant should be limited to subject's name and birth date.

(c) Information provided as a result of the search warrant shall be in accordance with Subsection (3).

(5) In accordance with Subsection 58-37f-301(2)(n), a probation or parole officer employed by the Department of Corrections or a political subdivision may have access to the database without a search warrant, for supervision of a specific probationer or parolee under the officer's direct supervision, if the following conditions have been met:

(a) a security agreement signed by the officer is submitted to the division for access, which contains:

(i) the agency's name;

(ii) the agency's complete address, including city and zip code;

(iii) the agency's ORI number;

(iv) a copy of the officer's driver's license;

(v) the officer's full name;

(vi) the officer's contact phone number;

(vii) the officer's email address; and

(b) the online database account includes the officer's:

(i) full name;

(ii) email address;

(iii) complete home address, including city and zip code;

(iv) work title;

(v) contact phone number;

(vi) complete work address including city and zip code;

(vii) work phone number; and

(viii) driver's license number.

([~~5~~]6)(a) In accordance with Subsection 58-37f-302(q), a[~~A~~]n individual may receive an accounting of persons or entities that have requested or received Database information about the individual.

(b) An individual may request the information in person or in writing by the following means:

(i) email;

(ii) facsimile; or

(iii) U.S. Mail.

(c) The request for information shall include the following:

(i) individuals' full name, including all aliases;

(ii) birth date;

(iii) home address;

(iv) government issued identification; and

(v) date-range.

(d) The results may be disseminated in accordance with Subsection ([~~14~~]17).

(e) The information provided in the report may include the following:

(i) the role of the person that accessed the information;

(ii) the date and a description of the information that was accessed;

(iii) the name of the person or entity that requested the information; and

(iv) the name of the practitioner on behalf of whom the request for information was made, if applicable.

([~~6~~]7) An individual whose records are contained within the Database may obtain his or her own information and records by:

(a) personally appearing before the Database staff with government-issued picture identification confirming the requester's identity; or

(b) submitting a signed and notarized request that includes the requester's:

(i) full name;

(ii) complete home address;

(iii) date of birth; and

(iv) driver license or state identification card number.

([~~7~~]8) A requester holding power of attorney for an individual whose records are contained within the Database may obtain the individual's information and records by:

(a) personally appearing before the Database staff with government-issued picture identification confirming the requester's identity; and

(b) providing:

(i) an original, properly executed power of attorney designation; and

(ii) a signed and notarized request, executed by the individual whose information is contained within the Database, and including the individual's:

(A) full name;

(B) complete home address;

(C) date of birth; and

(D) driver license or state identification card number verifying the individual's identity.

([~~8~~]9) A requestor who is the legal guardian of a minor or incapacitated individual whose records are contained within the Database may obtain the individual information and records by:

(a) personally appearing before the Database staff with government-issued picture identification confirming the requester's identity;

(b) submitting the minor or incapacitated individual's:

(i) full name;

(ii) complete home address;

(iii) date of birth; and

(iv) if applicable, state identification card number verifying the individual's identity; and

(c) submitting legal proof that the requestor is the guardian of the individual who is the subject of the request for information from the Database.

([~~9~~]10) A requestor who has a release-of-records from an individual whose records are contained within the Database may obtain the individual's information and records by:

(a) submitting a request in writing;

(b) submitting an original, signed and notarized release-of-records in a format acceptable to the Database staff, identifying the purpose of the release; and

(c) submitting the individual's:

(i) full name;

(ii) complete home address;

(iii) telephone number;

(iv) date of birth; and

(v) driver license or state identification card number verifying the identity of the person who is the subject of the request.

([~~10~~]11) An employee of a licensed practitioner who is authorized to prescribe controlled substances may obtain Database information to the extent permissible under Subsection 58-37f-301(2)([~~d~~]i)if, prior to making the request:

(a) the licensed practitioner has provided to the Division a written designation that includes the designating practitioner's DEA number and the designated employee's:

(i) full name;

(ii) complete home address;

(iii) e-mail address;

(iv) date of birth;[~~and~~]

(v) driver license number or state identification card number; and

(vi) the written designation is manually signed by the licensed practitioner and designated employee.

(b) the designated employee has registered for an account for access to the Database and provided a unique user identification;

(c) the designated employee has passed a Database background check of available criminal court and Database records; and

(d) the Database has issued the designated employee a user personal identification number (PIN) and activated the employee's Database account.

([~~11~~]12) An employee of a business that employs a licensed practitioner who is authorized to prescribe controlled substances may obtain Database information to the extent permissible under Subsection 58-37f-301(2)([~~d~~]i) if, prior to making the request:

(a) the licensed practitioner and employing business have provided to the Division a written designation that includes:

(i) the designating practitioner's DEA number;

(ii) the name of the employing business; and

(iii) the designated employee's:

(A) full name;

(B) complete home address;

(C) e-mail address;

(D) date of birth; and

(E) driver license number or state identification card number;

(b) the designated employee has registered for an account for access to the Database and provided a unique user identification and password;

(c) the designated employee has passed a Database background check of available criminal court and Database records; and

(d) the Database has issued the designated employee a user personal identification number (PIN) and activated the employee's Database account.

([~~12~~]13) An individual who is employed in the emergency room of a hospital that employs a licensed practitioner who is authorized to prescribe controlled substances may obtain Database information to the extent permissible under Subsection 58-37f-301(2)(d) if, prior to making the request:

(a) the practitioner and the hospital operating the emergency room have provided to the Division a written designation that includes:

(i) the designating practitioner's DEA number;

(ii) the name of the hospital;

(iii) the names of all emergency room practitioners employed at the hospital; and

(iv) the designated employee's:

(A) full name;

(B) complete home address;

(C) e-mail address;

(C) date of birth; and

(D) driver license number or state identification card number;

(b) the designated employee has registered for an account for access to the Database and provided a unique user identification and password;

(c) the designated employee has passed a Database background check of available criminal court and Database records; and

(d) the Database has issued the designated employee a user personal identification number (PIN) and activated the employee's Database account.

(14) In accordance with Subsection 58-37f-301(5), an individual's requests to the division regarding third-party notice when a controlled substance prescription is dispensed to that individual, shall be made as follows:

(a) A request to provide notice to a third party shall be made in writing dated and signed by the requesting individual, and shall include the following information:

(i) the requesting individual's:

(A) birth date;

(B) complete home address including city and zip code;

(C) email address; and

(D) contact phone number; and

(ii) the designated third party's:

(A) complete home address, including city and zip code;

(B) email address; and

(C) contact phone number.

(b) A request to discontinue providing notice to a designated third party shall be made by a writing dated and signed by the requesting individual, after which the division shall:

(i) provide notice to the requesting individual that the discontinuation notice was received; and

(ii) provide notice to the designated third party that the notification has been rescinded.

(c) A requesting individual may only have one active designated third party.

(15) A licensed pharmacy technician or pharmacy intern employed by a pharmacy may obtain Database information to the extent permissible under Subsection 58-37f-301(2)(l) if, prior to making the request:

(a) the pharmacist-in-charge (PIC) has provided to the Division a written designation authorizing access to the pharmacy technician or pharmacy intern on behalf of a licensed pharmacist employed by the pharmacy;

(b) the written designation includes the pharmacy technician's or pharmacy intern's:

(i) full name;

(ii) professional license number assigned by the Division;

(iii) email address;

(iv) contact phone number;

(v) pharmacy name and location;

(vi) pharmacy DEA number;

(vii) pharmacy phone number;

(c) the written designation includes the pharmacist-in-charge's (PIC's):

(i) full name;

(ii) professional license number assigned by the Division;

(iii) email address;

(iv) contact phone number;

(d) the written designation includes the assigned pharmacist's:

(i) full name;

(ii) professional license number assigned by the Division;

(iii) email address;

(iv) contact phone number; and

(e) the written designation includes the following signatures:

(i) pharmacy technician or pharmacy intern;

(ii) pharmacist-in-charge (PIC); and

(iii) assigned pharmacist if different than the PIC.

([~~13~~]16) The Utah Department of Health may access Database information for purposes of scientific study regarding public health. To access information, the scientific investigator shall:

(a) demonstrate to the satisfaction of the Division that the research is part of an approved project of the Utah Department of Health;

(b) provide a description of the research to be conducted, including:

(i) a research protocol for the project; and

(ii) a description of the data needed from the Database to conduct that research;

(c) provide assurances and a plan that demonstrates all Database information will be maintained securely, with access being strictly restricted to the requesting scientific investigator;

(d) provide for electronic data to be stored on a secure database computer system with access being strictly restricted to the requesting scientific investigator; and

(e) pay all relevant expenses for data transfer and manipulation.

([~~14~~]17) Database information that may be disseminated under Section 58-37f-301 may be disseminated by the Database staff either:

(a) verbally;

(b) by facsimile;

(c) by email;

(d) by U.S. mail; or

(e) by electronic access, where adequate technology is in place to ensure that a record will not be compromised, intercepted, or misdirected[~~, by electronic access~~].

KEY: controlled substance database, licensing
Date of Enactment or Last Substantive Amendment: [~~January 7,~~]2016
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-37f-301(1)

Commerce, Occupational and Professional Licensing

R156-37f

Controlled Substance Database Act Rule

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 40928
FILED: 11/01/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 239, Access to Opioid Prescription

Information via Practitioner Data Management Systems, passed during the 2016 General Session, required the division to make rules to limit access to and use of opioid prescription information in the Controlled Substance Database (database) by an electronic data system, and by any prescriber, pharmacist, or other individual granted access to the database via an electronic data system (EDS user). These new sections accomplish that mandate.

SUMMARY OF THE RULE OR CHANGE: New Section R156-37f-302 clarifies that deposition testimony is included in the restrictions of Subsection 58-37f-302(2), prohibiting any individual or organization with lawful access to data from being compelled to testify regarding that data. New Section R156-37f-303 limits and protects access and use of opioid prescription information in the database by: 1) requiring an electronic data system accessing opioid prescription information to interface with the database through the Appriss Prescription Monitoring Program (PMP) Gateway system, and to comply with all other database access and use restrictions of the Controlled Substance Database Act and Controlled Substance Database Act Rule; 2) requiring an EDS user who is accessing opioid prescription information via an electronic data system to register with the database, to use the same personal identification number (PIN) for all access, and to comply with all of the other access and use restrictions of the Controlled Substances Database Act and Controlled Substance Database Act Rule; and 3) establishing a proactive administrative action for the Division where the Division may immediately suspend an electronic data system's or EDS user's access to the database without notice or opportunity to be heard if the Division determines such access may lead to an unlawful release or use of database information under Section 58-37f- 601, or may otherwise compromise the integrity, privacy, or security of the database's opioid prescription information.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 58-1-106(1)(a) and Subsection 58-37f-301(1)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division will incur minimal costs of approximately $75 to print and distribute the rule once the proposed sections are made effective. The cost to the state to implement the standards imposed by the proposed new sections are addressed in the fiscal note attached to H.B. 239 (2016). Any additional costs to the Department of Commerce and to the Division should be absorbed in their current budgets because implementation will be handled within regular working hours and through existing vendors providing ongoing maintenance and support.
♦ LOCAL GOVERNMENTS: The proposed new sections may impact local governments if they need to upgrade their software to meet the new standards. Such costs, if any, should be minimal since any required changes should be absorbed through the support costs paid to the local government's computer software vendor for ongoing maintenance and support. The amount of any cost cannot be estimated as it will vary depending on circumstances.
♦ SMALL BUSINESSES: The proposed new sections will impact small-business pharmacies and prescribers who will be accessing the opioid prescription information in the database via electronic data systems. As addressed in the fiscal note attached to H.B. 239 (2016), the vendors for small business electronic data systems will need to work with Appriss on establishing connectivity to the PMP Gateway and Appriss estimated that there will be a startup fee of $7,500 and then a $50 per year cost per prescriber. There may also be costs incurred by small-business users to access this data via the Appriss PMP Gateway, once the system is up and running. However, access to the system by this method is voluntary. Additional costs will be incurred by small businesses that will need to further upgrade their software to meet the new standards, though such costs may be minimal since most of those changes should be absorbed through the support costs these pharmacies and prescribers already pay to their computer software vendors for ongoing maintenance and support. The proposed amendments may provide some cost savings for small-business pharmacies and prescribers if the new systems upgrade and streamline their work process. The exact amount of the costs or of any savings cannot be estimated as it will vary depending on circumstances. H.B. 239 (2016) required the Division to prepare the improved system, but does not require health systems to use the improved system.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The anticipated costs and savings that apply to small businesses will also impact larger businesses accessing the database; they also will need to work with Appriss on establishing connectivity to the PMP Gateway, pay the startup fee and per-prescriber fee, and any Gateway data access fees. These larger businesses also may need to upgrade their software to meet the new standards, although such costs may be minimal since most changes should be absorbed through support costs they already pay to their computer software vendors for ongoing maintenance and support. The proposed amendments may provide some cost savings for larger pharmacies and prescribers if the new systems they implement upgrade and streamline their work process. The exact amount of the costs or of any savings to larger businesses cannot be estimated as it will vary from business to business depending on circumstances. Again, H.B. 239 (2016) required the Division to prepare the improved system, but does not require health systems to use the improved system. There are no anticipated costs or savings to persons other than businesses, small businesses, and local government entities, as the new sections only implement procedures regarding database access for businesses and government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for affected persons, as the new sections only implement procedures regarding database access for businesses and government entities.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These new sections implement the mandate of the Legislature related to limiting access to and use of opioid prescription information in the Controlled Substance Database (CSD) when accessed by electronic data system users (EDS users). The new sections are required by H.B. 239, passed in the 2016 General Session. The use of an EDS to access the database is wholly voluntary, but requires the user to interface with the database through the Appriss Prescription Monitoring Program Gateway system. The current Appriss startup fee is $7,500 with a $50 per year cost per prescriber. This startup cost may be burdensome to certain small businesses and they may choose to access the database other than through an EDS.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Marvin Sims by phone at 801-530-6232, by FAX at 801-530-6511, or by Internet E-mail at msims@utah.gov, or mail at PO BOX 146741, Salt Lake City, UT 84114-6741.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 11/17/2016 11:00 AM, Heber Wells Bldg, 160 E 300 S, Hearing Room 403 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-37f. Controlled Substance Database Act Rule.
R156-37f-302. Other Restrictions on Access to Database.

Subsection 58-37f-302(2), which prohibits any individual or organization with lawful access to the data from being compelled to testify with regard to the data, includes deposition testimony.

R156-37f-303. Access to Opioid Prescription Information Via an Electronic Data System.

In accordance with Subsection 58-37f-301(1) and Section 58-37f-303:

(1) Pursuant to Subsection 58-37f-303(4)(a)(i), to access opioid prescription information in the database, an electronic data system just:

(a) interface with the database through the Appriss Prescription Monitoring Program (PMP) Gateway system; and

(b) comply with all restrictions on database access and use of database information, as established by the Utah Controlled Substances Database Act and the Controlled Substance Database Act Rule.

(2) Pursuant to Subsection 58-37f-303(4)(a)(ii), to access opioid prescription information in the database via an electronic data system, an EDS user must:

(a) register to use the database;

(b) use a unique personal identification number (PIN) that is identical to the PIN the EDS user was issued to access database information through the original internet access system;

(c) comply with all restrictions on database access established by the Utah Controlled Substance Database Act and the Controlled Substance Database Act Rule; and

(d) use opioid prescription information in the database only for the purposes and uses designated in Section 58-37f-201, and as more particularly described in the Utah Controlled Substances Database Act and the Controlled Substances Database Act Rule.

(3) The division may immediately suspend, without notice or opportunity to be heard, an electronic data system's or an EDS user's access to the database, if the division determines by audit or other means that such access may lead to a violation of Section 58-37f-601 or may otherwise compromise the integrity, privacy, or security of the database's opioid prescription information. This remedy shall be in addition to the criminal and civil penalties imposed by Section 58-37f-601 for unlawful release or use of database information, and the division's obligation under Subsections 58-37f-303(5) and (6) to immediately suspend or revoke database access and pursue appropriate corrective or disciplinary action against a non-compliant electronic data system or EDS user.

KEY: controlled substance database, licensing
Date of Enactment or Last Substantive Amendment: [~~January 7,~~]2016
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-37f-301(1)

Commerce, Occupational and Professional Licensing
R156-55c
Plumber Licensing Act Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40903
FILED: 10/24/2016

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This filing is recommended by the Plumbers Licensing Board and the Construction Services Commission

to address issues the Board and Commission believe will better protect public health, safety, and welfare. First, this filing will authorize apprentice plumbers who have successfully completed the first semester of the fourth year of their apprentice education program to sit for their journeyman exams. This will allow apprentice students to take their exams while the course material is most germane and easily recalled. It will also allow the students, especially those who fail one or more sections of the exams, to obtain instructor support and resources while still enrolled in the apprentice education program. The Board and the Commission anticipate that allowing apprentice plumbers to sit for the examinations as proposed will improve the opportunity for licensure progression, promote industry growth, and encourage corresponding wage increases as the apprentice becomes more serviceable to current and potential employers. Second, this filing adds language requested by the plumbing industry to include additional subjects that qualify for the core and professional continuing education requirements. Finally, this filing makes minor formatting changes to the language of the rule.

SUMMARY OF THE RULE OR CHANGE: In Section R156-55c-302b, language is added to Subsection R156-55c-302b(2)(b)(i) allowing the apprentice plumber to sit for the appropriate plumbing examinations after successful completion of the first semester of the fourth year of the apprentice education program. Minor formatting changes are made throughout. In Section R156-55c-304, education covering the International Energy Conservation Code is included as core continuing education. Education covering Occupational Safety and Health Administration (OSHA) training and government regulations is included as professional continuing education. Minor formatting changes are made throughout.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-55-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division will incur minimal costs of approximately $75 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
♦ LOCAL GOVERNMENTS: The proposed amendments apply only to licensed plumbers and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.
♦ SMALL BUSINESSES: The proposed amendments may apply to small business. The apprentice plumber that previously had to wait until all of the education and experience requirements were met in order to sit for the appropriate exams, will now have the ability to sit for the exams after completing the first semester of the last year of the education requirement and a majority of the required experience hours. It is anticipated that allowing applicants to sit for the examinations as proposed will improve the opportunity for licensure progression, promote industry growth, and encourage corresponding wage increases as the licensee becomes more serviceable to current and potential employers. The impact cannot be estimated as it will vary depending on the experience and aptitude of the apprentice applicant.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments will only affect apprentice plumbers who are completing the apprentice education program set forth in Section R156-55c-302a. The costs or savings associated with this amendment cannot be estimated as it will vary depending on the experience and aptitude of the apprentice applicant.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments will impact apprentice plumbers who meet the education and experience requirements of this proposal and seek licensure as a journeyman plumber or residential journeyman plumber. The Division estimates that this amendment will help adequately prepared applicants pass the required licensure exams, and promote the timely progression of licensure. An applicant should experience a cost savings resulting from fewer failed exam attempts with corresponding retakes. Applicants who pass the exams and obtain licensure should be eligible for corresponding wage increases. However, the Division is not able to estimate the individual impact as it will vary depending on the experience and aptitude of the apprentice plumber.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes accelerate the time when an apprentice plumber may sit for their journeyman exam, require additional subjects for the core and professional continuing education requirements, and make minor formatting changes to the language of the rules. A negligible fiscal impact to businesses is anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Duncombe by phone at 801-530-6235, by FAX at 801-530-6511, or by Internet E-mail at sduncombe@utah.gov, or mail at PO BOX 146741, Salt Lake City, UT 84114-6741.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 12/07/2016 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 464 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-55c. Plumber Licensing Act Rule.
R156-55c-302b. Qualifications for Licensure - Examination Requirements.

In accordance with Subsections 58-1-203(2) and 58-1-301(3), the examination requirements for licensure in Subsection 58-55-302(1)(c)(i) are [~~defined, clarified, or established~~]as follows:

(1) The applicant shall obtain a minimum score of 70% on the Utah Plumbers Licensing Examination that shall consist of a written section and practical section.

(2) Admission to the examinations is permitted after:

(a) the applicant has completed all requirements for licensure set forth in this section and in Sections R156-55c-302a and R156-55c-302b; or

(b) the applicant has completed:

(i) the first semester of the fourth year of the apprentice education program set forth in Subsection R156-55c-302a(1)(a)(ii); and

(ii) not less than 6,000 hours of the experience required under Subsection R156-55c-302a(1)(a)(i).

(3) (a) If an applicant fails any section[~~one or more sections~~] of the examination, the applicant shall retake [~~any~~]that section[~~ of the examination failed~~].

(b) An applicant shall wait at least 25 days for the first two retakes, and thereafter shall wait 120 days between retakes.

(4) If an applicant passes any section of the examination but does not pass the entire examination, the passing score [~~on any~~]for that section [~~of the examination~~]shall be valid for one year from the pass date[~~ the section of the examination was passed~~]. [~~Thereafter,~~]After one year the applicant shall retake any previously passed section [~~of the examination that is no longer valid~~]to support any subsequent application for licensure.

R156-55c-304. Continuing Education - Standards.

(1) Required Hours. Pursuant to Sections 58-55-302.7 and 58-55-303, each licensee shall complete 12 hours of continuing education during each two-[~~-~~]year license term. A minimum of eight hours shall be core education. The remaining four hours may be professional education.

(2) "Core continuing education" is defined as education covering:

(a) International Building, Mechanical, Plumbing, and International Energy Conservation Codes and Utah building code amendments as adopted or proposed for adoption;

(b) the Americans with Disability Act;

(c) medical gas, National Fire Protection Association 13D and 54; and

(d) hydronics and waste water treatment.

(3) "Professional continuing education" is defined as education covering:

(a) energy conservation, management training, new technology, plan reading; and

(b) lien laws and Utah construction registry

(c) Occupational Safety and Health Administration (OSHA) training; and

(d) government regulations.

(4) Non-acceptable course subject matter includes the following types of courses and other similar courses:

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

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

(c) presentations by a supplier or a supplier representative to promote a particular product or line of products; and

(d) meetings held in conjunction with the general business of the licensee or employer.

(5) The Division may:

(a) waive the continuing education requirements for a licensee that is an instructor of an approved education apprenticeship program; or

(b) waive or defer the continuing education requirements as provided in Section R156-1-308d.

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

(a) Time. Each hour of continuing education course credit shall consist of at least 50 minutes of education in the form of seminars, lectures, conferences, training sessions, or distance learning modules. The remaining ten minutes may be used for breaks.

(b) Provider. The course provider shall meet the requirements of this section and shall be one of the following:

(i) a recognized accredited college or university;

(ii) a state or federal agency;

(iii) a professional association or organization involved in the construction trades; or

(iv) a commercial continuing education provider providing a program related to the plumbing trade.

(c) Content. The content of the course shall be relevant to the practice of the plumbing trade and consistent with the laws and rules of this state.

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

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

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

(g) Distance learning. A course that is provided through internet or home study courses may be recognized for continuing education if the course verifies registration and participation in the course by means of a passing a test demonstrating that the participant has learned the material presented. Test questions shall be randomized for each participant.

(h) Documentation. The course provider shall have a competent method of registration of individuals who actually completed the course, shall maintain records of attendance that are available for review by the Division, and shall provide to individuals completing the course a certificate that contains the following information:

(i) the date of the course;

(ii) the name of the course provider;

(iii) the name of the instructor;

(iv) the course title;

(v) the hours of continuing education credit;

(vi) the attendee's name;

(vii) the attendee's license number; and

(viii) the signature of the course provider.

(7) On a random basis, the Division may assign monitors at no charge to attend a course for the purpose of evaluating the course and the instructor.

(8) Each licensee shall maintain adequate documentation as proof of compliance with this section, such as certificates of completion, course handouts, and materials. The licensee shall retain this proof for a period of three years from the end of the renewal period for which the continuing education is due. Each licensee shall assure that the course provider has submitted the verification of attendance to the continuing education registry on behalf of the licensee as specified in Subsection ([~~1~~]10). Alternatively, the licensee may submit the course for approval and pay any course approval fees and attendance recording fees.

(9) Licensees who lecture in approved continuing education courses shall receive two hours of continuing education for each hour spent lecturing. However, no lecturing or teaching credit is available for participation in a panel discussion.

(10) [~~A course provider shall submit continuing education courses for approval to the continuing education registry and shall submit verification of attendance and completion on behalf of licensees attending and completing the program directly to the continuing education registry in the format required by the continuing education registry.~~]A course provider shall submit to the continuing education registry, in the format required by the continuing education registry:

(a) applications for approval of continuing education courses; and

(b) on behalf of each licensee, verification of the licensee's attendance and completion of a continuing education course.

(11) The Division shall review continuing education courses which have been submitted through the continuing education registry and approve only those courses that meet the standards set forth under this section.

(12) Continuing Education Registry.

(a) The Division shall designate an entity to act as the Continuing Education Registry under this rule.

(b) The Continuing Education Registry, in consultation with the Division and the Commission, shall:

(i) through its internet site electronically receive applications for course approval from continuing education course providers, and [~~shall~~]submit [~~the application for course approval~~]to the Division for review and approval [~~of~~]only those [~~programs~~]courses which meet the standards set forth under this section;

(ii) publish on its website listings of continuing education [~~programs~~]courses [~~which have been~~]approved by the Division, [~~and~~]which meet the standards for continuing education credit under this rule;

(iii) maintain accurate records of approved qualified continuing education courses[~~approved~~];

(iv) maintain accurate records of verification of attendance and completion for each[~~, by~~] individual licensee, which the licensee may review for compliance with this rule; and

(v) make records of approved continuing education programs and attendance and completion available for audit by representatives of the Division.

(c) Fees. The Continuing Education Registry may charge a reasonable fee to continuing education providers or licensees for services provided for review and approval of continuing education programs.

KEY: occupational licensing, licensing, plumbers, plumbing
Date of Enactment or Last Substantive Amendment: [~~October 9, 2014~~]2016
Notice of Continuation: August 8, 2016
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-55-101

Commerce, Occupational and Professional Licensing
R156-70a-304
Continuing Education

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40905
FILED: 10/24/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and Physician Assistant Licensing Board reviewed the rule and are proposing amendments to this rule to implement H.B. 186, Volunteer Health Care Continuing Education Credit, which was passed during the 2016 General Session with respect to continuing education.

SUMMARY OF THE RULE OR CHANGE: In accordance with H.B. 186 (2016), a physician assistant may fulfill a portion of their continuing education requirement by providing volunteer health care services in a qualified health care facility. For every four hours of volunteer health care services, the licensee may receive one hour of continuing education credit, up to 15% of the required continuing education hours.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-70a-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division will incur minimal costs of approximately $75 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
♦ LOCAL GOVERNMENTS: The proposed amendments apply only to those persons who are required to be licensed as a physician assistant and choose to obtain continuing education by providing volunteer services. The volunteer services provided would benefit the local population that lacks health care insurance or financial means to pay for health care services. As a result, the proposed amendments do not apply to local governments.
♦ SMALL BUSINESSES: Health care professionals who operate small businesses and provide volunteer services may be impacted by the cost of record keeping and lost revenue if they substitute time they could be billing for professional services to provide volunteer health care services in lieu of obtaining continuing education. However, these health care professionals will save on the cost of attendance at a continuing education course, and they may receive "goodwill" benefits in their community from their volunteer services. The amount of the cost or savings cannot be estimated as it will vary from business to business depending on the amount of volunteer service provided.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: A licensed physician assistant will bear the cost of the services provided relative to their time spent providing the service. The uninsured, underserved, and indigent population will benefit from increased availability of health care services and improved opportunity for these services. The amount of the cost cannot be estimated by the Division as it will vary from licensee to licensee depending on the amount of volunteer service provided.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Licensed physician assistants will need to document volunteer services provided for audit by the Division to ensure compliance. The amount of any costs cannot be estimated by the Division as it will vary from licensee to licensee depending on the amount of volunteer service provided.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes permit a physician assistant to satisfy a limited number of continuing education requirement credits by providing volunteer service in a qualified health care facility. No fiscal impact to businesses is anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Larry Marx by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at lmarx@utah.gov, or mail at PO BOX 146741, Salt Lake City, UT 84114-6741.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 12/06/2016 08:30 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-70a. Physician Assistant Practice Act Rule.
R156-70a-304. Continuing Education.

In accordance with Subsection 58-70a-304(1)(a), the requirements for qualified continuing professional education (CPE) are as follows:

(1) CPE shall consist of 40 hours during[~~in~~] each [~~preceding~~]two-[-]year licensure cycle. A licensee's [~~may submit~~] documentation to the Division of current national certification by NCCPA[~~; such certification~~] shall be deemed to meet the requirements in this section.

(2) Licensees may fulfill up to 15% of their CPE requirement by providing volunteer services within the scope of their license at a qualified location, in accordance with Section 58-13-3. For every four documented hours of volunteer services, the licensee may earn one hour of CPE credit.

([~~2~~]3) A minimum of 34 hours shall be in category 1 offerings as established by the Accreditation Council for Continuing Medical Education (ACCME).

([~~3~~]4) Approved providers for ACCME offerings include the following:

(a) approved programs sponsored by the American Academy of Physician Assistants (AAPA); or

(b) programs approved by other health-related continuing education approval organizations, provided the continuing education is nationally recognized by a healthcare accredited agency and the education is related to the practice as a physician assistant.

([~~4~~]5) A maximum of six CPE hours may be recognized for non-ACCME offerings of continuing education provided by the Division of Occupational and Professional Licensing.

([~~5~~]6) [~~Continuing education~~]CPE under this section shall:

(a) be relevant to the licensee's professional practice;

(b) be prepared and presented by individuals who are qualified by education, training and experience to provide medical continuing education; and

(c) have a method of verification of attendance and completion.

([~~6~~]7) CPE credit[~~Credit for continuing education~~] shall be recognized in 50 minute hour blocks of time for education completed in formally established classroom courses, seminars, lectures, conferences or training sessions which meet the criteria listed in Subsection ([~~5~~]6) above).

([~~7~~]8) A licensee shall [~~be responsible for maintaining~~]maintain competent records of completed continuing professional education for a period of four years after close of the two-[-]year licensure period[~~ to which the records pertain~~]. It is the responsibility of the licensee to demonstrate that their continuing education meets the requirements of this section[~~maintain such information with respect to continuing professional education and to demonstrate it meets the requirements under this section. If requested, the licensee shall provide documentation of completed continuing education~~].

([~~8~~]9) Continuing professional education for licensees who have not been licensed for the entire two-[–]year period [~~will~~]shall be prorated from the date of licensure.

KEY: licensing, physician assistants
Date of Enactment or Last Substantive Amendment: [~~May 27, 2015~~]2016
Notice of Continuation: December 19, 2011
Authorizing, and Implemented or Interpreted Law: 58-70a-101; 58-1-106(1)(a); 58-1-202(1)(a)

Governor, Economic Development
R357-3
Economic Development Tax Increment Financing Tax Credit

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40932
FILED: 11/01/2016

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify in rule the meaning of "retail business" in order to better clarify the term when used in administering the Economic Development Tax Increment Financing Program.

SUMMARY OF THE RULE OR CHANGE: The rule change defines a retail business to mean "the physical location from which the general public may directly purchase merchandise or services associated with the sale of merchandise for personal, business, or household consumption." "Retail Business" includes a showroom, wholesaler, or other type of operation from which a customer would place an order for a consumer good or the merchandise or services associated with it. "Retail Business" does not include distribution centers, the corporate functions associated with retailing, or other activities associated with retailing that may be accomplished from any physical location or that are not dependent on proximity to end consumers for retail sales.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63N-2-104

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost to the state budget because this does not change current practices regarding retail businesses. It simply clarifies what is already in place.
♦ LOCAL GOVERNMENTS: No local government is affected because they cannot participate in the program.
♦ SMALL BUSINESSES: No small business are affected because they cannot participate in the program. The program is for businesses with more than 50 employees.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Those who can participate in this program are not affected, and there are no others who are affected because this clarifies the already existing practices for the program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because these practices are already in place.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs for affected persons because these practices are already in place. This added definition simply formalizes what is already in place.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
GOVERNOR
ECONOMIC DEVELOPMENT
60 E SOUTH TEMPLE
THIRD FLOOR
SALT LAKE CITY, UT 84111
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jeffrey Van Hulten by phone at 801-538-8694, by FAX at 801-538-8888, or by Internet E-mail at jeffreyvan@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Val Hale, Executive Director

R357. Governor, Economic Development.
R357-3. Economic Development Tax Increment Financing Tax Credit.
R357-3-1. Authority.

(1) Subsection 63N-2-104 requires the office to make rules establishing the conditions that a business entity must meet to

qualify for a tax credit under 63N-2-101 et. seq. of the Utah Code Annotated.

R357-3-2. Definitions.

(1) Terms in these rules are used as defined in UCA 63N-2-103.

(2) "Administrator" means the internal staff position(s) created by the Executive Director of GOED.

(3) "Direct investment within the geographic boundaries" means that the applicant for the tax credit will invest in a new commercial project in the economic development zones.

(4) "Employee," "Employee Position" or "Full Time Equivalent (FTE)" means an employee, or leased employee, who is a Utah resident working at and dedicated to the new commercial project. Each Employee Position shall be entitled to the same basic health insurance, , if any, given by the new commercial project to its other FTEs in order for the Employee Position to count toward the hiring projection headcount. This is exclusive of those benefits given to any of the new commercial project's executive and other highly compensated employees. Pursuant to 63N-2-103(4) benefits shall not be calculated into wage amounts for the purpose of determining high paying jobs.

(a) When counting FTEs, if an FTE has his or her employment with the new commercial project terminated for any reason before completion of the applicable year, another FTE otherwise meeting the requirements described above may be hired full-time to fill the terminated FTE's position and complete the year of qualifying full-time employment, so long as such position is filled within 60 days for a non-exempt FTE and 90 days for an exempt employee.

(5) "GOED" means The Governor's Office of Economic Development.

(6) "Leased Employees" means Employees, Employee Positions, or FTEs contracted through a third party professional employee service, and such leased employees are entitled to comparable benefits as the other Employees, Employee Positions or FTEs, and that meet the definition of an Employee, Employee Position or FTE. For the sake of clarity, a "temporary" worker assigned short-term to a new commercial project shall not be considered a Leased Employee, Employee Position, or FTE.

(7) "Retail Business" means the physical location from which the general public may directly purchase merchandise or services associated with the sale of merchandise for personal, business, or household consumption. "Retail business" includes a showroom, wholesaler, or other type of operation from which a customer would place an order for a consumer good or the merchandise or services associated with it.

"Retail Business" does not include distribution centers, the corporate functions associated with retailing, or other activities associated with retailing that may be accomplished from any physical location or that are not dependent on proximity to end consumers for retail sales.

([~~7~~]8) "Rural" means the following counties:

(i) Beaver;
(ii) Box Elder;
(iii) Cache;
(iv) Carbon;
(v) Daggett;
(vi) Duchesne;
(vii) Emery;
(viii) Garfield;
(ix) Grand;
(x) Iron;
(xi) Juab;
(xii) Kane;
(xiii) Millard;
(xiv) Morgan;
(xv) Piute;
(xvi) Rich;
(xvii) San Juan;
(xviii) Sanpete;
(xix) Sevier;
(xx) Summit;
(xxi) Tooele;
(xxii) Uintah;
(xxiii) Wasatch;
(xxiv) Washington; and
(xxv) Wayne.

([~~8~~]9) "Target industry" means the industries designated as such by the GOED Board of Economic Development pursuant to 63N-3-110.

R357-3-3. Application Process.

(1) In order to apply for an Economic Development Tax Incentive, a business entity must submit an application in a form prescribed by GOED.

(2) In order to verify the information submitted in the application, the company may be required to supply additional information, which may include:

(a) Balance Sheets;
(b) Income Statements;
(c) Cash Flow Statements;
(d) Tax filings;
(e) Market analyses;
(f) Competing states' incentive offers;
(g) Corporate structure;
(h) Workforce data;
(i) Forecasted new state revenue associated with the new commercial project;
(j) Forecasted incremental job creation associated with the new commercial project;
(k) Forecasted wages associated with the new commercial project; or
(l) Other information as determined by GOED within its reasonable discretion.

(3) Information provided by the business entity is subject to the Government Records Access and Management Act. The business entity has the option, at its sole discretion and responsibility, to designate what information provided is private or protected subject to UCA 63G-2-302 and/or UCA 63G-2-305.

(4) GOED will review the applications to consider at least the following factors:

(a) Whether the new commercial project meets the criteria set forth in UCA 63N-2-104 and UCA 63N-2-105;

(b) Whether the company is projecting positive long term growth;

(c) The overall benefit to the State of the new commercial project;

(d) The uniqueness of the economic opportunity;

(e) Other factors that, in conjunction with (a) through (d), would mitigate the loss or potential loss of new state and local revenues in the state, high paying jobs, new economic growth, or that address the factors set forth in UCA 63N-2-102 and 104.

(5) Pursuant to UCA 63N-3-110, the GOED Board of Economic Development shall determine which industries shall be targeted for economic development.

R357-3-4. Factors to Be Considered in Authorizing an Economic Development Tax Credit Award.

(1) The amount and duration of the tax credit award shall be determined on a case-by-case basis. Factors to be considered include but are not limited to:

(a) Whether the industry has been determined by the GOED Board as a Target Industry;

(b) The competitive nature of the project, including whether the Company has secured real estate for its new commercial project at the time of application;

(c) To what extent other states have available incentives for the new commercial project, and the competitiveness of the other incentives, if known;

(d) Comparison to previously incented projects in size and scope, and in conjunction with other factors listed;

(e) The economic environment, including the unemployment rate and the underemployment rate, at the time the new commercial project or business entity applies;

(f) The location of the new commercial project;

(g) The average wage level of the forecasted jobs created;

(h) What terms would result in the most effective incentive for the new commercial project;

(i) The overall benefit to the State of the new commercial project;

(j) The demonstrated support of the local community for the project; and

(k) Other factors as reasonably determined by the Administrator.

(3) All annual tax credits shall be based on actual incremental taxes paid by the business entity or withheld on behalf of employees of a new commercial project.

(4) GOED shall propose a tax credit structure based on the factors set forth in this rule in a combination GOED deems the most effective and beneficial in weighing the benefits of the State, local community, and company.

(a) GOED shall propose the tax credit terms and structure to the GOED Economic Development Board prior to making a final offer to the business entity.

(5) The GOED Economic Development Board may advise GOED Executive Director regarding the Tax Credit Offer.

(6) If the Executive Director of GOED approves an Economic Development Tax Credit, GOED shall provide a tax credit offer letter to a business entity that includes:

(a) The proposed terms of the Economic Development Tax Credit, including the maximum amount of aggregate annual tax credits and the time period over which the Tax Credits may be claimed;

(b) the documentation that will be required each year in order to claim a tax credit for the following tax year as outlined in the Agreement.

(7) If the applicant intends to accept the incentive offer, it shall counter-execute the tax credit offer letter.

(8) If the Executive Director of GOED denies an application for an Economic Development Tax Credit, GOED shall provide a letter to the business entity that includes:

(a) Notice of the application denial;

(b) Reason for denial; and

(c) Notice that the business entity can reapply for a tax credit if changes to the proposed new commercial project are made.

R357-3-5. Application for and Verification of Information Supporting an Annual Economic Development Tax Credit.

(1) In order to receive a tax credit certificate during the term of an EDTIF agreement, a business entity must demonstrate to GOED's satisfaction, that the business entity has satisfied all of the criteria set forth in UCA 63N-2-103 and 63N-2-104, that the new commercial project resulted in new incremental tax revenue, that the contractual incremental job creation at the required wage criteria was achieved, and that the business entity is otherwise in compliance with the contractual requirements.

(a) If the jobs, wage, and other contractual criteria are met then a tax credit award is calculated annually based on the new commercial project's new state revenue performance for the disbursement period.

(2) In general, tax revenue shall be verified in the following ways with additional verification to be determined by GOED as needed:

(a) Employee Withholding Taxes: Report the employee withholding taxes remitted to the Utah State Tax Commission and dates paid.

(b) Vendor Paid Sales Tax: Report the Utah sales tax paid to vendors, total invoice amounts, and taxable total purchase amount.

(c) Corporate Income Taxes: Report the corporate tax in a format prescribed by GOED including Use Taxes from the annual tax filing.

(d) Annual, Quarterly or monthly Utah Sales and Use Tax Return TC-62 form report the Line 4 "Goods purchased tax free and used by you" amounts and date the taxes where remitted to the Utah tax commission.

(e) If the new commercial project is not inclusive of the Company's total Utah operation, documentation supporting the apportionment of corporate tax liability to the project is required. The apportionment methodology must be approved by the GOED Administrator and documented.

(3) In order to verify direct investment in an Economic Development Zone, when requested by GOED the applicant shall provide:

(a) a lease agreement or occupancy permit that shows that the new commercial project is located in the economic development zone, during the first applicable year.

(4) In order to verify new incremental jobs, GOED may review:

(a) Aggregate Employee data from the Department of Workforce Services; or

(b) Company or a Payroll vendor for the new commercial project provided a list that included the following information but is not limited to: the number of employees, the gross wages paid

including overtime pay, bonuses and other compensation, and the taxes withheld for each employee of the new commercial project.

(5) In order to verify creation of new incremental jobs and to determine whether such jobs comply with the wage requirement, GOED shall consider and/or the applicant shall provide:

(a) The employee data provided by the Department of Workforce Services, the business entity, or the private professional employment or payroll organization.

(b) If a business entity fails to produce sufficient documentation to demonstrate increased state revenue and compliance with the terms of their contract, GOED shall either request additional information or deny the tax credit pursuant to UCA 63N-2-105(4).

R357-3-6. Requests for Modification of the Tax Credit Offer or Contract.

(1) GOED may modify, or a business entity may apply to modify, the terms of a tax credit agreement as set forth below.

(2) Nonsubstantive Modifications: GOED and the business entity may, by written amendment, make nonsubstantive modifications to the tax credit contract if:

(a) Necessary to correct clerical errors made in the initial application, the offer, the contract, or the tax credit;

(b) Necessary to make technical changes, including but not limited to: changing the business entity's legal name, timeline change subject to subsection (c) below, any other condition that does not alter the tax incentive amount or violate any state or federal law;

(c) For the purposes of this section, a timeline change of no more than 24 months is generally considered "nonsubstantive".

(d) all nonsubstantive modifications shall be documented and maintained by the GOED staff.

(3) Substantive Modifications: Under extraordinary circumstances, a business entity may apply to GOED to modify the terms of the tax credit agreement if:

(a) There is a substantial change to new commercial project plan; and

(b) Modifying the terms of the tax credit would benefit the State.

(4) Substantive Modifications be will brought to the GOED Executive Director for final approval after open consultation and comment with the GOED Board of Economic Development.

KEY: economic development, tax credit, jobs
Date of Enactment or Last Substantive Amendment: [~~December 28, 2015~~]2016
Notice of Continuation: May 30, 2013
Authorizing, and Implemented or Interpreted Law: 63N-2-104

Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health
R388-803
HIV Test Reporting

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 40901
FILED: 10/21/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: All elements of this rule are now included in Rule R386-702, Communicable Disease Rule. There is no need to have a separate rule for HIV test reporting.

SUMMARY OF THE RULE OR CHANGE: Rule R388-803 establishes requirements for reporting screening, diagnostic, and treatment test results related to Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS); and partner identification and notification. However, HIV reporting requirements are included in Rule R386-702. Therefore, this rule is repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-6-3

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Costs will remain the same if this rule is repealed. The Bureau of Epidemiology utilizes federal funds from the Centers for Disease Control and Prevention (CDC) to fund three HIV epidemiologist positions. Existing reporting and surveillance systems are in place, and no change to HIV test reporting is anticipated in accordance to Rule R386-702.
♦ LOCAL GOVERNMENTS: Costs will remain the same if this rule is repealed. Existing reporting and surveillance systems are in place, and no change to HIV test reporting is anticipated, in accordance to Rule R386-702.
♦ SMALL BUSINESSES: Costs will remain the same if this rule is repealed. Health care providers and laboratories are still required to report HIV test results to the Utah Department of Health or the local health department where the patient resides, in accordance to Rule R386-702.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Costs will remain the same if this rule is repealed. Health care providers and laboratories are still required to report HIV test results to the Utah Department of Health or the local health department where the patient resides, in accordance to Rule R386-702.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs will remain the same if this rule is repealed. Health care providers and laboratories are still required to report HIV test results to the Utah Department of Health or the local health department where the patient resides, in accordance to Rule R386-702. These costs may include, but are not limited to, personnel time in order to complete and submit reporting forms and costs related to implementing and supporting electronic laboratory reporting (ELR).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is being repeal because all the requirements have been incorporated into Rule R386-702, Communicable Disease Rule, so it is now redundant.

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

HEALTH
DISEASE CONTROL AND PREVENTION;
HIV/AIDS, TUBERCULOSIS CONTROL/
REFUGEE HEALTH
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Amelia Self by phone at 801-538-6221, by FAX at 801-538-9913, or by Internet E-mail at aself@utah.gov, or mail at PO BOX 142105, Salt Lake City, UT 84114-2105.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R388. Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health.

[~~R388-803. HIV Test Reporting.~~

~~R388-803-1. Authority and Purpose.~~

~~(1) Authority for this rule is established in Title 26, Chapter 6, Sections 3 and 3.5 of the Utah Communicable Disease Control Act.~~

~~(2) This rule establishes requirements for:~~

~~(a) reporting screening, diagnostic, and treatment test results related to Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS); and~~

~~(b) partner identification and notification.~~

~~(c) Reporting of HIV infection and AIDS is required by R386-702, Communicable Disease Rule.~~

~~R388-803-2. Reporting of AIDS, HIV Infection, and Related Tests.~~

~~(1) A health care provider who administers or causes to have administered any of the following tests shall report all positive results to the Utah Department of Health or the local health department where the patient resides:~~

~~(a) presence of antibodies to HIV, repeatedly reactive on two or more tests; presence of antibodies to HIV that are verified by a positive confirmatory test; repeatedly reactive tests with indeterminate confirmatory tests.~~

~~(b) presence of HIV antigen;~~

~~(c) isolation of HIV;~~

~~(d) demonstration of HIV proviral DNA;~~

~~(e) demonstration of HIV specific nucleic acids; and~~

~~(f) any other test or condition indicative of HIV infection.~~

~~(2) A health care provider who administers or causes to have administered any of the following tests shall report the results of each test to the Utah Department of Health or the local health department where the patient resides:~~

~~(a) CD4+ T-Lymphocyte tests; and~~

~~(b) HIV viral load determination;~~

~~(3)(a) A laboratory that analyzes samples for any of the tests listed in subsection (1) shall report all positive results to the Utah Department of Health or the local health department where the patient resides, except that it need not report patient name if it does not have the name.~~

~~(b) A laboratory that analyzes samples for any of the tests listed in subsection (2) shall report all results to the Utah Department of Health or the local health department where the patient resides, except that it need not report patient name if it does not have the name.~~

~~(4) Reports shall include:~~

~~(a) patient name, if available;~~

~~(b) patient number, if the name is not available;~~

~~(c) date of birth;~~

~~(d) date of test administration;~~

~~(e) test result; and~~

~~(f) name of the health care provider who ordered the test.~~

~~(5) Reports may be made in writing, by telephone, or by other electronic means acceptable to the Department.~~

~~R388-803-3. Exemptions for Reporting of HIV Infection, AIDS and Related Tests.~~

~~(1) A university or hospital that conducts research studies exempt from reporting AIDS and HIV infection under Section 26-6-3.5 shall submit the following to the Department:~~

~~(a) a summary of the research protocol;~~

~~(b) written approval of the institutional review board; and~~

~~(c) a letter showing funding sources and the justification for requiring anonymity.~~

~~(2) The university or hospital shall provide the Department a quarterly report indicating the number of HIV infected individuals enrolled in the study.~~

~~R388-803-4. Partner Identification and Notification.~~

~~(1) "Partner" is defined as any individual, including a spouse, who has shared needles, syringes, or drug paraphernalia or who has had sexual contact with an HIV infected individual. "Spouse" is defined as any individual who is the marriage partner of that person at any time within the ten-year period prior to the diagnosis of HIV infection.~~

~~(2) If an individual is tested and found to have an HIV infection, the Utah Department of Health or local health department shall conduct partner notification activities.~~

~~KEY: HIV/AIDS, reporting, spousal notification~~
~~Date of Enactment or Last Substantive Amendment: October 19, 1999~~
~~Notice of Continuation: October 21, 2011~~
~~Authorizing, and Implemented or Interpreted Law: 26-6-3~~]

Human Resource Management, Administration
R477-1
Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40927
FILED: 11/01/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add one new definition and make subsequent number modifications.

SUMMARY OF THE RULE OR CHANGE: This amendment adds the definition of "Phased Retirement" and updates numbers of definitions accordingly.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: These changes are administrative and do not directly impact state budgets.
♦ LOCAL GOVERNMENTS: This rule only affects the executive branch of state government and will have no impact on local government.
♦ SMALL BUSINESSES: This rule only affects the executive branch of state government and will have no impact on small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no direct compliance cost for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

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. This act limits the provisions of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect effect if an agency passes costs or savings on to business through fees. However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no effect on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN RESOURCE MANAGEMENT
ADMINISTRATION
ROOM 2120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Greg Hargis by phone at 801-891-5680, or by Internet E-mail at ghargis@utah.gov, or mail at PO BOX 141531, Salt Lake City, UT 84114-1531.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Debbie Cragun, Executive Director

R477. Human Resource Management, Administration.
R477-1. Definitions.
R477-1-1. Definitions.

The following definitions apply throughout these rules unless otherwise indicated within the text of each rule.

(1) Abandonment of Position: An act of resignation resulting when an employee is absent from work for three consecutive working days without approval.

(2) Actual FTE: The total number of full time equivalents based on actual hours paid in the state payroll system.

(3) Actual Hours Worked: Time spent performing duties and responsibilities associated with the employee's job assignments.

(4) Actual Wage: The employee's assigned wage rate in the central personnel record maintained by the Department of Human Resource Management.

(5) Administrative Leave: Leave with pay granted to an employee at management discretion that is not charged against the employee's leave accounts.

(6) Administrative Adjustment: An adjustment to a salary range approved by DHRM that is not a Market Comparability Adjustment, a Structure Adjustment, or a Reclassification. It is for administrative purposes only. An Administrative Adjustment will result in an increase to incumbent pay only when necessary to bring salaries to the minimum of the salary range.

(7) Administrative Salary Decrease: A decrease in the current actual wage based on non-disciplinary administrative reasons determined by an agency head.

(8) Administrative Salary Increase: An increase in the current actual wage based on special circumstances determined by an agency head.

(9) Agency: An entity of state government that is:

(a) directed by an executive director, elected official or commissioner defined in Title 67, Chapter 22 or in other sections of the code;

(b) authorized to employ personnel; and

(c) subject to Title 67, Chapter 19, Utah State Personnel Management Act.

(10) Agency Head: The executive director or commissioner of each agency or a designated appointee.

(11) Agency Human Resource Field Office: An office of the Department of Human Resource Management located at another agency's facility.

(12) Agency Management: The agency head and all other officers or employees who have responsibility and authority to establish, implement, and manage agency policies and programs.

(13) Alternative State Application Program (ASAP): A program designed to appoint a qualified person with a disability through an on the job examination period.

(14) Appeal: A formal request to a higher level for reconsideration of a grievance decision.

(15) Appointing Authority: The officer, board, commission, person or group of persons authorized to make appointments in their agencies.

(16) Break in Service: A point at which an individual has an official separation date and is no longer employed by the State of Utah.

(17) Budgeted FTE: The total number of full time equivalents budgeted by the Legislature and approved by the Governor.

(18) Bumping: A procedure that may be applied prior to a reduction in force action (RIF). It allows employees with higher retention points to bump other employees with lower retention points as identified in the work force adjustment plan, as long as employees meet the eligibility criteria outlined in interchangeability of skills.

(19) Career Mobility: A temporary assignment of an employee to a different position for purposes of professional growth or fulfillment of specific organizational needs.

(20) Career Service Employee: An employee who has successfully completed a probationary period in a career service position.

(21) Career Service Exempt Employee: An employee appointed to work for a period of time, serving at the pleasure of the appointing authority, who may be separated from state employment at any time without just cause.

(22) Career Service Exempt Position: A position in state service exempted by law from provisions of career service under Section 67-19-15.

(23) Career Service Status: Status granted to employees who successfully complete a probationary period for career service positions.

(24) Category of Work: A job series within an agency designated by the agency head as having positions to be eliminated agency wide through a reduction in force. Category of work may be further reduced as follows:

(a) a unit smaller than the agency upon providing justification and rationale for approval, including:

(i) unit number;

(ii) cost centers;

(iii) geographic locations;

(iv) agency programs.

(b) positions identified by a set of essential functions, including:

(i) position analysis data;

(ii) certificates;

(iii) licenses;

(iv) special qualifications;

(v) degrees that are required or directly related to the position.

(25) Change of Workload: A change in position responsibilities and duties or a need to eliminate or create particular positions in an agency caused by legislative action, financial circumstances, or administrative reorganization.

(26) Classification Grievance: The approved procedure by which an agency or a career service employee may grieve a formal classification decision regarding the classification of a position.

(27) Classified Service: Positions that are subject to the classification and compensation provisions stipulated in Section 67-19-12.

(28) Classification Study: A Classification review conducted by DHRM under Section R477-3-4. A study may include single or multiple job or position reviews.

(29) Compensatory Time: Time off that is provided to an employee in lieu of monetary overtime compensation.

(30) Contractor: An individual who is contracted for service, is not supervised by a state supervisor, but is responsible for providing a specified service for a designated fee within a specified time. The contractor shall be responsible for paying all taxes and FICA payments, and may not accrue benefits.

(31) Critical Incident Drug or Alcohol Test: A drug or alcohol test conducted on an employee as a result of the behavior, action, or inaction of an employee that is of such seriousness it requires an immediate intervention on the part of management.

(32) Demotion: A disciplinary action resulting in a reduction of an employee's current actual wage.

(33) Detailed Position Record Management Report: A document that lists an agency's authorized positions, incumbent's name and hourly rate, job identification number, salary range, and schedule.

(34) DHRM: The Department of Human Resource Management.

(35) DHRM Approved Recruitment and Selection System: The state's recruitment and selection system, which is a centralized and automated computer system administered by the Department of Human Resource Management.

(36) Disability: Disability shall have the same definition found in the Americans With Disabilities Act (ADA) of 1990, 42 USC 12101 (2008); Equal Employment Opportunity Commission regulation, 29 CFR 1630 (2008); including exclusions and modifications.

(37) Disciplinary Action: Action taken by management under Rule R477-11.

(38) Dismissal: A separation from state employment for cause under Section R477-11-2.

(39) Dual State Employment: Employees who work for more than one agency and meet the employee criteria which is located in the Division of Finance accounting policy 11-18.00.

(40) Drug-Free Workplace Act: A 1988 congressional act, 34 CFR 84 (2008), requiring a drug-free workplace certification by state agencies that receive federal grants or contracts.

(41) Employee Personnel Files: For purposes of Title 67, Chapters 18 and 19, the files or records maintained by DHRM and agencies as required by Section R477-2-5. This does not include employee information maintained by supervisors.

(42) Employment Eligibility Verification: A requirement of the Immigration Reform and Control Act of 1986, 8 USC 1324 (1988) that employers verify the identity and eligibility of individuals for employment in the United States.

(43) "Escalator" Principle: Under the Uniformed Services Employment and Reemployment Rights Act (USERRA), returning veterans are entitled to return back onto their seniority escalator at the point they would have occupied had they not left state employment.

(44) Excess Hours: A category of compensable hours separate and apart from compensatory or overtime hours that accrue at straight time only when an employee's actual hours worked, plus additional hours paid, exceed an employee's normal work period.

(45) Fitness For Duty Evaluation: Evaluation, assessment or study by a licensed professional to determine if an individual is able to meet the performance or conduct standards required by the position held, or is a direct threat to the safety of self or others.

(46) FLSA Exempt: Employees who are exempt from the overtime and minimum wage provisions of the Fair Labor Standards Act.

(47) FLSA Nonexempt: Employees who are not exempt from the overtime and minimum wage provisions of the Fair Labor Standards Act.

(48) Follow Up Drug or Alcohol Test: Unannounced drug or alcohol tests conducted for up to five years on an employee who has previously tested positive or who has successfully completed a voluntary or required substance abuse treatment program.

(49) Furlough: A temporary leave of absence from duty without pay for budgetary reasons or lack of work.

(50) GOMB: Governor's Office of Management and Budget.

(51) Grievance: A career service employee's claim or charge of the existence of injustice or oppression, including dismissal from employment resulting from an act, occurrence, omission, condition, discriminatory practice or unfair employment practice not including position classification or schedule assignment, or a complaint by a reporting employee as defined in Section 67-19a-101(4)(c).

(52) Grievance Procedures: The statutory process of grievances and appeals as set forth in Sections 67-19a-101 through 67-19a-406 and the rules promulgated by the Career Service Review Office.

(53) Gross Compensation: Employee's total earnings, taxable and nontaxable, as shown on the employee's pay statement.

(54) Highly Sensitive Position: A position approved by DHRM that includes the performance of:

(a) safety sensitive functions:

(i) requiring an employee to operate a commercial motor vehicle under 49 CFR 383 (January 18, 2006);

(ii) directly related to law enforcement;

(iii) involving direct access or having control over direct access to controlled substances;

(iv) directly impacting the safety or welfare of the general public;

(v) requiring an employee to carry or have access to firearms; or

(b) data sensitive functions permitting or requiring an employee to access an individual's highly sensitive, personally identifiable, private information, including:

(i) financial assets, liabilities, and account information;

(ii) social security numbers;

(iii) wage information;

(iv) medical history;

(v) public assistance benefits; or

(vi) driver license

(55) Hiring List: A list of qualified and interested applicants who are eligible to be considered for appointment or conditional appointment to a specific position created in the DHRM approved recruitment and selection system.

(56) HRE: Human Resource Enterprise; the state human resource management information system.

(57) Incompetence: Inadequacy or unsuitability in performance of assigned duties and responsibilities.

(58) Inefficiency: Wastefulness of government resources including time, energy, money, or staff resources or failure to maintain the required level of performance.

(59) Interchangeability of Skills: Employees are considered to have interchangeable skills only for those positions they have previously held successfully in Utah state government executive branch employment or for those positions which they have successfully supervised and for which they satisfy job requirements.

(60) Intern: An individual in a college degree or certification program assigned to work in an activity where on-the-job training or community service experience is accepted.

(61) Job: A group of positions similar in duties performed, in degree of supervision exercised or required, in requirements of training, experience, or skill and other characteristics. The same salary range is applied to each position in the group.

(62) Job Description: A document containing the duties, distinguishing characteristics, knowledge, skills, and other requirements for a job.

(63) Job Family: A group of jobs that have related or common work content, that require common skills, qualifications, licenses, etc., and that normally represents a general occupation area.

(64) Job Requirements: Skill requirements defined at the job level.

(65) Job Series: Two or more jobs in the same functional area having the same job title, but distinguished and defined by increasingly difficult levels of skills, responsibilities, knowledge and requirements; or two or more jobs with different titles working in the same functional area that have licensure, certification or other requirements with increasingly difficult levels of skills, responsibilities, knowledge and requirements.

(66) Leave Benefit: A benefit provided to an employee that includes: Annual leave, sick leave, converted sick leave, and holiday leave. These benefits are not provided to non-benefited employess.

(67) Legislative Salary Adjustment: A legislatively approved salary increase for a specific category of employees based on criteria determined by the Legislature.

(68) Malfeasance: Intentional wrongdoing, deliberate violation of law or standard, or mismanagement of responsibilities.

(69) Market Based Bonus: One time lump sum monies given to a new hire or a current employee to encourage employment with the state.

(70) Market Comparability Adjustment: An adjustment to a salary range approved by the legislature that is based upon salary data and other relevant information from comparable jobs in the market that is collected by DHRM or from DHRM approved justifiable sources. The Market Comparability Adjustment may also change incumbent pay resulting in a budgetary impact for an agency.

(71) Merit Increase: A legislatively approved and funded salary increase for employees to recognize and reward successful performance.

(72) Misconduct: Wrongful, improper, unacceptable, or unlawful conduct or behavior that is inconsistent with prevailing agency practices or the best interest of the agency.

(73) Misfeasance: The improper or unlawful performance of an act that is lawful or proper.

(74) Nonfeasance: Failure to perform either an official duty or legal requirement.

(75) Pay for Performance Award: A type of cash incentive award where an employee or group of employees may receive a cash award for meeting or exceeding well-defined annual production or performance standards, targets and measurements.

(76) Pay for Performance: A plan for incentivizing employees for meeting or exceeding production or performance goals, in which the plan is well-defined before work begins, eligible work groups are defined, specific goals and targets are determined, measurement procedures are in place, and specific incentives are provided when goals and targets are met.

(77) Performance Evaluation: A formal, periodic evaluation of an employee's work performance.

(78) Performance Improvement Plan: A documented administrative action to address substandard performance of an employee under Section R477-10-2.

(79) Performance Management: The ongoing process of communication between the supervisor and the employee which defines work standards and expectations, and assesses performance leading to a formal annual performance evaluation.

(80) Performance Plan: A written summary of the standards and expectations required for the successful performance of each job duty or task. These standards normally include completion dates and qualitative and quantitative levels of performance expectations.

(81) Performance Standard: Specific, measurable, observable and attainable objectives that represent the level of performance to which an employee and supervisor are committed during an evaluation period.

(82) Personnel Adjudicatory Proceedings: The informal appeals procedure contained in Section 63G-4-101 et seq. for all human resource policies and practices not covered by the state employees grievance procedure promulgated by the Career Service Review Office, or the classification appeals procedure.

(83) Phased Retirement: Employment on a half-time basis of a retiree with the same participating employer immediately following the retiree's retirement date. During phased retirement retiree will receive a reduced retirement allowance.

(8[~~3~~]4) Position: A unique set of duties and responsibilities identified by DHRM authorized job and position management numbers.

(8[~~4~~]5) Position Description: A document that describes the detailed tasks performed, as well as the knowledge, skills, abilities, and other requirements of a specific position.

(8[~~5~~]6) Position Identification Number: A unique number assigned to a position for FTE management.

(8[~~6~~]7) Post Accident Drug or Alcohol Test: A Drug or alcohol test conducted on an employee who is involved in a vehicle accident while on duty or driving a state vehicle:

(a) where a fatality occurs;

(b) where there is sufficient information to conclude that the employee was a contributing cause to an accident that results in bodily injury or property damage; or

(c) where there is reasonable suspicion that the employee had been driving while under the influence of alcohol or a controlled substance.

(8[~~7~~]8) Preemployment Drug Test: A drug test conducted on:

(a) final applicants who are not current employees;

(b) final candidates for a highly sensitive position;

(c) employees who are final candidates for transfer or promotion from a non-highly sensitive position to a highly sensitive position; or

(d) employees who transfer or are promoted from one highly sensitive position to another highly sensitive position.

(8[~~8~~]9) Probationary Employee: An employee hired into a career service position who has not completed the required probationary period for that position.

([~~89~~]90) Probationary Period: A period of time considered part of the selection process, identified at the job level, the purpose of which is to allow management to evaluate an employee's ability to perform assigned duties and responsibilities and to determine if career service status should be granted.

(9[~~0~~]1) Proficiency: An employee's overall quality of work, productivity, skills demonstrated through work performance and other factors that relate to employee performance or conduct.

(9[~~1~~]2) Promotion: An action moving an employee from a position in one job to a position in another job having a higher salary range maximum.

(9[~~2~~]3) Protected Activity: Opposition to discrimination or participation in proceedings covered by the antidiscrimination statutes or the Utah State Grievance and Appeal Procedure. Harassment based on protected activity can constitute unlawful retaliation.

(9[~~3~~]4) Random Drug or Alcohol Test: Unannounced drug or alcohol testing of a sample of highly sensitive employees done in accordance with federal regulations or state rules, policies, and procedures, and conducted in a manner such that each highly sensitive employee has an equal chance of being selected for testing.

(9[~~4~~]5) Reappointment: Return to work of an individual from the reappointment register after separation from employment.

(9[~~5~~]6) Reappointment Register: A register of individuals who have prior to March 2, 2009:

(a) held career service status and been separated in a reduction in force;

(b) held career service status and accepted career service exempt positions without a break in service and were not retained, unless discharged for cause; or

(c) by Career Service Review Board decision been placed on the reappointment register.

(9[~~6~~]7) Reasonable Suspicion Drug or Alcohol Test: A drug or alcohol test conducted on an employee based on specific, contemporaneous, articulated observations concerning the appearance, behavior, speech or body odors of the employee.

(9[~~7~~]8) Reassignment: An action mandated by management moving an employee from one job or position to a different job or position with an equal or lesser salary range maximum for administrative reasons. A reassignment may not include a decrease in actual wage except as provided in federal or state law.

(9[~~8~~]9) Reclassification: A DHRM reallocation of a single position or multiple positions from one job to another job to reflect management initiated changes in duties and responsibilities.

([~~99~~]100) Reduction in Force: (RIF) Abolishment of positions resulting in the termination of career service staff. RIFs can occur due to inadequate funds, a change of workload, or a lack of work.

(10[~~0~~]1) Reemployment: Return to work of an employee who resigned or took military leave of absence from state employment to serve in the uniformed services covered under USERRA.

(10[~~1~~]2) Requisition: An electronic document used for HRE Online recruitment, selection and tracking purposes that includes specific information for a particular position, job seekers' applications, and a hiring list.

(10[~~2~~]3) Salary Range: Established minimum and maximum rates assigned to a job.

(10[~~3~~]4) Schedule: The determination of whether a position meets criteria stipulated in the Utah Code Annotated to be career service (schedule B) or career service exempt (schedule A).

(10[~~4~~]5) Separation: An employee's voluntary or involuntary departure from state employment.

(10[~~5~~]6) Settling Period: A sufficient amount of time, determined by agency management, for an employee to fully assume new or higher level duties required of a position.

(10[~~6~~]7) Structure Adjustment: An adjustment to a salary range approved by DHRM that is based upon salary data and other relevant information from comparable jobs in the market that is collected by DHRM or from DHRM approved justifiable sources. The salary range adjustment cannot have a budgetary impact on an agency unless additional approval is received from the Governor's Office.

(10[~~7~~]8) Tangible Employment Action: A significant change in employment status, such as firing, demotion, failure to promote, work reassignment, or a decision which changes benefits.

(10[~~8~~]9) Transfer: An action not mandated by management moving an employee from one job or position to another job or position with an equal or lesser salary range maximum for which the employee qualifies. A transfer may include a decrease in actual wage.

(1[~~09~~]10) Uniformed Services: The United States Army, Navy, Marine Corps, Air Force, Coast Guard; Reserve units of the Army, Navy, Marine Corps, Air Force, or Coast Guard; Army National Guard or Air National Guard; Commissioned Corps of Public Health Service, National Oceanic and Atmospheric Administration (NOAA), National Disaster Medical Systems (NDMS) and any other category of persons designated by the President in time of war or emergency. Service in Uniformed Services includes: voluntary or involuntary duty, including active duty; active duty for training; initial active duty for training; inactive duty training; full-time National Guard duty; or absence from work for an examination to determine fitness for any of the above types of duty.

(11[~~0~~]1) Unlawful Discrimination: An action against an employee or applicant based on race, religion, national origin, color, sex, age, disability, pregnancy, sexual orientation, gender identity, protected activity under the anti-discrimination statutes, political affiliation, military status or affiliation, or any other factor, as prohibited by law.

(11[~~1~~]2) USERRA: Uniformed Services Employment and Reemployment Rights Act of 1994 (P.L. 103-353), requires state governments to re-employ eligible veterans who resigned or took a military leave of absence from state employment to serve in the uniformed services and who return to work within a specified time period after military discharge.

(11[~~2~~]3) Veteran: An individual who has served on active duty in the armed forces for more than 180 consecutive days, or was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized. Individuals must have been separated or retired under honorable conditions.

(11[~~3~~]4) Volunteer: Any person who donates services to the state or its subdivisions without pay or other compensation except actual and reasonable expenses incurred, as approved by the supervising agency.

(11[~~4~~]5) Wage: The fixed hourly rate paid to an employee.

(11[~~5~~]6) Work Period: The maximum number of hours an employee may work prior to accruing overtime or compensatory hours based on variable payroll cycles outlined in 67-19-6.7 and 29 CFR 553.230.

KEY: personnel management, rules and procedures, definitions
Date of Enactment or Last Substantive Amendment: [~~July 1~~], 2016
Notice of Continuation: February 2, 2012
Authorizing, and Implemented or Interpreted Law: 67-19-6; 67-19-18

Human Resource Management, Administration
R477-4-6
Rehire

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 40926
FILED: 11/01/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add clarification to the rehire section of the rule as it relates to phased retirement.

SUMMARY OF THE RULE OR CHANGE: This amendment creates provisions for employees rehiring into the phased retirement program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 49-11-13 and Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: These changes are administrative and do not directly impact state budgets.
♦ LOCAL GOVERNMENTS: This rule only affects the executive branch of state government and will have no impact on local government.
♦ SMALL BUSINESSES: This rule only affects the executive branch of state government and will have no impact on small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no direct compliance cost for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

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. This act limits the provisions of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect affect if an agency passes costs or savings on to business through fees. However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no effect on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN RESOURCE MANAGEMENT
ADMINISTRATION
ROOM 2120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Greg Hargis by phone at 801-891-5680, or by Internet E-mail at ghargis@utah.gov, or mail at PO BOX 141531, Salt Lake City, UT 84114-1531.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Debbie Cragun, Executive Director

R477. Human Resource Management, Administration.
R477-4. Filling Positions.
R477-4-6. Rehire.

(1) A former employee shall compete for career service positions through the DHRM approved recruitment and selection system and shall serve a new probationary period, as designated in the official job description.

(a) The annual leave accrual rate for an employee who is rehired to a position which receives leave benefits shall be based on all eligible employment in which the employee accrued leave.

(b) An employee rehired into a benefited position within one year of separation shall have forfeited sick leave reinstated as Program III sick leave.

(c) An employee rehired into a benefited position within one year of separation due to a reduction in force shall have forfeited sick leave reinstated to Program I, Program II, and Program III as accrued prior to the reduction in force.

(d) Except for employees rehired under the provisions of R477-4-6(2), a [~~A~~]rehired employee may be offered any salary within the salary range for the position.

(2) Employees rehired under the Phased Retirement Program pursuant to Utah Code Section 49-11-13 shall be:

(a) Classified as time-limited (TL schedule) for the duration of a phased retirement employment period; and

(b) Placed at or below the employee's wage at the time of retirement. Employees cannot be placed below the minimum of the established salary range of the job.

KEY: employment, fair employment practices, hiring practices
Date of Enactment or Last Substantive Amendment: [~~July 1~~], 2016
Notice of Continuation: February 2, 2012
Authorizing, and Implemented or Interpreted Law: 67-19-6; 67-20-8

Human Services, Administration, Administrative Services, Licensing
R501-1
General Provisions

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 40929
FILED: 11/01/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule updates and clarifies the general processes for the Department of Human Services (DHS), Office of Licensing. Some of the updates are related to H.B. 259 passed during the 2016 General Session.

SUMMARY OF THE RULE OR CHANGE: This rule updates and clarifies the general processes for the DHS Office of Licensing. Some of the updates are related to H.B. 259 from the 2016 General Session. It adds and changes definitions. It clarifies office processes related to variances, applications, approvals, denials, extensions, investigations of complaints and critical incidents, etc.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 62A, Chapter 2

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The current budget will cover any tasks affected by these changes. It is not anticipated that these rule changes will be either a cost or savings to the state of Utah.
♦ LOCAL GOVERNMENTS: It is not anticipated that this will affect local governments financially. Costs to providers will most likely remain constant. Changes are primarily to Office of Licensing processes and philosophy regarding code of conduct and client's rights.
♦ SMALL BUSINESSES: It is not anticipated that this will affect small businesses financially. Costs to providers will most likely remain constant. Changes are primarily to Office of Licensing processes and philosophy regarding code of conduct and client's rights.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: It is not anticipated that this will affect other entities financially. Costs to providers will most likely remain constant. Changes are primarily to Office of Licensing processes and philosophy regarding code of conduct and client's rights.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs are anticipated. Fees remain the same. No significant compliance changes for providers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is not anticipated that this rule change will have a fiscal impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES, LICENSING
195 N 1950 W
FIRST FLOOR
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Diane Moore by phone at 801-538-4235, by FAX at 801-538-4553, or by Internet E-mail at dmoore@utah.gov
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Diane Moore, Director

R501. Human Services, Administration, Administrative Services, Licensing.
[~~R501-1. General Provisions.~~
~~R501-1-1. Authority and Purpose.~~
~~1. This Rule is authorized by Section 62A-2-101, et seq.~~
~~2. This Rule clarifies the standards for:~~
~~a. approving or denying a human services program application, or~~
~~b. approving, extending, conditioning, denying, suspending, or revoking a human services program license.~~
~~3. This Rule clarifies the standards for inspecting, monitoring, and investigating a human services program.~~
~~4. This Rule clarifies the standards for approving or denying a variance to the Human Services Administrative Rules, Title R501, regarding the licensing of human services programs.~~

~~R501-1-2. Definitions.~~
~~1. "Applicant" means a person who submits an application to the Office of Licensing to obtain a license to operate a human services program.~~
~~2. "Child" is defined in Section 62A-2-101.~~
~~3. "Client" is defined in Section 62A-2-101.~~
~~4. "Human services program" is defined in Section 62A-2-101.~~
~~5. "Initial License" means the license issued to operate a human services program during the program's first year of operation.~~

~~6. "Licensee" means a person with a current, valid license to operate a human services program, issued by the Office of Licensing.~~

~~7. "Local government" is defined in Section 62A-2-101.~~

~~8. "Person" includes an individual, agency, association, partnership, corporation, or governmental entity.~~

~~9. "Probationary License" means a temporary initial license issued to operate a new human services program during the period of time that the Office of Licensing designates for the program to transition from substantial compliance to full compliance with licensing requirements.~~

~~10. "Regular business hours" is defined in Section 62A-2-101.~~

~~11. "Residential Treatment" is defined in Section 62A-2-101.~~

~~12. "Renewal License" means the license issued to operate a human services program after the program's first year of operation.~~

~~13. "Site" A human services program identified by a single geographic location, including but not limited to a single dwelling, building, facility, or campus.~~

~~14. "Substantial compliance" means a human services program presently conforms to all licensing requirements with the exception of minor requirements that do not create a risk of harm to a child or vulnerable adult. Examples of minor requirements that do not create a risk of harm to a child or vulnerable adult include, but are not limited to, individual staff or client files in a residential treatment program that has not yet provided services, individual staff or client files in a child placing agency that has not yet provided services, or completion of training in a kinship foster care placement.~~

~~15. "Variance" means a temporary deviation from an administrative rule.~~

~~16. "Vulnerable Adult" is defined in Section 62A-2-101.~~

~~R501-1-3. Licensing Procedure.~~

~~1. Application for Initial License.~~

~~A person seeking an initial license to operate a human services program shall submit:~~

~~a. an application on the forms provided by the Office of Licensing;~~

~~b. the licensing fee required for the category of human services program license sought;~~

~~c. a completed background screening application and consent form, and all required identifying information, in accordance with R501-14, for each adult associated with the proposed human services program;~~

~~d. the applicant's proposed policy and procedure manual;~~

~~e. documentation verifying compliance with all local government zoning, health, fire, and business requirements; and~~

~~f. for residential treatment programs, a copy of the notice of its intent to operate a residential treatment program and proof of service, in accordance with Section 62A-2-108.2.~~

~~2. Application for Renewal License.~~

~~A person seeking renewal of a license to operate a human services program shall submit:~~

~~a. an application on the form provided by the Office of Licensing;~~

~~b. the licensing fee required for the category of human services program;~~

~~c. verification of current background screening approval, in accordance with R501-14, for each adult associated with the human services program;~~

~~d. a copy of all modifications that have been made to the licensee's policy and procedure manual since the previous year's licensure;~~

~~e. documentation verifying current compliance with all local government zoning, health, fire, and business requirements; and~~

~~f. for residential treatment programs, a copy of the notice of its intent to operate a residential treatment program and proof of service, in accordance with Section 62A-2-108.2.~~

~~g. the application for renewal of a license shall be submitted no less than thirty days and no more than sixty days prior to the expiration date of the current license.~~

~~3. An application and required documentation that are not legible, complete, dated and signed shall be returned to the applicant without further action.~~

~~4. On-Site Licensing Review~~

~~a. An applicant for an initial license shall permit the Office of Licensing to conduct an unlimited on-site evaluation of the physical facility and grounds, and to interview persons associated with the proposed program to verify compliance with all licensing requirements.~~

~~i. The Office of Licensing shall approve an application for an initial human services program license only after verifying full compliance with all licensing requirements.~~

~~ii. The Office of Licensing may approve a probationary license only after verifying substantial compliance with licensing requirements.~~

~~A. The Office of Licensing shall include an expiration date on a probationary license, which shall not exceed 6 months from the date of issue.~~

~~B. A probationary licensee that fails to achieve full compliance with licensing requirements prior to the expiration of the probationary license shall not be granted an extension, and shall not accept any fees, entering any agreements to provide client services, or provide any client services.~~

~~C. A probationary licensee that is not granted an initial license may submit a new application for an initial license 3 months after the expiration of the probationary license.~~

~~iii. The Office of Licensing shall deny an application for an initial human services program license when substantial compliance with all licensing requirements cannot be verified.~~

~~iv. The Office of Licensing shall permit an applicant for an initial human services program license to withdraw the application at any time prior to denying the application when an applicant requests additional time to demonstrate compliance with all licensing requirements.~~

~~b. The Office of Licensing shall conduct a minimum of one annual on-site review of each human services program site.~~

~~i. The Office of Licensing shall approve an application for a human services program license renewal only after verifying full compliance with all licensing requirements.~~

~~ii. The Office of Licensing shall deny an application for a human services program license renewal when full compliance with all licensing requirements cannot be verified.~~

iii. The Office of Licensing may extend the current license of a human services program in accordance with this rule.

A. A renewal license may be extended for up to sixty days past the current license expiration date if the Office of Licensing determines that the human services program is in substantial compliance with licensing requirements.

B. A notice of extension shall identify the extension expiration date and the requirements that the human services program must comply with to achieve full compliance.

C. A human services program that fails to achieve full compliance with licensing requirements prior to the expiration of the extension shall not be granted additional extensions.

D. The Office of Licensing shall deny the renewal application of a human services program that fails to achieve full compliance with licensing requirements prior to the expiration of an extension.

c. The Office of Licensing shall complete a written monitoring report or a checklist identifying areas of compliance and non-compliance with licensing requirements after each on-site review.

5. The license shall state the name and site address of the human service program facility, category of service, maximum consumer capacity, and the start date and expiration date.

6.a. A license that has expired is void.

b. A license expires at midnight one year after the date it was issued, unless:

i. the license states an earlier expiration date;

ii. the license has been extended in accordance with this rule;

iii. the license has been revoked by the Office of Licensing; or

iv. the license has been relinquished to the Office of Licensing by the licensee.

7.a. A licensee shall not exceed the licensed maximum client capacity indicated on the license issued by the Office of Licensing.

b. A licensee seeking to increase the maximum client capacity of a license shall submit an application for a renewal license in accordance with this rule.

8. A person with an expired license wishing to operate a human services program shall submit an application for a new license in accordance with this rule.

9. A license is deemed void when the human services program has a change of location unless the program obtains prior written approval of the relocation of their license:

a. Relocation can only occur when an existing program is moving to a new location with no change of license type, ownership, or substantial policy or service changes. Relocation does not mean adding an additional site to a currently licensed program.

b. A human services program, excluding foster care, that intends to relocate to a new site may have their license transferred to the new site only after:

i. payment of renewal fees;

ii. request to relocate submitted to the Office of Licensing at least 30 days prior to the move;

iii. Office of Licensing inspection and approval of licensure at the new site.

c. A foster home that intends to relocate to a new site may have their license transferred to the new site only after:

i. request to relocate submitted to the Office of Licensing at least 30 days prior to the move;

ii. Office of Licensing inspection and approval of licensure at the new site within two weeks if foster children are placed, and within 30 days if there are no current foster placements. If foster children are placed, it is the responsibility of the licensed foster parent to ensure health and safety of the foster child pending transfer to the new site.

10. No clients may be present and no services may be provided at a relocation site until after all requirements of 9 above have been met, with the exception of currently placed foster children.

11. A human services program that has a change of ownership shall submit to the Office of Licensing updated documentation in advance of the transfer of ownership, including but not limited to proof of continued insurance, updated organization chart, and business license. Failure to do so will result in a revocation of the license/s.

R501-1-4. Fees.

1. The Office of Licensing shall assess and collect licensing fees in accordance with Sections 62A-2-106 and 63J-1-504.

a. A fee shall not be transferred, prorated, reduced, waived, or refunded.

b. No licensing fee shall be assessed on a foster home or on a Division of the Department of Human Services.

c. An initial application fee will expire after 12 months if an initial or probationary license has not been issued in that timeframe.

2. The Office of Licensing is not required to perform an on-site review until the applicant pays the assessed licensing fee in full.

3. Separate initial license fees shall be assessed for each initial category of human services program license offered at a program site.

4. Separate renewal license fees, plus any applicable capacity fees, shall be asses for each license category that is renewed at a program site.

a. Renewal fees shall be calculated according to the maximum licensed client capacity of the human services program, and not according to the number of clients served in the program.

b. A human services program with a current license that intends to increase its maximum licensed capacity shall submit an application and fee for a renewal license. The fee shall include the capacity charges for the new total maximum licensed capacity.

5. A human services program with more than one building, unit, or suite at one site may request to have its fees assessed and licenses/s issued:

a. so that each category of license will be issued to include all on-site buildings, units, or suites; or

b. so that each category of license will be issued for each individual on-site building, unit, or suite.

6. A human services program with a current license that intends to provide additional services at the currently licensed site shall submit an application and fee for an initial license.

R501-1-5. Monitoring.

1. The Office of Licensing shall investigate reports of unlicensed human services programs.

a. An unlicensed human services program that fails to submit an application and become licensed shall be referred to the Offices of the Attorney General and the appropriate County Attorney for prosecution.

2. The Office of Licensing shall investigate complaints regarding a licensed human services program.

a. A certified local inspector may investigate complaints regarding a residential treatment program in accordance with Section 62A-2-108.3 and R501-4

3. Unannounced administrative inspections may be conducted during regular business hours.

4. The Office of Licensing shall document violations of administrative rules or statutes

5. The Office of Licensing shall provide written notification to the human services program of violations of administrative rules or statutes and any sanctions imposed.

R501-1-6. Corrective Action Plans.

1. The Office of Licensing may require a human services program to submit a written corrective action plan in response to a written notification of its violations of administrative rules or statutes.

2. A human services program shall submit a written corrective action plan to the Office of Licensing within ten calendar days of receiving written notification of its violations of administrative rules or statutes.

3. The written corrective action plan shall include the following:

a. a statement of each violation as identified by the Office of Licensing;

b. a detailed description of how the human services program will correct each violation and prevent additional violations of administrative rules or statutes;

c. the date by which the human services program will achieve complete compliance with administrative rules or statutes; and

d. the signature of all owners and managers of the human services program.

4. The Office of Licensing shall issue a Notice of Agency Action imposing sanctions for a human service program's violations of administrative rules or statutes if the program fails to submit a written corrective action plan in compliance with this rule.

5. The Office of Licensing shall review the submitted written corrective action plan and:

a. inform the human services program that the written corrective action plan is approved; or

b. inform the human services program that the written corrective action plan fails to satisfy the requirements of this rule.

i. The Office of Licensing may permit a human services program to amend its written corrective action plan within 5 additional calendar days to satisfy the requirements of this rule.

6. The Office of Licensing shall issue a Notice of Agency Action imposing sanctions for a human services program's violations of administrative rules or statutes if the program fails to comply with a written corrective action plan approved by the Office of Licensing.

7. A human services program shall post each approved corrective action plan and each Notice of Agency Action where it can be easily reviewed by clients, parents or guardians of clients, and visitors.

a. Each approved corrective action plan and each Notice of Agency Action shall remain posted until the Office of Licensing issues written confirmation that the program has achieved compliance with administrative rules and statutes.

R501-1-7. License Violation.

1. An applicant shall not accept any fees, enter any agreements to provide client services, or provide any client services until after receiving written confirmation that the Office of Licensing has approved and issued a license to provide those services.

2. The Office of Licensing may exercise its professional judgment and deny, condition, suspend, or revoke a license for any violation of the administrative Rules or local, state, or federal law.

3. The Office of Licensing shall issue a written notice of agency action when a license sanction is imposed. The notice of agency action shall identify each violation and describe the factual basis underlying each violation.

4. The Office of Licensing may place a license on conditional status. A conditional status allows a program that is in the process of correcting administrative rule violations to continue operation subject to conditions established by the Office of Licensing.

5.a. A human services program that has had its license suspended is prohibited from providing any services to clients until after the suspension period has expired.

b. A human services program that has had its license expire during the suspension period shall be required to submit an application for an initial license after the suspension period has expired and obtain a new license prior to providing any services to clients.

6. A human services program that has had its license revoked is prohibited from providing any services to clients until after a new license is issued in accordance with Section 62A-2-113.

R501-1-8. Due Process.

1. A notice of agency action shall inform the applicant or licensee of the right to appeal in accordance with Administrative Rule 497-100 and Section 63G-4-101, et seq.

2. A licensee shall not accept any new clients while an appeal is pending.

R501-1-9. Variances.

1. A licensee shall not deviate from any administrative rule without first receiving written approval of a specific variance request signed by the Director of the Office of Licensing or the Director's designee.

2. The Director of the Office of Licensing, or the Director's designee, may grant a variance to the administrative rules of the Office of Licensing, if the Director or the Director's designee determines that a variance:

a. is in the best interests of the client; and

b. may be granted without compromising any health and safety requirements.

3. The licensee must submit a written request for a variance to the licensing specialist. A request for a variance shall specifically describe:

a. the rule for which the variance is requested;

b. how the licensee will ensure the best interests of the client will be maintained;

c. what procedures will be implemented to ensure the health and safety of all clients; and

d. the proposed variance expiration date.

~~4. The licensing specialist shall review the written request for a variance and forward it to the Director or the Director's designee together with the licensing specialist's recommendations to approve, approve with modifications, or deny the request.~~

~~5. The Office of Licensing shall notify the licensee of the approval, approval with modifications, or denial of the variance, in writing, within 30 days.~~

~~R501-1-10. Abuse or Neglect, or Exploitation.~~

~~1. The Office of Licensing shall immediately notify the appropriate investigative or law enforcement agency of any allegations or evidence of abuse, neglect, or exploitation of any child or vulnerable adult.~~

~~R501-1-11. Compliance.~~

~~Any licensee that is in operation of the effective date of this rule shall be given 30 days after the effective date to achieve compliance with this rule.~~]

R501-1. General Provisions for Licensing.

R501-1-1. Authority and Purpose.

(1) This Rule is authorized by Utah Code Title 62A, Chapter 2.

(2) This Rule clarifies the standards for:

(a) approving or denying a human services program license application;

(b) approving, renewing, extending, placing conditions on, restricting admissions, suspending, or revoking a license for a human services program;

(c) inspecting, monitoring, and investigating a prospective or current human services program; and

(d) approving or denying a variance to the Human Services Administrative Rules, Title R501, regarding the licensing of human services programs.

R501-1-2. Definitions.

As used in this Title 501:

(1) "Abuse" includes, but is not limited to:

(a) attempting to cause harm;

(b) threatening to cause harm;

(c) causing non-accidental harm;

(d) unreasonable or inappropriate use of a restraint, medication, confinement, seclusion or isolation that causes harm;

(e) sexual exploitation, as defined in 78A-6-105;

(f) sexual abuse, including sexual contact or conduct with a client, or as defined in 78A-6-105;

(g) a sexual offense, as described in Title 76 Chapter 5; or

(h) domestic violence or domestic violence related to child abuse.

(i) "Abuse" does not include the reasonable discipline of a child, or the use of reasonable and necessary force in self-defense or the defense of others, as such force is defined in 76-2-4.

(2) "Applicant" is defined in 62A-2-101.

(3) "Associated with the Licensee" is defined in 62A-2-101.

(4) "Category" means the type of human service license described in 62A-2-101.

(5) "Client" is defined in 62A-2-101.

(6) "Critical Incident" means an occurrence that involves:

(a) abuse;

(b) neglect;

(c) exploitation;

(d) death;

(e) an injury requiring medical attention beyond basic first aid;

(f) an injury that is a result of staff or client assault, restraint or intervention;

(g) the unlawful or unauthorized presence or use of alcohol or substances;

(h) the unauthorized departure of a client from the program;

(i) outbreak of a contagious illness requiring notification of the local health department;

(j) the misuse of dangerous weapons; or

(k) unsafe conditions caused by weather events, mold, infestations, or other conditions that may affect the health, safety or well-being of clients.

(7) "Director(s)" means a person or persons ultimately responsible for day to day operations of a program; and may include medical, clinical, or those directing other aspects of the program.

(8) "Exploitation" includes, but is not limited to:

(a) the use of a client's property, labor, or resources without the client's consent or in a manner that is contrary to the client's best interests, or for the personal gain of someone other than the client; such as expending a client's funds for the benefit of another; or

(b) using the labor of a client without paying the client a fair wage or without providing the client with just or equivalent non-monetary compensation, where such use is consistent with therapeutic practices; or

(c) engaging or involving a client in any sexual conduct; or

(d) any offense described in 76-5-111(4) or Section 76-5b-201 and 202.

(9) "Foster Home" is defined in 62A-2-101 (18).

(10) "Fraud" means a false or deceptive statement, act, or omission that causes, or attempts to cause, property or financial damages, or for personal or licensee gain. Fraud includes the offenses identified as fraud in Utah Code Title 76 Chapter 6.

(11) "Harm" means physical or emotional pain, damage, or injury.

(12) "Human Services Program" is defined in 62A-2-101.

(13) "Initial License means the license issued to operate a human services program during the licensee's first year of licensure. This license is considered provisional and allows for the licensee to demonstrate sustained compliance with licensing rules prior to renewal.

(14) "Inspection" means announced or unannounced visit of the licensed site in accordance with 62A-2-118.

(15) "Licensee" is defined in 62A-2-101 and includes the person or persons responsible for administration and decision making for the licensed site or program. The term licensee may be used to describe a person or entity that has caused any of the violations described in 62A-2-112 that are related to the human services program.

(16) "Local Government" is defined in 62A-2-101.

(17) "Medication-Assisted Treatment" means the use of medications with counseling and behavioral therapies to treat substance use disorders and prevent opioid overdose.

(18) "Mistreatment" means emotional or physical mistreatment:

(a) emotional mistreatment is verbal or non-verbal conduct that results in a client suffering significant mental anguish, emotional distress, fear, humiliation, or degradation; and may include demeaning,

threatening, terrorizing, alienating, isolating, intimidating, or harassing a client; and

(b) physical mistreatment includes:

(i) misuse of work, exercise restraint, or seclusion as a means of coercion, punishment, or retaliation against a client, or for the convenience of the licensee, or when inconsistent with the client's treatment or service plan, health or abilities;

(ii) compelling a client to remain in an uncomfortable position or repeating physical movements to coerce, punish, or retaliate against a client, or for the convenience of the licensee;

(iii) physical punishment.

(19) "Neglect" means abandonment or the failure to provide necessary care, which may include nutrition, education, clothing, shelter, sleep, bedding, supervision, health care, hygiene, treatment, or protection from harm.

(20) "Office" means the Utah Department of Human Services Office of Licensing.

(21) "Owner/Ownership" means any licensee, person, or entity that:

(a) is defined as a "member" in 62A-2-108; or

(b) is a person or persons listed on a foster home license; or

(c) possesses the exclusive right to hold, use, benefit-from, enjoy, convey, transfer, and otherwise dispose of a program; or

(d) retains the rights, participates in, or is ultimately responsible for operations and business decisions of program, or

(e) may or may not own the real property or building where the facility operates; or

(f) a property owner is also an owner of the program if they operate or have engaged the services of others to operate the program.

(22) "Parent Program" means an applicant or licensee owning or directing multiple sites under the same general administrative organization.

(23) "Penalty" means the Office's denying, placing conditions on, suspending, or revoking a human services license due to noncompliance with statute or administrative rules, may include penalties outline in 62A-2-112. A penalty does not include corrective action plans as used in this rule.

(24) "Pending Renewal License" means a temporary program license status that is assigned when an expiring license has a corrective action plan, penalty, or pending appeal. Pending renewal licenses may be granted only after submission of fees and application, and are valid for no more than 12 months.

(25) "Program" refers to a Human Services Program as defined herein.

(26) "Person" means an individual, agency, association, partnership, corporation, business entity, or governmental entity.

(27) "Renewal License" means a continuing program license issued based upon ongoing compliance with administrative rules and statues. It is issued annually or biannually in compliance with 62A-2 108(4).

(28) "Restraint" means the involuntary method of physically restricting a person's freedom of movement, physical activity, or normal access to their body.

(29) "Seclusion" means the involuntary confinement of the individual in a room or an area away from the client community, where the individual is physically prevented from leaving.

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

(31) "Staff" means direct care employees, support employees, managers, directors, supervisors, administrators, agents, volunteers, owners, and contractors.

(32) "Variance" means the Office authorized deviation from the administrative rule.

(33) "Violation" means an act or omission by the licensee, or any person associated with the licensee, contrary to any administrative regulation, or local, state, or federal law applicable to the program.

R501-1-3. Licensing Application Procedures.

(1) Initial and Renewal Application

(a) An applicant shall not accept any fees, enter any agreements to provide client services, or provide any client services until they have received a license certificate issued by the Office.

(b) Applicants and licensees shall permit the Office to have immediate, unrestricted access to the site, all on and off-site program and client records, and all staff and clients.

(c) An applicant may withdraw their application for a license, in writing, at any time during the application process.

(d) An applicant seeking an initial or renewal license to operate a human services program shall submit:

(i) an application as provided by the Office; a renewal application that is not submitted at least thirty days prior to the expiration date of the current license may result in the license expiring;

(ii) the fee(s) required for each category of human service program license(s); except as excluded in R501-1-7-2;

(iii) a completed background screening application, fees and supporting documentation for each person associated with the human services program in accordance with 62A-2-120 and R501-14, except for those excluded in 62A-2-120(13);

(iv) the applicant's required policies and procedures per R-501-2. Renewal applicants may only submit modifications made to previously submitted policies and procedures;

(v) name and contact information for all owners and directors, as defined in this chapter;

(vi) disclosure of any individual associated with the application who has been a licensee as defined in this rule that had a license revoked by the Office within the five years prior to the date on the application; and;

(vii) documentation verifying compliance with, or exemption from, local government zoning, health, fire, safety, and business license requirements.

(A) For residential treatment programs applying for initial licensure, a copy of its notice of intent to operate a residential treatment program, and proof of service, in accordance with 62A-2-108.2.

(2) Application Expiration

(a) A program initial application, other than an initial foster home application, that remains incomplete shall expire one year from the date it was first submitted to the Office.

(b) A foster home initial application that remains incomplete, or lacks required documentation may expire 90 days from the date is was first submitted to the Office unless the Office determines the applicant to be making active progress toward licensing compliance.

(c) An expired initial application is void and requires a new initial application and applicable fees for each category of license.

(3) Two Year Licenses

(a) A program may apply for a two year license if:

(i) the program has been licensed consecutively without penalty for two years prior to application;

(ii) there are no current corrective action plans, penalties, or pending appeals at the time of application;

(iii) the program submits double the annual fees for their category/categories of licenses; and

(iv) the program submits a plan for maintaining continued compliance with background screenings as described in 62A-2-120.

R501-1-4. Licensing Determinations.

(1) Application Approval

(a) The Office shall issue a license for a human service program only after verifying compliance with applicable administrative rules and statues.

(b) The Office may place individualized parameters on a program license in order to promote the health, safety, and welfare of clients. Such parameters may include, but are not limited to:

(i) age restrictions;

(ii) admission or placement restrictions; or

(iii) other parameters specific to individual sites and programs.

(c) A license certificate shall state the name, site address, license category, maximum client capacity if applicable, any specific parameters, and effective dates of the license.

(d) Licensee shall post the license certificate in a conspicuous location at the licensed site.

(e) A program shall not be issued an initial license while any other license within that program or parent program is under penalty, or has a pending appeal.

(2) Application Denial

(a) The Office may deny the application for a human service program if:

(i) the program has failed to achieve and maintain compliance with administrative rules and statues. All inspections, investigations, and other information gathered during the licensed period shall contribute to the renewal determination;

(ii) the Office determines that, the program is not reasonably likely to provide services in accordance with governing rules or statutes. The Office may consider the history of rule violations by the owner, licensee, or persons associated with the program; or

(iii) the Office determines that significant false or misleading information regarding the program has been provided to the Office, program clients, prospective clients, or the public.

(b) Previously denied applicants shall not reapply for at least three months from the date of denial.

(3) Renewing a License with Violations

(a) If a license has a penalty, pending appeal, or corrective action plan at the time of renewal, the license shall not be renewed per 62A-2-108(4), but shall be put in a pending renewal status until compliance or other resolution is achieved. Pending renewal status:

(i) provides an opportunity for the licensee to achieve compliance and qualify for full renewal per 62A-2-108(4);

(ii) is only issued after submission of renewal application and fees;

(iii) is valid for up to 12 months of the requested renewal period, and cannot be extended;

(iv) may be converted to a regular renewal license for the balance of the renewal period once compliance is verified; and

(v) will be designated on the license certificate.

(b) A license that does not achieve compliance or other resolution in that time shall be denied further renewal.

R501-1-5. Expiration, Extension, and Relinquishment.

(1) License Expiration

(a) A license that has expired is void and may not be renewed.

(b) A license expires at midnight on the expiration date listed on the license that is issued by the Office, unless:

(i) the license has been revoked by the Office,

(ii) the license has been extended by the Office,

(iii) the license has been placed in pending renewal status by the Office in accordance with 501-1-4-3, or

(iv) the license has been relinquished by the licensee.

(c) A program with an expired license shall not accept any fees, enter any agreements to provide client services, or provide any client services.

(d) A program with an expired license wishing to operate a human services program shall submit an application for an initial license in accordance with this rule.

(2) License Extension

(a) The Office may extend the current license of a human service program only when the renewal application and applicable fee have been submitted.

(b) A license may be extended one time, up to a maximum of 90 days past the current license expiration date, only if the Office determines there is a reasonable likelihood the program will achieve compliance prior to the expiration of the extension, and there are not current penalties or pending appeals.

(c) The application for a license that has been extended, but does not qualify for renewal within the timeframe of the extension, shall be denied.

(3) License Relinquishment; A licensee wishing to voluntarily relinquish its license shall submit a written notice to the Office.

R501-1-6. Program Changes.

(1) Name Change

(a) A licensee wishing to change only the name of the program or site does not need to submit an application or fee; they shall submit updated program documentation reflecting the new name to the Office at least ten days prior to the change.

(b) The Office may link the name of the former program to the new name on the licensing database, and on all license certificates and public websites, for two years following the change.

(2) Relocation

(a) A human services program wishing to relocate to a new address may serve clients at the new site, only after:

(i) submission of renewal application and renewal fees at least 30 days prior to the move;

(ii) submission of local government business license and applicable inspections and clearances, including but not limited to:

(A) health;

(B) fire; and/or

(C) as categorically required;

(iii) submission of insurance coverage at the new site, as categorically required;
(iv) inspection by the Office; and
(v) receipt of the updated license certificate for the new site.
(b) A foster home that intends to relocate to a new site may have their license transferred to the new site only after:
(i) a request to relocate has been submitted to the Office at least 30 days prior to the move;
(ii) Office of Licensing inspection and approval of licensure at the new site which shall occur within two weeks, if a foster child is placed, and within 30 days if there are no current foster placements;
(A) if a foster child is placed, it is the responsibility of the licensed foster parent to ensure health and safety of the foster child during the transfer to the new site.
(c) Except for foster homes outlined in subsection (b), no clients may be present and no services may be provided at a relocation address until after the Office issues a new license in accordance with this Rule.
(3) Capacity Change
(a) A licensee seeking to increase the maximum client capacity of a program shall submit an application and renewal fee for a license renewal as categorically required.
(4) Add New License Category
(a) A program may request to add a new category of service to an existing licensed site by submitting application and fees for an initial license. All requirements for initial licensure must be verified.
(5) Add New Location
(a) A program may add an additional site of service by submitting an application and fees for an initial license. All requirements for initial licensure must be verified.
(6) Owner/Ownership Changes
(a) A program anticipating, or undergoing a change of ownership, or change in owner(s), shall submit in writing, prior to the change:
(i) any changes to the programming and services;
(ii) declaration regarding responsibility for records and records retention to include an agreement signed by both current and prospective owners and/or directors, detailing how all program staff and client records will be retained and remain available to the Office;
(iii) names and contact information of any new directors or owners;
(iv) documentation of continuous insurance coverage;
(v) updated business license.
(b) The status of a license at the time of a change of ownership shall continue.
(c) For any substantial change in this section, the Office may require new, initial application and fees for each license category.
(i) Substantial changes include:
(A) those resulting in direct client impact;
(B) changes to programming;
(C) changes in populations served;
(D) severing ties with previous owner or staff affiliations; or
(E) disrupting continuity of record retention, etc.

R501-1-7. License Fees.
(1) The Office shall collect licensing fees in accordance with 62A-2-106, and Utah Code Title 63J Chapter 1 Part 5.
(2) No licensing fee shall be required from a foster home, or a Division, or Office, of the Department of Human Services.
(3) The Office is not required to perform an on-site visit, or document review until the applicant pays the licensing fee.
(4) A license application fee will expire after 12 months if a program has been unable to meet the license requirements.
(5) A fee shall not be transferred, prorated, reduced, waived, or refunded. Costs incurred by applicants in preparation for, or maintenance of licensure are the sole responsibility of the applicant.
(6) Separate initial license fees are required for each new category of human services program offered at each program site.
(7) Separate renewal license fees, and applicable capacity fees, are required for each license category that is renewed at each program site.
(a) Capacity fees are calculated according to the maximum licensed client capacity of the human service program, and not according to the number of clients actually served in the program.
(8) A human service program with more than one building, unit, or suite at one site, may choose to have its fees assessed and each category of license issued:
(a) so that each category of license will be issued to include all on-site buildings, units or suites as one; or
(b) so that separate licenses will be issued for each individual on-site building, unit or suite.

R501-1-8. Variances.
(1) A licensee shall not deviate from any administrative rule without first receiving written approval of a specific variance request signed by the Director of the Office, or the director's designee.
(2) The director of the Office, or the director's designee, may grant a variance if the director or the Director's designee determines a variance is not likely to compromise client health and safety, or provide opportunity for abuse, neglect, exploitation, harm, mistreatment, or fraud.
(3) A licensee seeking a variance must submit a written request to their licensing specialist, and specifically describe:
(a) the rule for which the variance is requested;
(b) the reason for the request;
(c) how the variance provides for the best interest of the client(s);
(d) what procedures will be implemented to ensure the health and safety of all clients; and
(e) the proposed variance start and expiration dates.
(4) The Office shall review the variance and notify the licensee of the approval, approval with modification, or denial of the variance, in writing, within 30 days.
(5) The licensee shall comply with the terms of a written variance, including any conditions or modifications contained within the approved written variance.
(6) A variance expires on the end date listed on the approval notice and terms of the variance are no longer permitted after that expiration date, unless a renewal of the variance is granted.
(7) A variance may be renewed by the office when the program is able to justify the request, and ensure ongoing health and safety of all clients.

R501-1-9. Monitoring.
(1) The Office shall conduct a minimum of one annual on-site inspection, but may conduct as many announced, or unannounced inspections as deemed necessary to monitor compliance, investigate

alleged violations, monitor corrective action plans or penalty compliance, or to gather information for license renewal.

(2) On-site inspections shall take place during regular business hours, as defined in 62A-2-101.

(3) Applicants and licensees shall not restrict the Office's access to the site, clients, staff, and all program records.

(4) Licensees and staff shall not compromise the integrity of the Office's information gathering process by withholding or manipulating information, or influencing the specific responses of staff or clients.

(5) All on-site inspections shall contribute toward the renewal or denial of the license application at the end of the license period.

(6) The Office shall provide written findings to the Program identifying areas of non-compliance with licensing requirements after each on-site inspection.

(7) Except for reports made in relation to foster homes, the licensee shall make copies of inspection reports available to the public upon request per 62A-2-118(5).

(8) The Office may adopt a written inspection report from a local government, certifying, contracting, or accrediting entity to assist in a determination whether a licensee has complied with a licensing requirement.

(9) The Office shall be allowed access to all program documentation and staff that may be located at an administrative location, away from the licensed site.

R501-1-10. Investigations of Alleged Violations.

(1) Unlicensed Programs

(a) The Office shall investigate reports of unlicensed human service programs.

(b) Investigation of an unlicensed human service program may include interviewing anyone at the site, neighbors, or gathering information from any source that will aid the Office in making a determination as to whether or not the site should be licensed.

(c) An unlicensed human services program that meets licensure definition, but does not submit an application and fee, or fails to become licensed, shall be referred to the Office of the Attorney General, and the appropriate County Attorney.

(d) The Office may penalize a licensed program at all program sites when a program adds or operates an unlicensed site that requires licensure by the Office.

(2) Licensed Program Complaints and Critical Incidents

(a) The Office shall investigate critical incidents and complaints involving alleged licensing violations regarding a licensed human services program.

(b) Complaints about licensees can come to the Office via any means from any source.

(c) The Office retains discretion to decline investigation of a complaint that is anonymous, unrelated to current conditions of the program, or not an alleged violation of a rule or statute.

(d) Critical incidents shall be reported by the program to the Office by the end of the following business day, to legal guardians of involved clients, and to any other agencies as required by law, including:

(i) Child and Adult Protective Services; or

(ii) Law Enforcement.

(e) Pending investigations or those that result in no rule violation findings in regards to the complaints or critical incidents shall be classified as protected and only released in accordance with Utah Code title 63G chapter 2, Utah Government Access and Management Act.

(3) Investigative Process

(a) In-person, or electronic investigations may include, but are not limited to:

(i) a review of on or offsite records;

(ii) interviews of licensee(s), person(s), client(s), or staff;

(iii) the gathering of information from collateral parties; or

(iv) site inspections.

(b) The Office will prioritize investigations of reports of unlicensed programs, complaints regarding licensed programs, and critical incidents following an assessment of risk to client health and safety as follows:

(i) priority allegations, as administratively identified by the Office as a potential imminent risk to the health and safety of clients, will require initial on-site contact by the Office within three business days. The Office may utilize law enforcement, Child or Adult Protective services, or other protection agencies to meet priority in on-site response;

(ii) all other allegations will require that the Office initiate an investigation within ten business days.

(c) Licensees and staff shall cooperate in any investigation.

(d) The Office may report any allegations or evidence of abuse, neglect, exploitation, mistreatment, or fraud to clients, clients' legal guardians, law enforcement, insurance agencies, the insurance department, the Division of Occupational and Professional Licensing, or any other entity determined necessary by the Office.

R501-1-11. License Violations.

When the Office finds evidence of violations of statute or rule, the Office shall do one of the following:

(1) provide written notification of the violation requiring the licensee to correct violation(s) with no formal follow-up; or

(2) provide written notification of violation and request a licensee to submit a corrective action plan in response to a written notification of a violation;

(a) a licensee shall submit a written corrective action plan to the Office within ten calendar days of the request from the Office and the corrective action plan shall include:

(b) a statement of each violation identified by the Office;

(c) a detailed description of how the licensee will correct each violation and prevent additional violations;

(d) the date by which the licensee will achieve compliance with administrative rules and statutes; and

(e) the signature of program owners and directors, including each foster parent, if involving a licensed or certified foster home;

(i) the Office shall review the submitted corrective action plan and:

(A) inform the licensee that the corrective action plan is approved; or

(B) inform the licensee that the corrective action plan is not approved and provide explanation;

(ii) the Office may permit a licensee to amend and resubmit its corrective action plan within five additional calendar days;

(f) the Office shall issue a Notice of Agency Action imposing a penalty for violation(s) if the licensee fails to submit and comply with an approved corrective action plan.

(g) A corrective action plan is not a penalty. Programs have the right to refuse the corrective action plan process and may preserve their appeal rights by requesting a penalty through an Office initiated Notice of Agency Action.

(3) provide a written notice of agency action initiating a penalty, as follows:

(a) the Office may place a license on conditional status. Conditional status allows a program that is in the process of correcting violations to continue operation, subject to conditions established by the Office. Failure to meet the terms of the conditions, and time frames outlined on the notice, could result in further penalty;

(b) the Office may suspend a license for up to one year;

(i) a human services program that has had its license suspended is prohibited from accepting new clients, and may only provide the services necessary to maintain client health and safety during their transition; and

(ii) shall have and comply with written policies and procedures to transition clients into equivalent, safe, currently licensed programs or into the custody of their legal guardians;

(c) the Office may revoke a license;

(i) a human services program that has had its license revoked is prohibited from accepting new clients and may only provide the services necessary to maintain client health and safety during their transition, and

(A) shall have and comply with written policies and procedures to transition clients into equivalent, safe, currently licensed program or into the custody of their legal guardians;

(B) Names of licensees and programs who have had their licenses revoked shall be maintained by the Office for a period of five years, and shall not be associated in any way with a licensed program during that five-year period.

(d) A licensee whose license has been suspended or revoked is responsible for the program staffing and health and safety need of all clients while the suspension or revocation is pending.

(e) The Office may place conditions, such as restricted admissions, to be in immediate effect in the Notice of Agency Action, if necessary, to protect the health and safety of clients.

(f) The Office may utilize any other penalties pursuant to 62A-2, Subsections 112, 113 and/or 116.

(g) The Office may consider chronicity, severity, and pervasiveness of violations when determining whether to simply provide notification of violations with no follow-up requirement; to request a corrective action plan; or to apply a formal penalty to the program.

(h) Repeated violations of the same rule or statute, or failure to comply with conditions of a Notice of Agency Action may elevate the penalty level assessed.

(i) A licensee shall post the Notice of Agency Action on-site, and on the homepage of each of its websites, where it can be easily reviewed by all clients, guardians of clients, and visitors within five business days, and shall remain posted for 90 days, unless otherwise noted by the Office.

(j) A licensee shall notify all clients, guardians and prospective clients of a Notice of Agency Action issued by the Office within five business days. Prospective and new clients will be notified for as long as the Notice of Agency Action is in effect.

(k) Pending an appeal of a revocation, suspension or conditional license that restricts admissions, licensee shall not accept any new clients as outlined on the Notice of Agency Action, or while an appeal of a penalty is pending without prior written authorization from the Office.

(l) The Office shall electronically post Notices of Agency Action issued to a human services program, on the Office's website, in accordance with 62A-2-106.

(m) Due Process: A Notice of Agency Action shall inform the applicant or licensee of the right to appeal in accordance with Administrative Rule 497-100.

R501-1-12. Licensing Code of Conduct and Client Rights.

(1) Licensees and staff shall:

(a) accurately represent services, policies and procedures to clients, guardians, prospective clients, and the public;

(b) create, maintain, and comply with a written policy that addresses the appropriate treatment of clients, to include the rights of clients as outlined in this section;

(c) not abuse, neglect, harm, exploit, mistreat, or act in a way that compromises the health and safety of clients through acts or omissions, by encouraging others to act, or by failing to deter others from acting;

(d) not use or permit the use of corporal punishment and shall only utilize restraint as described in R501-2;

(e) maintain the health and safety of clients in all program services and activities, whether on or offsite;

(f) not commit fraud;

(g) provide an insurer the licensee's records related to any services or supplies billed, upon request by an insurer or the Office;

(h) require that any licensee or staff member who is aware of, or suspects abuse, neglect, mistreatment, fraud, or exploitation shall ensure that a report is made to the Office and applicable investigative agencies as outlined in R501-1-10-2, and in compliance with mandatory reporting laws, including 62A-4a-403 and 62A-3-305;

(i) any licensee or staff member who is aware of, or suspects a violation of this rule, shall ensure that a report is made to the Office of Licensing at 801-538-4242 or directly to the licensor of the specific program or site; and

(j) provide services and supervision that is commensurate with the skills, abilities, behaviors, and needs of each client.

(2) Clients have the right to:

(a) be treated with dignity;

(b) be free from potential harm or acts of violence;

(c) be free from discrimination;

(d) be free from abuse, neglect, mistreatment, exploitation, and fraud;

(e) privacy of current and closed records;

(f) communicate and visit with family, attorney, clergy, physician, counselor, or case manager, unless therapeutically contraindicated or court restricted;

(g) be informed of agency policies and procedures that affect client or guardian's ability to make informed decisions regarding client care, to include:

(i) program expectations, requirements, mandatory or voluntary aspects of the program;

(ii) consequences for non-compliance;

(iii) reasons for involuntary termination from the program and criteria for re-admission;

(iv) program service fees and billing; and

(v) safety and characteristics of the physical environment where services will be provided.

(3) clients shall be informed of these rights and a copy signed by the client or guardian shall be maintained in the client file.

(4) licensees shall train all staff annually on agency policies and procedures, Licensing rules, and the Licensing Code of Conduct. A document verifying this training shall be signed and dated by the trainer and staff member and maintained in the staff personnel file.

R501-1-13. Compliance.

(1) A licensee that is in operation on the effective date of this rule shall be given 60 days to achieve compliance with this rule.

KEY: licensing, human services
Date of Enactment or Last Substantive Amendment: [~~July 1, 2015~~]2016
Notice of Continuation: October 18, 2012
Authorizing, and Implemented or Interpreted Law: 62A-2-101 et seq.

Human Services, Administration, Administrative Services, Licensing
R501-14
Human Service Program Background Screening

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40931
FILED: 11/01/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule governs background screening as required in Section 62A-2-120. It is being updated to clarify language and to come into compliance with H.B. 371 from the 2016 General Session.

SUMMARY OF THE RULE OR CHANGE: This update adds Department of Human Services (DHS) contractor language to ensure that all of those with direct access to vulnerable adults and children are consistently background screened. It also clarifies processes, including which misdemeanors are not required to be reviewed by the comprehensive review committee.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-2-120

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Nothing affects the state budget in these changes. This work is already funded.
♦ LOCAL GOVERNMENTS: There is no anticipated change for local government. If they are working with the Department and requiring background checks for any staff, they would have already been captured under previous rule and statute.
♦ SMALL BUSINESSES: There is some potential for a few businesses, especially one-person businesses, to be affected as most other small businesses were already captured under old rule and statute for background screenings. There are a handful of Department contractors that were excluded from the previous jurisdiction that are now included. One of the main aspects of H.B. 371 (2016) is to ensure background screenings are done on this handful of individuals who do not hold DHS licenses but do serve DHS clients via contract and have direct access. The cost to any such individual now affected would be either $39.75 or $52.75, depending on which check they are required to get.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No cost is anticipated. Individuals on contract were largely captured under the small business section above.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Anyone new that has to do background checks will be required to pay $39.75 or $52.75 for FBI fingerprint checks, depending on which check is required. This is commensurate with what is done on all individuals working in human service programs. It is anticipated that, compared to the tens of thousands already doing these checks, only a few dozen are likely to be newly affected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is not a significant fiscal impact from this rule change. Statute now requires department contractors who are not already licensed to be included in those getting the background screenings. Most department contractors are already licensed and subject to the checks.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES, LICENSING
195 N 1950 W
FIRST FLOOR
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Diane Moore by phone at 801-538-4235, by FAX at 801-538-4553, or by Internet E-mail at dmoore@utah.gov
♦ Jennifer Stahle by phone at 801-538-9897, by FAX at 801-538-4553, or by Internet E-mail at jenstahle@utah.gov
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Diane Moore, Director

R501. Human Services, Administration, Administrative Services, Licensing.
R501-14. Human Service Program Background Screening.
R501-14-1. Authority and Purpose.

(1) This Rule is authorized by Sections 62A-2-106, 62A-2-120, 62A-2-121, and 62A-2-122.

(2) This Rule clarifies the standards for approving, denying, or revoking an applicant's background screening.

R501-14-2. Definitions.

(1) "Abuse" is defined in Sections 78A-6-105 and 62A-3-301, and may include "severe abuse", "severe neglect", and "sexual abuse", as these terms are defined in Sections 78A-6-105 and 62A-3-301.

(2) "Applicant" means a person whose identifying information is submitted to the Office under Sections 62A-2-120, 62A-3-104.3, 62A-5-103.5, 78B-6-128, and 78B-6-113. Applicant includes the legal guardian of an individual described in Section 62A-2-[~~10~~]120-1.a[~~(2)(c)~~].

(3) "Background Screening Agent" means the applicable licensing specialist, human services program, Area Agency on Aging (for Personal Care Attendant applicants only), or DHS Division [~~of Services for People with Disabilities (for Direct Service Worker applicants only)~~]or Office.

(4) "BCI" means the Bureau of Criminal Identification, and is the designated state agency of the Division of Criminal Investigation and Technical Services Division, within the Department of Public Safety, responsible to maintain criminal records in the State of Utah.

(5) "Child" is defined in Section 62A-2-101.

(6) "Child Placing" is defined in Section 62A-2-101.

(7[~~6~~]) "Comprehensive Review Committee" means the Committee appointed to conduct reviews in accordance with Section 62A-2-120.

(8) "DAAS Statewide Database" is the Division of Aging and Adult Services database created by Section 62A-3-311.1 to maintain reports of vulnerable adult abuse, neglect, or exploitation.

(9[~~7~~]) "Direct Access" is defined in Section 62A-2-101.

(10[~~8~~]) "Direct Service Worker" is defined in Section 62A-5-101.

(11[~~9~~]) "Directly Supervised" is defined in 62A-2-101.

(12[~~0~~]) "Expiration date" is 395 days from the approval date of the current screening application, or one year from the current license start date, whichever is longer. In the event that a human services program or department contractor has more than one license, the current license start date means the earliest current license start date. A background screening approval that has expired is void.

(13[~~1~~]) "FBI Rap Back System" is defined in Section 53-10-108.

(14[~~2~~]) "Fingerprints" means an individual's fingerprints as copied electronically through a [~~live-scan~~]fingerprint[~~ing~~] scanning device or on two ten-print fingerprint cards by a law enforcement agency, an agency approved by the BCI, or Background Screening Agent.

(15) "Foster Home" is defined in Section 62A-2-101.

(16[~~3~~]) "Human [~~s~~]Services [~~p~~]Program" is defined in Section 62A-2-101.

(17[~~4~~]) "Licensee" is defined in Section 62A-2-101.

(18[~~5~~]) "Licensing Information System" is created by Section 62A-4a-1006, as a sub-part of the Division of Child and Family Services' Management Information System created by Section 62A-4a-1003.

(19[~~6~~]) "Neglect" may include "severe neglect", as these terms are defined in Sections 78A-6-105 and 62A-3-301.

(20[~~17~~]) "Office" means the Office of Licensing within the Utah Department of Human Services.

(21[~~8~~]) "Personal Care Attendant" is defined in Section 62A-3-101.

(22[~~19~~]) "Personal [~~i~~]Identifying [~~i~~]Information" is defined in Section 62A-2-120, and shall include:

(a) a current, valid state driver's license or state identification card bearing the applicant's photo, current name, and address;

(b) any current, valid government-issued identification card bearing the applicant's name and photo, including passports, military identification and foreign government identification cards; or

(c) other records specifically requested in writing by the Office.

[~~(20) "Rap Back System" is defined in Section 53-10-108.~~

~~(21) "Statewide Database" of the Division of Aging and Adult Services is created by Section 62A-3-311.1 to maintain reports of vulnerable adult abuse, neglect, or exploitation.~~]

(23) "Substance Abuse Treatment Program" is defined in Section 62A-2-101.

(24[~~2~~]) "Substantiated" is defined in Section 62A-4a-101.

(25[~~3~~]) "Supported" is defined in Sections 62A-3-301 and 62A-4a-101.

(26[~~4~~]) "Vulnerable Adult" is defined in Section 62A-2-101.

(27[~~5~~]) "WIN Database" is [~~as~~]defined in Section 53-10-108, and includes information from Alaska, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

R501-14-3. Initial Background Screening Procedure.

(1) An applicant for initial background screening shall legibly complete, date and sign a background screening application and consent on a form provided by the Office.

(2) An applicant shall disclose all criminal charges, including pending charges, and all supported or substantiated findings of abuse, neglect or exploitation on the background screening application. The applicant may provide disclosure statements and related documents as direct attachments to the application or directly attached in a sealed envelope. If the applicant submits a sealed envelope, the Background Screening Agent shall forward it unopened.

(3) An applicant who presents only a foreign country identification card shall:

(a) enroll in the FBI [~~r~~]Rap [~~b~~]Back [~~s~~]System; and

(b) submit an original or certified copy of a government-issued criminal history report from that country.

(4) An applicant who presents only a US passport or state issued identification card from any state other than Utah, Alaska, Idaho, Montana, Nevada, Oregon, Washington, and Wyoming shall:

(a) enroll in the FBI [~~r~~]Rap [~~b~~]Back [~~s~~]System.

(5) The background screening application, personal identifying information, including fingerprints, and applicable fee

shall be submitted to the Background Screening Agent. The Background Screening Agent shall:

(a) inspect the applicant's government-issued identification card and determine that it does not appear to have been forged or altered;

(b) review and sign the application; and

(c) forward the background screening application, and applicable fee to the Office background screening unit.

R501-14-4. Renewal Background Screening Procedure.

(1) An applicant for background screening renewal shall legibly complete, date and sign a background screening application and consent on a form provided by the Office.

(2) An applicant shall disclose all criminal charges, including pending charges, and all supported or substantiated findings of abuse, neglect or exploitation on the background screening application. The applicant may provide disclosure statements and related documents as direct attachments to the application or directly attached in a sealed envelope. If the applicant submits a sealed envelope, the Background Screening Agent shall forward it unopened.

(3) The background screening application, personal identifying information, and applicable fee shall be submitted to the Background Screening Agent.

(a) Notwithstanding R501-14-4(3), an applicant for a background screening renewal who is not currently enrolled [~~o~~]in the FBI [~~r~~]Rap [~~b~~]Back System is not required to submit fingerprints for a FBI [~~r~~]Rap [~~b~~]Back [~~s~~]System search and applicable FBI [~~r~~]Rap [~~b~~]Back System fees unless:

(i) the applicant's most current background screening has expired;

(ii) the human services program or Background Screening Agent with which the applicant is associated requires a FBI [~~r~~]Rap [~~b~~]Back [~~s~~]System search;

(iii) the applicant wishes to provide services with another licensee and has not submitted fingerprints for a FBI [~~r~~]Rap [~~b~~]Back [~~s~~]System search and applicable FBI [~~r~~]Rap [~~b~~]Back System fees;

(iv) the applicant does not present a current, valid identification card issued by the State of Utah; or

(v) the renewal application is submitted on or after July 1, 2017 and the applicant is not already enrolled in the FBI [~~r~~]Rap [~~b~~]Back System.

(4) A licensed human services program or department contractor wishing to submit background screening renewal applications for multiple applicants [~~associated with the licensee~~] may submit a summary log of the renewing applicants in lieu of individuals' applications.

(a) A summary log may only be used for applicants:

(i) who are enrolled in the FBI [~~r~~]Rap [~~b~~]Back System with the Office;

(ii) with a current, non-expired approval;

(iii) whose name and address have not changed since their last background screening approval;

(iv) who have not had any of the following since their last background screening approval:

(A)[~~I.~~] criminal arrests or charges;

(B)[~~II.~~] supported or substantiated findings of abuse, neglect or exploitation; or

(C)[~~III.~~] any pending or unresolved criminal issues.

(b) Summary logs shall contain:

(i) applicant name,

(ii) applicant date of birth,

(iii) the last four numbers of each applicant's social security number;

(iv) program name; and

(v) name of program representative completing summary form.

(c) A Background Screening Agent[~~licensed human services~~] program choosing to submit a summary log of the renewing applicants in lieu of individuals' applications shall maintain documentation signed by each applicant, in which they [~~and~~]attest[~~ing~~] to the accuracy of the information described in R501-14-4(4)(a) and (b).

(5) An application shall be submitted each time an applicant may have direct access to a child or vulnerable adult at any human services program other than the program identified on the initial application.

(6) The Background Screening Agent shall:

(a) inspect the applicant's government-issued identification card and make a determin[e]ation as to whether or not [~~that~~]it [~~does not~~]appears to have been forged or altered;

(b) review and sign the application; and

(c) forward the background screening application, and applicable fee to the Office background screening unit within 30 calendar days after the applicant completes and signs the application and no later than 15 calendar days preceding the background screening expiration date.

R501-14-5. General Background Screening Procedure.

(1)[~~(a)~~] An application that is illegible, incomplete, unsigned, undated, or lacks a signed consent or required identifying information, may be returned to the individual who submitted it without further action.

(a[~~b~~]) Personal identifying information submitted pursuant to Sections 62A-2-120, 62A-3-104.3, 62A-5-103.5, 78B-6-113, and 78B-6-128 shall be used to perform a search in accordance with Sections 62A-2-120(3) and (13).

(2)[~~(a)~~] Except as permitted by Section 62A-2-120(9), an applicant for an initial background screening shall have no direct access to a child or vulnerable adult prior to receiving written confirmation of background screening approval from the Office.

(a[~~b~~]) Except as permitted by Section 62A-2-120(9), an applicant seeking background screening renewal shall have no direct access to a child or vulnerable adult after the background screening expiration date and prior to receiving written confirmation of background screening approval from the Office.

(3)[~~(a)~~] The Office may defer action on an application for up to 30 calendar days until the applicant submits all additional information required by the Office.

(a[~~b~~]) The Office may deny an application in the event that an applicant fails to provide all additional information required by the Office.

(b) An applicant whose background screening has been denied shall have no further supervised or unsupervised direct access to clients unless the Office approves a subsequent application.

(4) The Office may provide written communication notifying the [~~a~~]program that the applicant must:

(a) submit fingerprints for a FBI Rap Back System check within 15 calendar days of a letter of notification; and/or

(b) obtain and submit a certified copy of the applicant's criminal history or records from local, state, federal, or foreign officials within 30 calendar days of a letter of notification.

(5) Upon notification from the Office as described in R501-14-5(4), the Background Screening Agent shall provide the applicant with a copy of all written communication from the Office within five calendar days after the date it is received.[~~(a) The Office shall send all written communications to the applicant or to the applicable Background Screening Agent by first-class mail.~~

~~(b) A Background Screening Agent shall provide the applicant with a copy of all written communication from the Office within 5 calendar days after the date it is received.~~]

(6[e]) [~~Notwithstanding R501-14-5(5)(a), i~~]If the Office sends an applicant a sealed letter in care of or via the Background Screening Agent, the letter shall be provided to the applicant unopened.

(7[~~6~~]) The applicant shall promptly notify the Office of any change of address while the application remains pending.

(8[~~7~~]) A Background Screening Agent may roll fingerprints of applicants for submission to the Office only after it has received and applied training in the proper methods of taking fingerprints.

(a) The [~~program~~]Background Screening Agent shall verify the identity of the applicant via government-issued identification card at the time that fingerprints are taken.

(b) In the event that 10% or more of the fingerprints submitted by a Background Screening Agent are rejected for quality purposes, the Office may thereafter require that a program utilize law enforcement or BCI to roll prints.

(c) An applicant or Background Screening Agent is not required, but may opt to, submit fingerprints for minors.

R501-14-6. Background Screening Fees.

(1) The applicant and [~~b~~]Background [~~s~~]Screening [~~a~~]Agent are responsible for ensuring the accuracy of information submitted with fee payments.

(2) Fees shall only be made by cashiers' check, corporate check, money order, or internal DHS transfer. Personal checks and credit or debit card payments shall not be accepted.

(3) A Background Screening Agent may choose to submit one payment for any number of applicants.

(4) Fees are not refundable or transferable for any reason.

R501-14-7. Results of Screening.

(1)[~~(a)~~] The Office shall approve an application for background screening in accordance with Section 62A-2-120(7).

(a[~~b~~]) The Office shall notify the applicant or the Background Screening Agent or contractor when an applicant's background screening application is approved.

(i) Upon receiving notice from the Office, the Background Screening Agent shall provide notice of approval to the applicant as required under Section 62A-2-120 (12)(a)(i).

(b[e]) The approval granted by the Office shall be valid for a period not to exceed 395 days from the date of approval.

(c[~~d~~]) An approval granted by the Office shall not be transferable, except as provided in [~~Section~~]R501-14-11.

(2)[~~(a)~~] The Office may conditionally approve an application for background screening in accordance with Section 62A-2-120(8).

(a) Conditional approvals are prohibited for initial applicants who are residents of child placing foster or adoption homes.

(b) A program seeking the conditional approval of an applicant shall not request conditional approval unless 10 business days have passed after the applicant's background screening application is received by the Office without receiving notification of the approval or denial of the application.

(c) A written request for conditional approval shall include the applicant's full name, the last four digits of the applicant's social security number, and the date the application was submitted to the Office.

(d) Upon receipt of a written request for conditional approval that complies with R501-14-7(2)(b), the Office shall make a conditional determination within three business days.

(e) If the Office does not provide a standard approval before the expiration date of the conditional approval, the applicant shall have no unsupervised direct access.

(f) The Office may revoke the conditional approval prior to the expiration date.

(3) The Office shall deny an application for background screening in accordance with S[~~ubs~~]ection[s] 62A-2-120[~~(5), (6), (8), and (13)~~].

(4) An applicant whose background screening has been denied shall have no further direct access.

(5) The Office shall refer an application to the Comprehensive Review Committee [~~for a comprehensive review~~]in accordance with Section 62A-2-120(6).

(a) Per Section 62A-2-120 (6)(a)(ii), all misdemeanor convictions except those listed in R501-14-7(5)(b), within the five years prior to submission of the application to the Office shall be reviewed by the Comprehensive Review Committee.

(b) The following misdemeanors will be reviewed only if there have been three or more convictions for any of the following misdemeanors within the five years prior to the application with the Office:

(i) violation of local ordinances related to animal licenses, dogs at large, noise, yard sales, land uses, storm water, utilities, business licenses, zoning, building, construction and park/access hours;

(ii) all misdemeanors listed in 41-6a except:

(A) part 4 accident responsibility;

(B) part 5 driving under the influence;

(C) part 17 miscellaneous rules;

(D) part 18 motor vehicle safety belt usage act;

(iii) all misdemeanors listed in 76-10-2, 76-10-21 and 76-10-27;

(iv) Failure to Appear: A misdemeanor charge under 77-7-22;

(v) Unauthorized Hunting of Protected Wildlife: A misdemeanor resulting from unauthorized hunting under 23-20-3;

(vi) Fishing Licenses: A misdemeanor resulting from a failure to have the appropriate fishing license under 23-19-1;

(vii) Boating Safety: A misdemeanor resulting from a failure to comply with the boating safety requirements outlined in 73-18-8;

(viii) Business License: A misdemeanor resulting from failure to have a business license as required under 76-8-410;

(xiv) all juvenile misdemeanors except those listed in 62A-2-120(5)(a) unless there is a pattern of at least three or more similar offenses within the five years prior to the submission of the application.

(c) The Office shall refer an applicant to the [e]Comprehensive [r]Review [e]Committee upon learning of a potentially disqualifying offense or finding described in Section 62A-2-120(6)(a) not previously considered by the [e]Comprehensive [r]Review [e]Committee.

(d) If an offense requires committee review, the Comprehensive Review Committee may review all convictions related to the applicant's criminal history.

R501-14-8. Comprehensive Review Committee.

(1) The Director of the following Department of Human Services divisions and offices shall appoint one member and one alternate to serve on the Comprehensive Review Committee:

(a) the Executive Director's Office;

(b) the Division of Aging and Adult Services;

(c) the Division of Child and Family Services;

(d) the Division of Juvenile Justice Services;

(e) the Division of Services for People with Disabilities;

(f) the Division of Substance Abuse and Mental Health; and

[~~(g) Public Guardian; and~~]

(g[~~h~~]) the Office of Licensing.

(2) Comprehensive Review Committee members and alternates shall be professional staff persons who are familiar with the programs they represent.

(3) The appointed Office member shall chair the Comprehensive Review Committee as a non-voting member.

(4) Five voting members shall constitute a quorum.

(5) The Comprehensive Review Committee shall conduct a comprehensive review of an applicant's background screening application, criminal history records, abuse, neglect or exploitation records, and related circumstances, in accordance with Section 62A-2-120(6).

R501-14-9. Comprehensive Review Investigation.

(1) The Comprehensive Review Committee shall not deny a background screening application without the Office first sending the applicant a written notice that:

(a) the Office is investigating the applicant's criminal history or findings of abuse, neglect or exploitation;

(b) the applicant is encouraged to submit any written statements or records that the applicant wants the Comprehensive Review Committee to consider;

(c) the Comprehensive Review Committee evaluates information using the criteria established by Section 62A-2-120(6)(b), and the applicant may specifically address these issues; and

(d) submissions must be received within 15 calendar days of the written notice.

(2)(a) The Office shall gather information described in Section 62A-2-120(6)(b) and provide available information to the Comprehensive Review Committee.

(b) The Office may request additional information from any available source, including the applicant, victims, witnesses, investigators, the criminal justice system, law enforcement agencies, the courts and any others it deems necessary for the comprehensive evaluation of an application.

(i) The Office may defer action on an application for up to [~~than~~]30 calendar days until the applicant submits all additional information required by the Office.

(ii) The Office may deny an application in the event that an applicant fails to provide all additional information required by the Office.

(iii) An applicant whose background screening has been denied shall have no supervised or unsupervised direct access unless the Office approves a subsequent application by the invidivdual.

R501-14-10. Comprehensive Review Determination.

(1) The Comprehensive Review Committee shall only consider applications and information presented by the Office. The Comprehensive Review Committee shall evaluate the information provided by the Office and any information provided by the applicant.

(a) A background screening approval may be transferred to other human service programs, therefore the Comprehensive Review Committee shall evaluate whether direct access should be authorized for all types of programs.

(2) Each application that goes to the Comprehensive Review Committee requires individual review by the Comprehensive Review Committee.[~~The Comprehensive Review Committee may, by unanimous vote that includes a representative from each entity identified in R501-14-8(1), identify infraction or misdemeanor offenses that create no risk of harm to a child or vulnerable adult.~~

~~(a) The Office may approve the background screening of an applicant whose only offenses are those identified in R501-14-10(2).~~]

(3) The Comprehensive Review Committee shall recommend approval of the background screening of an applicant only after a simple majority of the voting members of the Comprehensive Review Committee determines that approval will not likely create a risk of harm to a child or vulnerable adult.

(4) The Comprehensive Review Committee shall recommend denial of the background screening of an applicant when it finds that approval will likely create a risk of harm to a child or vulnerable adult.

(5)[~~The Office shall approve or deny the applicant's background screening application in accordance with the recommendation of the Comprehensive Review Committee, and send written notification to the applicant or Background Screening Agent.~~] The Office shall approve or deny the applicant's background screening application in accordance with the recommendation of the Comprehensive Review Committee, except as described below:

(a) Within 10 days, a Comprehensive Review Committee member or the Office may request an additional Committee review based on the need for additional information, legal review or clarification of statutes, rules or procedures.

(b) Following a subsequent Committee review, the Office shall:

(i) approve or deny the applicant's background screening application in accordance with the recommendation of the Comprehensive Review Committee, and

(ii) send written notification to the applicant or Background Screening Agent.

(6) An applicant whose background screening has been denied shall have no further supervised or unsupervised direct access.

R501-14-11 Background Screening Approval Transfer or Concurrent Use.

(1) An applicant is eligible to have [~~his/her~~]their current background screening approval shared with or transferred to another program only if the applicant is currently enrolled [~~o~~]in the FBI [~~r~~]Rap [~~b~~]Back [~~s~~]System.

(2) An applicant who wishes to have [~~his/her~~]their current background screening shared with or transferred to another program shall complete a background screening application and identify the name of the original program.

(3) An applicant shall not have unsupervised direct access until the program receives written confirmation from the Office that the background screening is current and valid.

(4) A background screening approval that has been transferred or shared shall have the same expiration date as the original approval.

R501-14-12. Post-Approval Responsibilities.

(1) An applicant and Background Screening Agent shall immediately notify the Office if the applicant is charged with any felony, misdemeanor, or infraction, or listed in the Licensing Information System, juvenile court records, or the DAAS [~~s~~]Statewide [~~d~~]Database after a background screening application is approved.

(a) An applicant who is associated with a licensee or department contractor shall immediately notify the licensee or department contractor if the applicant is charged with any felony, misdemeanor, or infraction, or listed in the Licensing Information System, juvenile court records, or the DAAS [~~s~~]Statewide [~~d~~]Database.

(2) An applicant who has received an approved background screening shall resubmit an application and personal identifying information to the Office within ten calendar days after being charged with any felony, misdemeanor, or infraction, or being listed in the Licensing Information System, the DAAS [~~s~~]Statewide [~~d~~]Database, or juvenile court records.

(3) An applicant who has been charged with any felony, misdemeanor, or infraction or listed in the Licensing Information System or the DAAS [~~s~~]Statewide [~~d~~]Database, or juvenile court records, after a background screening application is approved shall have no unsupervised direct access to a child or vulnerable adult until after an application and personal identifying information have been resubmitted to the Office and a current background screening approval is received from the Office.

(4)[~~(a)~~] An applicant charged with an offense for which there is no final disposition and no Comprehensive Review Committee denial, shall inform the Office of the current status of each case.

(a[~~b~~]) The Office shall determine whether the charge could require a denial or committee review, and if so, notify the applicant to submit a certified copy of judicial documentation that indicates the current status of the case at least once every 3 months or until final disposition, whichever comes first.

(b[~~e~~]) An applicant shall submit a certified copy of judicial documentation that indicates the current status of the case at least once every 3 months or until final disposition, whichever comes first.

(5) The Office may revoke the background screening approval of an applicant who:

(a) has been charged with any felony, misdemeanor, or infraction or is listed in the Licensing Information System, the DAAS [~~s~~]Statewide [~~d~~]Database, or juvenile court records; and

(b) fails to provide required current status information as described in (4) of this Rule.

(6) The Office shall process identifying information received pursuant to [~~Subsection~~]R501-14-12(2) in accordance with [~~Rule~~]R501-14.

(7) A Background Screening Agent shall notify the Office when an applicant is no longer associated with the program no later than five months from the date of termination.

(a) The Office shall verify that the applicant is not associated with another program, and notify BCI within two years[~~six months~~] of the date that the applicant is no longer associated with any licensee.

R501-14-13. Confidentiality.

(1) The Office may disclose criminal background screening information, including information acknowledging the existence or non-existence of a criminal history, only to the Applicant and the Background Screening Agent, and in accordance with the Government Records Access and Management Act, Section 63G-2-101, et seq.

(2) Except as described in R501-14-11 and below, background screening information may not be transferred or shared between human service programs.

(a) A licensed child-placing agency may provide the approval granted by the Office to the person who is the subject of the approval, another licensed child-placing agency, or the attorney for the adoptive parents, in accordance with Section 53-10-108(4).

R501-14-14. Retention of Background Screening Information.

(1) A human services program or department contractor shall retain the background screening information of all associated individuals [~~associated with the program~~]for a minimum of eight years after the termination of the individual's association with the program.

R501-14-15. Expungement.

(1) An applicant whose background screening application has been denied due to the applicant's criminal record may submit a new application with a certified copy of an Order of Expungement.

R501-14-16. Administrative Hearing.

(1) A [~~n~~]Notice of [~~a~~]Agency [~~a~~]Action that denies the applicant's background screening application or revokes the applicant's background screening approval shall inform the applicant of the right to appeal in accordance with Administrative Rule R497-100 and Section 63G-4-101, et seq.

R501-14-17. Exemption.

(1) Section 62A-2-120(13) provides an exemption for substance abuse programs providing services to adults only. In

order to claim this exemption, an applicant, human services program, or department contractor may request this exemption on a form provided by the Office, and demonstrate that they meet exemption criteria. Final determination shall be made by the Office.

R501-14-18. Compliance.

(1) A licensee that is in operation on the effective date of this Rule shall be given 90 days to achieve compliance with this Rule.

KEY: licensing, background screening, fingerprinting, human services
Date of Enactment or Last Substantive Amendment: [~~January 13~~], 2016
Notice of Continuation: September 29, 2015
Authorizing, and Implemented or Interpreted Law: 62A-2-108 et seq.

Human Services, Administration, Administrative Services, Licensing
R501-21
Outpatient Treatment Programs

NOTICE OF PROPOSED RULE

(Repeal and Reenact)
DAR FILE NO.: 40930
FILED: 11/01/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this repeal and reenactment is to update and clarify outpatient treatment requirements for the Department of Human Services (DHS) licensure with the Office of Licensing.

SUMMARY OF THE RULE OR CHANGE: This rule defines outpatient treatment program per H.B. 259 from the 2016 General Session. It also sets expectations and requirements for outpatient treatment licensure with DHS Office of Licensing.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 62A, Chapter 2

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: It is anticipated that more programs will be identified as needing licensure, based on the new definition of outpatient treatment program. This will be neither a cost or savings to the state as the fees should about cover the added state efforts.
♦ LOCAL GOVERNMENTS: It is not anticipated that this will increase the costs to local government. It is possible that a local government could be required to license when they previously were not required to, but it is more likely any local government that requires this license already has it. In fact, the requirements are lessened in this new rule from the previous rule because outpatient treatment licenses will no longer be held to the standards of Rule R501-2. Costs related to CPR certification and other administrative aspects of Rule R501-2 have been replaced with easier-to-meet regulations that, in general, will cost less. It is possible that some providers providing medication-assisted treatment will have a few more requirements, but they are likely offset by other changes in the rule.
♦ SMALL BUSINESSES: It is not anticipated that this will increase the costs to small businesses. It is possible that small businesses could be required to license when they previously were not required to. For that business, the increased cost will be the licensing fee of $900 for the first year and $300 in subsequent years, plus any individualized cost of meeting compliance requirements which would vary greatly across providers. Most small business providers that need to be licensed are likely already are. For those already licensed, the requirements are lessened in this new rule from the previous rule because outpatient treatment licenses will no longer be held to the standards of Rule R501-2. Costs related to CPR certification and other administrative aspects of Rule R501-2 have been replaced with easier-to-meet regulations that in general will cost less and are available online for free. It is possible that some providers providing medication-assisted treatment will have a few more requirements, but they are likely offset by other changes in the rule. So, for providers that are now captured by the new definition of outpatient treatment program, there will be increased costs related to initial licensing. However, most outpatient treatment providers are likely already licensed, and for those providers, compliance should, on the whole, be made even easier than previous rule.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: It is not anticipated that persons other than small businesses, businesses, or local government entities would be affected by this rule change. Any individual affected would be captured under small businesses above and the same information would apply.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for programs that were not previously licensed for outpatient treatment but now will be required to will essentially be the licensing fees of $900 for an initial license and $300 yearly after that for renewal, as well as any costs required to actually comply with the regulations. Those costs are thought to be minimal since most people providing these services will likely already be in compliance with the bulk of these basic health and safety standards. Individual persons are not required to license as this license type is for programs. It is important to note that there are exclusions both in statute and in rule to limit who needs to license under the outpatient treatment program definition.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule expands the definition of outpatient treatment

program to include some entities that were not previously licensed and would now be required to pay fees and come in compliance with licensure. This expansion is a direct result of H.B. 259 (2016) in order to address substance abuse fraud and establish basic health and safety standards across providers. However, it also reduces the requirements of the license for most currently licensed outpatient treatment providers. So, some providers may experience some minimal cost savings.

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

HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES, LICENSING
195 N 1950 W 1ST FLR
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Diane Moore by phone at 801-538-4235, by FAX at 801-538-4553, or by Internet E-mail at dmoore@utah.gov
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Diane Moore, Director

Publications Editor**R501. Human Services, Administration, Administrative Services, Licensing.**
[~~R501-21. Outpatient Treatment Programs.~~
~~R501-21-1. Authority.~~
~~Pursuant to Section 62A-2-101 et seq., the Office of Licensing, shall license outpatient treatment programs according to the following rules.~~

~~R501-21-2. Purpose.~~
~~Outpatient treatment programs shall serve consumers who require less structure than offered in day treatment or residential treatment programs. Consumers are provided treatment as often as determined and noted in the treatment plan.~~

~~R501-21-3. Definition.~~
~~Outpatient treatment program means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment in accordance with Subsection 62A-2-101(12).~~

~~R501-21-4. Administration.~~
~~A. In addition to the following rules, all Outpatient Treatment Programs shall comply with R501-2, Core Standards.~~
~~B. A current list of enrollment of all registered consumers shall be on-site at all times.~~

~~R501-21-5. Staffing.~~
~~Professional staff shall include at least one of the following individuals who has received training in the specific area listed below:~~
~~A. Mental Health~~
~~1. a licensed physician, or~~
~~2. a licensed psychologist, or~~
~~3. a licensed mental health therapist, or~~
~~4. a licensed advanced practice registered nurse-psychiatric mental health nurse specialist.~~
~~5. If unlicensed staff are used, they shall not supervise clinical programs. Unlicensed staff shall be trained to work with psychiatric consumers and be supervised by a licensed clinical professional.~~
~~B. Substance Abuse~~
~~1. a licensed physician, or~~
~~2. a licensed psychologist, or~~
~~3. a licensed mental health therapist, or~~
~~4. a licensed advanced practice registered nurse-psychiatric mental health nurse specialist.~~
~~5. A licensed substance abuse counselor or unlicensed staff who work with substance abusers shall be supervised by a licensed clinical professional.~~
~~6. Opioid outpatient treatment programs shall have a licensed physician who is an American Society of Addiction Medicine certified physician or who can document specific training in methadone treatment for opioid addictions or who can document specific training or experience in methadone treatment for opioid addictions. Physicians prescribing buprenorphine must show proof of completion of federally required physician training.~~
~~C. Children and Youth~~
~~1. a licensed psychiatrist, or~~
~~2. a licensed psychologist, or~~
~~3. a licensed mental health therapist, or~~
~~4. a licensed advanced practice registered nurse-psychiatric mental health nurse specialist.~~
~~5. If the following individuals are used they shall not supervise clinical programs: A person with a graduate degree in counseling, psychiatric nursing, marriage and family therapy, social work or psychology who is working toward a clinical license, and has been approved by the Division of Occupational and Professional Licensing for the appropriate supervision, or a second year graduate student training for one of the above degrees.~~
~~D. Domestic Violence~~
~~1. a licensed psychiatrist, or~~
~~2. a licensed psychologist, or~~
~~3. a licensed clinical social worker, or~~
~~4. a licensed marriage and family therapist, or~~
~~5. a licensed professional counselor, or~~
~~6. a licensed advanced practice registered nurse-psychiatric mental health nurse specialist, or~~
~~7. a person with a graduate degree in counseling, psychiatric nursing, marriage and family therapy, social work or psychology who~~

is working toward a clinical license, and has been approved by the Division of Occupational and Professional Licensing for the appropriate supervision, or

8. a second year graduate student in training for one of the above degrees, or

9. a licensed social services worker with at least three years of continual, full time, related experience, when practicing under the direction and supervision of a licensed clinical professional.

10. Individuals from categories 7. and 8. above shall not supervise clinical programs. Individuals in category 9 above shall not supervise clinical programs, and may only co-facilitate group therapy sessions with a person qualified per paragraphs 1. through 6. above.

R501-21-6. Direct Service.

A. Treatment plans shall be developed based on assessment and evaluation of individual consumer needs. The treatment may be consultive and may include medication management.

B. Treatment plans shall be reviewed and signed by a licensed clinical professional as frequently as determined in the treatment plan.

C. Except for Domestic Violence, individual, group, couple, or family counseling sessions shall be provided to the consumer as frequently as determined in the treatment plan. In the consumer's record and in the progress notes, the date of the session and the provider shall be documented. Treatment sessions may be provided less frequently than once a month if approved by the clinical supervisor and justified in the consumer record.

D. Domestic violence treatment programs shall comply with generally accepted practices in the current domestic violence literature and the following requirements:

1. Maintain and document cooperative working relationships with domestic violence shelters, treatment programs, referring agencies, custodial parents when the consumer is a minor and local domestic violence coalitions. If the consumer is a perpetrator, contact with victims, current partner, and the criminal justice referring agencies is also required, as appropriate.

2. Treatment sessions for each perpetrator, not including orientation and assessment interviews, shall be provided for at least one hour per week for a minimum of sixteen weeks. Treatment sessions for children and victims shall offer a minimum of 10 sessions for each consumer not including intake or orientation.

3. Staff to Consumer Ratio:

a. The staff to consumer ratio in adult treatment groups shall be one to eight for a one hour long group or one to ten for an hour and a half long group. The maximum group size shall not exceed sixteen.

b. Child victim or child witness groups shall have a ratio of one staff to eight children when the consumers are under twelve years of age, and a one staff to ten children ratio when the consumers are twelve years of age or older.

c. When any consumer enters a treatment program the staff shall conduct an in-depth, face to face interview and assessment to determine the consumer's clinical profile and treatment needs. For perpetrator consumers, additional information shall be obtained from the police incident report, perpetrator's criminal history, prior treatment providers, and the victim. When appropriate, additional information for child consumers shall be obtained from parents, prior treatment providers, schools and Child Protective Services. When any of the above information cannot be obtained the reason shall be documented. The assessment shall include the following:

1) a profile of the frequency, severity and duration of the domestic violence behavior, which includes a summary of psychological violence,

2) documentation of any homicidal, suicidal ideation and intentions as well as abusive behavior toward children,

3) a clinical diagnosis and a referral for evaluation to determine the need for medication if indicated,

4) documentation of safety planning when the consumer is an adult victim, child victim, or child witness, and that they have contact with the perpetrator. For victims who choose not to become treatment consumers, safety planning shall be addressed when they are contacted, and

5) documentation that appropriate measures have been taken to protect children from harm.

4. Consumers deemed appropriate for a domestic violence treatment program shall have an individualized treatment plan, which addresses all relevant treatment issues. Consumers who are not deemed appropriate for domestic violence programs shall be referred to the appropriate resource, with the reasons for referral documented and notification given to the referring agency. Domestic violence counseling shall be provided when appropriate, concurrently with or after other necessary treatment.

5. Conjoint or group therapy sessions with victims and perpetrators together or with both co-perpetrators shall not be provided until a comprehensive assessment has been completed to determine that the violence has stopped and that conjoint treatment is appropriate. The perpetrator must complete a minimum of 12 domestic violence treatment sessions prior to implementing conjoint therapy.

6. A written procedure shall be implemented to facilitate the following in an efficient and timely manner:

a. entry of the court ordered defendant into treatment,

b. notification of consumer compliance, participation or completion,

c. disposition of non-compliant consumers,

d. notification of the recurrence of violence, and

e. notification of factors which may exacerbate an individual's potential for violence.

7. Comply with the "Duty to Warn," Section 78B-3-502.

8. Document specialized training in domestic violence assessment and treatment practices including 24 hours of pre-service training within the last two years and 16 hours of training annually thereafter for all individuals providing treatment services.

9. Clinical supervision for treatment staff who are not clinically licensed shall consist of a minimum of an hour a week to discuss clinical dynamics of cases.

E. Opioid outpatient treatment programs shall:

1. Admit consumers to the program and dispense medications only after the completion of a face to face visit with a licensed practitioner having authority to prescribe controlled substances who confirms the opioid dependence. A licensed practitioner having authority to prescribe controlled substances must approve every subsequent dose increase prior to the change.

2. Assure all consumers see the physician at least once yearly.

3. Require all consumers admitted to the program to participate in random, drug testing. Drug testing will be performed by the program minimally, 2 times per month for the first 3 months of treatment, and monthly thereafter, except for a consumer whose lack of

~~progress shall require more frequent drug testing for a longer period of time.~~

~~4. Require consumers to participate in counseling sessions at least 1 hour per week for the first 90 days. Upon successful completion of this phase of treatment, consumers shall be required to participate in counseling 2 hours per month for the next 6 months. Upon successful completion of 9 months of treatment, consumers shall be seen at least monthly thereafter until discharge. Exceptions to this requirement must be approved in writing by the Division of Substance Abuse and Mental Health.~~

~~5. Maintain a staff to consumer ratio of:~~

~~a. 1 counselor to every 50 consumers.~~

~~b. 1 hour of physician time at the program site each month for every 10 consumers enrolled.~~

~~c. 1 FTE nurse to dispense medications for every 150 consumers dosing on an average daily basis.~~

~~6. Comply with R523-21-1 Rules Governing Methadone Providers.~~

~~R501-21-7. Physical Environment.~~

~~A. The program shall provide written documentation of compliance with the following:~~

~~1. local zoning ordinances,~~

~~2. local business license requirements,~~

~~3. local building codes,~~

~~4. local fire safety regulations, and~~

~~5. local health codes.~~

~~B. Building and Grounds~~

~~1. The program shall ensure that the appearance and cleanliness of the building and grounds are maintained.~~

~~2. The program shall take reasonable measures to ensure a safe physical environment for consumers and staff.~~

~~R501-21-8. Physical Facility.~~

~~A. Space shall be provided for private and group counseling sessions.~~

~~B. The program shall have storage for the following:~~

~~1. locked storage for medications, and~~

~~2. locked storage for hazardous chemicals and materials, according to the direction of the local fire authorities.~~

~~C. Equipment~~

~~1. Furniture and equipment shall be of sufficient quantity, variety, and quality to meet program and consumer plans.~~

~~2. All furniture and equipment shall be maintained in a clean and safe condition.~~

~~D. Bathrooms~~

~~1. Bathrooms shall accommodate physically disabled consumers.~~

~~2. Each bathroom shall be maintained in good operating order and be properly equipped with toilet paper, towels, and soap.~~

~~3. Bathrooms shall be ventilated by mechanical means or equipped with a screened window that opens.~~]

R501-21. Outpatient Treatment Programs.

R501-21-1. Authority.

(1) Pursuant to Section Title 62A Chapter 2, the Office of Licensing shall license outpatient treatment programs according to the following rules.

R501-21-2. Purpose.

(1) Outpatient treatment programs shall serve consumers who require less structure than offered in day treatment or residential treatment programs.

R501-21-3. Definition.

(1) "Outpatient Treatment Programs" means two or more individuals, at least one of whom provides outpatient treatment and also meets one or more of the following criteria:

(a) allows agents, contractors, persons with a financial interest, staff, volunteers, or individuals who are not excluded under R501-21-3-2 to either:

(i) provide direct client services, including case management, transportation, assessment, screening, education, or peer support services. Direct client services do not include office tasks unrelated to client treatment, such as: billing, scheduling, standard correspondence and payroll; or

(ii) manage or direct program operations, including intake, admissions or discharge, setting of fees, or hiring of staff.

(b) Offers outpatient treatment services to satisfy criminal court requirements.

(c) Is required by DHS contract to be licensed for outpatient treatment.

(d) Provides services requiring DUI Education Certification, or Justice Certification by the Division of Substance Abuse and Mental Health as authorized in 62A-15-103 and described in R523-4 and R523-11.

(2) The following individuals are excluded from subsection (1) above:

(a) individuals who are exempt from individual professional licensure under Utah Code 58-1-307;

(b) individuals who are licensed, certified, or authorized under Utah Code 58, Chapters 60, 61, 67, 68; and

(c) entities that are excluded under 62A-2-110.

R501-21-4. Administration and Direct Services.

(1) In addition to the following rules, all outpatient treatment programs shall comply with R501-1 General Provisions and R501-14 Background Screening Rules.

(2) Programs shall have current program information readily available to the Office and the public, including a description of:

(a) program services;

(b) the client population served;

(c) program requirements and expectations;

(d) information regarding any non-clinical services offered;

(e) costs, fees, and expenses that may be assessed, including any non-refundable costs, fees or expenses; and

(f) complaint reporting and resolution processes.

(3) The Program shall:

(a) provide outpatient and/or intensive outpatient treatment services not to exceed nineteen hours per week, as clinically recommended and documented;

(b) identify and provide to the Office the organizational structure of the program including:

(i) names and titles of owners, directors and individuals responsible for implementing all aspects of the program, and

(ii) a job description, duties and qualifications for each job title;

(c) identify a director or qualified designee who shall be immediately available at all times that the program is in operation;

(d) ensure at least one CPR/First Aid trained or certified staff member is present at all times with clients;

(e) disclose any potential conflicts of interest to the Office;

(f) ensure that staff are licensed or certified in good standing as required and that unlicensed individuals providing direct client services shall do so only in accordance with the Mental Health Professional Practices Act;

(g) train and monitor staff compliance regarding:

(i) program policy and procedures;

(ii) the needs of the program's consumers;

(iii) Office of Licensing rule 501-21 and annual training on the Licensing Code of Conduct and client rights as outlined in R501-1-12;

(iv) emergency procedures;

(h) create and maintain personnel files for each staff member to include:

(i) applicable qualifications, experience, certifications and licenses;

(ii) approved and current Office of Licensing background screening except as excluded in 501-14-17; and

(iii) training records with date completed, topic and employee signature(s) verifying completion.

(i) comply with Office rules and all local, state and federal laws;

(j) maintain proof of financial viability of the program;

(k) maintain general liability insurance, professional liability insurance that covers all program staff, vehicle insurance for transport of clients, fire insurance and any additional insurance required to cover all program activities; and

(l) maintain proof of completion of the National Mental Health Services Survey (NMHSS) annually if providing mental health services; and

(m) ensure that all programs and individuals involved with the prescription, administration or dispensing of controlled substances shall do so per state and federal law, including maintenance of DEA registration numbers for:

(a) all prescribing physicians; and

(b) the specifics site where the controlled substances are being prescribed, as required.

(5) The program shall develop, implement and comply with policies and procedures sufficient to ensure the health and safety and meet the needs of the client population served. Policies and procedures shall address:

(a) client eligibility;

(b) intake and discharge process;

(c) client rights as outlined in R501-1-12;

(d) staff and client grievance procedures;

(e) behavior management;

(f) medication management;

(g) critical incident reporting as outlined in R501-1-2-6 and R501-1-10-2d;

(h) emergency procedures;

(i) transportation of clients to include requirement of insurance, valid driver license, driver and client safety and vehicle maintenance;

(j) firearms;

(k) client safety including any unique circumstances regarding physical facility, supervision, community safety and mixing populations; and

(l) provision of client meals, administration of required medications, maximum group sizes, and sufficient physical environment providing for the comfort of clients when clients are present for six or more consecutive hours.

(6) Programs shall maintain client files to include the following:

(a) client name, home address, email address, phone numbers, date of birth and gender;

(b) legal guardian and emergency contact names, address, email address and phone numbers;

(c) all information that could affect the health, safety or well-being of the client including all medications, allergies, chronic conditions or communicable diseases;

(d) intake assessment;

(e) treatment plan signed by the clinical professional or service plan for non-clinical services;

(f) detailed documentation of all clinical and non-clinical services provided with date and signature of staff completing each entry;

(g) signed disclosure statement including Medicaid number, insurance information and identification of any other entities that are billed for the client's services;

(h) client or guardian signed consent or court order of commitment to services in lieu of signed consent, for all treatment and non-clinical services; and

(i) grievance and complaint documentation.

(7) Programs shall document a plan detailing how all program, staff, and client files shall be maintained and remain available for the Office and other legally authorized access, for seven years, regardless of whether or not the program remains licensed.

(8) The program shall ensure that assessment, treatment and service planning practices are clinically appropriate, updated as needed, timely, individualized, and involve the participation of the client or guardian.

(9) Programs shall maintain documentation of all critical incidents; critical incident reports shall contain:

(a) time of incident;

(b) summary of incident;

(c) individuals involved; and

(d) program response to the incident.

R501-21-5. Physical Facility.

(1) Space shall be adequate to meet service needs and ensure client confidentiality and comfort.

(2) The program shall maintain potentially hazardous items on-site lawfully, responsibly and with consideration of the safety and risk level of the population(s) served.

(3) All furniture and equipment shall be maintained in a clean and safe condition.

(4) Programs offering supplemental services or activities in addition to outpatient treatment shall:

(a) remain publically transparent in the use of the equipment, practices and purposes;

(b) ensure the health and safety of the consumer;

(c) gain informed consent for participation in supplemental services or activities; and

(d) provide verification of all trainings or certifications as required for the operation and use of any supplemental equipment.

(5) The program shall post the following documents where they are clearly visible by clients, staff, and visitors:

(a) Civil Rights and anti-discrimination laws;

(b) program license;

(c) current or pending Notices of Agency Action;

(d) abuse and neglect reporting laws; and

(e) client rights and grievance process.

(6) The program site shall provide access to a toilet and lavatory sink in a manner that ensures basic privacy, and shall be:

(a) stocked with toilet paper, soap, and paper towels/dryer; and

(b) maintained in good operating order and kept in a clean and safe condition.

(7) The program shall ensure that the physical environment is safe for consumers and staff and that the appearance and cleanliness of the building and grounds are maintained.

R501-21-6. Substance Use Disorder Treatment Programs.

(1) All substance use disorder treatment programs shall develop and implement a plan on how to support opioid overdose reversal.

(2) Maintain proof of completion of the National Survey of Substance Abuse Treatment Services (NSSATS) annually.

(3) Medication-assisted treatment (MAT) in substance use disorder programs shall:

(a) maintain a program-wide counselor to MAT consumer ratio of: 1:50;

(b) assure all consumers see a licensed practitioner that is authorized to prescribe controlled substances at least once yearly;

(c) show proof of completion of federally required physician training for physicians prescribing buprenorphine;

(d) admit consumers to the program and prescribe, administer or dispense medications only after the completion of a face-to-face visit with a licensed practitioner having authority to prescribe controlled substances who confirms opioid dependence. A licensed practitioner having authority to prescribe controlled substances must approve every subsequent dose increase prior to the change;

(e) require all consumers admitted to the program to participate in random drug testing. Drug testing will be performed by the program a minimum of two times per month for the first three months of treatment, and monthly thereafter; except for a consumer whose documented lack of progress shall require more frequent drug testing for a longer period of time;

(f) require that consumers participate in at least one counseling session per week for the first 90 days. Upon documented successful completion of this phase of treatment, consumers shall be required to participate in counseling sessions at least twice monthly for the next six months. Upon documented successful completion of nine months of treatment, consumers shall be seen by a licensed counselor at least monthly thereafter until discharge; and

(g) require one hour of prescribing practitioner time at the program site each month for every ten MAT consumers enrolled.

(4) MAT Programs prescribing, administering or dispensing Methadone (Opioid Treatment Programs) shall:

(a) maintain Substance Abuse and Mental Health Services Administration (SAMHSA) certification and accreditation as an opioid treatment program.

(b) comply with DSAMH Rule R523-10 Governing Methadone and other opioid treatment service providers;

(c) employ a:

(i) licensed physician who is an American Society of Addiction Medicine certified physician; or

(ii) prescribing licensed practitioner who can document specific training in current industry standards regarding methadone treatment for opioid addictions; or

(iii) prescribing licensed practitioner who can document specific training or experience in methadone treatment for opioid addictions; and

(d) provide one nurse to dispense or administer medications for every 150 Methadone consumers dosing on an average daily basis.

(5) Certified DUI Education Programs

(a) Only programs certified with the Division of Substance Abuse and Mental Health (DSAMH) to provide Prime for Life education in accordance with R523-4 and R523-11 shall provide court ordered DUI education.

(b) Certified DUI education programs shall:

(i) complete and maintain a substance use screening for each participant prior to providing the education course;

(A) screenings may be shared between providers with client written consent.;

(ii) provide a workbook to each participant to keep upon completion of the course;

(iii) ensure at least 16 hours of course education; and

(iv) provide separate classes for adults and youth.

(c) Any violations of this rule section will be reported to DSAMH for evaluation of certification.

(6) Justice Reform Initiative (JRI) Certified Programs

(a) JRI certified programs shall maintain a criminogenic screen/risk assessment for each justice involved client and separate clients into treatment groups according to level of risk assessed.

(b) Providers shall complete screenings that assess both substance abuse and mental health comorbidity.

(c) JRI programs shall treat, or refer to other DHS licensed programs that have obtained a justice certification from the DSAMH to treat the array of disorders noted in screenings.

(d) Any violations of this rule section shall be reported to DSAMH for evaluation of certification.

R501-21-7. Domestic Violence.

(1) Domestic Violence (DV) treatment programs shall comply with generally accepted and current practices in domestic violence treatment, and shall meet the following requirements:

(a) maintain and document cooperative working relationships with domestic violence shelters, treatment programs, referring agencies, custodial parents when the consumer is a minor, and local domestic violence coalitions;

(i) treatment sessions for children and victims shall offer a minimum of ten sessions for each consumer, not including intake or orientation;

(b) if the consumer is a perpetrator, program contact with the victims, current partner, and the criminal justice referring agencies is also required, as appropriate;

(i) treatment sessions for each perpetrator, not including orientation and assessment interviews shall be provided for at least one hour per week, for a minimum of 16 weeks.

(2) Staff to Consumer Ratio

(a) The staff to consumer ratio in adult treatment groups shall be one staff to eight consumers, for a one hour long group; or one staff to ten consumers for an hour and a half long group. The maximum group size shall not exceed 16.

(b) Child victim, or child witness groups shall have a ratio of one staff to eight children, when the consumers are under 12 years of age; and a ratio of one staff to ten children when the consumers are 12 years of age and older.

(3) Client Intake and Safety

(a) When any consumer enters a treatment program, the staff shall conduct an in-depth, face-to-face interview and assessment to determine the consumer's clinical profile and treatment needs.

(b) For perpetrator consumers, additional information shall be obtained from the police incident report, perpetrator's criminal history, prior treatment providers, and the victim.

(c) When appropriate, additional information for child consumers shall be obtained from parents, prior treatment providers, schools, and Child Protective Services.

(d) When any of the above cannot be obtained, the reason shall be documented.

(e) The assessment shall include the following:

(i) a profile of the frequency, severity, and duration of the domestic violence behavior, which includes a summary of psychological violence;

(ii) documentation of any homicidal, suicidal ideation and intentions, as well as abusive behavior towards children;

(iii) a clinical diagnosis and a referral for evaluation to determine the need for medication, if indicated;

(iv) documentation of safety planning when the consumer is an adult victim, child victim, or child witness; and that they have contact with the perpetrator;

(A) for victims who choose not to become treatment consumers, safety planning shall be addressed when they are contacted; and

(v) documentation that appropriate measures have been taken to protect children from harm.

(4) Treatment Procedures

(a) Consumers deemed appropriate for a domestic violence treatment program shall have an individualized treatment plan, which addresses all relevant treatment issues.

(b) Consumers who are not deemed appropriate for domestic violence programs shall be referred to the appropriate resource, with the reasons for referral documented, and notification given to the referring agency.

(c) Domestic violence counseling shall be provided concurrently with, or after other necessary treatment, when appropriate.

(d) Conjoint or group therapy sessions with victims and perpetrators together, or with both co-perpetrators, shall not be provided until a comprehensive assessment has been completed to determine that the violence has stopped, and that conjoint treatment is appropriate.

(e) The perpetrator must complete a minimum of 12 domestic violence treatment sessions prior to the provider implementing conjoint therapy.

(f) A written procedure shall be implemented to facilitate the following, in an efficient and timely manner:

(i) entry of the court ordered defendant into treatment;

(ii) notification of consumer compliance, participation, or completion;

(iii) disposition of non-compliant consumers;

(iv) notification of the recurrence of violence; and

(v) notification of factors which may exacerbate an individual's potential for violence.

(g) The program shall comply with the "Duty to Warn," Section 78B-3-502.

(h) The program shall document specialized training in domestic violence assessment and treatment practices, including 24 hours of pre-service training, within the last two years; and 16 hours annual training thereafter for all individuals providing treatment service.

(i) Clinical supervision for treatment staff that are not clinically licensed shall consist of a minimum of one hour per week to discuss clinical dynamics of cases.

(5) Training

(a) Training that is documented and approved by the designated Utah DHS DV Specialist Regarding assessment and treatment practices for treating:

(i) DV victims; and

(ii) DV perpetrators.

(6) Programs must disclose all current DHS contracts and actions against the contract to the Office.

(7) Programs must disclose all current Accreditations and actions against accredited status to the Office.

R501-21-8 Compliance.

(1) A licensee that is in operation on the effective date of this rule, shall be given 30 days to achieve compliance with this rule.

KEY: human services, licensing, outpatient treatment programs, substance abuse
Date of Enactment or Last Substantive Amendment: [~~November 3, 2014~~]2016
Notice of Continuation: April 1, 2015
Authorizing, and Implemented or Interpreted Law: 62A-2-101 et seq.

Labor Commission, Industrial Accidents
R612-300-14
Advance Practice Registered Nurse

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40919
FILED: 10/28/2016

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new section is to meet the requirements of S.B. 58, passed in the 2016 General

Session, by designating certain treatment guidelines for advance practice registered nurses who prescribe schedule II controlled substances in the treatment of injured workers.

SUMMARY OF THE RULE OR CHANGE: The proposed section adopts by reference the "Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain", July 2013, adopted by the Federation of State Medial Boards.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-104 and Section 58-31b-803

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There should be no cost or savings to the state budget because nurse practitioners are already subject to the requirement set forth in this section.
♦ LOCAL GOVERNMENTS: There should be no cost or savings to local government because nurse practitioners are already subject to the requirement set forth in this section.
♦ SMALL BUSINESSES: There should be no cost or savings to small businesses because nurse practitioners are already subject to the requirement set forth in this section.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There should be no cost or savings to persons other than small businesses, businesses, or local governments. because nurse practitioners are already subject to the requirement set forth in this section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no compliance cost because nurse practitioners are already subject to the requirement set forth in this section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no fiscal impact on businesses because nurse practitioners are already subject to the requirement set forth in this section.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
LABOR COMMISSION
INDUSTRIAL ACCIDENTS
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at rdressler@utah.gov, or mail at PO BOX 146610, Salt Lake City, UT 84114-6610.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

AUTHORIZED BY: Jaceson Maughan, Acting Commissioner/General Counsel

R612. Labor Commission, Industrial Accidents.
R612-300. Workers' Compensation Rules - Medical Care.
R612-300-14. Advance Practice Registered Nurse.

A. Authority. This rule is enacted under the authority of 34A-1-104 and 58-31b-803.

B. Requirement. An advanced practice registered nurse who treats an injured worker and prescribes Schedule II controlled substances for chronic pain is subject to the provisions of the "Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain," July 2013, adopted by the Federation of State Medical Boards, which is incorporated by reference.

KEY: workers' compensation, fees, medical practitioners, nurse practitioners
Date of Enactment or Last Substantive Amendment: [~~December 8, 2015~~]2016
Authorizing, and Implemented or Interpreted Law: 34A-1-104; 34A-2-201

Navajo Trust Fund, Trustees
R661-3
Utah Navajo Trust Fund Residency Policy

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40892
FILED: 10/15/2016

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this filing is to enable the Utah Navajo Trust Fund (UNTF) to award college financial assistance and scholarships to eligible Utah Navajo students to attend post-secondary education.

SUMMARY OF THE RULE OR CHANGE: The change revises the procedure to determine residency by individual documentation and approval instead of the current rule requirements of using a Chapter residency committee to determine residency and to determine progenitors.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 51, Chapter 10

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This rule would not cause a cost nor savings to the state budget because UNTF funding source is from oil royalties, and UNTF does not receive an appropriation of general funds from the state.
♦ LOCAL GOVERNMENTS: This rule would not cause a change to the local government because the requirements on the local Navajo governments would be the same.

♦ SMALL BUSINESSES: This rule would not cause a change to small businesses because UNTF does not interface with small businesses in order to administer this program.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons will be positively affected. Eligible Utah Navajo students will be awarded college financial assistance and scholarships, and the colleges and universities where these students will be attending will be able to receive these funds. The impact of how much students and economic enterprises associated with college financial assistance and scholarship funds being awarded to college students cannot be estimated because there are various unknown factors such as how many students will be awarded, how much they will be awarded, and how these funds will be used, but UNTF averages about $580,000 of college financial assistance per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The affected persons will not incur any change in costs but will enjoy the benefit of receiving these monies for higher education purposes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be a positive effect on businesses in the form of the college receiving monies for tuition and fees, as well as bookstores; student supply stores; stores selling electronics such as iPads, laptops, etc.; stores; grocery stores; apartments or college housing; eating establishments; stores that sell gasoline; etc.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NAVAJO TRUST FUND
TRUSTEES
ROOM 180
350 N STATE STREET
SALT LAKE CITY, UT 84114
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Tony Dayish by phone at 435-678-1468, by FAX at 435-678-1464, or by Internet E-mail at tdayish@utah.gov, or mail at PO BOX 142315, Salt Lake City, UT 84114-2315.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 11/24/2016 10:00 AM, UNTF Office, 151 E 500 N, Blanding, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: David Damschen, State Treasurer

R661. Navajo Trust Fund, Trustees.
R661-3. Utah Navajo Trust Fund Residency Policy.
R661-3-101. Eligibility.

(1) To be eligible for program services from the Utah Navajo Trust Fund, a person must be a Navajo residing in San Juan County, Utah, as required by Public Law 90-306 adopted by Congress on May 17, 1968.

(2) To be considered "a Navajo" for purposes of this policy, a person shall meet the standards adopted by the Navajo Nation Council for membership in the Tribe, and provide proof thereof in the form of a Navajo Nation Certificate of Indian Blood ("CIB") that shows the Navajo tribal census number.

(3) To be considered a resident of San Juan County, Utah, an individual must provide:

(a) [~~A resolution~~]Utah Navajo Residency Verification Form (UNTF Form R3101-1) from a Utah Navajo Chapter, including the Blue Mountain Dine' Community, that the individual is a San Juan County, Utah resident.[~~The Chapter shall obtain documentation in support of a claim of San Juan County, Utah residency such as:~~]

(b) Birth certificate and;

(c) a minimum of three of the following items that support a claim of San Juan County, Utah residency (listed in order of preference):

(i). Utility bills,[~~A San Juan County, Utah voter registration;~~]

(ii) A San Juan County, Utah or Utah Navajo Chapter voter registration,[~~Utility bills for three consecutive years preceding residency determination,~~]

(iii) Utah Drivers License or state-issued identification card,[~~Verification of house location by GPS,~~]

(iv) San Juan County, Utah, School District student records,[~~;~~]

(v) A homesite lease, or,

(vi) [~~Utah Drivers License~~]Verification of house location by GPS,

(vii) Dwelling unit rental receipts.

[~~(b) Utah on-Reservation residents who are aboriginal Navajos (meaning descendants of original or earliest known inhabitants of the Utah Portion of the Navajo Reservation) and their dependents (as defined by the U.S. Internal Revenue Code) are considered to be residents eligible for UNTF programs. Each Chapter shall establish a Residency Committee to identify Aboriginal Navajos and their dependents.~~]

([e]d) [~~Off Reservation~~]Utah Navajo residents and their dependents (as defined by the U.S. Internal Revenue Code) shall have a principal place of residence in San Juan County, Utah, for at least five (5) years immediately preceding the date of application for any UNTF program services, and shall have the present intention to continue residency in San Juan County, Utah, permanently or for the indefinite future.

(i) A person's "principal place of residence" is where the person's habitation is fixed and to which, whenever he/she is absent, he/she has the intention of returning daily for at least nine (9) months of the year. A person's habitation shall mean the physical location of his/her own home or the home of the parents or legal guardians, with whom the person resides.

(ii) A person does not become a resident merely because:

(A) he/she is present in San Juan County, Utah; or,

(B) he/she is in San Juan County, Utah temporarily with no intent to make San Juan County, Utah, his/her home.

(iii) A person does not lose his/her place of residence merely by leaving for:

(A) military service,

(B) volunteer service, such as religious service or social service (Peace Corps, VISTA, Americorps, etc.),

(C) post-secondary educational purposes.

([~~d~~]e) Upon establishing proof of marriage, a non-San Juan County, Utah spouse shall be deemed a resident qualified to apply for UNTF program services to the extent that his/her spouse qualifies and the couple maintains residency in San Juan County, Utah. Documentation proving marriage includes:

(i) a marriage certificate; or,

(ii) a Navajo Nation Affidavit of Marriage for traditional Navajo marriages; or,

(iii) a Navajo Nation common law marriage certificate.

([e]f) Adopted children acquire the resident status of their adoptive parents as of the date the decree of adoption is signed and the parents meet the required residency criteria. Adopted children must also meet the Navajo Nation tribal enrollment requirements evidenced by a Certificate of Indian Blood (CIB) document.

(4) An applicant's residency shall be verified by a sworn statement (UNTF Form R3101-2) by the applicant that he/she meets the residency standards required herein and shall be certified by Chapter officials of the Utah Chapter (UNTF Form R3101-1) where the applicant resides.

R661-3-201. Challenges to Residency.

(1) An applicant's claim of residency may be challenged by any Utah Navajo Chapter official by filing a claim with the Utah Dine' Advisory Committee. The claim shall list with specificity the evidence why the applicant does not meet the residency requirement.

(2) In cases where a person's residency is in dispute, information contained in the population database used and maintained by UNTF in allocating resources between Chapters shall be provided to the Dine' Advisory Committee.

(3) After giving the applicant and the Chapter officer notice and an opportunity to be heard and/or an opportunity to submit written responses, the Dine' Advisory Committee shall determine whether the applicant meets the residency requirements. The decision of the Dine' Advisory Committee is final.

(4) If a person is determined to have been ineligible after he/she has benefited or received a UNTF program service, the person shall be obligated to reimburse UNTF for the cost of such services.

R661-3-301. Additional Documentation.

(1) The Trust Administrator may require additional documentation to meet residency criteria.

R661-3-401. Forms

R3101-1 Utah Navajo Residency Verification

R3101-2 Applicant's Statement Affidavit

KEY: residency, San Juan County, Utah Navajo Trust Fund (UNTF), chapter resolution
Date of Enactment or Last Substantive Amendment: [~~February 29~~], 2016
Authorizing, and Implemented or Interpreted Law: 51-10

Navajo Trust Fund, Trustees
R661-6
Utah Navajo Trust Fund Higher Education Financial Assistance and Scholarship Program

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 40893
FILED: 10/15/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this filing is to enable the Utah Navajo Trust Fund (UNTF) to award college financial assistance and scholarships to eligible Utah Navajo students to attend post-secondary education.

SUMMARY OF THE RULE OR CHANGE: This change revises the procedure to be consistent with revisions proposed to Rule R661-3 to determine residency by individual documentation and approval instead of the current rule requirements of using a Chapter residency committee to determine residency and to determine progenitors.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 51, Chapter 10

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: This rule would not cause a cost nor savings to the state budget because UNTF funding source is from oil royalties, and UNTF does not receive an appropriation of general funds from the state.

♦ LOCAL GOVERNMENTS: This rule would not cause a change to the local government because the requirements on the local Navajo governments would be the same.

♦ SMALL BUSINESSES: This rule would not cause a change to small businesses because UNTF does not interface with small businesses in order to administer this program.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons will be positively affected. Eligible Utah Navajo students will be awarded college financial assistance and scholarships, and the colleges and universities where these students will be attending will be able to receive these funds.

The impact of how much students and economic enterprises associated with college financial assistance and scholarship funds being awarded to college students cannot be estimated because there are various unknown factors such as how many students will be awarded, how much they will be awarded, and how these funds will be used, but UNTF averages about $580,000 of college financial assistance per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The affected persons will not incur any change in costs but will enjoy the benefit of receiving these monies for higher education purposes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be a positive effect on businesses in the form of the college receiving monies for tuition and fees, as well as bookstores; student supply stores; stores selling electronics such as iPads, laptops, etc.; grocery stores; apartments or college housing; eating establishments; stores that sell gasoline; etc. The impact of how much students and economic enterprises associated with college financial assistance and scholarship funds being awarded to college students cannot be estimated because there are various unknown factors such as how many students will be awarded, how much they will be awarded, and how these funds will be used, but UNTF averages about $580,000 of college financial assistance per year.

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

NAVAJO TRUST FUND
TRUSTEES
ROOM 180
350 N STATE STREET
SALT LAKE CITY, UT 84114
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Tony Dayish by phone at 435-678-1468, by FAX at 435-678-1464, or by Internet E-mail at tdayish@utah.gov, or mail at PO BOX 142315, Salt Lake City, UT 84114-2315

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 11/23/2016 10:00 AM, UNTF Office, 151 E 500 N, Blanding, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: David Damschen, State Treasurer

R661. Navajo Trust Fund, Trustees.

R661-6. Utah Navajo Trust Fund Higher Education Financial Assistance and Scholarship Program.

R661-6-101. Objective.

(1) The Higher Education Financial Assistance Scholarship Program ("the Program") includes both the UNTF Higher Education Scholarship Fund and the UNTF Endowment Fund. The objective of the Program is to assist San Juan County, Utah, Navajo college students with scholarships by matching other college financial assistance or funding sources.

(2) UNTF higher education financial assistance and scholarship funding is available to eligible San Juan County, Utah, Navajo students for studies at institutions of their choice.

(3) The UNTF Endowment Education Fund was established in 1994 to provide college financial assistance to eligible San Juan County, Utah, Navajo College students attending college in San Juan County, Utah, such as Utah State University-Eastern-Blanding Campus. The Endowment Fund was established as a result of a special U. S. Dept. of Education grant which brought together five contributors/partners: UNTF, USU-Eastern, Ute Mountain Tribe, Calvin Black Foundation, and a U.S. Government grant regarding Native American education.

(a) UNTF continues to participate in the Endowment Fund even though the scheduled twenty (20) year period maturity occurred in 2014 due to the good growth of the Fund.

(b) Funds from the Endowment Fund yearly allocation must be exhausted before regular UNTF funds are utilized. The Endowment Fund allocation to UNTF is based on the Endowment's previous year's earnings from investment.

R661-6-201. Definitions.

(1) "College" means any college, university, technical school, or institution of higher learning after high school (post-secondary) level.

(2) "Financial Assistance" means UNTF financial assistance for college expenses.

(3) "Academic Term" means the period of time that the college uses to begin and end educational sessions such as a semester, quarter, term, etc.

R661-6-301. Eligibility.

(1) Applicants must meet the UNTF residency requirement in accordance with the UNTF Residency Rule R661-3-101 every [~~two~~]three years.

(a) The residency requirement may have to be renewed more often than [~~two~~]three years if a name change or record change becomes essential.

[~~(b) The Applicants' Chapter shall require a Certificate of Indian Blood (CIB) for its records in order to establish proof of enrollment with the Navajo tribe and chapter membership as a San Juan County, Utah Navajo resident.~~]

(2) The applicant must be enrolled in at least six (6) credit hours of approved college courses during the regular academic term. Course work must apply towards an approved degree or certificate program from an accredited post-secondary institution.

(a) Repeated and/or audited courses will not be funded by UNTF. If a student changes majors and has to retake lower level courses, only one transition academic term will be paid by UNTF.

(b) The eligible San Juan County, Utah Navajo College student must maintain a 2.0 grade point average on a 4.0 grade point scale. UNTF has the discretion to provide incremental scholarship bonuses to students who obtain a GPA greater than 2.0

(i) Official transcripts are required at the beginning of every fall semester; thereafter, [~~G~~]grade[~~s~~] reports from the previous academic term shall be submitted to UNTF following the completed academic term.

(ii) Awards are made on a first-come, first-served basis.

(c) If a student's GPA falls below 2.0, UNTF will provide a warning letter to the student and place the student on probation. If a student's GPA is below 2.0 for two consecutive semesters, the student will be ineligible for any further UNTF assistance unless the student is able to bring their GPA to 2.0 or above using their own resources or non-UNTF resources.

(3) San Juan County, Utah, Navajo Students are eligible for UNTF assistance in obtaining a One-year or two-year Certificate, Associates, Baccalaureate, Masters, or Doctorate degree.

(a) Eligible San Juan County, Utah, Navajo College Students shall declare a major in a given field no later than two (2) years after commencement of higher level education so that proper counseling and academic advice can be provided

(b) Only one bachelor's degree will be funded by UNTF, unless the second degree is closely related to the first degree and if the same prerequisite general education classes can be used.

(c) The limit for Associates Degree is 75 credit hours and 145 credit hours for a Bachelors Degree.

(d) A "degree contract" must be agreed upon between the college and the student and submitted to UNTF to receive funding. A "degree contract" is a list of core of classes and prequisites required to obtain a degree.

(4) Graduate students must submit a letter of acceptance and be eligible for UNTF Scholarship, and must carry the minimum graduate studies requirement of the College. An exception will be made if the course work is one of a special requirement for the professional track and/or tenure such as a special license or certification.

(5) High School Concurrent Enrollment Program students must meet the eligibility criteria regarding all requirements for the UNTF Higher Education Scholarship and Financial Assistance Program with the following modifications:

(a) Applicant shall provide a letter of recommendation from his/her high school counselor or school officials for concurrent enrollment program participation. The letter should address the student's ability to meet the demands of concurrent enrollment.

(b) Students must maintain at least a 3.0 grade point average (GPA) in their high school studies to be eligible for this program.

(c) The maximum amount of UNTF assistance available annually is determined by the UNTF Board. The UNTF assistance can be increased by the UNTF Board of Directors based on the Utah colleges cost data that is maintained by the State of Utah-Department of Education.

(6) On-line or correspondence courses may be taken as long as earned credits are applied to a degree program or a recognized certification program under UNTF funding guidelines.

(a) All UNTF Higher Education Scholarship eligibility requirements must be met by the applicant before any assistance toward the on-line/correspondence courses will be approved.

(b) Students attending on-line/correspondence courses shall be eligible for UNTF funding if enrolled in at least three (3) credit hours of approved college course work.

R661-6-401. Funding.

(1) UNTF is not a primary funding source, UNTF funds are supplemental to other scholarship and financial aid resources. The applicant must submit applications and award or denial letters from other financial aid resources to the UNTF office to prove that the applicant has applied for other sources of funding. UNTF will fund a student based on credit hours. The maximum amount of funding available per academic term is determined by the UNTF Board.

(2) The amount of funding afforded to each eligible San Juan County, Utah, Navajo College student per academic term is determined by the number of credit hours and a financial needs analysis. The award amount per credit-hour-group will be determined by UNTF as part of each year's annual budget.

[~~(a) Academic workload incentive: Incremental scholarship amounts shall be awarded based on the workload taken; following credit/unit incremental groups of: 6 to 8; 9 to 11; and 12 hours, or over per academic term.~~]

([~~i~~]a) Should a student drop a class[~~ which results in dropping the student to the next lower incremental group~~], the student's funding for the next academic term shall be assessed a decreased funding adjustment, unless a refund is properly made by the student.

[~~(ii) In order to qualify for the "workload incentive", first-time students must submit a course registration list by mail, e-mail, or telefax to the UNTF Higher Education Office.~~]

([~~ii~~]i) In order to facilitate the UNTF award on a timely basis toward the student's next academic term[~~ with respect to the "workload incentive"~~], the student must submit a list of the courses from pre-registration to the UNTF Education Specialist. The information will help determine the actual award amount based on the number of hours or credit units to be carried in the next academic term.

(b) Financial Needs Analysis

(i) Applicants must file a FAFSA Grant application with the U.S. Department of Education in order to determine their financial aid needs from UNTF.

(ii) It is the responsibility of the institution's Student Financial Aid Office to complete the needs analysis, and to request an award from UNTF based upon the determined need. When the financial needs determination is completed, the student must complete a UNTF financial assistance application which can be obtained from the UNTF Higher Education Scholarship.

(iii) Upon completion of the needs analysis by the Office of Student Financial Aid, the UNTF Education Specialist will evaluate the level of financial assistance requested, matching resources, and make the appropriate award amount.

(iv) Students with a "No Need" determination (as determined by the educational institution) may be awarded UNTF funding if the financial aid officer at the institution determines the parents cannot or are unwilling to provide the family contribution to

meet the student's need as determined by the federal financial aid application analysis.

(A) The UNTF "No Need" contribution amount is limited to the Expected Family Contribution (EFC amount) however, the maximum limits will be no more than 75% of the normal scholarship award amounts.

(B) If financial assistance calculates out at less than $40.00 for "No Need" it will not be awarded

(C) The EFC amount is determined by the Federal Student Aid program, an office of the U.S. Department of Education, when a student applies to the FAFSA (Free Application for Financial Student Aid) program.

(v) If the student does not qualify for FAFSA and the EFC cannot be determined; and if the student is otherwise eligible for UNTF assistance an $800.00 grant amount may be awarded for the last academic term prior to graduation for a bachelor's degree or higher degree.

(3) All student applicants must also apply to the Navajo Nation Office of Scholarship and Financial Assistance (ONNSFA). UNTF coordinates with ONNSFA to exchange information regarding match funding with UNTF and other acquired resource funds. All Student applicants to the UNTF funds must sign the UNTF Consent Form (UNTF Form R6101-2 Consent Form) that authorizes UNTF to contact ONNSFA to verify funding verification.

(4) The UNTF Education Specialist will process the required and appropriate funding documentation to the UNTF Financial Manager for funding disbursement. The UNTF Financial Manager shall maintain accounts, historical and concurrent, of all UNTF-funded students for proper record keeping and reporting. UNTF check(s) will be mailed to the institution's Student Financial Aid Office. No payment(s) will be made directly to a student.

(5) All Post-Graduate students must abide by appropriate application procedures in accordance with post-graduate study program requirements. Supplemental funding from other sources is a major requirement in participating in the graduate-studies program, including program funds from the Office of Navajo Nation Scholarship and Financial Aid (ONNSFA). Other considerations regarding special studies as applied to the undergraduate program also apply.

(6) UNTF Higher Education Scholarship funds may not be used to pay loans, including education loans; purchase(s) of personal belongings not directly associated with higher education studies; encumbrances from previous year's college/university attendance; and other expenses for which the funds are not intended.

(a) Students withdrawing from classes are required to refund the UNTF awards for that academic term. UNTF reserves the right to adjust awards for any refund amounts that were not paid.

(b) The penalty for misspent or misused UNTF scholarship funds will include placing the student on ineligible status for a one (1) year period. The student may re-establish his/her eligibility for UNTF funding by successfully completing a full academic year without the financial assistance of UNTF.

(c) Misuse or false acquisition of scholarship or emergency assistance funds by the student shall be subject to repayment to UNTF Higher Education Scholarship Program via standard collection procedures, which may include legal action.

R661-6-501. Application Schedule and Requirements.

(1) The UNTF Higher Education Scholarship Program observes and follows a funding schedule compatible with Federal, State, Tribal, and private agencies. Students must carefully observe these schedules to allow for the most timely funding application consideration, especially application deadline dates. Matching funds are critical and essential, since UNTF funding is supplemental.

(2) Students should observe the institution's academic year schedule and early funding application submittal to UNTF to ensure proper funding review and consideration.

R661-6-601. Student Recipient Obligations.

(1) UNTF-funded students must maintain acceptable academic progress in conformance with academic standards set by UNTF and the participating institutions. UNTF requires the funded student to maintain a minimum grade point average (GPA) of 2.0 to be eligible for continued funding consideration.

(2) Official transcripts shall be provided to UNTF at the commencement of the each fall academic term.

(a) If a student fails to provide an official transcript, UNTF funds will be discontinued.

(b) A student's failure to provide required funding documents is not grounds for grievance action on the part of the student.

(3) In order to receive UNTF Funding the Student shall execute all necessary documentation required by the College to permit the College to release the Student's official transcript and degree information to UNTF.

R661-6-701. Program Effectiveness Metrics.

(1) Scholarship recipient progress shall be tracked by UNTF staff.

(2) UNTF staff shall report to the UNTF Board:

(a) When a recipient completes a certificate or degree program; and

(b) The time it took the recipient to complete the program.

R661-6-801. Grievance and Appeal Procedures.

(1) Grievance and Appeals Procedures: A student applicant may file a grievance with the UNTF Education Specialist if the student disagrees with the decision rendered regarding his/her funding.

(a) The written grievance shall be submitted to the Education Specialist within fourteen (14) calendar days from the date the adverse decision was mailed to the student.

(b) The written grievance statement must contain a justification for re-consideration of the Education Specialist's decision, including attachment of documents which may support such justification.

(2) The Education Specialist shall report receipt of the written grievance to the UNTF Financial Manager for review. The UNTF Financial Manager shall make a determination regarding the substance of the grievance within ten (10) calendar days of receipt of the written grievance.

(a) If the grievant is dissatisfied with the Financial Manager's decision, an appeal may be filed with UNTF.

(i) To appeal the decision of the UNTF Financial Manager, an applicant may submit a written request for a hearing to the UNTF Scholarship Appellate Committee within ten (10) calendar days via the Education Specialist.

(A) The Applicant must include a written justification statement setting forth with specificity the reason(s) why the decisions made by the Higher Education Specialist and the Financial Manager should be reversed.

(B) The Applicant shall include copies of all documentation supporting the justification identified in the Applicant's statement.

(ii) The Appellate Committee must commence a hearing with within fourteen (14) calendar days of the receipt of the request.

(iii) The student shall be notified in writing by certified mail seven (7) calendar days prior to the hearing.

(iv) A decision by the Appellate Committee shall be rendered within (15) calendar days after the Committee hearing.

(3) Appellate Committee

(a) The Appellate Committee is comprised of: 1) two members of the UNTF Dine' Advisory Committee, 2) the UNTF Administrator, 3) a college student, and 4) a representative from another state agency or institution of higher learning.

(b) The Appellate Committee may choose not to hear a case if the grieving party has not submitted a justification in writing with appropriate and necessary supportive documentation.

(4) Appellate Committee Hearing Procedures

(a) Attorneys, court advocates, or any type of legal representation are not allowed in the Appellate Committee Hearing. Family members or other persons are not allowed in the Committee Hearing. The attendees of the hearing will consist of the Appellate Committee members, the UNTF Education Specialist, and the Applicant (Grievant).

(b) A letter will be sent to the UNTF Education Specialist and the Student/Grievant of the Appellate Committee's decision on the matter. This will be the final decision and final step of the UNTF Appeal and Grievance process.

R661-6-901. Forms.

R6101-1a. UNTF Higher Educational Financial Assistance and Scholarship Application form and b.Financial Needs Analysis

R6101-2 Consent Form

KEY: scholarships, endowment fund, college, Utah Navajo Trust Fund (UNTF)
Date of Enactment or Last Substantive Amendment: [~~February 29~~], 2016
Authorizing, and Implemented or Interpreted Law: 51-10

Public Service Commission, Administration
R746-312
Electrical Interconnection

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 40900
FILED: 10/20/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this proposed rule change is to make the definitions of "inverter" and "switchgear" in Rule R746-312 consistent with the definitions in Subsections 54-15-102(9) and (13).

SUMMARY OF THE RULE OR CHANGE: The proposed change to Rule R746-312 makes the definitions of "inverter" and "switchgear" consistent with those in Section 54-15-102. Particularly, the references to IEEE1547 in Subsections 54-15-102(9)(b) and (13)(b)(ii) now refer to "IEEE1547, as amended". The proposed rule change also includes minor changes or corrections to references in Title 54. Recent amendments to IEEE1547 include minor changes to Sections 4.1.1 pertaining to voltage regulation and 4.2.3 and 4.2.4 pertaining to voltage and frequency under abnormal conditions. These changes allow distributed energy resources to support grid voltage regulation and provide voltage and frequency ride through, if so approved by and coordinated with, the area electric power system. These changes do not affect the requirements for interconnection of a distributed energy resource with a public utility's distribution system.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 54-15-102(13) and Subsection 54-15-102(9)

MATERIALS INCORPORATED BY REFERENCE:

- Updates 1547a-2014 IEEE Interconnecting Distributed Resources with Electric Power Systems - IEEE1547 Series (Bundle), published by IEEE Standards Association, 03/24/2014

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: The proposed changes do not affect the requirements for interconnection of a distributed energy resource with a public utility's distribution system and, therefore, should not result in additional costs or savings for a state agency to interconnect a distributed energy resource with a public utility.

♦ LOCAL GOVERNMENTS: The proposed changes do not affect the requirements for interconnection of a distributed energy resource with a public utility's distribution system and, therefore, should not result in additional costs or savings for a local government to interconnect a distributed energy resource with a public utility.

♦ SMALL BUSINESSES: The proposed changes do not affect the requirements for interconnection of a distributed energy resource with a public utility's distribution system and, therefore, should not result in additional costs or savings for a small business to interconnect a distributed energy resource with a public utility.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed changes do not affect the requirements for interconnection of a distributed energy resource with a public utility's distribution system and, therefore, should not result in additional costs or savings for persons other than small businesses, businesses, or local government entities planning to interconnect a distributed energy resource with a public utility.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be zero or negligible compliance costs for affected persons because this rule change follows practices and requirements for interconnection of a distributed energy resource with a public utility that are already in place.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule change is consistent with statutory requirements and reflects current requirements to interconnect a distributed resource with a public utility. Therefore, zero or negligible costs or savings should result.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SERVICE COMMISSION
ADMINISTRATION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Melanie Reif by phone at 801-530-6709, by FAX at 801-530-6796, or by Internet E-mail at mreif@utah.gov
♦ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov, or mail at PO BOX 45585, Salt Lake City, UT 84111-5585.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2016

AUTHORIZED BY: Melanie Reif, Legal Counsel

R746. Public Service Commission, Administration.
R746-312. Electrical Interconnection.
R746-312-1. Authority.

(1) This rule establishes procedures and standards for electrical interconnection of generating facilities to a public utility as provided for in Sections 54-3-2, 54-4-7, 54-4-14, 54-12-2, and 54-15-106.

R746-312-2. Definitions.

(1) "Adverse system impact" means the negative effects due to technical or operational limits on conductors or equipment being exceeded that[~~which~~] may compromise the safety and reliability of the electric distribution system.

(2) "Affected system" means an electric system other than a public utility's electric distribution system that[~~which~~] may be affected by the proposed interconnection.

(3) "Building code official" means the city or local official whose responsibility includes inspecting facilities for compliance with the city or local jurisdiction electrical code requirements.

(4) "Business day" means Monday through Friday, excluding Federal holidays.

(5) "Confidential information" means any confidential and/or proprietary information provided by one party to the other party that is clearly marked or otherwise designated "Confidential." For the purposes of this rule, all design, operating specifications, and metering data provided by the interconnection customer shall be deemed confidential information regardless of whether it is clearly marked or otherwise designated as such. Confidential information does not include information previously in the public domain, required to be publicly submitted or divulged by governmental authorities, or necessary to be divulged in an action to enforce these procedures.

(6) "Electric distribution system" means that portion of an electric system that[~~which~~] delivers electricity from transformation points on the transmission system to the point or points of connection at a customer's premises.

(7) "Equipment package" means, for certification purposes, a group of components connecting a generating facility's device for the production electricity (i.e.[~~e.g.~~], a generator) with an electric distribution system, and includes all interface equipment including switchgear, inverters, or other interface devices. An equipment package may include an integrated generator or electric production source. An equipment package does not include equipment provided by the utility.

(8) "Fault current" means electrical current that flows through a circuit and is produced by an electrical fault, such as to ground, double-phase to ground, three-phase to ground, phase-to-phase, and three-phase. A fault current is several times larger in magnitude than the current that normally flows through a circuit.

(9) "Facilities study" means a study conducted to determine the additional or upgraded distribution system facilities necessary to interconnect a generating facility with a public utility, the cost of those facilities, and the time schedule required to interconnect the generating facility to the public utility's distribution system.

(10) "Feasibility study" means a preliminary evaluation of the system impact and the cost of interconnecting a generating facility to the public utility's electric distribution system.

(11) "Generating facility" means the interconnection customer's device for the production of electricity and all associated components up to the point of common coupling identified in the interconnection request, but shall not include the interconnection customer's interconnection facilities.

(12) "Generation capacity" means the nameplate capacity of the power generating device(s) of a generating facility. Generation capacity does not include the effects caused by inefficiencies of power conversion or plant parasitic loads.

(13) "Good utility practice" means any of the practices, methods and acts engaged in or approved by a significant portion of

the electric utility industry during the relevant time period, or any of the practices, methods and acts that[~~which~~], in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result of the lowest reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region and consistently adhered to by the public utility.

(14) "Governing Authority" means

(a) For a distribution electrical cooperative, its board of directors; and

(b) for each other electrical corporation, the Public Service Commission, otherwise referred to as the commission.

(15) "IEEE standards" means [~~the standards published in the 2003 edition of~~]the Institute of Electrical and Electronics Engineers (IEEE) Interconnecting Distributed Resources with Electric Power Systems -- IEEE 1547 Series referenced in Section 54-15-102[~~Standard 1547, entitled "Interconnecting Distributed Resources with Electric Power Systems," approved by the IEEE SA Standards Board on June 12, 2003, and in the 2005 edition of the IEEE Standard 1547.1, entitled "IEEE Standard Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems," approved by the IEEE SA Standards Board on June 9, 2005~~].

(16) "Interconnection agreement" means a standard form agreement between an interconnection customer and a public utility[~~,~~] that[~~which~~] governs the connection of a generating facility to the electric distribution system[~~,~~] and[~~as well as~~] the ongoing operation of the generating facility after it is connected to the system.

(17) "Interconnection customer" means any entity[~~,~~] including a public utility[~~,~~] that[~~which~~] proposes to interconnect its generating facility with the public utility's distribution system.

(18) "Interconnection Facilities" means the facilities and equipment required by a public utility to accommodate the interconnection of a generating facility to the public utility's electric distribution system and used exclusively for that interconnection. Interconnection Facilities do not include upgrades.

(19) "Interconnection request" means the interconnection customer's request to interconnect a new generating facility, or to increase the capacity of, or make a material modification to the operating characteristics of an existing generating facility that is interconnected with the public utility. The interconnection request includes all required applications, forms, processing fees and/or deposits required by the public utility.

(20) "Inverter" [~~means a machine, device or system which changes direct-current power to alternating-current power~~]has the same meaning as in Section 54-15-102.

(21) "Level 1 Interconnection Review" means an interconnection review process applicable to an inverter-based facility having a generation capacity of 25 kilowatts or less.

(22) "Level 2 Interconnection Review" means an interconnection review process applicable to a facility having a generation capacity of 2 megawatts or less and that[~~which~~] does not qualify for or fails to meet Level 1 interconnection review requirements.

(23) "Level 3 Interconnection Review" means an interconnection review process applicable to a facility having a generation capacity of greater than 2 megawatts but no larger than 20 megawatts[~~or less~~], or the generating facility is not certified, or the generating facility [~~and which~~]does not qualify for or fails to meet Level 1 or Level 2 interconnection review requirements.

(24) "Net metering facility" means a facility eligible for net metering, or an eligible facility as defined in [~~Subsection~~]Section 54-15-102[~~(4)~~].

(25) "Party or parties" means the public utility and/or the interconnection customer.

(26) "Point of common coupling" means the point at which the interconnection between the public utility's system and the interconnection customer's equipment interface occurs. Typically, this is the customer side of the public utility's meter.

(27) "Public utility" has the meaning set forth in [~~Subsection~~]Section 54-2-1[~~(16)~~] and is limited to a public utility that provides electric service.

(28) "Queue position" means the order of a valid interconnection request[~~,~~] relative to all other pending valid interconnection requests[~~,~~] that[~~which~~] is established based upon the date and time of receipt of a completed interconnection request, including application fees, by the public utility.

(29) "Spot network" means a type of electric distribution system that uses two or more inter-tied transformers protected by network protectors to supply an electrical network circuit. A spot network is generally used to supply power to a single customer or a small group of customers.

(30) "Standard form" or "standard form agreement" means a form or agreement that[~~which~~] follows that adopted or approved by the Federal Energy Regulatory Commission in its small generator interconnection proceedings and modified to be consistent with these rules unless the governing authority has approved an alternative form or agreement.

(31) "Switchgear" has the same meaning as in Section 54-14-102.

([~~31~~]32) "System Impact study" means an engineering analysis of the probable impact of a generating facility on the safety and reliability of the public utility's electric distribution system.

([~~32~~]33) "Telemetry" means the remote communication from a generator facility to a point on the public utility's communication network where the data can be assimilated into the public utility's grid operations if desired.

(34) "UL1741" means the UL Standard for Inverters, Converters, Controllers and Interconnection System Equipment for Use With Distributed Energy Resources as referenced in Section 54-15-102.

([~~33~~]35) "Upgrades" means the required additions and modifications to a public utility's distribution system beyond the point of interconnection. Upgrades do not include interconnection facilities.

([~~34~~]36) "Written notice" means a required notice sent by the utility via electronic mail if the interconnection customer has provided an electronic mail address. If the interconnection customer has not provided an electronic mail address, or has requested in writing to be notified by United States mail, or if the utility elects to provide notice by United States mail, then written

notices from the utility shall be sent via First Class United States mail. The utility shall be deemed to have fulfilled its duty to respond under this rule on the day it sends the interconnection customer notice via electronic mail or deposits such notice in First Class mail. The interconnection customer shall be responsible for informing the utility of any changes to its notification address.

R746-312-3. Purpose, Scope, Applicability and Exceptions.

(1) This rule establishes procedures for electrical interconnection of a generating facility to a public utility's distribution system with the following exception:

(a) All references to fees and charges in Section R746-312 do not apply to public utilities for which the commission does not have ratemaking authority as identified in Subsection 54-7-12([~~6~~]7). Rates and charges will be determined by the public utility's governing authority in accordance with applicable law.

(2) For good cause shown, the commission may waive or modify any provision of this electrical interconnection rule.

(3) A public utility and interconnection customer may mutually agree to reasonable extensions to the required times for notices and submissions of information set forth in this rule for the purpose of allowing efficient and complete review of an interconnection request. If a public utility unilaterally seeks waiver of the time lines set forth in this rule, the commission may consider the number of pending applications for interconnection review and the type of applications, including review level and facility size.

(4) A public utility shall provide to the interconnection customer information regarding options for complaint or dispute resolution during the interconnection request review process prior to or along with the results of the initial interconnection review.

(5) Complaints or disputes will be addressed as follows:

(a) residential interconnections will be addressed according to the provisions of Sections R746-200-4, R746-200-8 and R746-200-9.

(b) non-residential interconnections will be addressed according to the following procedure:

(i) In the event of a complaint or dispute, either party shall provide the other party with a written Notice of Dispute. Such notice shall describe in detail the nature of the dispute.

(ii) If the dispute has not been resolved within seven business days after receipt of such notice, the dispute shall be served upon the other party and filed with the commission. A copy shall also be served upon the Division of Public Utilities.

(iii) An answer or other responsive pleading to the complaint shall be filed with the commission not more than ten business days after receipt of service of the complaint or dispute. Copies of the answer or responsive pleading shall be served on the complainant and the Division of Public Utilities.

(iv) A prehearing conference shall be held not later than 15 business days after the complaint is filed.

(v) The commission shall commence a hearing on the complaint not later than 25 business days after the complaint is filed, unless the commission finds that extraordinary conditions exist that warrant postponing the hearing date, in which case the commission shall commence the hearing as soon as practicable. Parties shall be entitled to present evidence as provided by the commission's rules.

(vi) The commission shall take final action on a complaint not more than 30 business days after the complaint is filed unless:

(A) the commission finds that extraordinary conditions exist that warrant extending final action, in which case the commission shall take final action as soon as practicable; or

(B) the parties agree to an extension of final action by the commission.

R746-312-4. Installation, Operation, Maintenance, Testing and Modification of Generating and Interconnection Facilities.

(1) Except for generating facilities in operation or approved for operation prior to the effective date of this rule, an interconnection customer of a public utility must install, operate and maintain its generating and interconnection facilities in compliance with the IEEE standards, as applicable, and the requirements of the interconnection agreement or other agreements executed between the parties during the interconnection review and approval process. Generating facilities in operation or approved for operation prior to the effective date of this rule must be operated and maintained in accordance with the requirements of all agreements in place prior to the effective date of this rule.

(2) Disconnect Switch. Except for the exemptions listed below, an interconnection customer of a public utility must install and maintain a manual disconnect switch that[~~which~~] will disconnect the generating facility from the public utility's distribution system. The disconnect switch must be a lockable, load-break switch that plainly indicates whether it is in the open or closed position. The disconnect switch must be readily accessible to the public utility at all times and located within 10 feet of the public utility's meter.

(a) Exemptions:

(i) For customer generating systems of 10 kilowatts or less that are inverter-based, a public utility shall not require a disconnect switch.

(ii) The disconnect switch may be located more than 10 feet from the public utility's meter if permanent instructions are posted in letters of appropriate size at the meter indicating the precise location of the disconnect switch. In this case the public utility must approve in writing the location of the disconnect switch prior to the installation of the generating facility. For those instances where the interconnection customer and the public utility cannot agree to the implementation of this section, the public utility or interconnection customer may refer the matter to the commission according to the designated dispute resolution process.

(iii) Nothing in this exemption precludes an interconnection customer or a public utility from voluntarily installing a manual disconnect switch.

(3) In the event that no disconnect switch is installed, the interconnection customer's electric service may be disconnected by the public utility entirely if the generating facility must be physically disconnected from the public utility's distribution system as specified in Subsection R746-312-4(5).

(4) For those public utilities whose governing authority, pursuant to Section 54-15-106, after appropriate notice an opportunity for public comment, elects to adopt by rule additional

reasonable interconnection safety, power quality and interconnection requirements for net metering generating facilities and who determines that a disconnect switch for net metering generating facilities less than 10 kilowatts is necessary, those public utilities must:

(a) address the usage of the disconnect switch in the public utility's operations training requirements and standard operating procedures, including, among other things, how the disconnect switches will be managed, including tracking of switches, the procedures under which the disconnect switch must be used during normal operations, construction projects, trouble situations, and during restoration of service activities, and training on operation and usage of the disconnect switch;

(b) file a copy of the disconnect switch procedures, and any updates, along with the governing authority's documentation of appropriate notice and opportunity for public comment with the commission; and

(c) document in writing each time the public utility has utilized each specific disconnect switch and the reason for its usage and make this information available to the commission upon request.

(5) The public utility may operate the manual disconnect switch or disconnect the customer generating facility pursuant to the conditions set forth below, thereby isolating the customer generating system, without prior notice to the customer. To the extent practicable, however, prior notice shall be given. If prior notice is not given, the utility shall at the time of disconnection leave a door hanger or other such notice notifying the customer that their customer generating system has been disconnected, including an explanation of the condition necessitating such action. The public utility shall reconnect the customer generating system as soon as reasonably practicable after the condition necessitating disconnection is remedied.

(a) Any of the following conditions shall be cause for the public utility to manually disconnect a generating facility from its system:

(i) Emergencies or maintenance requirements on the public utility's distribution system;

(ii) Hazardous conditions existing on the public utility's distribution system that[~~which~~] may affect safety of the general public or public utility employees due to the operation of the customer generating facility or protective equipment as determined by the public utility; or

(iii) Adverse electrical effects (s[~~S~~]uch as high or low voltage, unacceptable harmonic levels, or RFI interference) on the electrical equipment of the public utility's other electric consumers caused by the customer generating facility as determined by the public utility.

(6) Subsequent to becoming interconnected to a public utility the interconnection customer must notify the public utility of all proposed modifications to the generating facility or equipment package that[~~which~~] will increase the generation capacity of a customer generation facility.

(a) Notification must be provided in the form of a new application submitted in accordance with the level of review required by this rule; and

(b) The application must specify the proposed modification(s).

(7) Aggregating Multiple Generators: If the interconnection request is for a generating facility which includes multiple generating facilities at a site for that[~~which~~] the interconnection customer seeks a single point of interconnection, the interconnection request must be evaluated for the purposes of the interconnection on the basis of the aggregate electric nameplate capacity of the generating facilities.

R746-312-5. Certifications.

(1) To qualify for the Level 1 and the Level 2 interconnection review procedures set forth below, a generating facility must be certified as complying with the following standards, as applicable:

(a) IEEE standards; and

(b) UL[-]1741[~~, Inverters, Converters, and Controllers for Use in Independent Power Systems (January 2001)~~].

(2) An equipment package will be considered certified for interconnected operation if it has been submitted by a manufacturer to a nationally recognized testing and certification laboratory, and has been tested and listed by the laboratory for continuous interactive operation with an electric distribution system in compliance with relevant codes and standards.

(3) If the equipment package has been tested and listed in accordance with this section as an integrated package[,] that[~~which~~] includes a generator or other electric source, the equipment package will be deemed certified, and the public utility may not require further design review, testing or additional equipment.

(4) If the equipment package includes only the interface components (switchgear, inverters, or other interface devices), an interconnection customer must show that the generator or other electric source being utilized with the equipment package is compatible with the equipment package and consistent with the testing and listing specified for the package. If the generator or electric source being utilized with the equipment package is consistent with the testing and listing performed by the nationally recognized testing and certification laboratory, the equipment package will be deemed certified, and the public utility may not require further design review, testing or additional equipment.

R746-312-6. General Interconnection Request Provisions.

(1) Each public utility must designate an employee, office, or department from which a customer can obtain basic interconnection request standard forms, standard form agreements, and information through an informal process. Upon request, this employee, office, or department must provide all relevant forms, documents, and technical requirements for submittal of a complete application for interconnection review. Upon request, the public utility must meet with a customer who qualifies for Level 2 or Level 3 interconnection review, to assist them in preparation of the application. All standard forms and standard form agreements must be posted on the public utility's website.

(2) The interconnection customer must submit each interconnection request, and all associated forms and agreements on the public utility's standard forms and standard form agreements.

(3) The interconnection request may require the following types of information:

(a) the name of the applicant and basic customer information;

(b) the type, size and specifications of the generating facility;

(c) the level of interconnection review sought; e.g., Level 1, Level 2 or Level 3;

(d) the generating facility installer: i.e., for contractor installations, the name of the appropriately licensed contractor, or for self-installations, the name of the homeowner or business;

(e) equipment and/or system certifications;

(f) the anticipated date the generating facility will be operational;

(g) evidence of site control; and/or

(h) other information that the utility deems is necessary to conduct an evaluation as to whether a generating facility can be safely and reliably connected to the public utility in compliance with this interconnection rule.

(4) Each interconnect request submitted to a public utility must be accompanied by the required processing fee.

(5) An interconnection customer shall retain its original queue position for an interconnection request if the applicant resubmits its application at a higher level of review within 30 business days of a utility's denial of the application at a lower level of review.

(6) A public utility shall not be responsible for the cost of determining the rating of equipment owned or proposed by an interconnection customer or of equipment owned by other local customers.

(7) Any modification to machine data or equipment configuration or to the interconnection site of the generating facility not agreed to in writing by the public utility and the interconnection customer may be deemed a withdrawal of the interconnection request and may require submission of a new interconnection request unless proper notification to each party by the other and a reasonable time to cure the problems created by the changes are undertaken.

(8) Each party receiving confidential information shall hold such information in confidence and shall not disclose it to any third party nor to the public without prior written authorization from the party providing that information, except to fulfill obligations under this rule, or to fulfill legal or regulatory requirements. Each party shall employ at least the same standard of care to protect confidential information obtained from the other party as it employs to protect its own confidential information.

R746-312-7. Level 1 and Level 2 Interconnection Review Screens.

(1) The public utility shall perform its review of Level 1 and Level 2 interconnection requests using the screens set forth below as applicable.

(a) A generating facility's point of common coupling must be on a portion of the public utility's distribution system that[~~which~~] is under the interconnection jurisdiction of the commission and not be on a transmission line.

(b) For interconnection of a proposed generating facility to a radial distribution circuit, the aggregate generation on the distribution circuit, including the proposed generating facility, must not exceed 15 percent of the distribution circuit's total highest annual peak load, as measured at the substation. For the purposes of this subsection, annual peak load will be based on measurements taken over the 60 months previous to the submittal of the application, measured for the circuit at the nearest applicable substation.

(c) The proposed generating facility, in aggregation with other generation on the distribution circuit to which the proposed generating facility will interconnect, must not contribute more than 10 percent to the distribution circuit's maximum fault current at the point on the high voltage (primary)level nearest the proposed point of common coupling.

(d) If the proposed generating facility is to be connected to a single-phase shared secondary, the aggregate generation capacity connected to the shared secondary, including the proposed generating facility, must not exceed 20 kilowatts.

(e) If a proposed single-phase generating facility is to be connected to a transformer center tap neutral of a 240 volt service, the addition of the proposed generating facility must not create a current imbalance between the two sides of the 240 volt service of more than 20 percent of nameplate rating of the service transformer.

(f) No construction of facilities by the public utility on its own system shall be required to accommodate the generating facility.

(g) The aggregate generation capacity on the distribution circuit to which the proposed generating facility will interconnect, including the capacity of the proposed generating facility, must not cause any distribution protective equipment (including, but not limited to, substation breakers, fuse cutouts, and line reclosers), or customer equipment on the electric distribution system, to exceed 90 percent of the short circuit interrupting capability of the equipment. In addition, a proposed generating facility must not be connected to a circuit that[~~which~~] already exceeds 90 percent of the circuit's short circuit interrupting capability, prior to interconnection of the facility.

(h) Interconnection Type Screen:

(i) For a proposed generating facility connecting to a three-phase, three wire primary public utility distribution line, a three-phase or single-phase generator must be connected phase-to-phase.

(ii) For a proposed generating facility connecting to three-phase, four wire primary public utility distribution line, a three-phase or single-phase generator must be connected line-to-neutral and must be effectively grounded.

(i) If there are known or posted transient stability limitations to generating units located in the general electrical vicinity of the proposed point of common coupling, including, but not limited to within three or four transmission voltage level busses, the aggregate generation capacity, including the proposed generating facility, connected to the distribution low voltage side of the substation transformer feeding the distribution circuit containing the point of common coupling may not exceed 10 megawatts.

(j) If a proposed generating facility's point of common coupling is on a spot network, the proposed generating facility must utilize an inverter-based equipment package and, together with the aggregated other inverter-based generation, must not exceed the smaller of five percent of a spot network's maximum load or 50 kilowatts.

R746-312-8. Level 1 Interconnection Review.

(1) A generating facility that[~~which~~] meets the following criteria is eligible for Level 1 interconnection review:

(a) the generating facility is inverter-based; and

(b) the generating facility has a capacity of 25 kilowatts or less.

(2) A public utility shall process, evaluate, and approve, if appropriate, all Level 1 interconnection requests according to this Subsection unless a public utility has implemented a process ensuring notification of approval or denial of a completed Level 1 interconnection request within 15 business days of receipt of the interconnection request, or the public utility completes final approval of a Level 1 interconnection request within 15 business days of receipt of an interconnection request, or the public utility has received approval from the commission for an alternate Level 1 interconnection review method:

(a) The public utility shall date and time stamp each interconnection request on the day it was received by the public utility.

(b) Within three business days after receipt, the public utility shall acknowledge to the interconnection customer receipt of the interconnection request.

(c) Within 10 business days after receipt, the public utility shall evaluate the interconnection request and notify the interconnection customer whether the interconnection request is complete.

(i) If the interconnection request is not complete the public utility must provide a list detailing all information that must be provided to complete the application.

(ii) Within 10 business days of receipt of this notification, the interconnection customer must submit the missing information to the public utility or request an extension of time to provide such information. If the interconnection customer does not provide the listed information or request an extension of time within the 10 business day deadline, the interconnection request shall be deemed withdrawn.

(iii) An interconnection request shall be deemed complete upon submission of the listed information.

(d) Within 15 business days after issuing a notification of completeness, the public utility shall verify, using screens set forth in Section R746-312-7, whether or not the proposed generating facility can be interconnected safely and reliably, and shall notify the interconnection customer that either:

(i) the generating facility meets all applicable criteria and the interconnection request is approved; or

(ii) the generation facility has failed to meet one or more of the applicable criteria, the reason for the failure, and the interconnection request is denied under the Level 1 interconnection process. If the interconnection request is denied the interconnection customer may resubmit the application under the Level 2 or Level 3 interconnection review procedure, as appropriate.

(e) Either along with or within five business days after notifying the interconnection customer that the interconnection request has been approved, a public utility must provide the procedures, requirements, and associated forms, including any required standard form interconnection agreement, for final authorization of the interconnection, as determined applicable by the public utility. These procedures and requirements may include:

(i) completion of any required inspection of the generating facility by the building code official with jurisdiction over the generating facility and transmittal to the public utility of appropriate documentation;

(ii) transmittal to the public utility of any required notice of completion, notice of start-up, and/or interconnection agreement;

(iii) installation of any required meter modification by the public utility;

(iv) completion of any required inspection of the generation facility prior to operation by the public utility; and/or

(v) the requirement that the applicant may not begin parallel operations of the generating facility until receipt of a final approval or authorization of interconnection.

(f) The customer and the public utility may mutually agree to terms that[~~which~~] vary from the standard form interconnection agreement, but such non-standard agreement shall be subject to commission approval.

(g) If a public utility does not notify a Level 1 interconnection customer in writing or by electronic mail whether the interconnection request is approved or denied within 25 business days after the receipt of an application, the interconnection request shall be deemed approved.

(3) An interconnection customer must notify the public utility of the anticipated start date for operation of the generating facility at least ten business days prior to starting operation, either through the submittal of the interconnection agreement, a notice of completion, or in a separate notice.

(4) Within 10 business days of receipt of all required documentation (e.g., executed interconnection agreement, notice of completion, and/or documentation of satisfactory completion of inspections by non-company personnel), the public utility must, if it has not already done so, conduct any company-required inspection or witness test, set the new meter, if required, approve the interconnection, and provide written notification to the interconnection customer of the final interconnection authorization/approval indicating the generating facility is authorized/approved for parallel operation. If the public utility does not conduct the witness test within 10 business days or by mutual agreement with the interconnection customer[~~of the parties~~], the witness test is deemed waived.

(5) Witness Test Not Acceptable. If the witness test is conducted and is not acceptable to the public utility, the interconnection customer must be granted a period of 30 business days to resolve any deficiencies. The public utility and interconnection customer[~~Parties~~] may mutually agree to extend the time period for resolving any deficiencies. If the interconnection customer fails to address and resolve the deficiencies to the satisfaction of the public utility within the agreed upon time period, the interconnection request is deemed withdrawn.

R746-312-9. Level 2 Interconnection Review.

(1) A generating facility that[~~which~~] meets the following criteria is eligible for Level 2 interconnection review by a public utility:

(a) the generating facility has a capacity of two megawatts or less; and

(b) the generating facility does not qualify for or fails to meet applicable Level 1 interconnection review procedures.

(2) A public utility must process, evaluate, and approve, if so determined, all Level 2 requests for interconnection according to the following steps unless a public utility has implemented a process ensuring notification of approval or denial of a completed Level 2 interconnection request within 15 business days of receipt

of the interconnection request, the public utility completes final approval of a Level 2 interconnection request within 15 business days of receipt of an interconnection request, or the public utility has received approval from the commission for an alternate Level 2 interconnection review method:

(a) The public utility shall date and time stamp each interconnection request on the day it was received by the public utility.

(b) Within three business days after receipt of an interconnection request, the public utility shall acknowledge to the interconnection customer receipt of the interconnection request.

(c) Within 10 business days after receipt of an interconnection request, the public utility shall evaluate the interconnection request and notify the interconnection customer whether or not the interconnection request is complete.

(i) If the interconnection request is not complete the public utility must provide a list detailing all information that must be provided to complete the application.

(ii) Within 10 business days of receipt of this notification, the interconnection customer must submit the missing information to the public utility or request an extension of time to provide such information. If the interconnection customer does not provide the listed information or request an extension of time within the 10 business day deadline, the interconnection request shall be deemed withdrawn.

(iii) An interconnection request shall be deemed complete upon submission of the listed information.

(d) Within 15 business days after issuing a notification of completeness, the public utility shall verify, using the screens set forth in Section R746-312-7, whether or not the proposed generating facility can be interconnected safely and reliably, and shall notify the interconnection customer that either:

(i) the generation facility meets all applicable criteria and the interconnection request is approved;

(ii) although the generating facility fails one or more of the screens, the public utility has determined that the generating facility may nevertheless be interconnected consistent with safety, reliability, and power quality standards and the interconnection request is approved; or

(iii) the generation facility has failed to meet one or more of the screens and the reason for the failure(s), the public utility has not or could not determine from the initial reviews that the generating facility may be interconnected consistent with safety, reliability, and power quality standards, or the generating facility cannot be approved without minor modifications at minimal cost and the interconnection request is denied unless the interconnection customer is willing to consider minor modifications or further study.

(e) If the interconnection request is denied, the public utility:

(i) must offer to provide the interconnection customer with the opportunity to attend an optional customer options meeting to be convened within 10 business days of the notification of denial to discuss the options available under Subsection R746-312-9(2)(e)(ii).

(A) During the customer options meeting the public utility shall review possible interconnection customer facility modification or screen analysis and related results to determine what further steps are needed to permit the generating facility to be connected safely and reliably.

(ii) shall either at the time of the notification specified in Subsection R746-312[~~213~~]-9(2)(d)(iii), or at the customer options meeting:

(A) offer to complete minor modifications to the public utility's distribution system and provide a non-binding good faith estimate of the cost and time-frame to make such modifications. If the interconnection customer agrees to such modifications, the interconnection customer shall agree in writing within 15 business days of the offer and submit payment for the estimated costs. The interconnection customer must pay any cost that exceeds the estimated costs within 30 calendar days of receipt of the invoice. If the costs to complete the modifications are less than the estimated costs, the public utility shall return such excess within 30 calendar days of the issuance of the invoice without interest;

(B) offer to perform a supplemental review in accordance with Subsection R746-312-9(3) if the public utility concludes that the supplemental review might determine that the generating facility could continue to qualify for interconnection pursuant to the Level 2 process, and provide a non-binding good faith estimate of the costs of such review; or

(C) obtain the interconnection customer's agreement to continue evaluating the interconnection request under the Level 3 process.

(f) Either along with or within five business days after notifying the interconnection customer that the interconnection request has been approved, a public utility shall provide the procedures, requirements, and associated forms, including any required standard form interconnection agreement, for final authorization of the interconnection, as determined applicable by the public utility. These procedures and requirements may include:

(i) an inspection of the generating facility by the building code official with jurisdiction over the generating facility and transmittal to the public utility of appropriate documentation;

(ii) transmittal to the public utility of any required notice of completion, notice of start-up, and/or interconnection agreement;

(iii) installation of any required meter modification by the public utility;

(iv) completion of any required inspection of the generation facility prior to operation by the public utility; and/or

(v) the requirement that the applicant may not begin parallel operations of the generating facility until receipt of a final approval or authorization of interconnection.

(g) The customer and the public utility may mutually agree to terms that[~~which~~] vary from the standard form interconnection agreement, but such non-standard agreement shall be subject to commission approval.

(3) Supplemental Review:

(a) If the interconnection customer agrees to a supplemental review, the interconnection customer shall agree in writing within 15 business days of the offer, and submit a deposit of the estimated costs. The interconnection customer must pay any supplemental review costs that exceed the deposit within 30 calendar days of receipt of the invoice but such payment responsibility shall be limited to and not exceed 125 percent of the public utility's non-binding good faith estimate for such review. If the deposit exceeds the invoiced costs, the public utility shall return such excess within 30 calendar days of the invoice without interest.

(b) Within 10 business days following receipt of the deposit for supplemental review, the public utility must determine

whether the generating facility can or cannot[~~can not~~] be interconnected safely and reliably and shall notify the interconnection customer that either:

(i) the generation facility can be safely and reliably interconnected, and the interconnection request is approved and the public utility shall proceed according to Subsection R746-312-9(2)(f);

(ii) interconnection customer facility modifications are required to allow the generating facility to be interconnected consistent with safety, reliability and power quality standards. Upon receipt of written confirmation that the interconnection customer agrees to make the necessary changes at the interconnection customer's expense, the public utility shall approve the interconnection request and proceed according to Subsection R746-312-9(2)(f);

(iii) minor modification to the public utility's distribution system are required to allow the generating facility to be interconnected consistent with safety, reliability and power quality standards. After confirmation that the interconnection customer agrees to pay the costs of such system modifications prior to interconnection, the public utility shall approve the interconnection request and proceed according to Subsection R746-312-9(2)(f);

(iv) the results of the supplemental review have not concluded that the generating facility can be interconnected consistent with safety, reliability, and power quality standards and, upon agreement by the interconnection customer, the interconnection request will continue to be evaluated under the Level 3 interconnection review process.

(4) An interconnection customer must notify the public utility of the anticipated testing and inspection date for the generating facility at least ten business days prior to testing, either through the submittal of the interconnection agreement, a notice of completion, or in a separate notice.

(5) Within 10 business days of receipt of all required documentation (e.g., executed interconnection agreement, notice of completion, and/or documentation of satisfactory completion of inspections by non-company personnel), the public utility must, if it has not already done so, conduct any company-required inspection, set the new meter, if required, approve the interconnection, and provide written notification to the interconnection customer of the final interconnection authorization/approval and that the generating facility is authorized/approved for parallel operation. If the public utility does not conduct the witness test within 10 business days or by mutual agreement of the public utility and the interconnection customer[~~parties~~], the witness test is deemed waived.

(6) If an application for Level 2 interconnection review is denied because it does not meet one or more of the requirements in this section, the applicant may resubmit the application under the Level 3 interconnection review procedure.

(7) Witness Test Not Acceptable. If the witness test is conducted and is not acceptable to the public utility, the interconnection customer must be granted a period of 45 business days to resolve any deficiencies. The public utility and the interconnection customer[~~parties~~] may mutually agree to extend the time period for resolving any deficiencies. If the interconnection customer fails to address and resolve the deficiencies to the satisfaction of the public utility within the agreed upon time period, the interconnection request is deemed withdrawn.

R746-312-10. Level 3 Interconnection Review.

(1) A generating facility that[~~which~~] meets the following criteria is eligible for Level 3 interconnection review:

(a) the generating facility has a capacity of greater than two megawatts but no larger than 20 megawatts;

(b) the generating facility is not certified; or

(c) the generating facility does not qualify for or failed to meet Level 1 or Level 2 interconnection review requirements.

(2) A public utility must process, evaluate, and approve, if appropriate, all Level 3 requests for interconnection according to the following steps unless the public utility has received approval from the commission for an alternate Level 3 interconnection review method:

(a) The public utility shall date and time stamp each interconnection request on the day it was received by the public utility.

(b) Within three business days after receipt of an interconnection request, the public utility shall acknowledge to the interconnection customer receipt of the interconnection request.

(c) Within 10 business days after receipt of an interconnection request, the public utility shall evaluate the interconnection request and notify the interconnection customer whether or not the interconnection request is complete.

(i) If the interconnection request is not complete the public utility must provide a list detailing all information that must be provided to complete the application.

(ii) Within 10 business days of receipt of this notification, the interconnection customer must submit the missing information to the public utility or request an extension of time to provide such information. If the interconnection customer does not provide the listed information or request an extension of time within the 10 business-day deadline, the interconnection request shall be deemed withdrawn.

(iii) An interconnection request shall be deemed complete upon submission of the listed information.

(d) Scoping Meeting. If requested, a scoping meeting shall be held as follows within 10 business days after the interconnection request is deemed complete, or as otherwise mutually agreed to by the parties:

(i) The public utility and the interconnection customer shall bring to the meeting personnel, including system engineers and other resources as may be reasonably required to accomplish the purpose of the meeting;

(ii) The purpose of the scoping meeting is to:

(A) discuss the interconnection request and review existing studies relevant to the interconnection request; and

(B) discuss whether the public utility should perform a feasibility study or proceed directly to a system impact study, a facilities study, or an interconnection agreement;

(iii) Scoping meeting follow-up:

(A) If the parties agree that a feasibility study should be performed, the public utility shall provide the interconnection customer as soon as possible, but no later than five business days after the scoping meeting, a feasibility study agreement including an outline of the scope of the study and a non-binding good faith estimate of the cost to perform the study.

(B) If the parties agree not to perform a feasibility study but rather proceed directly to the system impact study, the public

utility shall, no later than five business days after the scoping meeting, provide the interconnection customer with a system impact study agreement including an outline of the scope of the study and a non-binding good faith estimate of the cost to perform the study.

(iv) The scoping meeting may be omitted by mutual agreement. If the scoping meeting is omitted, the public utility, if requested by the interconnection customer, must provide information pertinent to the interconnection request, such as the available fault current at the proposed interconnection location, the peak loading on the lines in the general vicinity of the generating facility, and the configuration of the distribution lines at the proposed point of common coupling, within 10 business days after the interconnection request is deemed complete.

(e) Feasibility Study. A feasibility study shall provide a preliminary evaluation of the system impact that[~~which~~] would result from interconnecting the generating facility and the cost of interconnecting the generating facility to the public utility's electric distribution system and shall be completed as follows:

(i) For interconnection customers opting to forego a scoping meeting and proceeding directly to the feasibility study, the public utility shall provide the interconnection customer, as soon as possible but no later than 10 business days after receipt of a completed application, a standard form feasibility study agreement including an outline of the scope of the study and a non-binding good faith estimate of the cost to perform the study.

(ii) In order to remain in consideration for interconnection, an interconnection customer who has requested or requires a feasibility study, either as part of or independent of a scoping meeting, must return the executed feasibility study agreement within 30 business days of receipt. A deposit of the lesser of 50 percent of the good faith estimate or earnest money of $1,000 may be required from the interconnection customer.

(iii) Within 30 business days of receipt of an executed study agreement and payment of any required deposit, the public utility shall conduct the feasibility study and notify the interconnection customer either:

(A) the feasibility study shows no potential for adverse system impacts, no facilities are required, and the interconnection request is approved, in which case the public utility shall send the interconnection customer an executable interconnection agreement within five business days;

(B) the feasibility study shows no potential for adverse system impacts however additional facilities may be required and the review process shall proceed to a facilities study. When proceeding to a facilities study, [~~in which case~~]the public utility shall provide the interconnection customer a standard form facilities study agreement, including an outline of the scope of the study and a non-binding good faith estimate of the cost to perform the study within five business days; or

(C) the feasibility study shows the potential for adverse system impacts, and the review process shall proceed to a system impact study. When proceeding to a system impact study, [~~in which case~~]the public utility shall provide the interconnection customer with a standard form system impact study agreement including an outline of the scope of the study and a non-binding good faith estimate of the cost to perform the study within 15 business days of transmittal of the feasibility study report.

(iv) Any study fees will be invoiced to the interconnection customer after the feasibility study is completed and delivered and will include a summary of professional time. The interconnection customer must pay any study costs that exceed the deposit without interest within 30 calendar days of receipt of the invoice or resolution of any dispute but such payment responsibility shall be limited to and not exceed 125 percent of the public utility's non-binding good faith estimate for such study. If the deposit exceeds the invoiced fees, the public utility shall refund such excess within 30 calendar days of the invoice without interest.

(f) System Impact Study. Any required system impact study (or studies) must be conducted in accordance with good utility practice and shall be completed as follows:

(i) The system impact study shall:

(A) provide details on the impacts to the electric distribution system that[~~which~~] would result if the generating facility were interconnected without modifications to either the generating facility or to the electric distribution system;

(B) identify any modifications to the public utility's electric distribution system necessary to accommodate the proposed interconnection;

(D) focus on power flows and utility protective devices, including control requirements; and

(E) include the following elements, as applicable:

(I) a load flow study;

(II) a short-circuit study;

(III) a circuit protection and coordination study;

(IV) the impact on the operation of the electric distribution system;

(V) a stability study, along with the conditions that would justify including this element in the impact study;

(VI) a voltage collapse study, along with the conditions that would justify including this element in the impact study; and

(VII) additional elements, if justified by the public utility and approved in writing by the public utility and the interconnection customer prior to the impact study.

(ii) In order to remain in consideration for interconnection, an interconnection customer who has requested a system impact study, either as part of or independent of a scoping meeting or feasibility study, must return the executed impact study agreement(s) within 30 business days of receipt of the agreement. A deposit of the good faith estimated costs for each system impact study may be required from the interconnection customer.

(iii) After the applicant executes the system impact study agreement and pays any required deposit, the public utility shall complete the impact study and distribute the results to the interconnection customer within 30 business days or 45 business days for transmission impact studies, notifying the interconnection customer either:

(A) Only minor modifications to the public utility's electric distribution and/or transmission system are necessary to accommodate interconnection. In such a case, the public utility must:

(I) provide to the interconnection customer at the same time the detail of the scope of the necessary modifications, a non-binding, good faith estimate of their cost, and an executable interconnection agreement; and

(II) approve the interconnection request upon receipt from the interconnection customer the executed interconnection agreement.

(B) Modifications to the public utility's electric distribution system and/or transmission system are necessary to accommodate the proposed interconnection in which case the public utility must provide at the same time either:

(I) a non-binding, good faith estimate of the cost of the modifications, if known, and

(II) a standard form facilities study agreement including an outline of the scope of the study and a non-binding good faith estimate of the cost to perform the facilities study.

(iv) If the proposed interconnection may affect electric transmission or delivery systems other than those controlled by the public utility, operators of those other systems may require additional studies to determine the potential impact of the interconnection on those systems. If such additional studies are required, the public utility must coordinate the studies but will not be responsible for their timing. The applicant shall be responsible for the costs of any such additional studies required by another affected system. Such studies will be conducted only after the applicant has provided written authorization.

(v) Any study fees will be invoiced to the interconnection customer after the system impact study is completed and delivered and will include a summary of professional time. The interconnection customer must pay any study costs that exceed the deposit without interest within 30 calendar days of receipt of the invoice or resolution of any dispute but such payment responsibility shall be limited to and not exceed 125 percent of the public utility's non-binding good faith estimate for such study. If the deposit exceeds the invoiced fees, the public utility shall refund such excess within 30 calendar days of the invoice without interest.

(g) Facilities Study. The results of the facilities study shall specify a non-binding good faith cost estimate of the equipment, engineering, procurement and construction work (including overheads) needed to implement the conclusion of the system impact study (or studies) in order for the interconnection customer to safely interconnect the generating facility with the public utility's electric distribution system and the time required to build and install those facilities. The following provisions apply to the facilities study:

(i) A public utility may require a deposit of the good faith estimated costs for the facilities study.

(ii) In order to remain under consideration for interconnection, the interconnection customer must return the executed facilities study agreement and any required deposit, or request an extension of time, within 30 business days.

(iii) Design for any required interconnection facilities and/or upgrades shall be performed under the facilities study agreement. The public utility may contract with consultants to perform activities required under the facilities study agreement. The interconnection customer and the public utility may agree to allow the interconnection customer to separately arrange for the design of some of the interconnection facilities. In such cases, facilities design will be reviewed and/or modified prior to acceptance by the public utility under the provisions of the facilities study agreement. If the parties agree to separately arrange for design and construction, and provided security and confidentiality requirements can be met, the public utility shall make sufficient information available to the interconnection customer in accordance with confidentiality and critical infrastructure requirements to permit the interconnection customer to obtain an independent design and cost estimate for any necessary facilities.

(iv) In cases where upgrades are required, the facilities study must be completed and the facilities study report transmitted to the interconnection customer's within 45 business days of the public utilities receipt of the facilities study agreement from the interconnection customer. In cases where no upgrades are necessary, and the required facilities are limited to interconnection facilities, the facilities study must be completed and the facilities study report transmitted to the interconnection customer in 30 business days of the public utilities receipt of the facilities study agreement from the interconnection customer. The report and any ensuing interconnection agreement must list the conditions and facilities necessary for the generating facility to safely interconnect with the public utility's electric distribution system, and must include a non-binding, good faith estimate of the cost of those facilities and the estimated time required to build and install those facilities.

(v) Upon completion of the facilities study and receipt of agreement of the interconnection customer to pay for interconnection facilities and upgrades identified in the facilities study, the public utility shall approve the interconnection request.

(vi) Any study fees will be invoiced to the interconnection customer after the facilities study is completed and delivered and will include a summary of professional time. The interconnection customer must pay any study costs that exceed the deposit without interest within 30 calendar days of receipt of the invoice or resolution of any dispute but such payment responsibility shall be limited to and not exceed 125 percent of the public utility's non-binding good faith estimate for such study. If the deposit exceeds the invoiced fees, the public utility shall refund such excess within 30 calendar days of the invoice without interest.

(h) Either prior to, along with or within five business days after notifying the interconnection customer that the interconnection request has been approved, a public utility must provide the procedures, requirements, and associated forms, for final authorization of the interconnection, as determined applicable by the public utility. These procedures and requirements may include:

(i) completion of any required inspection of the generating facility by the building code official with jurisdiction over the generating facility and transmittal to the public utility of appropriate documentation;

(ii) transmittal to the public utility of any required notice of completion, notice of start-up, and/or interconnection agreement.

(iii) installation of any required meter modification by the public utility;

(iv) completion of any required inspection of the generating facility prior to operation by the public utility; and/or

(v) the requirement that the applicant may not begin parallel operations of the generating facility until receipt of a final approval or authorization of interconnection.

(i) The customer and the public utility may mutually agree to terms that[~~which~~] vary from the standard form interconnection agreement, but such non-standard agreement shall be subject to commission approval.

(3) An interconnection customer must notify the public utility of the anticipated testing and inspection date of the generating facility at least ten business days prior to testing, either through the submittal of the interconnection agreement, a notice of completion, or in a separate notice.

(4) Within 10 business days of receipt of all required documentation (e.g., executed interconnection agreement, notice of completion, and/or documentation of satisfactory completion of inspections by non-company personnel), the public utility must, if it has not already done so, conduct any company-required inspection or witness test, set the new meter, if required, approve the interconnection, and provide written notification to the interconnection customer of the final interconnection authorization/approval and that the generating facility is authorized/approved for parallel operation. If the public utility does not conduct the witness test within 10 business days or by mutual agreement of the parties, the witness test is deemed waived.

(5) Witness Test Not Acceptable: If the witness test is conducted and is not acceptable to the public utility, the interconnection customer must be granted a period of 60 business days to resolve any deficiencies. The parties may mutually agree to extend the time period for resolving any deficiencies. If the interconnection customer fails to address and resolve the deficiencies to the satisfaction of the public utility within the agreed upon time period, the interconnection request is deemed withdrawn.

R746-312-11. Interconnection Metering.

(1) Metering: For generating facilities not subject to the provisions of Section 54-15, the interconnection customer shall be responsible for the cost of the purchase and installation of any special metering and data acquisition equipment deemed necessary by the terms of the interconnection agreement unless the public utility determines otherwise. The public utility must install, maintain and operate the metering equipment. The parties must mutually grant unrestricted access to such equipment as may be necessary for the purposes of conducting routine business.

(2) For generating facilities subject to the provisions of Section 54-15, metering equipment and costs for such metering equipment shall be determined as specified in Section 54-15-103. The public utility must install, maintain and operate the metering equipment. The parties must mutually grant unrestricted access to such equipment as may be necessary for the purposes of conducting routine business.

R746-312-12. Interconnection Monitoring.

(1) Generating facilities approved and interconnected to the public utility under the Level 1 and Level 2 interconnection review processes, and generating facilities with nameplate capacities of 3 megawatts or less approved under the Level 3 interconnection review process, except as noted herein, are not required to provide for remote monitoring of the electric output by the public utilities.

(2) Generating facilities approved under Level 3 Interconnection Applications with Electric Nameplate Capacities greater than 5 MW or Level 3 Interconnection Applications where the aggregated generation on the circuit, including the interconnection customers generating facility, would exceed 50 percent of the line section annual peak load may be required to provide remote monitoring at the public utility's discretion if the public utility has required such monitoring of its own facilities.

(3) If a public utility determines monitoring data provided by telemetry is necessary for safe, reliable and efficient operations of a proposed generating facility with an electric nameplate capacity of greater than 3 megawatts to 5 megawatts, the public utility may petition the commission on a case by case basis to impose monitoring and telemetry requirements such facilities. Any such petition must be accompanied by evidence supporting telemetry needs and requirements.

(4) For generating facilities required to provide remote monitoring pursuant to Subsections R746-312-12(2) and (3), the data acquisition and transmission to a point where it can be used by the public utility's control system operations must meet the performance based standards as follows:

(a) Any data acquisition and telemetry equipment required by this rule must be installed, operated and maintained at the interconnection customer's expense.

(b) Telemetry requirements:

(i) parties may mutually agree to waive or modify any of the telemetry requirements contained herein.

(ii) the communication must take place via a Private Network Link using a Frame Relay or Fractional T-1 line or other such suitable device. Dedicated Remote Terminal Units, from the generating facility to the public utility's substation and Energy Management System are not required.

(iii) a single communication circuit from the generating facility to the public utility is sufficient.

(iv) communications protocol must be DNP 3.0 or other standard used by the public utility.

(v) the generating facility must be capable of sending telemetric monitoring data to the public utility at a minimum rate of every 2 seconds (from the output of the generating facility's telemetry equipment to the public utility's energy management system).

(vi) the minimum data points that a generator facility is required to provide telemetric monitoring to the public utility are:

(A) net real power flowing out or into the generating facility (analog);

(B) net reactive power flowing out or into the generating facility (analog);

(C) bus bar voltage at the point of common coupling (analog);

(D) data processing gateway (DPG) heartbeat (used to certify the telemetric signal quality); and

(E) on-line or off-line status (digital).

(vii) If an interconnection customer operates the equipment associated with the high voltage switchyard interconnecting the generating facility to the public utility's distribution system, and is required by to provide monitoring and telemetry, the interconnection customer must provide the following monitoring to the public utility in addition to provisions in Subsection R746-312-12(4)(b)(vi):

(A) switchyard line and transformer MW and MVAR values;

(B) switchyard bus voltage; and

(C) switching devices status

R746-312-13. Interconnection Fees and Charges.

(1) For Level 1 interconnection review:

(a) A public utility whose rates are determined by the commission may not charge an application, or other fee, to an applicant that requests Level 1 interconnection review. However, if an application for Level 1 interconnection review is denied because it does not meet the requirements for Level 1 interconnection review, and the applicant resubmits the application under the Level 2 or Level 3 review procedure, the public utility may impose a fee for the resubmitted application, consistent with this section.

(b) All other public utilities may determine reasonable fees or charges for interconnection, however for those interconnections that[~~which~~] fall under the provisions of Section 54-15, the fees must be determined in accordance with Section 54-15-105.

(2) For a Level 2 interconnection review:

(a) A public utility whose rates are determined by the commission may charge fees of up to $50.00 plus $1.00 per kilowatt of the generating facility's capacity to cover the costs of the interconnection request review, plus the reasonable cost of any required minor modifications to the electric distribution system or additional reviews. Costs for such minor modifications or additional review will be based on the public utility's non-binding, good faith estimates and the ultimate actual installed costs. Costs for engineering work done as part of any additional review or studies shall not exceed $100.00 per hour. A public utility may adjust the $100.00 hourly rate once each year to account for inflation and deflation.

(3) For a Level 3 interconnection review:

(a) A public utility whose rates are determined by the commission may charge fees of up to $100.00 plus $2.00 per kilowatt of the generating facility's capacity, as well as charges for actual time spent on any required impact or facilities studies. Costs for engineering work done as part of a feasibility, impact, or facilities study shall not exceed $100.00 per hour. A public utility may adjust the $100.00 hourly rate once each year to account for inflation and deflation as measured by the 12 months unadjusted Consumer Price Index for all items calculated for December of the previous year. If the public utility must install facilities in order to accommodate the interconnection of the generating facility, the cost of such facilities shall be the responsibility of the applicant.

R746-312-14. Requirements After Interconnection Approval.

(1) A public utility may not require an applicant whose facility meets the criteria for interconnection approval under the Level 1 or Level 2 interconnection review procedures to perform or pay for additional tests, except if agreed to by the applicant. In addition, a public utility may not require an interconnection customer whose net metering generating facility is in compliance with Section 54-15-106 to perform or pay for additional tests.

(2) A public utility may not charge any fee or other charge for connecting to the public utility's distribution system or for operation and maintenance of a generating facility for the purposes of generating electricity, except for the fees provided for under this interconnection rule and approved standard form agreements or determined by the governing authority.

(3) Once an interconnection has been approved under this interconnection rule, the public utility may not require an interconnection customer to test or perform maintenance on its facility except for the following and subject to the provision of Section 54-15-106:

(a) any manufacturer-required testing or maintenance;

(b) any post-installation testing necessary to ensure compliance with IEEE standards or to ensure safety;

(c) the interconnection customer replaces a major equipment component that is different from the originally installed model; and/or

(d) an annual test to be performed at the discretion of and paid for by the public utility in which the generating facility is disconnected from the public utility's equipment to ensure the inverter stops delivering power to the grid.

(4) When an approved generating facility undergoes maintenance or testing in accordance with the requirements of this interconnection rule, the interconnection customer must retain written records for three years documenting the maintenance and the results of testing.

(5) A public utility has the right to inspect an interconnection customer's facility after interconnection approval is granted, at reasonable hours and with reasonable prior notice to the interconnection customer. If the public utility discovers that the generating facility is not in compliance with the requirements of this interconnection rule or executed agreements, the public utility may require the interconnection customer to disconnect the generating facility until compliance is achieved.

(6) Subsequent to becoming interconnected to a public utility the interconnection customer must notify the public utility of all proposed modifications to the generating facility or equipment package pursuant to Subsection R746-312-4(6).

R746-312-15. Aggregation of Meters for Net Metering Interconnection.

(1) For the purpose of measuring electricity usage under the net metering program, a public utility must, upon request from an interconnection customer, aggregate for billing purposes a meter to which the net metering facility is physically attached ([“]the designated meter[”]) with one or more meters ([“]the additional meter[”]) in the manner set out in this section. This rule is applicable only when:

(a) the additional meter is located on or adjacent to the premises of the electrical corporation's customer, subject to the electrical corporation's service requirements;

(b) the additional meter is used to measure only electricity used for the interconnection customer's requirements;

(c) the designated meter and the additional meter are subject to the same rate schedule; and

(d) the designated meter and the additional meter are served by the same primary feeder.

(2) An interconnection customer must give at least 30 business days notice to the utility to request that additional meters be included in meter aggregation. The specific meters must be identified at the time of such request. In the event that more than one additional meter is identified, the interconnection customer must designate the ranking order for the additional meters to which net metering credits, as defined in Subsection 54-15-104(3) and approved by the governing authority, are to be applied.

(3) The aggregation of meters will apply only to charges that use kilowatt-hours as the billing determinant. All other charges

applicable to each meter account shall be billed to the interconnection customer.

(4) If in a monthly billing period the net metering facility supplies more electricity to the public utility than the energy usage recorded by the interconnection customer's designated meter, the utility will apply credits, as defined in Subsection 54-15-104(3) and approved by the governing authority, to the next monthly bill for the excess kilowatt-hours first to the designated meter, then to additional meters that are on the same rate schedule as the designated meter.

(5) If an additional meter changes service to a rate schedule that is different than the designated meter, the additional meter is not eligible for net metering credits, as defined in Subsection 54-15-104(3) and approved by the governing authority, for the remainder of the billing year and until such time as the additional meter receives service on the same rate schedule as the designated meter.

(6) If the designated meter changes service to a different rate schedule, aggregation of net metering credits is not allowed for the remainder of the billing year and may not occur until such time as the additional meters receive service on the same rate schedule as the designated meter.

(7) With the governing authority's prior approval pursuant to Section 54-15-105, a public utility may charge the interconnection customer requesting to aggregate meters a reasonable fee to cover the administrative costs of this provision.

R746-312-16. Public Utility Maps, Records and Reports.

(1) Each public utility shall maintain current records of interconnection customer generating facilities showing size, location, generator type, and date of interconnection authorization.

(2) By July 1 of each year, the public utility shall submit to the commission an annual report with the following summary information for the previous calendar year:

(a) the total number of generating facilities approved and their associated attributes including resource type, generating capacity, and zip code of generating facility location,

(b) the total rated generating capacity of generating facilities by resource type.[~~,~~]

(c) for net metering interconnections, the total net excess generation kilowatt-hours received from interconnection customers by month.[~~,~~]

(d) for net metering interconnections, the total amount of excess generation credits in kilowatt hours, and their associated dollar value[~~,~~] that[~~which~~] have expired at the end of each annualized billing period.

R746-312-17. Interconnection-related Agreements.

(1) Contents of Standard Interconnection Agreement. All standard form interconnection agreements shall, at a minimum, contain the following:

(a) a requirement that the generating facility must be inspected by a local building code official prior to its operation in parallel with the public utility to ensure compliance with applicable local codes.

(b) provisions that permit the public utility to inspect interconnection customer's generating facility and its component equipment, and the documents necessary to ensure compliance with this rule. The customer shall notify the public utility as required by this rule prior to initially placing customer equipment and protective apparatus in service, and the public utility shall have the right to have personnel present on the in-service date. If the generating system is subsequently modified in order to increase its gross power rating, the customer must notify the public utility by submitting a new application specifying the modifications in accordance with the level of review required for the application.

(c) a provision that the customer is responsible for protecting the generating equipment, inverters, protective devices, and other system components from damage from the normal and abnormal conditions and operations that occur on the public utility system in delivering and restoring power; and is responsible for ensuring that the generating facility equipment is inspected, maintained, and tested in accordance with the manufacturer's instructions to ensure that it is operating correctly and safely.

(d) a provision that the customer shall hold harmless and indemnify the public utility for all loss to third parties resulting from the operation of the generating facility, except when the loss occurs due to the negligent actions of the public utility and a provision that the public utility shall hold harmless and indemnify the customer for all loss to third parties resulting from the operation of the public utility's system, except when the loss occurs due to the negligent actions of the customer.

(e) Insurance:

(i) If an interconnection customer whose generating facility is no greater than two megawatts in size complies with the provisions of the interconnection request approval, interconnection agreement, and standards identified in Section 54-15-106, a public utility may not require that interconnection customer to purchase additional liability insurance.

(ii) all other interconnection customers are required to obtain prudent amounts of general liability insurance in an amount sufficient to protect other parties from any loss, cost, claim, injury, liability, or expense, including reasonable attorney[~~'s~~] fees, relating to or arising from any act or omission in its performance of the provisions of the this rule or the interconnection agreement. Neither party may seek redress from the other party in an amount greater than the amount of direct damage actually incurred. An interconnection customer of sufficient credit-worthiness may propose to self-insure for such liabilities and such proposal shall not be unreasonably rejected.

(f) identification of any fees or charges approved pursuant to this rule or applicable law.

KEY: interconnection, generating equipment, renewable energy facilities, public utilities
Date of Enactment or Last Substantive Amendment: [~~April 30, 2010~~]2016
Notice of Continuation: April 29, 2015
Authorizing, and Implemented or Interpreted Law: 54-4-7; 54-4-14; 54-12-2; 54-15-106

Regents (Board of), Administration
R765-606
Utah Leveraging Educational Assistance Partnership Program

NOTICE OF PROPOSED RULE

(Repeal)
DAR FILE NO.: 40915
FILED: 10/26/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Leveraging Educational Assistance Partnership (LEAP) Program was a federally-funded program administered at the state level. This program is no longer funded, and has not been funded for the past six years. Since the program has ceased be be used because of the curtailment of federal funds, the existence for this rule is no longer needed.

SUMMARY OF THE RULE OR CHANGE: Rule R765-606 is the rule covering the Utah LEAP Program. It incorporates by reference federal statutes and regulations governing this program which awards grants to eligible students attending public or private non-profit institutions of higher education or public postsecondary vocational institutions. It becomes necessary to repeal this rule in its entirety because the program is no longer funded.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 20 U.S.C. Ch. 28, Subchapter IV, Part F and 34 CFR Parts 600, 668, and 692 and Section 53B-7-103

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Utah LEAP Program has not been funded for the past six years; therefore, eliminating this rule will not create a cost or savings for the state budget.
♦ LOCAL GOVERNMENTS: The Utah LEAP Program has not been funded for the past six years; therefore, eliminating this rule will not create a cost or savings for local governments.
♦ SMALL BUSINESSES: The Utah LEAP Program has not been funded for the past six years; therefore, eliminating this rule will not create a cost or savings for small businesses. This program never affected any type of businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Since this rule pertains to a federal program that has not been funded for the past six years, there will be no cost or savings to any individual upon the elimination of this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Utah LEAP Program has not been funded for the past six years; therefore, eliminating this rule will not create a compliance cost for affected persons since there are no affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no fiscal impacts on any kind of business by the program for which this rule is associated nor the repeal of this rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
REGENTS (BOARD OF)
ADMINISTRATION
BOARD OF REGENTS BUILDING, THE GATEWAY
60 SOUTH 400 WEST
SALT LAKE CITY, UT 84101-1284
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Ronell Crossley by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu, or mail at PO BOX 45202, Salt Lake City, UT 84145-0202.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2016

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2017

AUTHORIZED BY: Dave Buhler, Commissioner of Higher Education

R765. Regents (Board of), Administration.
[~~R765-606. Utah Leveraging Educational Assistance Partnership Program.~~
~~R765-606-1. Purpose.~~
~~To provide for the Leveraging Educational Assistance Partnership Program and incorporate by reference Federal statutes and regulations governing this program which awards grants to eligible students attending public or private non-profit institutions of higher education or public postsecondary vocational institutions.~~

~~R765-606-2. References.~~
~~2.1. Utah Code Section 53B-7-103 (Board Designated State Educational Agent for Federal Contracts and Aid).~~
~~2.2. Higher Education Act of 1965, as amended (i.e. U.S. Code Title 20, Chapter 28, Subchapter IV, Part F).~~
~~2.3. 34 CFR Parts 600, 668 and 692.~~
~~2.4. Education Department General Administration Regulations (EDGAR).~~

~~R765-606-3. Definitions.~~
~~3.1. "Academic Year" - A period as determined by the educational institution in accordance with U.S. Code Title 20, Chapter 28, Subchapter IV, Part F, Section 1088 to :~~
~~3.1.1. require a minimum of 30 weeks of instructional time in which a full-time student is expected to complete at least:~~
~~3.1.1.1. 24 semester or 24 trimester or 36 quarter hours at an institution that measures program length in credit hours, or~~
~~3.1.1.2. 900 clock hours at an institution that measures program length in clock hours.~~
~~3.2. "Award Year" - As defined in 34 CFR Part 600.2, namely, the period of time from July 1 of one year through June 30 of the following year.~~
~~3.3. "Decentralized Program" - A program which delegates certain functions and sub-allocates LEAP funds to~~

participating institutions for approved awards to LEAP recipients which have been selected by the participating institutions.

3.4. "Full-time Student" - As defined in 34 CFR Part 692.4c, namely, a student carrying a full-time academic workload - other than by correspondence - as measured by both of the following: 1) Coursework or other required activities, as determined by the institution that the student attends or by the State. 2) Tuition and fees normally charged for full-time study by that institution.

3.5. "Full-time Equivalent Students" - A measure of annual instructional output calculated according to the following formulas:

3.5.1. For institutions that measure program length in quarter credit hours, the total number of undergraduate instructional credit hours attributed to the institution's fiscal year divided by 45, plus the total number of graduate instructional credit hours attributed to the institution's fiscal year divided by 30.

3.5.2. For institutions that measure program length in semester credit hours, the total number of undergraduate instructional credit hours attributed to the institutions fiscal year divided by 30, plus the total number of graduate instructional credit hours attributed to the institution's fiscal year divided by 20.

3.5.3. For institutions that measure program length in clock hours, the total number of instructional clock hours attributed to the institution's fiscal year divided by 792.

3.6. "Institution of Higher Education" - As defined in Section 101a of the Higher Education Act of 1965 as amended and 34 CFR Part 600.4.

3.7. "LEAP" - Leveraging Educational Assistance Partnership.

3.8. "Non-Profit" - As defined in 34 CFR Part 77.1 of EDGAR.

3.9. "Participating Institution" - A public or private non-profit institution of higher education or postsecondary vocational institution which has entered into a participation agreement with the UHEAA.

3.10. "Postsecondary Vocational Institution" - As defined in 34 CFR Part 600.6.

3.11. "SLEAP" - Special Leveraging Educational Assistance Partnership

3.12. "Substantial Financial Need" - The difference computed to equal or exceed $200 for an entire academic year between a student's cost of education (including tuition and fees; books and supplies; living expenses such as room and board, personal, miscellaneous, and transportation) and the student's sum of that student's expected family contribution and other student aid to be received.

R765-606-4. Policy.

Part I - Program Administration

4.1 State Board of Regents - The Utah State Board of Regents is the designated state agency for the LEAP program in the state of Utah. The responsibility for administration of the LEAP program has been assigned to the Utah Higher Education Assistance Authority (UHEAA). The Utah LEAP program is administered as a decentralized program.

4.2. Institutional Administration - The President of each institution shall be responsible for the administration of the LEAP program at the institutional level in compliance with Federal and state regulations. The institutional administration of the program may be delegated to the financial aid director or other appropriate institutional officers.

4.3. Fiscal Control and Fund Accounting - UHEAA shall provide fiscal control and fund accounting services for awards made under the program.

4.4. Governing Statutes and Regulations - UHEAA incorporates by reference the following Federal statutes and regulations:

4.4.1. The Higher Education Act of 1965, as amended (i.e. U.S. Code Title 20, Chapter 28, Subchapter IV, Part F);

4.4.2. Final Regulations of the U.S. Department of Education (i.e., 34 CFR Parts 600, 668, and 692); and

4.4.3. Education Department General Administration Regulations (EDGAR)

4.5. State Agency Rules - UHEAA establishes, from time to time, agency rules governing the operation of the Utah LEAP Program in accordance with Federal requirements as referenced in 4.4.1, 4.4.2 and 4.4.3.

4.6. Statutes and Regulations Available - A copy of all Federal and state rules, regulations and statutes directly affecting the Utah LEAP Program can be obtained from UHEAA at the Board of Regents Building, The Gateway, 60 South 400 West, Salt Lake City, Utah 84101-1284.

Part II - Transfer of LEAP Federal Funds

4.7. Transfer of LEAP federal Funds - UHEAA shall:

4.7.1. have a separate account number assigned from the Office of the State Director of Finance for Federal LEAP funds.

4.7.2. ensure that the custodian of Federal funds is the State Treasurer, Utah State Capitol, Salt Lake City.

4.7.3. make disbursements of Federal funds through the State Disbursing Office, Finance Department, Utah State Capitol, Salt Lake City, Utah.

4.7.4. have the receiving and approving officer for Federal funds be the Administrator of the Utah LEAP Program, a UHEAA staff member.

Part III - Allocation of all Federal and State LEAP funds

4.8. Matching of Federal LEAP funds - The state matching funds for the LEAP program are appropriated by the Utah State Legislature to the State Board of Regents for the Utah LEAP program. The Federal funds shall be matched:

4.8.1. at a program level; and

4.8.2. at a level of at least fifty percent state funds to fifty percent Federal funds; and

4.8.3. at a level not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years.

4.9. Allocation of Federal and State LEAP Funds - UHEAA shall allocate Federal and state LEAP funds by using a formula based on the number of Utah resident, full-time equivalent students enrolled at each participating institution during the most recently completed fiscal year. The allocation of funds to a participating institution shall be in the same proportion to the total funds available to all Utah institutions as the number of resident, full-time equivalent students at the participating institution is to the total number of resident, full-time equivalent students at all participating institutions.

4.10 Inability of an Institution to Use the Full Allocation - When an institution indicates the inability to use its total allocation

~~of LEAP Program funds in compliance with the guidelines during an award year, UHEAA may reallocate such excess funds to other eligible institutions within the state or provide for the Federal funds to be reallocated to other states through the U.S. Secretary of Education, as provided in the Federal regulations.~~

~~4.11. Disbursements - LEAP funds shall be disbursed by UHEAA on an as needed basis or just prior to the start of a new term. For institutions on a semester system this will be twice a year, for institutions on a quarter system this will be three times a year, for institutions operating on an open enrollment system this will be a minimum of three times a year.~~

~~4.12. Participation Agreement - The LEAP funds will be released to an institution upon receipt of a Participation Agreement signed by the President of the institution which certifies that the institution will follow all requirements of the program including the following;~~

~~4.12.1. The institution will maintain a separate account for Federal and state LEAP funds under this program.~~

~~4.12.2. LEAP funds allocated to institutions will be used only for direct financial assistance to students qualifying under the program.~~

~~4.12.3. LEAP funds allocated by UHEAA to support this program will not be transferred by the institution to other student aid programs.~~

~~4.12.4. LEAP funds not used by an institution will be returned to UHEAA within 30 days of the institution's determination that the funds will not be used and in no case later than 30 days before the end of the award year.~~

~~4.12.5. LEAP funds will not be disbursed to the student prior to the time the student completes registration.~~

~~4.12.6. The institution will maintain, on a current basis, adequate records sufficient to demonstrate that the program has been administered in accordance with the program requirements, to file a year-end report, to provide the Department of Education and UHEAA access to all records pertinent to the grant program, and provide student rosters to UHEAA upon request.~~

~~Part IV - Student Participation~~

~~4.13. President or Designee's Responsibilities - The President of each institution or the President's designee, as the institutional administrator shall:~~

~~4.13.1. accept applications for Utah LEAP program funds consistent with institutional policy as it relates to applications, and the provisions of the Act and regulations.~~

~~4.13.2. determine the student's eligibility for participation in the program on the basis of an annually documented substantial financial need, using the congressional methodology of needs analysis. If eligible applicants exceed available funding levels, awards will start with the most needy students who meet all other application requirements.~~

~~4.13.3. ensure that no student shall be excluded from participation in this program on the basis of sex, race, color, age, religion, handicap, national origin, marital status or other constitutionally or legally impermissible grounds.~~

~~4.14. Student Eligibility - To be eligible for a grant from the Utah LEAP Program, a student must:~~

~~4.14.1. be a Utah Resident as defined in the Utah code 53B-8-102.~~

~~4.14.2. be an eligible student as defined in Section 484 of the Higher Education Act of 1965, as amended, and 34 CFR Part 668.7.~~

~~Part V - LEAP Annual Limits~~

~~4.15. Maximum Annual Limit - A student may receive an LEAP award up to $2,500 for each award year for which the student is eligible for an LEAP award.~~

~~4.15.1. The maximum total grant under this program to any full-time student shall be $2,500 in any academic year.~~

~~4.15.2. Summer school awards are to be part of the student's $2,500 maximum.~~

~~4.15.3. LEAP awards shall be committed and disbursed before the end of the award year.~~

~~4.16. Estimated Cost of Attendance - In no case may the amount of the LEAP award exceed the student's estimated cost of attendance for the award period for which the grant is intended, less the sum of that student's expected family contribution and other student aid to be received.~~

~~4.17. Less than Full-time Students - At the discretion of the Financial Aid Officer, grant funds may be awarded to less than full-time students. Aid awarded to less than full-time students shall not exceed that proportion of $2,500 which the less than full-time student's academic work load bears to a full academic work load.~~

~~Part VI - Record Retention and Reporting~~

~~4.18. Record Retention and Reporting - The President of each institution or the President's designee, as the institutional administrator shall:~~

~~4.18.1. maintain adequate records to show the utilization of the LEAP program.~~

~~4.18.2. submit such reports and information as may be required by the U.S. Department of Education, UHEAA, or the Utah State Board of Regents in connection with the administration of the program.~~

~~4.19. Records to be Maintained - In accordance with 34 CFR Part 692.21, UHEAA requires a participating institution to retain complete and accurate records of each LEAP awarded, including the following:~~

~~4.19.1. The Federal student aid application;~~

~~4.19.2. A record of each disbursement of grant proceeds; and~~

~~4.19.3. Any additional records that are necessary to document the accuracy of reports submitted to UHEAA, the Utah State Board of Regents, or the U.S. Department of Education.~~

~~4.20. Records Retention - An institution shall retain the records required for each LEAP award for at least five years after the award is disbursed. The U.S. Secretary of Education, or the Administrator of the Utah LEAP program, may, in particular cases, require the retention of records beyond the three-year minimum period.~~

~~4.21. Records Organization - The records must be organized in such a way as to permit ready identification of the current status of each grant. The records specified in subsections 4.19.1 through 4.19.3 of this policy may be stored on microfilm or computer format.~~

~~4.22. Records Retention Violations - In the event the institution violates the record retention policy as outlined above, the~~

~~administrator of the Utah LEAP program, may take such corrective action as is deemed necessary.~~

~~Part VII - SLEAP Program~~

~~4.23. Special Leveraging Educational Assistance Partnership (SLEAP) Program - SLEAP assists States in providing grants, scholarships, and community service work-study assistance to eligible students who attend institutions of higher education and demonstrate financial need.~~

~~4.24. Related Regulations and Definitions - The LEAP regulations and definitions listed above also apply to the SLEAP Program.~~

~~4.25. Program Requirements for the State - To receive SLEAP Program funds for any fiscal year, Utah must:~~

~~4.25.1. Participate in the LEAP Program;~~

~~4.25.2. Meet the requirements in 34 CFR Part 692.60; and~~

~~4.25.3. Have a program that satisfies the requirements in 34 CFR Part 692.21(a), (b), (d), (e), (f), (g), (j), and (k).~~

~~4.26. Student Eligibility Requirements - To receive assistance under the SLEAP Program, a student must meet the eligibility requirements of the LEAP Program above.~~

~~4.27. Requirements to Receive a SLEAP Allotment - To receive an allotment under the SLEAP Program, UHEAA will:~~

~~4.27.1. Submit an application in accordance with the provisions in 34 CFR Part 692.20;~~

~~4.27.2. Identify the activities in 4.28 for which it plans to use the SLEAP Federal and non-Federal funds;~~

~~4.27.3. Ensure that the non-Federal funds used as matching funds represent dollars that are in excess of the total dollars that the State of Utah spent for need-based grants, scholarships, and work-study assistance for fiscal year 1999, including the State funds reported as part of its LEAP Program;~~

~~4.27.4. Provide an assurance that for the fiscal year prior to the fiscal year for which Utah is requesting Federal funds, the amount the State expended from non-Federal sources per student, or the aggregate amount the State expended, for all the authorized activities in 34 CFR Part 692.71 will be no less than the amount the State expended from non-Federal sources per student, or in the aggregate, for those activities for the second fiscal year prior to the fiscal year for which the State is requesting Federal funds; and~~

~~4.27.5. Ensure that the Federal share will not exceed one-third of the total funds expended under the SLEAP Program.~~

~~4.28. Permitted Activities - Utah may use the funds it receives under the SLEAP Program for one or more of the following activities:~~

~~4.28.1. Supplement LEAP grant awards to eligible students who demonstrate financial need by:~~

~~(a) Increasing the LEAP grant award amounts for students; or~~

~~(b) Increasing the number of students receiving LEAP grant awards.~~

~~4.28.2. Supplement LEAP community service work-study awards to eligible students who demonstrate financial need by:~~

~~(a) Increasing the LEAP community service work-study award amounts for students; or~~

~~(b) Increasing the number of students receiving LEAP community service work-study awards.~~

~~4.28.3. Award scholarships to eligible students who demonstrate financial need and who:~~

~~(a) Demonstrate merit or academic achievement; or~~

~~(b) Wish to enter a program of study leading to a career in:~~

~~(i) Information technology;~~

~~(ii) Mathematics, computer science, or engineering;~~

~~(iii) Teaching; or~~

~~(iv) Other fields determined by Utah to be critical to the State's workforce needs.~~

~~4.29. Administrative Costs - Utah may not use any of the funds it receives under the SLEAP Program to pay any administrative costs.~~

~~4.30. Community Service Work-Study Program - When administering its community service work-study program, Utah must follow the provisions in 34 CFR Part 692.30, other than the provisions of paragraph (a)(1) of that section.~~

~~KEY: higher education assistance, LEAP, SLEAP~~
~~Date of Enactment or Last Substantive Amendment: June 30, 2003~~
~~Notice of Continuation: April 24, 2013~~
~~Authorizing, and Implemented or Interpreted Law: 53B-7-103~~]

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **Proposed Rule**; continue the rule as it is by filing a **Five-Year Notice of Review and Statement of Continuation (Review)**; or amend the rule by filing a **Proposed Rule** and by filing a **Review**. By filing a **Review**, the agency indicates that the rule is still necessary.

A **Review** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at http://www.rules.utah.gov/publicat/code.htm. The rule text may also be inspected at the agency or the Office of Administrative Rules. **Reviews** are effective upon filing.

Reviews are governed by Section 63G-3-305.

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-10
Physician Services

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 40904
FILED: 10/24/2016

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 26-18-3 requires the Department to implement Medicaid policy through administrative rules, which allow the Department to administer the Medicaid program. Additionally, Section 26-1-5 allows the Department to adopt administrative rules to provide services to Medicaid clients and reimbursement for Medicaid providers. 42 CFR 440.50 further allows the Department to provide physician services to Medicaid clients who fall within a physician's scope of practice.

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 Department did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it establishes eligibility and access requirements, implements service coverage, and directs Medicaid clients to the Department's co-payment policy for physician services.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 10/24/2016

Human Resource Management, Administration
R477-14
Substance Abuse and Drug-Free Workplace

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 40925
FILED: 10/31/2016

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: The Department of Human Resource Management (DHRM) Rule R477-14 was created in response to the mandates of Section 67-19-34, which requires DHRM to create rules regarding the testing of state employees for the use of controlled substances or alcohol, and disciplinary standards for violating those rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: DHRM has received no formal communication in support or opposition of Rule R477-14 in the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: DHRM has received no formal communication in opposition to Rule R477-14. It is the opinion of the agency that Rule R477-14 adequately meets the requirements of Section 67-19-34. Therefore, this rule should be continued.

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

HUMAN RESOURCE MANAGEMENT
ADMINISTRATION
ROOM 2120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Greg Hargis by phone at 801-891-5680, or by Internet E-mail at ghargis@utah.gov

AUTHORIZED BY: Debbie Cragun, Executive Director

EFFECTIVE: 10/31/2016

School and Institutional Trust Lands, Administration
R850-8
Adjudicative Proceedings

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40895
FILED: 10/18/2016

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 53C-1-304 requires the Board of Trustees for the School and Institutional Trust Lands Administration (SITLA) to establish due process rules for the resolution of conflicts regarding actions taken by the board, director, and the agency. This rule provides the procedures for aggrieved parties to petition for administrative or judicial review of the actions taken.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the agency concerning this rule since the previous five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There continues to be a need for a mechanism for aggrieved parties to petition for redress of agency or board actions which affect an interest held by the parties. This rule provides for a reasonable and effective way for the board to address challenges to agency and board actions. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION
ROOM 500
675 E 500 S
SALT LAKE CITY, UT 84102-2818
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ John Andrews by phone at 801-538-5180, by FAX at 801-538-5118, or by Internet E-mail at jandrews@utah.gov

AUTHORIZED BY: David Ure, Director

EFFECTIVE: 10/18/2016

Transportation, Program Development
R926-5
State Park Access Highways Improvement Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 40913
FILED: 10/25/2016

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 72-3-207 requires the department to make rules necessary to administer the State Park Access Highways Improvement Program within the department and to establish the procedures for a county or municipality to apply for a grant of program money. This rule satisfies that requirement.

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 Department has not received any written comments during and since the last five-year review of the rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section 72-3-207 is still effective law. This rule is still needed for the Department to maintain in conformance with the requirements of that statute. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TRANSPORTATION
PROGRAM DEVELOPMENT
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cwnewman@utah.gov
♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
♦ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov
♦ Michelle Jeronimo by phone at 801-965-3883, or by Internet E-mail at mjeronimo@utah.gov

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 10/25/2016

Transportation, Preconstruction
R930-3
Highway Noise Abatement

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 40914
FILED: 10/25/2016

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: This rule is authorized by Section 72-6-111 and is consistent with the Federal Highway Administration's Procedures for Abatement of Highway Traffic Noise and Construction Noise.

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 Department has not received any written comments during and since the last five-year review of the rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: 23 CFR 772 requires all state Departments of Transportation to adhere to the requirements included in the regulation. This rule is still needed because it incorporates 23 CFR 772 by reference. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TRANSPORTATION
PRECONSTRUCTION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cwnewman@utah.gov
♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
♦ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov♦ Michelle Jeronimo by phone at 801-965-3883, or by Internet E-mail at mjeronimo@utah.gov

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 10/25/2016

Transportation, Preconstruction, Right-of-way Acquisition
R933-1
Right of Way Acquisition

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 40906
FILED: 10/25/2016

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: This rule provides the department's procedures for right of way acquisition and the purchase, sale, and exchange of real property. This rule is required by Section 72-5-117 and is enacted under the authority of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule continuation is essential to ensure the department is adequately disclosing basic requirements relating to non-federally-funded real property transactions, while appropriately incorporating sections of 49 CFR 24 as necessary by law.

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

TRANSPORTATION
PRECONSTRUCTION,
RIGHT-OF-WAY ACQUISITION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cwnewman@utah.gov
♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
♦ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov
♦ Michelle Jeronimo by phone at 801-965-3883, or by Internet E-mail at mjeronimo@utah.gov

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 10/25/2016

Transportation Commission, Administration
R940-7
Marda Dillree Corridor Preservation Fund

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 40910
FILED: 10/25/2016

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: Subsections 72-2-117(6)(f) and 72-2-117(9)(a) authorize the Utah Transportation Commission to establish this rule.

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 Department has not received any written comments during and since the last five-year review of the rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is to establish procedures for the Utah Department of Transportation to apply for money from the fund, for the Utah Transportation Commission to award money from the fund, and for the repayment conditions. The Department still needs to draw money from the fund on occasion. Therefore, this rule should be continued.

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

TRANSPORTATION COMMISSION
ADMINISTRATION

CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cwnewman@utah.gov
♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
♦ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov
♦ Michelle Jeronimo by phone at 801-965-3883, or by Internet E-mail at mjeronimo@utah.gov

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 10/25/2016

End of the Five-Year Notices of Review and Statements of Continuation Section

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 (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **Notice of Five-Year Review Extension** (**Extension**) with the Office 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.

Extensions are governed by Subsection 63G-3-305(6).

Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health
R388-803
HIV Test Reporting

FIVE-YEAR REVIEW EXTENSION
DAR FILE NO.: 40894
FILED: 10/17/2016

EXTENSION REASON AND NEW DEADLINE: All elements of Rule R388-803, HIV Test Reporting, are being incorporated into Rule R386-702, Communicable Disease Rule, in order to integrate and centralize all communicable disease reporting rules. Incorporating all requirements of Rule R388-803 into Rule R386-702 ensures HIV is integrated with all other communicable and infectious disease control efforts and allows reporting agencies a centralized location to review and follow reporting, surveillance, isolation, treatment and epidemiological investigation requirements. An extension will allow the Bureau of Epidemiology to ensure all elements of Rule R388-803 are incorporated into Rule R386-702. New deadline: 02/18/2017.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Amelia Self by phone at 801-538-6221, by FAX at 801-538-9913, or by Internet E-mail at aself@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 10/17/2016

End of the Notices of Five-Year Review Extensions Section

NOTICES OF
RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **Proposed Rules** or **Changes in Proposed Rules** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **Changes in Proposed Rules** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **Notice of Effective Date** within 120 days from the publication of a **Proposed Rule** or a related **Change in Proposed Rule** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

Notices of Effective Date are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations
AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal & Reenact
REP = Repeal

Crime Victim Reparations
Administration
No. 40687 (AMD): R270-1. Award and Reparation Standards
Published: 09/15/2016
Effective: 10/24/2016

No. 40688 (AMD): R270-2. Crime Victim Reparations Adjudicative Proceedings
Published: 09/15/2016
Effective: 10/24/2016

No. 40689 (REP): R270-3. ADA Complaint Procedure
Published: 09/15/2016
Effective: 10/24/2016

Health
Disease Control and Prevention, Environmental Services
No. 40662 (AMD): R392-400. Temporary Mass Gatherings Sanitation
Published: 09/01/2016
Effective: 11/01/2016

Human Services
Services for People with Disabilities
No. 40648 (AMD): R539-1. Eligibility
Published: 09/01/2016
Effective: 10/25/2016

Natural Resources
Oil, Gas and Mining; Oil and Gas
No. 40716 (AMD): R649-3-32. Reporting of Undesirable Events
Published: 09/15/2016
Effective: 11/01/2016

Navajo Trust Fund
Trustees
No. 40607 (AMD): R661-7. Utah Navajo Trust Fund Housing Projects Policy
Published: 08/01/2016
Effective: 10/24/2016

Pardons (Board Of)
Administration
No. 40708 (AMD): R671-201. Original Hearing Schedule and Notice
Published: 09/15/2016
Effective: 10/31/2016

No. 40618 (AMD): R671-204. Hearing Continuances
Published: 08/15/2016
Effective: 10/31/2016

No. 40617 (AMD): R671-302-1. Open Hearings
Published: 08/15/2016
Effective: 10/31/2016

No. 40619 (AMD): R671-308. Offender Hearing Assistance
Published: 08/15/2016
Effective: 10/31/2016

No. 40620 (AMD): R671-510. Evidence for Issuance of Warrants
Published: 08/15/2016
Effective: 10/31/2016

Public Service Commission
Administration
No. 40704 (AMD): R746-310. Uniform Rules Governing Electricity Service by Electric Utilities
Published: 09/15/2016
Effective: 10/24/2016

No. 40685 (AMD): R746-343-16. New Technology Equipment Distribution Program (NTEDP)
Published: 09/15/2016
Effective: 10/24/2016

No. 40723 (AMD): R746-360-6. Eligibility for Fund Distributions
Published: 09/15/2016
Effective: 10/24/2016

Transportation
Operations, Construction
No. 40683 (NEW): R916-7. Appeals to UDOT Decisions on, and Requesting Compliance with Nighttime Noise Permits
Published: 09/15/2016
Effective: 10/24/2016

Operations, Maintenance
No. 40729 (NEW): R918-5. Construction or Improvement of Highway
Published: 09/15/2016
Effective: 10/24/2016

Preconstruction
No. 40724 (AMD): R930-7. Utility Accommodation
Published: 09/15/2016
Effective: 10/24/2016

End of the Notices of Rule Effective Dates Section

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, 2016 through November 01, 2016. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules 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).

Questions regarding the index and the information it contains should be addressed to the Office of Administrative Rules (801-538-3003).

A copy of the **Rules Index** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (http://www.rules.utah.gov/).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)
CPR = Change in Proposed Rule
EMR = 120-Day (Emergency) Rule
EXD = Expired Rule
EXP = Expedited Rule
EXT = Five-Year Review Extension
GEX = Governor's Extension
LNR = Legislative Nonreauthorization
NEW = New Rule (Proposed Rule)
NSC = Nonsubstantive Rule Change
R&R = Repeal and Reenact (Proposed Rule)
REP = Repeal (Proposed Rule)
5YR = Five-Year Notice of Review and Statement of Continuation

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
Facilities Construction and Management					
R23-19	Facility Use Rules	40226	NSC	03/11/2016	Not Printed
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	40044	NSC	01/15/2016	Not Printed
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	40440	EMR	05/23/2016	2016-12/51
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	40441	AMD	07/22/2016	2016-12/6
R23-25	Administrative Rules Adjudicative Proceedings	40480	5YR	06/09/2016	2016-13/159
R23-31	Executive Residence Commission	40481	5YR	06/09/2016	2016-13/159
Finance					
R25-2	Finance Adjudicative Proceedings	40805	5YR	09/20/2016	2016-20/91
R25-7	Travel-Related Reimbursements for State Employees	40548	EMR	07/01/2016	2016-14/161
R25-7	Travel-Related Reimbursements for State Employees	40547	AMD	08/22/2016	2016-14/6
R25-7-10	Reimbursement for Transportation	40042	AMD	02/23/2016	2016-2/4
R25-15	Change Date and Set Aside Provisions for Annual Leave II	39943	NEW	01/13/2016	2015-23/6
Fleet Operations					
R27-4	Vehicle Replacement and Expansion of State Fleet	40824	5YR	09/23/2016	2016-20/91
R27-5	Fleet Tracking	40823	5YR	09/23/2016	2016-20/92
R27-6	Fuel Dispensing Program	40825	5YR	09/23/2016	2016-20/92
R27-8	State Vehicle Maintenance Program	40826	5YR	09/23/2016	2016-20/93
R27-9	Dispensing Compressed Natural Gas to the Public	40827	5YR	09/23/2016	2016-20/93
R27-10	Identification Mark for State Motor Vehicles	40828	5YR	09/23/2016	2016-20/94
Purchasing and General Services					
R33-1	Utah Procurement Rules, "General Procurement Provisions," Definitions	40559	AMD	08/22/2016	2016-14/11
R33-4	General Procurement Provisions, Prequalifications, Specifications, and Small Purchases	40560	AMD	08/22/2016	2016-14/15
R33-5	Request for Information	40571	AMD	08/22/2016	2016-14/19
R33-6	Bidding	40561	AMD	08/22/2016	2016-14/24
R33-6-114	Technology Acquisitions for Executive Branch Procurement Units	40048	AMD	02/23/2016	2016-2/6
R33-7	Request for Proposals	40438	NSC	06/13/2016	Not Printed
R33-7	Request for Proposals	40567	AMD	08/22/2016	2016-14/27
R33-8	Exceptions to Procurement Requirements	40570	AMD	08/22/2016	2016-14/34

R33-9	Cancellations, Rejections, and Debarment	40565	AMD	08/22/2016	2016-14/39
R33-12	Terms and Conditions, Contracts, Change Orders and Costs	40562	NSC	07/15/2016	Not Printed
R33-12-502	Technology Modifications	40047	AMD	02/23/2016	2016-2/7
R33-15	Architect-Engineer Services	40563	NSC	07/15/2016	Not Printed
R33-16	Controversies and Protests	40564	NSC	07/15/2016	Not Printed
R33-18	Appeal to the Utah Court of Appeals	40566	NSC	07/15/2016	Not Printed
R33-21	Interaction Between Procurement Units	40568	AMD	08/22/2016	2016-14/42
R33-24	Unlawful Conduct	40569	AMD	08/22/2016	2016-14/44
Risk Management					
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	40282	AMD	06/01/2016	2016-8/6
AGRICULTURE AND FOOD					
Administration					
R51-3	Government Records Access and Management Act	40234	5YR	02/29/2016	2016-6/27
R51-4	ADA Complaint Procedure	40235	5YR	02/29/2016	2016-6/27
Animal Industry					
R58-2	Diseases, Inspections and Quarantines	40476	5YR	06/09/2016	2016-13/160
R58-4	Use of Animal Drugs and Biologicals in the State of Utah	40478	5YR	06/09/2016	2016-13/160
R58-14	Holding Live Raccoons or Coyotes in Captivity	40477	5YR	06/09/2016	2016-13/161
R58-18	Elk Farming	40584	AMD	09/19/2016	2016-14/46
R58-20	Domesticated Elk Hunting Parks	40585	AMD	09/19/2016	2016-15/6
R58-24	Community Spay and Neuter Grants	40637	5YR	08/02/2016	2016-17/87
Horse Racing Commission (Utah)					
R52-7	Horse Racing	39951	AMD	02/02/2016	2015-24/4
R52-7	Horse Racing	40703	5YR	08/25/2016	2016-18/41
R52-7-5	Occupation Licensing and Registration	40366	AMD	06/23/2016	2016-10/8
Marketing and Development					
R65-2	Utah Cherry Marketing Order	40367	REP	06/23/2016	2016-10/11
R65-8	Management of the Junior Livestock Show Appropriation	40233	5YR	02/29/2016	2016-6/28
R65-8-2	Establishment of a Forum	40369	AMD	06/23/2016	2016-10/13
Plant Industry					
R68-4	Standardization, Marketing, and Phystosanitary Inspection of Fresh Fruits, Vegetables, and Other Plant and Plant Products	40201	5YR	02/08/2016	2016-5/23
R68-7	Utah Pesticide Control Rule	40232	5YR	02/29/2016	2016-6/28
R68-9	Utah Noxious Weed Act	39965	AMD	02/02/2016	2015-24/8
R68-12	Quarantine Pertaining to Mint Wilt	40365	REP	06/23/2016	2016-10/14
R68-18	Quarantine Pertaining to Karnal Bunt	40200	5YR	02/08/2016	2016-5/23
Regulatory Services					
R70-330	Raw Milk for Retail	40268	5YR	03/16/2016	2016-8/91
R70-370	Butter	40270	5YR	03/16/2016	2016-8/91
R70-370	Butter	40361	AMD	06/23/2016	2016-10/15
R70-380	Grade A Condensed and Dry Milk Products and Condensed and Dry Whey	40269	5YR	03/16/2016	2016-8/92
R70-380	Grade A Condensed and Dry Milk Products and Condensed and Dry Whey	40368	AMD	06/23/2016	2016-10/16
R70-410	Grading and Inspection of Shell Eggs with Standard Grade and Weight Classes	40149	5YR	01/20/2016	2016-4/77
R70-530	Food Protection	39950	AMD	02/02/2016	2015-24/12
R70-550	Utah Inland Shellfish Safety Program	40360	AMD	06/23/2016	2016-10/18
R70-920	Packaging and Labeling of Commodities	40634	5YR	08/02/2016	2016-17/87
R70-930	Method of Sale of Commodities	40635	5YR	08/02/2016	2016-17/88
R70-940	Standards and Testing Motor Fuel	40636	5YR	08/02/2016	2016-17/88

ALCOHOLIC BEVERAGE CONTROL

Administration					
R81-1	Scope, Definitions, and General Provisions	40376	5YR	05/02/2016	2016-10/73
R81-2	State Stores	40378	5YR	05/02/2016	2016-10/74
R81-3	Package Agencies	40379	5YR	05/02/2016	2016-10/74
R81-4A	Restaurant Liquor Licenses	40381	5YR	05/02/2016	2016-10/75
R81-4F	Reception Center Licenses	40838	5YR	09/28/2016	2016-20/94
R81-5	Club Licenses	40382	5YR	05/02/2016	2016-10/76
R81-6	Special Use Permits	40383	5YR	05/02/2016	2016-10/76
R81-7	Event Permits	40384	5YR	05/02/2016	2016-10/77
R81-8	Manufacturer Licenses (Distillery, Winery, Brewery)	40385	5YR	05/02/2016	2016-10/77
R81-9	Liquor Warehousing Licenses	40386	5YR	05/02/2016	2016-10/78
R81-10C	Beer-Only Restaurant Licenses	40835	5YR	09/28/2016	2016-20/95
R81-10D	Tavern Beer Licenses	40836	5YR	09/28/2016	2016-20/95
R81-11	Beer Wholesaler Licenses	40387	5YR	05/02/2016	2016-10/79
R81-12	Local Industry Representative Licenses (Distillery, Winery, Brewery)	40388	5YR	05/02/2016	2016-10/79

ATTORNEY GENERAL

Administration					
R105-2	Records Access and Management	40841	5YR	09/28/2016	2016-20/96
R105-2	Records Access and Management	40840	NSC	10/07/2016	Not Printed

CAPITOL PRESERVATION BOARD (STATE)

Administration					
R131-2	Capitol Hill Complex Facility Use	40437	EMR	05/19/2016	2016-12/54
R131-2	Capitol Hill Complex Facility Use	40458	AMD	07/22/2016	2016-12/8
R131-4	Capitol Preservation Board General Procurement Rule	40092	5YR	01/11/2016	2016-3/507
R131-10	Commercial Solicitations	40807	5YR	09/20/2016	2016-20/96
R131-11	Preservation of Free Speech Activities	40808	5YR	09/20/2016	2016-20/97

CAREER SERVICE REVIEW OFFICE

Administration					
R137-1	Grievance Procedure Rules	40595	5YR	07/11/2016	2016-15/81

COMMERCE

Administration					
R151-2	Government Records Access and Management Act Rule	40616	5YR	07/18/2016	2016-16/45
R151-4	Department of Commerce Administrative Procedures Act Rule	40265	5YR	03/15/2016	2016-7/63
R151-14	New Automobile Franchise Act Rule	40293	5YR	03/31/2016	2016-8/92
Consumer Protection					
R152-1a	Internet Content Provider Ratings Methods	40604	5YR	07/15/2016	2016-15/81
R152-11	Utah Consumer Sales Practices Act	40342	5YR	04/19/2016	2016-10/80
R152-15-3	Compensated Employees and Independent Contractors	40414	AMD	07/08/2016	2016-11/2
R152-26	Telephone Fraud Prevention Act	40341	5YR	04/19/2016	2016-10/80
Corporations and Commercial Code					
R154-2	Utah Uniform Commercial Code, Revised Article 9 Rules	40371	5YR	05/02/2016	2016-10/81
Occupational and Professional Licensing					
R156-1	General Rule of the Division of Occupational and Professional Licensing	40412	AMD	07/11/2016	2016-11/3
R156-3a	Architect Licensing Act Rule	40058	5YR	01/07/2016	2016-3/507
R156-9	Funeral Service Licensing Act Rule	40354	5YR	04/26/2016	2016-10/81
R156-9a	Uniform Athlete Agents Act Rule	40071	5YR	01/07/2016	2016-3/508

R156-11a	Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule	40589	AMD	09/08/2016	2016-15/8
R156-15	Health Facility Administrators Act Rule	40705	5YR	08/25/2016	2016-18/41
R156-15A	State Construction Code Administration and Adoption of Approved State Construction Code Rule	40298	AMD	06/07/2016	2016-9/4
R156-15A	State Construction Code Administration and Adoption of Approved State Construction Code Rule	40526	5YR	06/20/2016	2016-14/171
R156-15A-231	Administration of Building Code Training Fund and Factory Built Housing Fees Account	40622	AMD	09/26/2016	2016-16/6
R156-17b	Pharmacy Practice Act Rule	40217	AMD	04/21/2016	2016-6/4
R156-17b-614a	Operating Standards - General Operating Standards, Class A and B Pharmacy	40218	AMD	04/21/2016	2016-6/11
R156-17b-614a	Operating Standards - General Operating Standards, Class A and B Pharmacy	40407	AMD	07/11/2016	2016-11/7
R156-22-302b	Qualifications for Licensure - Education Requirements	40594	NSC	08/01/2016	Not Printed
R156-24b	Physical Therapist Practice Act Rule	40858	5YR	10/06/2016	2016-21/73
R156-26a	Certified Public Accountant Licensing Act Rule	39982	AMD	02/11/2016	2016-1/4
R156-26a	Certified Public Accountant Licensing Act Rule	40859	5YR	10/06/2016	2016-21/74
R156-37	Utah Controlled Substances Act Rule	40216	AMD	04/21/2016	2016-6/14
R156-37f	Controlled Substance Database Act Rule	39923	AMD	01/07/2016	2015-23/7
R156-40	Recreational Therapy Practice Act Rule	40352	5YR	04/26/2016	2016-10/82
R156-46b	Division Utah Administrative Procedures Act Rule	40052	5YR	01/05/2016	2016-3/509
R156-47b	Massage Therapy Practice Act Rule	40000	AMD	03/08/2016	2016-2/8
R156-54	Radiologic Technologist, Radiologist Assistant, and Radiology Practical Technician Licensing Act Rule	40486	5YR	06/09/2016	2016-13/162
R156-55a	Utah Construction Trades Licensing Act Rule	40219	AMD	04/21/2016	2016-6/16
R156-55a	Utah Construction Trades Licensing Act Rule	40649	5YR	08/04/2016	2016-17/89
R156-55a-301	License Classifications - Scope of Practice	40351	AMD	06/21/2016	2016-10/19
R156-55a-303b	Continuing Education - Standards	40344	NSC	05/11/2016	Not Printed
R156-55b	Electricians Licensing Act Rule	40651	5YR	08/08/2016	2016-17/90
R156-55c	Plumber Licensing Act Rule	40131	NSC	02/02/2016	Not Printed
R156-55c	Plumber Licensing Act Rule	40652	5YR	08/08/2016	2016-17/91
R156-55d	Burglar Alarm Licensing Rule	40164	AMD	03/24/2016	2016-4/10
R156-57	Respiratory Care Practices Act Rule	40355	5YR	04/26/2016	2016-10/83
R156-60b-102	Definitions	39924	AMD	01/07/2016	2015-23/12
R156-60c	Clinical Mental Health Counselor Licensing Act Rule	39911	AMD	01/07/2016	2015-23/14
R156-60d	Substance Use Disorder Counselor Act Rule	40055	5YR	01/05/2016	2016-3/509
R156-64	Deception Detection Examiners Licensing Act Rule	40588	AMD	09/08/2016	2016-15/14
R156-67	Utah Medical Practice Act Rule	40196	5YR	02/08/2016	2016-5/24
R156-69	Dentist and Dental Hygienist Practice Act Rule	40150	5YR	01/21/2016	2016-4/77
R156-71	Naturopathic Physician Practice Act Rule	40706	5YR	08/25/2016	2016-18/42
R156-72	Acupuncture Licensing Act Rule	40749	5YR	09/08/2016	2016-19/101
R156-72-102	Definitions	40857	NSC	10/20/2016	Not Printed
R156-73	Chiropractic Physician Practice Act Rule	40208	5YR	02/11/2016	2016-5/25
R156-75	Genetic Counselors Licensing Act Rule	40748	5YR	09/08/2016	2016-19/102
R156-77	Direct-Entry Midwife Act Rule	40353	5YR	04/26/2016	2016-10/83
R156-78-102	Definitions	39912	AMD	01/07/2016	2015-23/16
R156-82-201	Security	39980	AMD	02/08/2016	2016-1/12
R156-86	State Certification of Commercial Interior Designers Act Rule	40411	NEW	07/11/2016	2016-11/10
Real Estate					
R162-2f	Real Estate Licensing and Practices Rules	40041	AMD	02/23/2016	2016-2/11
R162-2f	Real Estate Licensing and Practices Rules	40276	AMD	05/31/2016	2016-8/7
R162-2f-202b	Principal Broker Licensing Fees and Procedures	40364	NSC	05/11/2016	Not Printed
R162-2g	Real Estate Appraiser Licensing and Certification Administrative Rules	40684	5YR	08/18/2016	2016-18/43

Securities					
R164-15-3	Notice Filings for Offerings Made Under Tier 2 of Federal Regulation A	40206	AMD	06/29/2016	2016-5/2
R164-31	Administrative Fines	40498	REP	08/23/2016	2016-13/8
COMMUNICATIONS AUTHORITY BOARD (UTAH)					
Administration					
R174-1	Utah 911 Advisory Committee	40397	5YR	05/02/2016	2016-10/84
CORRECTIONS					
Administration					
R251-109	Sex Offender Treatment Providers	40039	AMD	05/04/2016	2016-2/16
CRIME VICTIM REPARATIONS					
Administration					
R270-1	Award and Reparation Standards	40495	5YR	06/15/2016	2016-13/162
R270-1	Award and Reparation Standards	40687	AMD	10/24/2016	2016-18/6
R270-1-17	Prescription or Over-the-Counter Medications	40177	AMD	05/13/2016	2016-4/13
R270-2	Crime Victim Reparations Adjudicative Proceedings	40496	5YR	06/15/2016	2016-13/163
R270-2	Crime Victim Reparations Adjudicative Proceedings	40688	AMD	10/24/2016	2016-18/11
R270-3	ADA Complaint Procedure	40689	REP	10/24/2016	2016-18/12
R270-5	Electronic Meetings	40148	NEW	04/06/2016	2016-4/14
R270-6	Recusal of a Board Member for a Conflict of Interest	40524	NEW	08/22/2016	2016-14/53
EDUCATION					
Administration					
R277-99 (Changed to R277-100)	Definitions for Utah State Board of Education (Board) Rules	40501	AMD	08/11/2016	2016-13/9
R277-99-2	Definitions	40247	NSC	03/29/2016	Not Printed
R277-100	Rulemaking Policy	40332	REP	06/10/2016	2016-9/5
R277-107-6	Public Education Employees	40248	NSC	03/29/2016	Not Printed
R277-109	Legislative Reporting and Accountability	40782	5YR	09/15/2016	2016-19/102
R277-116	Audit Procedure	40783	5YR	09/15/2016	2016-19/103
R277-200	Utah Professional Practices Advisory Commission (UPPAC), Definitions	40325	REP	08/12/2016	2016-9/7
R277-201	Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions	40326	REP	08/12/2016	2016-9/11
R277-202	UPPAC Hearing Procedures and Reports	40327	REP	08/12/2016	2016-9/16
R277-203	Request for Licensure Reinstatement and Reinstatement Procedures	40328	REP	08/12/2016	2016-9/22
R277-204	Utah Professional Practices Advisory Commission Criminal Background Review	40329	REP	08/12/2016	2016-9/26
R277-205	Alcohol Related Offenses	40330	REP	08/12/2016	2016-9/28
R277-206	Drug Related Offenses	40331	REP	08/12/2016	2016-9/29
R277-207	Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions	39837	NEW	01/11/2016	2015-21/17
R277-207	Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions	40333	REP	08/12/2016	2016-9/31
R277-210	Utah Professional Practices Advisory Commission (UPPAC), Definitions	40502	NEW	08/12/2016	2016-13/10
R277-211	Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions	40503	NEW	08/12/2016	2016-13/14
R277-212	UPPAC Hearing Procedures and Reports	40504	NEW	08/12/2016	2016-13/18

R277-213	Request for Licensure Reinstatement and Reinstatement Procedures	40505	NEW	08/12/2016	2016-13/26
R277-214	Utah Professional Practices Advisory Commission Criminal Background Review	40338	NEW	08/12/2016	2016-9/51
R277-215	Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions	40506	NEW	08/12/2016	2016-13/29
R277-215-2	Rebuttable Presumptions	40831	NSC	10/07/2016	Not Printed
R277-216	Surrender of License with UPPAC Investigation Pending	40430	NEW	08/12/2016	2016-11/12
R277-402-4	LEA Responsibilities	40249	NSC	03/29/2016	Not Printed
R277-403	Student Reading Proficiency and Notice to Parents	40670	AMD	10/11/2016	2016-17/4
R277-404	Requirements for Assessments of Student Achievement	40097	NSC	02/02/2016	Not Printed
R277-404	Requirements for Assessments of Student Achievement	40507	AMD	08/11/2016	2016-13/31
R277-419	Pupil Accounting	40287	AMD	06/03/2016	2016-8/12
R277-419	Pupil Accounting	40671	AMD	10/11/2016	2016-17/6
R277-421	Out-of-State Tuition Reimbursement	40672	NEW	10/11/2016	2016-17/13
R277-438	Dual Enrollment	40880	5YR	10/14/2016	2016-21/74
R277-477	Distribution of Funds from the Interest and Dividends Account and Administration of the School LAND Trust Program	40431	AMD	07/11/2016	2016-11/14
R277-478	Block Grant Funding	40288	REP	05/23/2016	2016-8/19
R277-482	Charter School Timelines and Approval Processes	40284	5YR	03/30/2016	2016-8/93
R277-482	Charter School Timelines and Approval Processes	40289	AMD	05/23/2016	2016-8/21
R277-490	Beverley Taylor Sorenson Elementary Arts Learning Program (BTSALP)	40508	AMD	08/11/2016	2016-13/36
R277-491	School Community Councils	40432	AMD	07/11/2016	2016-11/18
R277-494	Charter, Online, Home, and Private School Student Participation in Extracurricular or Co-curricular School Activities	40098	AMD	03/09/2016	2016-3/6
R277-497	School Grading System	39984	AMD	02/08/2016	2016-1/13
R277-505	Administrative License Areas of Concentration and Programs	40285	5YR	03/30/2016	2016-8/93
R277-505	Administrative License Areas of Concentration and Programs	40290	AMD	05/23/2016	2016-8/25
R277-507-1	Definitions	40250	NSC	03/29/2016	Not Printed
R277-510	Educator Licensing - Highly Qualified Assignment	40099	5YR	01/14/2016	2016-3/510
R277-510	Educator Licensing - Highly Qualified Assignment	40100	AMD	03/09/2016	2016-3/8
R277-510-5	NCLB Highly Qualified Assignments - Secondary Teachers 6-12	40362	NSC	05/11/2016	Not Printed
R277-511	Academic Pathway to Teaching (APT) Level 1 License	40509	NEW	08/12/2016	2016-13/39
R277-515	Utah Educator Standards	40510	AMD	08/12/2016	2016-13/41
R277-516	Background Check Policies and Required Reports of Arrests for Licensed Educators, Volunteers, Non-licensed Employees, and Charter School Governing Board Members	40511	AMD	08/12/2016	2016-13/46
R277-530	Utah Effective Teaching and Educational Leadership Standards	40667	5YR	08/15/2016	2016-17/91
R277-530	Utah Effective Teaching and Educational Leadership Standards	40673	AMD	10/11/2016	2016-17/15
R277-531	Public Educator Evaluation Requirements (PEER)	40668	5YR	08/15/2016	2016-17/92
R277-531	Public Educator Evaluation Requirements (PEER)	40674	AMD	10/11/2016	2016-17/18
R277-533	District Educator Evaluation Systems	40512	AMD	08/11/2016	2016-13/49
R277-600	Student Transportation Standards and Procedures	40784	5YR	09/15/2016	2016-19/103
R277-603	Autism Awareness Restricted Account Distribution	40785	5YR	09/15/2016	2016-19/104

R277-604	Private School, Home School, Electronic High School (EHS), and Bureau of Indian Affairs (BIA) Student Participation in Public School Achievement Tests	40881	5YR	10/14/2016	2016-21/75
R277-605	Coaching Standards and Athletic Clinics	40882	5YR	10/14/2016	2016-21/75
R277-606	Dropout Recovery Program	40675	AMD	10/11/2016	2016-17/21
R277-609	Standards for LEA Discipline Plans and Emergency Safety Interventions	40883	5YR	10/14/2016	2016-21/76
R277-616-3	Criteria for Determining Where a Homeless or Emancipated Student Shall Attend School	40251	NSC	03/29/2016	Not Printed
R277-700	The Elementary and Secondary School General Core	40363	AMD	06/21/2016	2016-10/25
R277-700-7	Student Mastery and Assessment of Core Standards	40252	NSC	03/29/2016	Not Printed
R277-702-4	Eligibility for GED Testing	40253	NSC	03/29/2016	Not Printed
R277-705	Secondary School Completion and Diplomas	39936	AMD	01/07/2016	2015-23/17
R277-707	Enhancement for Accelerated Students Program	40428	5YR	05/16/2016	2016-11/63
R277-707	Enhancement for Accelerated Students Program	40429	AMD	07/11/2016	2016-11/21
R277-708	Enhancement for At-Risk Students Program	40786	5YR	09/15/2016	2016-19/104
R277-710	Intergenerational Poverty Interventions in Public Schools	40513	AMD	08/11/2016	2016-13/53
R277-711	High Quality School Readiness Expansion	40676	NEW	10/11/2016	2016-17/24
R277-712	Competency-based Grant Programs	40677	NEW	10/11/2016	2016-17/25
R277-713	Concurrent Enrollment of High School Students in College Courses	40514	R&R	08/11/2016	2016-13/55
R277-716	Alternative Language Services for Utah Students	40211	5YR	02/16/2016	2016-5/25
R277-716	Alternative Language Services for Utah Students	40212	AMD	04/07/2016	2016-5/3
R277-726	Statewide Online Education Program	39996	AMD	02/08/2016	2016-1/15
R277-726	Statewide Online Education Program	40515	AMD	08/11/2016	2016-13/61
R277-750	Education Programs for Students with Disabilities	40669	5YR	08/15/2016	2016-17/92
R277-750	Education Programs for Students with Disabilities	40678	AMD	10/11/2016	2016-17/27
R277-752	Adult Students with Disabilities and Informed Consent	40274	EMR	03/18/2016	2016-8/87
R277-911	Secondary Career and Technical Education	40516	AMD	08/11/2016	2016-13/66
R277-914	Career and Technical Student Organizations	40787	5YR	09/15/2016	2016-19/105
R277-920	Implementation of the School Turnaround and Leadership Development Act	39789	NEW	02/08/2016	2015-20/70
R277-920-3	Superintendent's Designation of Low Performing Schools and Waiver Authority	39997	AMD	02/08/2016	2016-1/20
R277-920-4	Implementation of the School Turnaround and Leadership Development Act	40286	NSC	04/05/2016	Not Printed
R277-922	Digital Teaching and Learning Grant Program	40679	NEW	10/11/2016	2016-17/28
R277-923	American Indian and Alaskan Native Education State Plan Pilot Program	40518	NEW	08/11/2016	2016-13/75
R277-924	Partnerships for Student Success Grant Program	40680	NEW	10/11/2016	2016-17/32
Rehabilitation					
R280-204	Utah State Office of Rehabilitation Employee Background Check Requirement	40101	5YR	01/14/2016	2016-3/510
R280-204	Utah State Office of Rehabilitation Employee Background Check Requirement	40102	AMD	03/09/2016	2016-3/11
ENVIRONMENTAL QUALITY					
Waste Management and Radiation Control, Radiation					
R313-22	Specific Licenses	39991	AMD	05/09/2016	2016-1/33
Waste Management and Radiation Control, Waste Management					
R315-310	Permit Requirements for Solid Waste Facilities	40267	AMD	07/15/2016	2016-8/30

Air Quality					
R307-101-2	Definitions	39994	AMD	03/03/2016	2016-1/21
R307-101-3	Version of Code of Federal Regulations Incorporated by Reference	40423	AMD	08/04/2016	2016-11/23
R307-104	Conflict of Interest	39995	NEW	03/03/2016	2016-1/28
R307-110-28	Regional Haze	39849	AMD	02/04/2016	2015-21/45
R307-121	General Requirements: Clean Air and Efficient Vehicle Tax Credit	40746	5YR	09/07/2016	2016-19/105
R307-124	General Requirements: Conversion to Alternative Fuel Grant Program	40471	NEW	09/08/2016	2016-13/76
R307-210	Stationary Sources	40294	EXT	04/04/2016	2016-9/141
R307-210	Stationary Sources	40422	5YR	05/12/2016	2016-11/63
R307-210	Stationary Sources	40424	AMD	08/04/2016	2016-11/24
R307-214	National Emission Standards for Hazardous Air Pollutants	40425	AMD	08/04/2016	2016-11/25
R307-230	NOx Emission Limits for Natural Gas-Fired Water Heaters	40408	LNR	05/10/2016	2016-11/67
R307-312-5	Hot Mix Asphalt Plants	39844	AMD	02/04/2016	2015-21/46
R307-328-4	Loading of Tank Trucks, Trailers, Railroad Tank Cars, and Other Transport Vehicles	39845	AMD	02/04/2016	2015-21/47
R307-351-4	Standards for Rotogravure, Flexographic, and Specialty Printing Operations	40225	NSC	03/11/2016	Not Printed
R307-401-10	Source Category Exemptions	40866	NSC	10/20/2016	Not Printed
R307-403-2	Applicability	40193	NSC	02/25/2016	Not Printed
R307-405-3	Definitions	39846	AMD	02/04/2016	2015-21/48
R307-415-3	Definitions	39847	AMD	02/04/2016	2015-21/50
R307-801	Utah Asbestos Rule	39848	AMD	05/05/2016	2015-21/53
R307-801	Utah Asbestos Rule	39848	CPR	05/05/2016	2016-5/18
R307-841-8	Renovator Certification and Dust Sampling Technician Certification	40207	AMD	05/05/2016	2016-5/7
Drinking Water					
R309-105-4	General	40031	AMD	05/01/2016	2016-2/19
R309-110-4	Definitions	40032	AMD	05/01/2016	2016-2/20
R309-200-5	Primary Drinking Water Standards	40033	AMD	05/01/2016	2016-2/23
R309-210	Monitoring and Water Quality: Distribution System Monitoring Requirements	40034	AMD	05/01/2016	2016-2/26
R309-211	Monitoring and Water Quality: Distribution System – Total Coliform Requirements	40035	NEW	05/01/2016	2016-2/33
R309-215	Monitoring and Water Quality: Treatment Plant Monitoring Requirements	40036	AMD	05/01/2016	2016-2/40
R309-220	Monitoring and Water Quality: Public Notification Requirements	40037	AMD	05/01/2016	2016-2/46
R309-225	Monitoring and Water Quality: Consumer Confidence Reports	40038	AMD	05/01/2016	2016-2/53
Environmental Response and Remediation					
R311-210-1	Administrative Procedures	40686	NSC	09/01/2016	Not Printed
R311-600	Hazardous Substances Mitigation Act: Enforceable Written Assurances	40487	5YR	06/10/2016	2016-13/163
Radiation Control					
R313-15	Standards for Protection Against Radiation	39989	AMD	03/15/2016	2016-1/29
R313-19-34	Terms and Conditions of Licenses	39990	AMD	03/15/2016	2016-1/32
R313-24	Uranium Mills and Source Material Mill Tailings Disposal Facility Requirements	39992	AMD	03/15/2016	2016-1/38
Waste Management and Radiation Control, Radiation					
R313-12	General Provisions	40572	5YR	07/01/2016	2016-14/172
R313-14	Violations and Escalated Enforcement	40573	5YR	07/01/2016	2016-14/172
R313-15	Standards for Protection Against Radiation	40003	NSC	01/15/2016	Not Printed
R313-16	General Requirements Applicable to the Installation, Registration, Inspection, and Use of Radiation Machines	40574	5YR	07/01/2016	2016-14/173
R313-16-230	Registration of Radiation Machines	40004	NSC	01/15/2016	Not Printed
R313-17	Administrative Procedures	40575	5YR	07/01/2016	2016-14/174

R313-18	Notices, Instructions and Reports to Workers by Licensees or Registrants--Inspections	40576	5YR	07/01/2016	2016-14/175
R313-18-11	Posting of Notices to Workers	40007	NSC	01/15/2016	Not Printed
R313-19	Requirements of General Applicability to Licensing of Radioactive Material	40577	5YR	07/01/2016	2016-14/175
R313-19-13	Exemptions	40322	AMD	06/10/2016	2016-9/59
R313-21	General Licenses	40008	NSC	01/15/2016	Not Printed
R313-22	Specific Licenses	40009	NSC	01/15/2016	Not Printed
R313-22	Specific Licenses	39991	CPR	05/09/2016	2016-7/44
R313-22	Specific Licenses	40323	AMD	06/10/2016	2016-9/63
R313-22	Specific Licenses	40578	5YR	07/01/2016	2016-14/176
R313-25	License Requirements for Land Disposal of Radioactive Waste - General Provisions	40579	5YR	07/01/2016	2016-14/177
R313-25-26	Near Surface Land Disposal Facility Operation and Disposal Site Closure	40451	NSC	06/13/2016	Not Printed
R313-26	Generator Site Access Permit Requirements for Accessing Utah Radioactive Waste Disposal Facilities	40259	5YR	03/10/2016	2016-7/63
R313-27	Medical Use Advisory Committee	40230	NSC	03/08/2016	Not Printed
R313-27	Medical Use Advisory Committee	40666	REP	10/15/2016	2016-17/40
R313-28	Use of X-Rays in the Healing Arts	40580	5YR	07/01/2016	2016-14/177
R313-32	Medical Use of Radioactive Material	40581	5YR	07/01/2016	2016-14/178
R313-32-2	Clarifications or Exceptions	40010	NSC	01/15/2016	Not Printed
R313-36	Special Requirements for Industrial Radiographic Operations	40582	5YR	07/01/2016	2016-14/178
R313-70	Payments, Categories and Types of Fees	40011	NSC	01/15/2016	Not Printed
R313-70	Payments, Categories and Types of Fees	40583	5YR	07/01/2016	2016-14/179
Waste Management and Radiation Control, Waste Management					
R315-1	Utah Hazardous Waste Definitions and References	40117	REP	04/15/2016	2016-3/14
R315-2	General Requirements - Identification and Listing of Hazardous Waste	40118	REP	04/15/2016	2016-3/14
R315-3	Application and Permit Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities	40119	REP	04/15/2016	2016-3/15
R315-4	Procedures for Decisionmaking	40120	REP	04/15/2016	2016-3/16
R315-5	Hazardous Waste Generator Requirements	40121	REP	04/15/2016	2016-3/17
R315-6	Hazardous Waste Transporter Requirements	40122	REP	04/15/2016	2016-3/18
R315-7	Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities	40123	REP	04/15/2016	2016-3/18
R315-8	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities	40124	REP	04/15/2016	2016-3/19
R315-9	Emergency Controls	40125	REP	04/15/2016	2016-3/20
R315-12	Administrative Procedures	40126	REP	04/15/2016	2016-3/21
R315-13	Land Disposal Restrictions	40127	REP	04/15/2016	2016-3/21
R315-14	Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities	40128	REP	04/15/2016	2016-3/22
R315-15	Standards for the Management of Used Oil	40260	5YR	03/10/2016	2016-7/64
R315-15	Standards for the Management of Used Oil	40446	NSC	06/13/2016	Not Printed
R315-16	Standards for Universal Waste Management	40129	REP	04/15/2016	2016-3/23
R315-17	End of Life Automotive Mercury Switch Removal Standards	40261	5YR	03/10/2016	2016-7/65
R315-50	Appendices	40130	REP	04/15/2016	2016-3/24
R315-101	Cleanup Action and Risk-Based Closure Standards	40262	5YR	03/10/2016	2016-7/65
R315-102	Penalty Policy	40263	5YR	03/10/2016	2016-7/66
R315-103	Commercial Hazardous Waste Facility Siting Criteria	40105	NEW	04/15/2016	2016-3/25
R315-124	Procedures for Decisionmaking	40106	NEW	04/15/2016	2016-3/26
R315-124-34	Public Participation	40312	AMD	06/10/2016	2016-9/72
R315-260	Hazardous Waste Management System	40107	NEW	04/15/2016	2016-3/32
R315-260	Hazardous Waste Management System	40277	NSC	04/15/2016	Not Printed
R315-260	Hazardous Waste Management System	40413	NSC	06/06/2016	Not Printed

FINANCIAL INSTITUTIONS

Administration					
R331-26	Ownership of Real Estate Other Than Property Used for Institution Business or Held as an Investment by Depository Institutions Subject to the Jurisdiction of the Department of Financial Institutions	40139	5YR	01/15/2016	2016-3/511

GOVERNOR

Criminal and Juvenile Justice (State Commission on)					
R356-1	Procedures for the Calculation and Distribution of Funds to Reimburse County Correctional Facilities Housing State Probationary Inmates or State Parole Inmates	39964	AMD	02/10/2016	2015-24/14
R356-101-10	Evaluation Criteria	40497	AMD	08/10/2016	2016-13/104
Economic Development					
R357-1	Rural Fast Track Program	40462	R&R	07/22/2016	2016-12/17
R357-5	Motion Picture Incentive Fund	40483	5YR	06/09/2016	2016-13/165
R357-5	Motion Picture Incentive Fund	40460	R&R	07/22/2016	2016-12/20
R357-6	Technology and Life Science Economic Development and Related Tax Credits	40638	5YR	08/02/2016	2016-17/93
R357-7	Utah Capital Investment Board	40028	R&R	05/16/2016	2016-2/60
R357-7	Utah Capital Investment Board	40028	CPR	05/16/2016	2016-7/49
R357-11	Technology Commercialization Innovation Program (TCIP)	40605	AMD	09/12/2016	2016-15/18
R357-13	Hotel Convention Center Incentive	40027	NEW	03/14/2016	2016-2/76
R357-15	Enterprise Zone Tax Credit	40461	NEW	07/22/2016	2016-12/24
R357-16	Utah Outdoor Recreation Infrastructure Grant	40434	NEW	07/15/2016	2016-11/29
R357-16	Utah Outdoor Recreation Infrastructure Grant	40606	NSC	08/01/2016	Not Printed
R357-17	Air Quality Incentive	40459	NEW	07/22/2016	2016-12/26
Energy Development (Office of)					
R362-4	High Cost Infrastructure Development Tax Credit Act	40433	NEW	07/14/2016	2016-11/32

HEALTH

Administration					
R380-40	Local Health Department Minimum Performance Standards	40049	AMD	03/02/2016	2016-2/79
R380-60	Local Health Department Emergency Protocols	39879	AMD	01/20/2016	2015-22/32
R380-200	Patient Safety Surveillance and Improvement Program	40760	5YR	09/13/2016	2016-19/106
R380-210	Health Care Facilities Patient Safety Program	40761	5YR	09/13/2016	2016-19/107
Center for Health Data, Health Care Statistics					
R428-1	Health Data Plan and Incorporated Documents	40170	AMD	03/25/2016	2016-4/37
R428-2	Health Data Authority Standards for Health Data	40171	AMD	03/25/2016	2016-4/38
R428-10	Health Data Authority Hospital Inpatient Reporting Rule	40172	R&R	03/25/2016	2016-4/43
R428-11	Health Data Authority Ambulatory Surgical Data Reporting Rule	40173	REP	03/25/2016	2016-4/45
R428-13	Health Data Authority. Audit and Reporting of Health Plan Performance Measures	40174	AMD	03/25/2016	2016-4/47
R428-15	Health Data Authority Health Insurance Claims Reporting	40179	AMD	03/25/2016	2016-4/48
Center for Health Data, Vital Records and Statistics					
R436-5	New Birth Certificates After Legitimation, Court Determination of Paternity, or Adoption	40600	5YR	07/13/2016	2016-15/82
R436-13	Disclosure of Records	39817	AMD	02/17/2016	2015-21/88
R436-13-1	Integrity of Vital Records	40439	AMD	07/26/2016	2016-12/38

Child Care Center Licensing Committee					
R381-60	Hourly Child Care Centers	39902	AMD	01/31/2016	2015-22/34
R381-60	Hourly Child Care Centers	40163	AMD	03/30/2016	2016-4/15
R381-70	Out of School Time Child Care Programs	39898	AMD	01/31/2016	2015-22/40
R381-70	Out of School Time Child Care Programs	40162	AMD	03/30/2016	2016-4/20
R381-100	Child Care Centers	39896	AMD	01/31/2016	2015-22/45
R381-100	Child Care Centers	40161	AMD	03/30/2016	2016-4/24
Children's Health Insurance Program					
R382-10-6	Citizenship and Alienage	40374	AMD	07/01/2016	2016-10/28
R382-10-17	Effective Date of Enrollment and Renewal	40295	AMD	06/28/2016	2016-9/105
Disease Control and Prevention, Environmental Services					
R392-100	Food Service Sanitation	40254	AMD	05/23/2016	2016-7/4
R392-110	Home-based Child Care Food Service	40356	5YR	04/26/2016	2016-10/84
R392-110	Home-based Child Care Food Service	40443	NSC	06/13/2016	Not Printed
R392-400	Temporary Mass Gatherings Sanitation	40662	AMD	11/01/2016	2016-17/46
Disease Control and Prevention, Epidemiology					
R386-702	Communicable Disease Rule	39952	AMD	02/11/2016	2015-24/17
R386-702	Communicable Disease Rule	40317	5YR	04/15/2016	2016-9/135
Disease Control and Prevention, Health Promotion					
R384-205	Opiate Overdose Outreach Pilot Program	40549	EMR	07/01/2016	2016-14/167
R384-415	Electronic-Cigarette Substance Standards	40210	AMD	04/15/2016	2016-5/8
Disease Control and Prevention, Laboratory Improvement					
R444-1	Approval of Clinical Laboratories	40623	5YR	07/26/2016	2016-16/45
R444-14	Rule for the Certification of Environmental Laboratories	40624	5YR	07/26/2016	2016-16/46
Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health					
R388-803	HIV Test Reporting	40894	EXT	10/17/2016	Not Printed
R388-804	Special Measures for the Control of Tuberculosis	40844	5YR	09/30/2016	2016-20/97
R388-805	Ryan White Program	40843	5YR	09/30/2016	2016-20/98
Family Health and Preparedness, Child Care Licensing					
R430-50	Residential Certificate Child Care	39897	AMD	01/31/2016	2015-22/52
R430-50	Residential Certificate Child Care	40160	AMD	03/30/2016	2016-4/49
R430-90	Licensed Family Child Care	39895	AMD	01/31/2016	2015-22/57
R430-90	Family Licensed Child Care	40159	AMD	03/30/2016	2016-4/53
Family Health and Preparedness, Children with Special Health Care Needs					
R398-5	Birth Defects Reporting	40633	NSC	08/22/2016	Not Printed
R398-15	Autism Treatment Account	40402	REP	07/08/2016	2016-11/36
Family Health and Preparedness, Emergency Medical Services					
R426-3-600	Cost, Quality, and Access Goals for Ground Ambulance Providers	40427	AMD	07/15/2016	2016-11/37
R426-5	Emergency Medical Services Training and Certification Standards	40283	AMD	05/31/2016	2016-8/70
R426-7	Emergency Medical Services Prehospital Data System Rules	40178	AMD	03/25/2016	2016-4/33
R426-8	Emergency Medical Services Ambulance Rates and Charges	40324	AMD	07/01/2016	2016-9/114
R426-9	Trauma and EMS System Facility Designations	40426	AMD	07/15/2016	2016-11/39
Family Health and Preparedness, Licensing					
R432-2	General Licensing Provisions	40453	AMD	08/04/2016	2016-12/34
R432-14	Birthing Center Construction Rule	40550	AMD	08/26/2016	2016-14/54
R432-100	General Hospital Standards	39963	AMD	02/10/2016	2015-24/29
R432-101	Specialty Hospital - Psychiatric	40621	NSC	08/15/2016	Not Printed
R432-104	Specialty Hospital - Long-Term Acute Care	40452	AMD	08/03/2016	2016-12/36
R432-200	Small Health Care Facility (Four to Sixteen Beds)	40776	5YR	09/15/2016	2016-19/107
R432-270	Assisted Living Facilities	39966	AMD	01/28/2016	2015-24/41

R432-300	Small Health Care Facility - Type N	40775	5YR	09/15/2016	2016-19/108
R432-550	Birthing Centers	40243	AMD	05/16/2016	2016-7/9
R432-550	Emergency and Disaster	40551	AMD	08/26/2016	2016-14/56
R432-650	End Stage Renal Disease Facility Rules	40777	5YR	09/15/2016	2016-19/108
R432-700	Home Health Agency Rule	40778	5YR	09/15/2016	2016-19/109
R432-725	Personal Care Agency Rule	40779	5YR	09/15/2016	2016-19/109
R432-750	Hospice Rule	40780	5YR	09/15/2016	2016-19/110
R432-950	Mammography Quality Assurance	40781	5YR	09/15/2016	2016-19/110
Family Health and Preparedness, Primary Care and Rural Health					
R434-40-11	Loan Repayment Grant Eligibility and Selection	40245	AMD	06/01/2016	2016-7/16
R434-50	Assistance for People with Bleeding Disorders	40240	5YR	03/01/2016	2016-6/32
Health Care Financing					
R410-14	Administrative Hearing Procedures	39983	R&R	02/10/2016	2016-1/43
Health Care Financing, Coverage and Reimbursement Policy					
R414-1-5	Incorporations by Reference	40043	AMD	03/08/2016	2016-2/85
R414-1-5	Incorporations by Reference	40320	AMD	06/27/2016	2016-9/106
R414-1-5	Incorporations by Reference	40599	AMD	09/15/2016	2016-15/21
R414-1A	Medicaid Policy for Experimental, Investigational or Unproven Medical Practices	39985	AMD	03/08/2016	2016-1/56
R414-2B	Inpatient Hospital Intensive Physical Rehabilitation Services	40180	AMD	04/01/2016	2016-4/30
R414-10	Physician Services	40904	5YR	10/24/2016	Not Printed
R414-19A	Coverage for Dialysis Services by a Free-Standing State-Licensed Dialysis Facility	40491	AMD	08/10/2016	2016-13/122
R414-302-3	Citizenship and Alienage	40375	AMD	07/01/2016	2016-10/29
R414-303	Coverage Groups	40377	AMD	07/01/2016	2016-10/30
R414-303-8	Foster Care, Former Foster Care Youth and Independent Foster Care Adolescents	40040	AMD	03/08/2016	2016-2/89
R414-304	Income and Budgeting	40380	AMD	07/01/2016	2016-10/32
R414-305-3	Aged, Blind and Disabled Non-Institutional and Institutional Medicaid Resource Provisions	40373	AMD	07/01/2016	2016-10/36
R414-307-3	General Requirements for Home and Community-Based Services Waivers	40244	AMD	05/20/2016	2016-7/8
R414-310-6	Creditable Health Coverage	40296	AMD	06/28/2016	2016-9/110
R414-320	Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver	40181	5YR	02/01/2016	2016-4/78
R414-320-6	Creditable Health Coverage	40297	AMD	06/28/2016	2016-9/112
R414-401-3	Assessment	40372	AMD	07/01/2016	2016-10/40
R414-505	Participation in the Nursing Facility Non-State Government-Owned Upper Payment Limit Program	40301	EMR	04/06/2016	2016-9/129
R414-505	Participation in the Nursing Facility Non-State Government-Owned Upper Payment Limit Program	40318	EMR	04/15/2016	2016-9/131
R414-505	Participation in the Nursing Facility Non-State Government-Owned Upper Payment Limit Program	40492	NEW	08/12/2016	2016-13/124
R414-510	Intermediate Care Facility for Persons with Intellectual Disabilities Transition Program	40869	5YR	10/12/2016	2016-21/76
R414-512	Use of Extrapolation in Provider Audits	39914	NEW	01/11/2016	2015-23/20
R414-513	Intergovernmental Transfers	40319	EMR	04/15/2016	2016-9/133
R414-513	Intergovernmental Transfers	40493	NEW	08/12/2016	2016-13/126
HERITAGE AND ARTS					
Administration					
R450-1	Government Records Access and Management Act Rules	40852	EXT	10/04/2016	2016-21/85
R450-3	Arts and Culture Business Alliance General Program Rules	40103	NEW	05/26/2016	2016-3/484
History					
R455-3	Memberships, Sales, Gifts, Bequests, Endowments	40406	5YR	05/05/2016	2016-11/64

R455-4	Ancient Human Remains	40405	5YR	05/05/2016	2016-11/64
R455-6	State Register for Historic Resources and Archaeological Sites	40187	5YR	02/02/2016	2016-5/26
R455-8	Preservation Easements	40410	5YR	05/10/2016	2016-11/65
R455-9	Board of State History as the Cultural Sites Review Committee Review Board	40186	5YR	02/02/2016	2016-5/27
Indian Affairs					
R456-1	Native American Grave Protection and Repatriation	40137	5YR	01/14/2016	2016-3/511
HOUSING CORPORATION (UTAH)					
Administration					
R460-1	Authority and Purpose	40013	NSC	01/15/2016	Not Printed
R460-2	Definition of Terms Used Throughout R460	40012	AMD	03/09/2016	2016-2/90
R460-3	Programs of UHC	40018	AMD	03/09/2016	2016-2/92
R460-4	Additional Servicing Rules (Reserved)	40014	NSC	01/15/2016	Not Printed
R460-5	Termination of Eligibility to Participate in Programs	40015	NSC	01/15/2016	Not Printed
R460-6	Adjudicative Proceedings	40016	NSC	01/15/2016	Not Printed
R460-8	Americans with Disabilities Act (ADA) Complaint Procedures	40017	NSC	01/15/2016	Not Printed
HUMAN RESOURCE MANAGEMENT					
Administration					
R477-1	Definitions	40398	AMD	07/01/2016	2016-10/41
R477-4-5	Transfer and Reassignment	40389	AMD	07/01/2016	2016-10/46
R477-6	Compensation	40390	AMD	07/01/2016	2016-10/47
R477-7	Leave	40399	AMD	07/01/2016	2016-10/50
R477-8	Working Conditions	40391	AMD	07/01/2016	2016-10/55
R477-9	Employee Conduct	40392	AMD	07/01/2016	2016-10/56
R477-10-1	Performance Evaluation	40393	AMD	07/01/2016	2016-10/57
R477-11	Discipline	40394	AMD	07/01/2016	2016-10/58
R477-12	Separations	40395	AMD	07/01/2016	2016-10/60
R477-14	Substance Abuse and Drug-Free Workplace	40925	5YR	10/31/2016	Not Printed
R477-15-1	Policy	40396	AMD	07/01/2016	2016-10/61
HUMAN SERVICES					
Administration					
R495-862	Communicable Disease Control Act	40050	5YR	01/04/2016	2016-3/512
R495-876	Provider Code of Conduct	40455	5YR	05/31/2016	2016-12/63
R495-880	Adoption Assistance	40454	5YR	05/31/2016	2016-12/64
R495-885	Employee Background Screenings	40264	NEW	05/11/2016	2016-7/18
Administration, Administrative Services, Licensing					
R501-14	Background Screening	39913	R&R	01/13/2016	2015-23/24
Child and Family Services					
R512-1	Description of Division Services, Eligibility, and Service Access	40871	5YR	10/13/2016	2016-21/77
R512-2	Title IV-B Child Welfare/Family Preservation and Support Services and Title IV-E Foster Care, Adoption, and Independent Living	40872	5YR	10/13/2016	2016-21/78
R512-10	Youth and Mentor Program	40305	5YR	04/14/2016	2016-9/136
R512-10	Youth Mentor Program	40587	REP	09/07/2016	2016-15/25
R512-31	Foster Parent Due Process	39938	AMD	01/07/2016	2015-23/33
R512-31	Foster Parent Due Process	40873	5YR	10/13/2016	2016-21/78
R512-32	Children with Reportable Communicable Diseases	40874	5YR	10/13/2016	2016-21/79
R512-40	Adoptive Home Studies, Recruitment, Approval	40255	R&R	05/09/2016	2016-7/21
R512-40	Recruitment, Home Studies, and Approval of Adoptive Families for Children in the Custody of Child and Family Services	40875	5YR	10/13/2016	2016-21/79

R512-41	Qualifying Adoptive Families and Adoption Placement	40256	AMD	05/09/2016	2016-7/24
R512-42	Adoption by Relatives	40195	AMD	04/07/2016	2016-5/13
R512-42	Adoption by Relatives	40876	5YR	10/13/2016	2016-21/80
R512-43	Adoption Assistance	40151	5YR	01/25/2016	2016-4/79
R512-43	Adoption Assistance	40257	AMD	05/09/2016	2016-7/29
R512-44	Choose Life Adoption Support Restricted Account	40306	5YR	04/14/2016	2016-9/136
R512-44	Choose Life Adoption Support Restricted Account	40258	AMD	05/09/2016	2016-7/34
R512-51	Fee Collection for Criminal Background Screening for Prospective Foster and Adoptive Parents and for Employees of Other Department of Human Services Licensed Programs	40877	5YR	10/13/2016	2016-21/80
R512-60	Children's Account	40194	5YR	02/08/2016	2016-5/27
R512-60	Children's Account	40436	AMD	07/22/2016	2016-12/39
R512-80	Definitions of Abuse, Neglect, and Dependency	40878	5YR	10/13/2016	2016-21/81
R512-100	In-Home Services	39905	AMD	01/07/2016	2015-22/65
R512-205	Child Protective Services, Investigation of Domestic Violence Related Child Abuse	40152	5YR	01/25/2016	2016-4/79
R512-301	Out-of-Home Services, Responsibilities Pertaining to a Parent or Guardian	39939	AMD	01/07/2016	2015-23/35
R512-305	Out-of-Home Services, Transition to Adult Living Services	39955	AMD	01/21/2016	2015-24/44
R512-309	Out-of-Home Services, Foster Parent Reimbursement of Motor Vehicle Insurance Coverage for Youth in Foster Care	39956	AMD	01/21/2016	2015-24/46
R512-310	Reasonable and Prudent Parent Standard	39940	AMD	01/07/2016	2015-23/38
Recovery Services					
R527-5	Release of Information	40650	5YR	08/08/2016	2016-17/93
R527-34	Non-IV-A Services	40415	NSC	05/31/2016	Not Printed
R527-35	Non-IV-A Fee Schedule	40435	AMD	07/22/2016	2016-12/41
R527-40	Retained Support	40096	AMD	03/09/2016	2016-3/485
R527-200	Administrative Procedures	40053	5YR	01/05/2016	2016-3/512
R527-201	Medical Support Services	40654	5YR	08/08/2016	2016-17/94
R527-250	Emancipation	40054	5YR	01/05/2016	2016-3/513
R527-800	Acquisition of Real Property, and Medical Support Cooperation Requirements	40416	NSC	05/31/2016	Not Printed
Services for People with Disabilities					
R539-1	Eligibility	40648	AMD	10/25/2016	2016-17/53
R539-9	State Supported Employment Pilot Program	40625	5YR	07/26/2016	2016-16/46
Substance Abuse and Mental Health					
R523-5-7	Requirements to Remain Qualified as an Adult Peer Support Specialist	40653	AMD	10/11/2016	2016-17/52
Substance Abuse and Mental Health, State Hospital					
R525-8	Forensic Mental Health Facility	40313	5YR	04/14/2016	2016-9/137
R525-8	Forensic Mental Health Facility	40314	AMD	07/07/2016	2016-9/116
INSURANCE					
Administration					
R590-144	Commercial Aviation Insurance Exemption from Rate and Form Filings	40236	5YR	02/29/2016	2016-6/33
R590-154	Unfair Marketing Practices Rule; Misleading Names	39945	AMD	01/15/2016	2015-23/40
R590-160	Administrative Proceedings	40457	AMD	07/28/2016	2016-12/43
R590-164-6	Electronic Data Interchange Transactions	39998	AMD	02/23/2016	2016-2/97
R590-167-11	Actuarial Certification and Additional Filing Requirements	40182	AMD	03/23/2016	2016-4/57
R590-177	Life Insurance Illustrations Rule	40237	5YR	02/29/2016	2016-6/33
R590-178	Securities Custody	40640	5YR	08/02/2016	2016-17/95
R590-200	Diabetes Treatment and Management	40238	5YR	02/29/2016	2016-6/34

R590-206	Privacy of Consumer Financial and Health Information Rule	40500	5YR	06/15/2016	2016-13/165
R590-207	Health Producer Commissions for Small Employer Groups	40725	5YR	08/31/2016	2016-18/43
R590-208	Uniform Application for Certificates of Authority	40346	5YR	04/21/2016	2016-10/85
R590-210	Privacy of Consumer Information Exemption for Manufacturer Warranties and Service Contracts	40726	5YR	08/31/2016	2016-18/44
R590-212	Requirements for Interest Bearing Accounts Used by Title Insurance Agencies for Trust Fund Deposits	40005	REP	03/16/2016	2016-2/99
R590-220-16	Classification of Documents	40155	AMD	03/23/2016	2016-4/59
R590-226	Submission of Life Insurance Filings	40156	AMD	03/23/2016	2016-4/60
R590-227	Submission of Annuity Filings	40157	AMD	03/23/2016	2016-4/62
R590-228-9	Correspondence and Status Checks	40158	AMD	03/23/2016	2016-4/64
R590-235	Medicare Prescription Drug Plan	40345	5YR	04/21/2016	2016-10/86
R590-237	Access to Health Care Providers in Rural Counties	40727	5YR	08/31/2016	2016-18/45
R590-247	Universal Health Insurance Application Rule	40321	AMD	06/15/2016	2016-9/117
R590-259	Dependent Coverage to Age 26	40154	5YR	01/25/2016	2016-4/80
R590-260	Utah Defined Contribution Risk Adjuster Plan of Operation	40271	5YR	03/18/2016	2016-8/94
R590-261	Health Benefit Plan Adverse Benefit Determinations	40545	5YR	06/23/2016	2016-14/180
R590-262	Health Data Authority Health Insurance Claims Reporting	40273	AMD	05/23/2016	2016-8/80
R590-266	Utah Essential Health Benefits Package	40275	AMD	05/23/2016	2016-8/82
R590-272	Commission Compensation Reporting	39755	NEW	06/15/2016	2015-19/72
R590-272	Commission Compensation Reporting	39755	CPR	06/15/2016	2016-2/124
R590-272	Commission Compensation Reporting	39755	CPR	06/15/2016	2016-9/126
Title and Escrow Commission					
R592-11	Title Insurance Producer Annual and Controlled Business Reports	40183	AMD	04/15/2016	2016-4/65
R592-11	Title Insurance Producer Annual and Controlled Business Reports	40499	5YR	06/15/2016	2016-13/166
R592-15	Submission of a Schedule of Minimum Charges for Escrow Services	40300	5YR	04/06/2016	2016-9/137
R592-17	Requirements for Interest Bearing Accounts Used by Title Insurance Agencies for Trust Fund Deposits	40006	NEW	03/16/2016	2016-2/101
JUDICIAL PERFORMANCE EVALUATION COMMISSION					
Administration					
R597-3-5	Public Comments	40192	AMD	04/20/2016	2016-5/14
LABOR COMMISSION					
Adjudication					
R602-2-4	Attorney Fees	40469	EMR	06/06/2016	2016-13/153
Administration					
R600-3	Definitions Applicable to Construction Licensees	40450	5YR	05/27/2016	2016-12/64
Antidiscrimination and Labor, Antidiscrimination					
R606-1	Antidiscrimination	40626	5YR	07/28/2016	2016-16/47
Antidiscrimination and Labor, Fair Housing					
R608-1	Utah Fair Housing Rules	40717	5YR	08/29/2016	2016-18/45
Antidiscrimination and Labor, Labor					
R610-1	Minimum Wage, Clarify Tip Credit, and Enforcement	40720	5YR	08/29/2016	2016-18/46
R610-2	Employment of Minors	40719	5YR	08/29/2016	2016-18/46

R610-3	Filing, Investigation, and Resolution of Wage Claims	40718	5YR	08/29/2016	2016-18/47
Boiler and Elevator Safety					
R616-2	Boiler and Pressure Vessel Rules	40691	5YR	08/23/2016	2016-18/47
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	40357	AMD	07/01/2016	2016-10/64
R616-3	Elevator Rules	40690	5YR	08/23/2016	2016-18/48
R616-3-3	Safety Codes for Elevators	40358	AMD	07/01/2016	2016-10/66
Industrial Accidents					
R612-200-2	Payment of Benefits, Interest and Attorney Fees	40470	EMR	06/06/2016	2016-13/155
MONEY MANAGEMENT COUNCIL					
Administration					
R628-10	Rating Requirements to Be a Permitted Depository	40303	EXD	04/12/2016	2016-9/139
R628-10	Rating Requirements to Be a Permitted Depository	40603	NEW	09/07/2016	2016-15/27
R628-12	Certification of Qualified Depositories for Public Funds	40227	5YR	02/26/2016	2016-6/35
R628-13	Collateralization of Public Funds	40228	5YR	02/26/2016	2016-6/35
R628-16	Certification as a Dealer	40229	5YR	02/26/2016	2016-6/36
NATURAL RESOURCES					
Forestry, Fire and State Lands					
R652-2	Sovereign Land Management Objectives	40138	5YR	01/14/2016	2016-3/529
R652-8	Adjudicative Proceedings	40134	5YR	01/14/2016	2016-3/529
R652-9	Consistency Review	40133	5YR	01/14/2016	2016-3/530
R652-41	Rights of Entry	40136	5YR	01/14/2016	2016-3/530
R652-80	Land Exchanges	40135	5YR	01/14/2016	2016-3/531
R652-122	County Cooperative Agreements with State for Fire Protection	40304	5YR	04/14/2016	2016-9/138
R652-123	Exemptions to Wildland Fire Suppression Fund	40132	5YR	01/14/2016	2016-3/531
R652-150	Utah Bioprospecting Act	40482	5YR	06/09/2016	2016-13/166
Geological Survey					
R638-1	Acceptance and Maintenance of Confidential Information	40214	5YR	02/17/2016	2016-6/36
Oil, Gas and Mining; Abandoned Mine Reclamation					
R643-870	Abandoned Mine Reclamation Regulation Definitions	40694	5YR	08/24/2016	2016-18/49
R643-872	Abandoned Mine Reclamation Fund	40695	5YR	08/24/2016	2016-18/49
R643-874	General Reclamation Requirements	40696	5YR	08/24/2016	2016-18/50
R643-875	Noncoal Reclamation	40697	5YR	08/24/2016	2016-18/50
R643-877	Rights of Entry	40698	5YR	08/24/2016	2016-18/51
R643-879	Acquisition, Management, and Disposition of Lands and Water	40699	5YR	08/24/2016	2016-18/51
R643-882	Reclamation on Private Land	40700	5YR	08/24/2016	2016-18/52
R643-884	State Reclamation Plan	40701	5YR	08/24/2016	2016-18/52
R643-886	State Reclamation Grants	40702	5YR	08/24/2016	2016-18/53
Oil, Gas and Mining; Administration					
R642-100	Records of the Division and Board of Oil, Gas and Mining	40693	5YR	08/24/2016	2016-18/48
Oil, Gas and Mining; Coal					
R645-100	Administrative: Introduction	40731	5YR	09/06/2016	2016-19/111
R645-103	Areas Unsuitable for Coal Mining and Reclamation Operations	40732	5YR	09/06/2016	2016-19/111
R645-200	Coal Exploration: Introduction	40733	5YR	09/06/2016	2016-19/112
R645-201	Coal Exploration: Requirements for Exploration Approval	40734	5YR	09/06/2016	2016-19/112

R645-202	Coal Exploration: Compliance Duties	40735	5YR	09/06/2016	2016-19/113
R645-203	Coal Exploration: Public Availability of Information	40736	5YR	09/06/2016	2016-19/113
R645-300	Coal Mine Permitting: Administrative Procedures	40737	5YR	09/06/2016	2016-19/114
R645-301	Coal Mine Permitting: Permit Application Requirements	40738	5YR	09/06/2016	2016-19/114
R645-302	Coal Mine Permitting: Special Categories and Areas of Mining	40739	5YR	09/06/2016	2016-19/115
R645-303	Coal Mine Permitting: Change, Renewal, and Transfer, Assignment, or Sale of Permit Rights	40740	5YR	09/06/2016	2016-19/115
R645-402	Inspection and Enforcement: Individual Civil Penalties	40741	5YR	09/06/2016	2016-19/116
R645-403	Alternative Enforcement	40742	5YR	09/06/2016	2016-19/116
Oil, Gas and Mining; Oil and Gas					
R649-1	Oil and Gas Definitions	40710	5YR	08/26/2016	2016-18/53
R649-1-1	Definitions	40302	NSC	04/15/2016	Not Printed
R649-2	General Rules	40711	5YR	08/26/2016	2016-18/54
R649-3	Drilling and Operating Practices	40712	5YR	08/26/2016	2016-18/54
R649-3-23	Well Workover and Recompletion	40444	NSC	06/13/2016	Not Printed
R649-3-32	Reporting of Undesirable Events	40716	AMD	11/01/2016	2016-18/16
R649-5	Underground Injection Control of Recovery Operations and Class II Injection Wells	40713	5YR	08/26/2016	2016-18/55
R649-8	Reporting and Report Forms	40714	5YR	08/26/2016	2016-18/55
R649-9	Waste Management and Disposal	40715	5YR	08/26/2016	2016-18/56
Parks and Recreation					
R651-201	Definitions	40059	5YR	01/07/2016	2016-3/513
R651-202	Boating Advisory Council	40060	5YR	01/07/2016	2016-3/514
R651-203	Waterway Marking System	40061	5YR	01/07/2016	2016-3/514
R651-204	Regulating Waterway Markers	40062	5YR	01/07/2016	2016-3/515
R651-204	Regulating Waterway Markers	40090	NSC	02/02/2016	Not Printed
R651-205	Zoned Waters	40063	5YR	01/07/2016	2016-3/515
R651-206	Carrying Passengers for Hire	40064	5YR	01/07/2016	2016-3/516
R651-206	Carrying Passengers for Hire	40091	NSC	02/02/2016	Not Printed
R651-207	Registration Fee	40066	5YR	01/07/2016	2016-3/516
R651-207	Registration Fee	40188	NSC	02/25/2016	Not Printed
R651-208	Backing Plates	40067	5YR	01/07/2016	2016-3/517
R651-208	Backing Plates	40189	NSC	02/25/2016	Not Printed
R651-209	Anchored and Beached Vessels	40084	5YR	01/07/2016	2016-3/517
R651-210	Change of Address	40068	5YR	01/07/2016	2016-3/518
R651-210	Change of Address	40190	NSC	02/25/2016	Not Printed
R651-211	Assigned Numbers	40069	5YR	01/07/2016	2016-3/518
R651-211	Assigned Numbers	40191	NSC	02/25/2016	Not Printed
R651-212	Display of Yearly Registration Decals and Month of Expiration Decals	40070	5YR	01/07/2016	2016-3/519
R651-213	Dealer Numbers and Registrations	40072	5YR	01/07/2016	2016-3/519
R651-214	Temporary Registration	40073	5YR	01/07/2016	2016-3/520
R651-215	Personal Flotation Devices	40074	5YR	01/07/2016	2016-3/520
R651-216	Navigation Lights - Note: Figures 1 through 7 mentioned below are on file with the Utah Division of Parks and Recreation	40075	5YR	01/07/2016	2016-3/521
R651-217	Fire Extinguishers	40076	5YR	01/07/2016	2016-3/522
R651-218	Carburetor Backfire Flame Control	40077	5YR	01/07/2016	2016-3/522
R651-219	Additional Safety Equipment	40078	5YR	01/07/2016	2016-3/523
R651-220	Registration and Numbering Exemptions	40079	5YR	01/07/2016	2016-3/523
R651-221	Boat Liveries - Boat Rental Companies	40080	5YR	01/07/2016	2016-3/524
R651-222	Muffling Requirements	40081	5YR	01/07/2016	2016-3/524
R651-224	Towed Devices	40082	5YR	01/07/2016	2016-3/525
R651-226	Regattas and Races	40083	5YR	01/07/2016	2016-3/525
R651-401	Off-Highway Vehicle and Registration Stickers	40087	5YR	01/07/2016	2016-3/526
R651-405	Off-Highway Implement of Husbandry Sticker Fee	40088	5YR	01/07/2016	2016-3/526
R651-406	Off-Highway Vehicle Registration Fees	40089	5YR	01/07/2016	2016-3/527
R651-412	Curriculum Standards for OHV Education Programs Offered by Non-Division Entities	40213	AMD	04/21/2016	2016-6/22

R651-601	Definitions as Used in These Rules	40447	AMD	07/28/2016	2016-12/44
R651-602	Aircraft and Powerless Flight	40448	AMD	07/28/2016	2016-12/46
R651-611	Fee Schedule	40065	5YR	01/07/2016	2016-3/527
R651-612	Veterans with Disabilities Honor Pass	40445	NEW	07/28/2016	2016-12/48
R651-637	Antelope Island State Park Special Mule Deer and Bighorn Sheep Hunt	40215	AMD	04/21/2016	2016-6/23
R651-801	Swimming Prohibited	40085	5YR	01/07/2016	2016-3/528
R651-802	Scuba Diving	40086	5YR	01/07/2016	2016-3/528
Water Rights					
R655-3	Reports of Water Right Conveyance	40659	R&R	10/12/2016	2016-17/60
R655-10	Dam Safety Classifications, Approval Procedures and Independent Reviews	40166	5YR	01/29/2016	2016-4/80
R655-10-5A	Hazard Classification -- Criteria	40169	AMD	03/24/2016	2016-4/67
R655-11	Requirements for the Design, Construction and Abandonment of Dams	40167	5YR	01/29/2016	2016-4/81
R655-11	Requirements for the Design, Construction and Abandonment of Dams	40175	AMD	03/24/2016	2016-4/68
R655-12	Requirements for Operational Dams	40168	5YR	01/29/2016	2016-4/81
R655-12	Requirements for Operational Dams	40176	AMD	03/24/2016	2016-4/71
R655-17	Water Use Data Reporting and Verification	40660	NEW	10/12/2016	2016-17/66
Wildlife Resources					
R657-3	Collection, Importation, Transportation, and Possession of Animals	40094	AMD	03/09/2016	2016-3/486
R657-5	Taking Big Game	39976	AMD	02/08/2016	2016-1/60
R657-5	Taking Big Game	40403	AMD	07/11/2016	2016-11/42
R657-9	Taking Waterfowl, Wilson's Snipe and Coot	39978	AMD	02/08/2016	2016-1/66
R657-9	Taking Waterfowl, Wilson's Snipe and Coot	40628	5YR	08/01/2016	2016-16/47
R657-10	Taking Cougar	40629	5YR	08/01/2016	2016-16/48
R657-23	Utah Hunter Education Program	40404	AMD	07/11/2016	2016-11/43
R657-26	Adjudicative Proceedings for a License, Permit, or Certificate of Registration	40630	5YR	08/01/2016	2016-16/48
R657-33	Taking Bear	40093	AMD	03/09/2016	2016-3/490
R657-37	Cooperative Wildlife Management Units for Big Game or Turkey	39977	AMD	02/08/2016	2016-1/68
R657-48	Wildlife Species of Concern and Habitat Designation Advisory Committee	40370	5YR	05/02/2016	2016-10/86
R657-63	Self Defense Against Wild Animals	40231	5YR	02/29/2016	2016-6/37
NAVAJO TRUST FUND					
Trustees					
R661-1	Utah Navajo Trust Fund Scope	40019	NEW	02/29/2016	2016-2/103
R661-2	Utah Navajo Trust Fund Definitions	40020	NEW	02/29/2016	2016-2/104
R661-3	Utah Navajo Trust Fund Residency Policy	40021	NEW	02/29/2016	2016-2/105
R661-3	Utah Navajo Trust Fund Residency Policy	40829	EMR	09/23/2016	2016-20/83
R661-4	Utah Navajo Trust Fund Chapter Projects	40022	NEW	02/29/2016	2016-2/107
R661-5	Utah Navajo Trust Fund Blue Mountain Dine' Community	40023	NEW	02/29/2016	2016-2/109
R661-6	Utah Navajo Trust Fund Higher Education Financial Assistance and Scholarship Program	40024	NEW	02/29/2016	2016-2/110
R661-6	Utah Navajo Trust Fund Higher Education Financial Assistance and Scholarship Program	40830	EMR	09/23/2016	2016-20/85
R661-7	Utah Navajo Trust Fund Housing Projects Policy	40025	NEW	02/29/2016	2016-2/113
R661-7	Utah Navajo Trust Fund Housing Projects Policy	40607	AMD	10/24/2016	2016-15/28
R661-8	Utah Navajo Trust Fund Power Lines and House Wiring Program	40026	NEW	02/29/2016	2016-2/115
R661-9	Utah Navajo Trust Fund Public Facility Projects	40347	NEW	06/23/2016	2016-10/67
R661-10	Utah Navajo Trust Fund Short-Term Training Program	40348	NEW	06/23/2016	2016-10/68
R661-11	Utah Navajo Trust Fund Water Development Projects Culinary and Septic Systems	40349	NEW	06/23/2016	2016-10/70
R661-12	Utah Navajo Trust Fund Homesite Lease Assistance Program	40350	NEW	06/23/2016	2016-10/71

R661-13	Veterans' Housing Program Policy	40608	NEW	09/21/2016	2016-15/30
R661-14	Heavy Equipment Purchase and Repair Program	40609	NEW	09/21/2016	2016-15/32
R661-15	Indemnification	40610	NEW	09/21/2016	2016-15/33
R661-16	Health Care Systems Improvement Program	40611	NEW	09/21/2016	2016-15/34
R661-17	Office Equipment Purchase Program	40612	NEW	09/21/2016	2016-15/35
R661-18	Outstanding Senior Award Program	40613	NEW	09/21/2016	2016-15/37
R661-19	Student Educational Enrichment Program	40614	NEW	09/21/2016	2016-15/38
R661-20	Photovoltaic (Solar) Systems Program	40615	NEW	09/21/2016	2016-15/39
PARDONS (BOARD OF)					
Administration					
R671-201	Original Hearing Schedule and Notice	40707	EMR	08/25/2016	2016-18/37
R671-201	Original Hearing Schedule and Notice	40708	AMD	10/31/2016	2016-18/18
R671-204	Hearing Continuances	40618	AMD	10/31/2016	2016-16/8
R671-302-1	Open Hearings	40617	AMD	10/31/2016	2016-16/10
R671-308	Offender Hearing Assistance	40619	AMD	10/31/2016	2016-16/10
R671-315-1	Pardons	40316	AMD	07/07/2016	2016-9/118
R671-510	Evidence for Issuance of Warrants	40620	AMD	10/31/2016	2016-16/12
PUBLIC SAFETY					
Administration					
R698-1	Public Petitions for Declaratory Orders	40639	NSC	08/22/2016	Not Printed
R698-8	Local Public Safety and Firefighter Surviving Spouse Trust Fund	40001	NEW	02/24/2016	2016-2/117
Criminal Investigations and Technical Services, Criminal Identification					
R722-360	Certificate of Eligibility for Removal from the Sex Offender and Kidnap Offender Registry	40596	NSC	08/01/2016	Not Printed
R722-390	Certificate of Eligibility for Removal from the Utah White Collar Crime Offender Registry	40597	NSC	08/01/2016	Not Printed
R722-910	Non-Reportable Traffic Offenses	40646	NSC	08/22/2016	Not Printed
Driver License					
R708-16	Pedestrian Vehicle Rule	40095	EXT	01/11/2016	2016-3/533
R708-16	Pedestrian Vehicle Rule	40140	REP	03/24/2016	2016-4/72
R708-18	Regulatory and Administrative Fees	40141	5YR	01/19/2016	2016-4/82
R708-19	Automobile No-Fault Self-Insurance	40142	5YR	01/19/2016	2016-4/82
R708-20	Motor Vehicle Accident Prevention Course Standards	40143	5YR	01/19/2016	2016-4/83
R708-38	Anatomical Gift	40144	5YR	01/19/2016	2016-4/83
R708-42	Driver Address Record	40145	5YR	01/19/2016	2016-4/84
R708-43	Verification of Personal Identifying Information by Depository Institutions	40146	5YR	01/19/2016	2016-4/84
R708-44	Citation Monitoring Service	40147	5YR	01/19/2016	2016-4/85
R708-46	Refugee or Approved Asylee Knowledge Test in Applicant's Native Language	40586	5YR	07/07/2016	2016-15/82
Fire Marshal					
R710-1	Concerns Servicing Portable Fire Extinguishers	40479	AMD	08/15/2016	2016-13/127
R710-2	Rules Pursuant to the Utah Fireworks Act	40601	AMD	09/13/2016	2016-15/41
R710-3	Assisted Living Facilities	40484	AMD	08/15/2016	2016-13/134
R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	40485	AMD	08/15/2016	2016-13/137
R710-5	Automatic Fire Sprinkler System Inspecting and Testing	40522	AMD	08/23/2016	2016-14/57
R710-6	Liquefied Petroleum Gas Rules	40602	AMD	09/13/2016	2016-15/46
R710-7	Concerns Servicing Automatic Fire Suppression Systems	40598	AMD	09/13/2016	2016-15/54
R710-8	Day Care Rules	40523	AMD	08/23/2016	2016-14/62
R710-9	Rules Pursuant to the Utah Fire Prevention and Safety Act	40546	AMD	08/23/2016	2016-14/64
R710-10	Rules Pursuant to Fire Service Training, Education, and Certification	40544	AMD	08/23/2016	2016-14/68
R710-11	Fire Alarm System Inspecting and Testing	40521	AMD	08/23/2016	2016-14/72

R710-11	Fire Alarm System Inspecting and Testing	40837	5YR	09/28/2016	2016-20/98
R710-12	Hazardous Materials Training and Certification	40520	AMD	08/23/2016	2016-14/77
R710-13	Reduced Cigarette Ignition Propensity and Firefighter Protection Act	40519	AMD	08/23/2016	2016-14/80
Highway Patrol					
R714-158	Vehicle Safety Inspection Program Requirements	40552	R&R	09/27/2016	2016-14/81
R714-160	Equipment Standards for Passenger Vehicle and Light Truck Safety Inspections	40197	EXT	02/08/2016	2016-5/29
R714-160	Equipment Standards for Passenger Vehicle and Light Truck Safety Inspections	40463	5YR	06/02/2016	2016-13/167
R714-160	Equipment Standards for Passenger Vehicle and Light Truck Safety Inspections	40631	R&R	09/27/2016	2016-16/13
R714-161	Equipment Standards for Motorcycle and ATV Safety Inspections	40198	EXT	02/08/2016	2016-5/29
R714-161	Equipment Standards for Motorcycle and ATV Safety Inspections	40464	5YR	06/02/2016	2016-13/168
R714-161	Equipment Standards for Motorcycle and ATV Safety Inspections	40543	R&R	09/27/2016	2016-14/90
R714-162	Equipment Standards for Heavy Truck, Trailer and Bus Safety Inspections	40199	EXT	02/08/2016	2016-5/29
R714-162	Equipment Standards for Heavy Truck, Trailer and Bus Safety Inspections	40465	5YR	06/02/2016	2016-13/169
R714-163	Street-Legal All-Terrain Vehicles	40542	NEW	09/27/2016	2016-14/102
R714-500	Chemical Analysis Standards and Training	39850	AMD	01/21/2016	2015-22/144
Peace Officer Standards and Training					
R728-101	Public Petitions for Declaratory Rulings	40527	REP	08/23/2016	2016-14/103
R728-401	Requirements For Approval and Certification of Peace Officer Basic Training Programs and Applicants	40534	R&R	08/23/2016	2016-14/104
R728-402	Application Procedures to Attend a Basic Peace Officer Training Program	40528	REP	08/23/2016	2016-14/108
R728-403	Qualifications For Admission To Certified Peace Officer Training Academies	40535	R&R	08/23/2016	2016-14/109
R728-404	Basic Training Basic Academy Rules	40531	REP	08/23/2016	2016-14/115
R728-405	Drug Testing Requirement	40532	REP	08/23/2016	2016-14/119
R728-406	Requirements for Approval and Certification of Basic Correctional, Reserve and Special Function Training Programs and Applicants	40529	REP	08/23/2016	2016-14/120
R728-407	Waiver/Reactivation Process	40533	REP	08/23/2016	2016-14/122
R728-409-14	Suspension, Revocation, or Relinquishment of Certification	40165	NSC	02/17/2016	Not Printed
R728-410	Guidelines Regarding Failure To Obtain Annual Statutory Training	40536	R&R	08/23/2016	2016-14/123
R728-411	Guidelines Regarding Administrative Action Taken Against Individuals Functioning As Peace Officers Without Peace Officer Certification Or Powers	40537	R&R	08/23/2016	2016-14/126
R728-500	Utah Peace Officer Standards and Training In-Service Training Certification Procedures	40530	REP	08/23/2016	2016-14/128
R728-501	Career Development Courses	40539	REP	08/23/2016	2016-14/130
R728-502	Procedure for POST Instructor Certification	40538	R&R	08/23/2016	2016-14/132
R728-505	Service Dog Program Rules	40540	REP	08/23/2016	2016-14/135
PUBLIC SERVICE COMMISSION					
Administration					
R746-200-7	Termination of Service	40472	AMD	08/08/2016	2016-13/141
R746-310	Uniform Rules Governing Electricity Service by Electric Utilities	40704	AMD	10/24/2016	2016-18/20
R746-343-16	New Technology Equipment Distribution Program (NTEDP)	40685	AMD	10/24/2016	2016-18/23
R746-360-4	Application of Fund Surcharges to Customer Billings	40553	AMD	08/22/2016	2016-14/139
R746-360-6	Eligibility for Fund Distributions	40299	AMD	08/08/2016	2016-9/121

R746-360-6	Eligibility for Fund Distributions	40299	CPR	08/08/2016	2016-13/150
R746-360-6	Eligibility for Fund Distributions	40723	AMD	10/24/2016	2016-18/25
R746-409	Pipeline Safety	39934	AMD	03/30/2016	2015-23/42
R746-409	Pipeline Safety	39934	CPR	03/30/2016	2016-3/504
R746-409	Pipeline Safety	40292	5YR	03/31/2016	2016-8/94

REGENTS (BOARD OF)

Administration

R765-608	Utah Engineering and Computer Science Scholarship Program	40246	NSC	03/29/2016	Not Printed
R765-608	Utah Engineering and Computer Science Scholarship Program	40343	5YR	04/19/2016	2016-10/87

University of Utah, Administration

R805-5	Enforcement of No Smoking Areas at University of Utah Hospitals and Clinics	40153	5YR	01/25/2016	2016-4/85

SCHOOL AND INSTITUTIONAL TRUST LANDS

Administration

R850-1	Definition of Terms	39962	AMD	01/21/2016	2015-24/48
R850-8	Adjudicative Proceedings	40895	5YR	10/18/2016	Not Printed
R850-11	Procurement	39961	AMD	01/21/2016	2015-24/50
R850-30-400	Special Use Leases	40185	AMD	03/23/2016	2016-4/73
R850-50	Range Management	39960	AMD	01/21/2016	2015-24/52
R850-50	Range Management	40184	NSC	02/17/2016	Not Printed
R850-90-200	Exchange Criteria	40291	AMD	05/24/2016	2016-8/83
R850-140	Development Property	40767	5YR	09/14/2016	2016-19/117

TAX COMMISSION

Administration

R861-1A-20	Time of Appeal Pursuant to Utah Code Ann. Sections 59-1-301, 59-1-501, 59-1-1410, 59- 2-1007, 59-7-517, 59-10-535, 59-12-114, 59-13-210, 63G-4-201, 63G-4-401, 68-3-7, and 68-3-8.5	40743	NSC	09/26/2016	Not Printed

Auditing

R865-6F-8	Allocation and Apportionment of Net Income (Uniform Division of Income for Tax Purposes Act) Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321	40744	NSC	09/26/2016	Not Printed
R865-6F-28	Enterprise Zone Corporate Franchise Tax Credits Pursuant to Utah Code Ann. Sections 63N-2-201 through 63N-2-215	40417	AMD	07/14/2016	2016-11/45
R865-9I-37	Enterprise Zone Individual Income Tax Credits Pursuant to Utah Code Ann. Sections 63N-2-201 through 63N-2-215	40418	AMD	07/14/2016	2016-11/47
R865-19S-94	Tips, Gratuities, and Cover Charges Pursuant to Utah Code Ann. Section 59-12-103	39987	AMD	04/14/2016	2016-1/76
R865-20T-5	Bonding Requirements for Cigarette and Tobacco Products Dealers Pursuant to Utah Code Ann. Sections 59-14-210 and 59-14-301	40745	NSC	09/26/2016	Not Printed

Motor Vehicle

R873-22M-34	Rule for Denial of Personalized Plate Requests Pursuant to Utah Code Ann. Sections 41-1a-104 and 41-1a-411	40419	AMD	07/14/2016	2016-11/49

Motor Vehicle Enforcement

R877-23V-20	Reasonable Cause to Deny, Suspend, or Revoke a License Issued Under Title 41, Chapter 3 Pursuant to Utah Code Ann. Section 41-3-209	40420	AMD	07/14/2016	2016-11/50

Property Tax					
R884-24P-10	Taxation of Underground Rights in Land That Contains Deposits of Oil or Gas Pursuant to Utah Code Ann. Sections 59-2-201 and 59-2-210	40421	AMD	07/14/2016	2016-11/51
TECHNOLOGY SERVICES					
Administration					
R895-5	Acquisition of Information Technology	40030	AMD	02/23/2016	2016-2/118
TRANSPORTATION					
Administration					
R907-1	Administrative Procedures	40643	5YR	08/03/2016	2016-17/95
R907-3	Administrative Procedure	40860	5YR	10/07/2016	2016-21/81
R907-62	Americans with Disabilities Act	40730	5YR	09/02/2016	2016-19/117
R907-63	Structure Repair and Loss Recovery Procedure	40644	EXT	08/03/2016	2016-17/99
R907-63	Structure Repair and Loss Recovery Procedure	40558	AMD	08/23/2016	2016-14/141
R907-63	Structure Repair and Loss Recovery Procedure	40728	5YR	09/01/2016	2016-18/56
R907-66	Incorporation and Use of Federal Acquisition Regulations on Federal-Aid and State-Financed Transportation Projects	40861	5YR	10/07/2016	2016-21/82
R907-69	Records Access	40590	5YR	07/07/2016	2016-15/83
Motor Carrier					
R909-1	Safety Regulations for Motor Carriers	40721	5YR	08/30/2016	2016-18/57
R909-19	Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification	39953	AMD	01/21/2016	2015-24/58
R909-19	Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification	40468	5YR	06/02/2016	2016-13/170
R909-75	Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes	40722	5YR	08/30/2016	2016-18/57
Operations, Aeronautics					
R914-1	Rules and Regulations	40663	AMD	10/12/2016	2016-17/83
Operations, Construction					
R916-1	Advertising and Awarding Construction Contracts	40627	5YR	07/28/2016	2016-16/49
R916-2	Prequalification of Contractors	40641	5YR	08/03/2016	2016-17/96
R916-3	Design-Build Contracts	40642	5YR	08/03/2016	2016-17/96
R916-7	Appeals to UDOT Decisions on, and Requesting Compliance with Nighttime Noise Permits	40683	NEW	10/24/2016	2016-18/26
Operations, Maintenance					
R918-5	Construction or Improvement of Highway	40473	EMR	06/08/2016	2016-13/156
R918-5	Construction or Improvement of Highway	40474	EXD	06/08/2016	2016-13/173
R918-5	Construction or Improvement of Highway	40729	NEW	10/24/2016	2016-18/28
Operations, Traffic and Safety					
R920-4	Special Road Use or Event	39941	AMD	01/07/2016	2015-23/46
R920-50	Ropeway Operation Safety	40494	AMD	08/09/2016	2016-13/144
Preconstruction					
R930-3	Highway Noise Abatement	40914	5YR	10/25/2016	Not Printed
R930-7	Utility Accommodation	39988	AMD	02/23/2016	2016-1/77
R930-7	Utility Accommodation	40724	AMD	10/24/2016	2016-18/29
Preconstruction, Right-of-Way Acquisition					
R933-1	Right of Way Acquisition	40906	5YR	10/25/2016	Not Printed

Program Development					
R926-2	Evaluation of Proposed Additions to or Deletions from the State Highway System	40751	5YR	09/08/2016	2016-19/118
R926-3	Class B and Class C Road Funds	40056	AMD	04/08/2016	2016-3/492
R926-3	Class B and Class C Road Funds	40750	5YR	09/08/2016	2016-19/118
R926-3	Class B and Class C Road Funds	40664	AMD	10/12/2016	2016-17/85
R926-5	State Park Access Highways Improvement Program	40913	5YR	10/25/2016	Not Printed
R926-9	Establishment, Designation and Operation of Tollways	40204	EXT	02/09/2016	2016-5/30
R926-9	Establishment, Designation and Operation of Tollways	40466	5YR	06/02/2016	2016-13/170
R926-13-4	Highways Within the State That Are Designated as State Scenic Byways	40057	AMD	04/08/2016	2016-3/493
R926-14	Utah Scenic Byway Program Administration; Scenic Byways Designation, De-designation, and Segmentation Processes	40409	EMR	05/10/2016	2016-11/55
R926-14	Utah Scenic Byway Program Administration; Scenic Byways Designation, De-designation, and Segmentation Processes	40525	AMD	08/23/2016	2016-14/142
R926-14	Utah Scenic Byway Program Administration; Scenic Byways Designation, De-designation, and Segmentation Processes	40820	NSC	10/07/2016	Not Printed
R926-15	Designated Scenic Backways	40645	5YR	08/03/2016	2016-17/97
TRANSPORTATION COMMISSION					
Administration					
R940-1	Establishment of Toll Rates	40205	EXT	02/09/2016	2016-5/30
R940-1	Establishment of Toll Rates	40467	5YR	06/02/2016	2016-13/171
R940-5	Approval of Highway Facilities on Sovereign Lands	40647	5YR	08/03/2016	2016-17/97
R940-7	Marda Dillree Corridor Preservation Fund	40910	5YR	10/25/2016	Not Printed
WORKFORCE SERVICES					
Employment Development					
R986-100	Employment Support Programs	40557	AMD	10/01/2016	2016-14/147
R986-200	Family Employment Program	39944	AMD	02/24/2016	2015-23/52
R986-200-221	Drug Testing Requirements	40556	AMD	09/14/2016	2016-14/148
R986-200-240	Additional Payments Available Under Certain Circumstances	40241	AMD	05/03/2016	2016-6/25
R986-400-402	General Provisions	40315	AMD	07/01/2016	2016-9/122
R986-700	Child Care Assistance	40104	AMD	04/01/2016	2016-3/495
R986-700	Child Care Assistance	40554	AMD	08/25/2016	2016-14/150
R986-700	Child Care Assistance	40555	AMD	10/01/2016	2016-14/151
Rehabilitation					
R993-100	Authority, Purpose and Administrative Review	40591	NEW	10/01/2016	2016-15/62
R993-200	Order of Selection	40592	NEW	10/01/2016	2016-15/66
R993-300	Certification Requirements for Interpreters for the Hearing Impaired	40593	NEW	10/01/2016	2016-15/67
Unemployment Insurance					
R994-205-106	Exempt Real Estate Sales	40045	AMD	02/24/2016	2016-2/120
R994-302	Employer Contribution Payments	40400	5YR	05/03/2016	2016-11/65
R994-308	Bond Requirement	40401	5YR	05/03/2016	2016-11/66
R994-403-117e	Claimant's Responsibility	40449	AMD	08/25/2016	2016-12/49

RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)
CPR = Change in Proposed Rule
EMR = 120-Day (Emergency) Rule
EXD = Expired Rule
EXP = Expedited Rule
EXT = Five-Year Review Extension
GEX = Governor's Extension
LNR = Legislative Nonreauthorization
NEW = New Rule (Proposed Rule)
NSC = Nonsubstantive Rule Change
R&R = Repeal and Reenact (Proposed Rule)
REP = Repeal (Proposed Rule)
5YR = Five-Year Notice of Review and Statement of Continuation

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
911 Advisory Committee					
Communications Authority Board (Utah), Administration	40397	R174-1	5YR	05/02/2016	2016-10/84
Academic Pathways to Teaching					
Education, Administration	40509	R277-511	NEW	08/12/2016	2016-13/39
accelerated learning					
Education, Administration	40428	R277-707	5YR	05/16/2016	2016-11/63
	40429	R277-707	AMD	07/11/2016	2016-11/21
accessing records					
Human Services, Recovery Services	40650	R527-5	5YR	08/08/2016	2016-17/93
accident prevention					
Public Safety, Driver License	40143	R708-20	5YR	01/19/2016	2016-4/83
accountability					
Education, Administration	40782	R277-109	5YR	09/15/2016	2016-19/102
accountants					
Commerce, Occupational and Professional Licensing	39982	R156-26a	AMD	02/11/2016	2016-1/4
	40859	R156-26a	5YR	10/06/2016	2016-21/74
accreditation					
Education, Administration	40285	R277-505	5YR	03/30/2016	2016-8/93
	40290	R277-505	AMD	05/23/2016	2016-8/25
achievement tests					
Education, Administration	40881	R277-604	5YR	10/14/2016	2016-21/75
activities					
Education, Administration	40098	R277-494	AMD	03/09/2016	2016-3/6
acupuncture					
Commerce, Occupational and Professional Licensing	40749	R156-72	5YR	09/08/2016	2016-19/101
	40857	R156-72-102	NSC	10/20/2016	Not Printed
ADA					
Transportation, Administration	40730	R907-62	5YR	09/02/2016	2016-19/117
ADA complaint procedures					
Crime Victim Reparations, Administration	40689	R270-3	REP	10/24/2016	2016-18/12
ADAP					
Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health	40843	R388-805	5YR	09/30/2016	2016-20/98
adjudicative procedures					
Natural Resources, Forestry, Fire and State Lands	40134	R652-8	5YR	01/14/2016	2016-3/529

	40086	R651-802	5YR	01/07/2016	2016-3/528
water skiing					
Natural Resources, Parks and Recreation	40082	R651-224	5YR	01/07/2016	2016-3/525
water use					
Natural Resources, Water Rights	40660	R655-17	NEW	10/12/2016	2016-17/66
waterfowl					
Natural Resources, Wildlife Resources	39978	R657-9	AMD	02/08/2016	2016-1/66
	40628	R657-9	5YR	08/01/2016	2016-16/47
watershed management					
Environmental Quality, Drinking Water	40031	R309-105-4	AMD	05/01/2016	2016-2/19
weed classifications					
Agriculture and Food, Plant Industry	39965	R68-9	AMD	02/02/2016	2015-24/8
weed control					
Agriculture and Food, Plant Industry	39965	R68-9	AMD	02/02/2016	2015-24/8
welfare fraud					
Human Services, Recovery Services	40416	R527-800	NSC	05/31/2016	Not Printed
white collar crime offender registry					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	40597	R722-390	NSC	08/01/2016	Not Printed
white collar crime offenders					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	40597	R722-390	NSC	08/01/2016	Not Printed
wildland urban interface					
Natural Resources, Forestry, Fire and State Lands	40304	R652-122	5YR	04/14/2016	2016-9/138
wildlife					
Natural Resources, Wildlife Resources	40094	R657-3	AMD	03/09/2016	2016-3/486
	39976	R657-5	AMD	02/08/2016	2016-1/60
	40403	R657-5	AMD	07/11/2016	2016-11/42
	39978	R657-9	AMD	02/08/2016	2016-1/66
	40628	R657-9	5YR	08/01/2016	2016-16/47
	40629	R657-10	5YR	08/01/2016	2016-16/48
	40404	R657-23	AMD	07/11/2016	2016-11/43
	40630	R657-26	5YR	08/01/2016	2016-16/48
	40093	R657-33	AMD	03/09/2016	2016-3/490
	39977	R657-37	AMD	02/08/2016	2016-1/68
	40231	R657-63	5YR	02/29/2016	2016-6/37
workers' compensation					
Labor Commission, Adjudication	40469	R602-2-4	EMR	06/06/2016	2016-13/153
Labor Commission, Industrial Accidents	40470	R612-200-2	EMR	06/06/2016	2016-13/155
written plans					
Public Service Commission, Administration	39934	R746-409	AMD	03/30/2016	2015-23/42
	39934	R746-409	CPR	03/30/2016	2016-3/504
x-rays					
Environmental Quality, Waste Management and Radiation Control, Radiation	40574	R313-16	5YR	07/01/2016	2016-14/173
	40004	R313-16-230	NSC	01/15/2016	Not Printed
	40580	R313-28	5YR	07/01/2016	2016-14/177
	40011	R313-70	NSC	01/15/2016	Not Printed
	40583	R313-70	5YR	07/01/2016	2016-14/179
youth advocate					
Human Services, Child and Family Services	40305	R512-10	5YR	04/14/2016	2016-9/136
	40587	R512-10	REP	09/07/2016	2016-15/25

zoological animals Natural Resources, Wildlife Resources	40094	R657-3	AMD	03/09/2016	2016-3/486