

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63G-3-402, *Utah Code Annotated* 1953.

Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114, telephone (801) 538-3218, FAX (801) 538-1773. To view rules information, and on-line versions of the division's publications, visit: <http://www.rules.utah.gov/>

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. The *Digest* is available by E-mail or over the Internet. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Governor's Proclamation: Calling the Fifty-Eighth Legislature into a First Special Session

PROCLAMATION

WHEREAS, since the adjournment of the 2009 General Session of the Fifty-Eighth Legislature of the State of Utah, matters have arisen that 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 Legislature into Special Session;

NOW, THEREFORE, I, Jon M. Huntsman, Jr., Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the laws of the State of Utah, do by this Proclamation call the Fifty-Eighth Legislature of the State of Utah into a First Special Session at the Utah State Capitol, in Salt Lake City, Utah, on the 20th day of May 2009, at 2:00 P.M., for the following purposes:

1. To make appropriations contained in Section 15, 2009 General Session HB 2, Minimum School Program Budget Amendments, effective in FY 2009, and reallocate education stabilization funds appropriated from the American Recovery and Reinvestment Act.
2. To address Medicaid Hospital Provider rates for FY 2010.
3. To adjust funding to the Departments of Health and Human Services, including the Division of Juvenile Justice Services, to offset the Federal Medicaid Assistance Program estimates for FY 2009.
4. To adjust appropriations related to funding from Federal Funds - American Recovery and Reinvestment Act of 2009.
5. To appropriate funds to and from General Fund Restricted Accounts and budget line items that had been reclassified from Restricted Special Revenue Funds in the 2009 General Session HB 391, Budgetary Procedures Act Revisions.
6. To move funding for the Housing Grant Program from the Finance Mandated Line Item to the Housing Relief Restricted Special Revenue Fund and to change the effective date of the appropriation from FY 2010 to FY 2009.
7. To balance transfers among the General Fund, Education Fund, and Uniform School Funds in FY 2009 and to correct an FY 2010 transfer from the Education Fund to the Uniform School Fund in 2009 General Session SB 3, Appropriations Adjustments, Item 175.
8. To accelerate from FY 2010 to FY 2009 transfers between the Severance Tax Holding Account and the General Fund.
9. To adjust the disposition of the motor vehicle registration fee revenue increase enacted by 2009 General Session SB 239, Transportation Revisions.
10. To appropriate funds to cover the cost of implementation of SB 230, Construction Payment Amendments that passed during the 2009 General Session after the Bill of Bills.
11. To advise and consent to the Governor's appointments transmitted to the Senate pursuant to Utah Code Ann. Sections 67-1-1 and 67-1-2.
12. To make technical corrections to public and legal notice requirements, including renumbering sections and subsections, and to restore language in the Open and Public Meetings Act and the Division of Oil, Gas, and Mining Notice Requirements.
13. To authorize the State Treasurer to apportion up to \$1.2 million in Forest Service special projects payments directly to county special service districts from Title III of the Secure Rural Schools and Community Self Determination Act.
14. To modify the Employment Selection Procedures Act to permit an employer to request information from an applicant to review the employer's internal records for employment related actions or to provide a governmental agency with information related to a governmental program, service, or benefit; and to clarify when information may be disclosed by an employer as required by law.

15. To consider whether an owner of agricultural land within a less populated county should, under limited circumstances, be authorized to create a minor subdivision regardless of local planning and zoning.

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 15th day of May, 2009.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

Health
Health Care Financing, Coverage and Reimbursement Policy

Estimated Acquisition Cost (EAC)

The Division of Health Care Financing (DHCF) is submitting a change to the Medicaid State Plan (SPA 09-001-UT Estimated Acquisition Cost (EAC)). The EAC basis of reimbursement for prescription drugs is being restored to Average Wholesale Price (AWP) minus 15 percent from AWP minus 17 percent, effective 07/01/ 2009.

DHCF estimates that this proposed change will not impact projected annual expenditures as it reverses a temporary two percent decrease in EAC implemented on 03/01/2009.

This proposed change is pending Centers for Medicare and Medicaid Services approval.

A copy of the change may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, P.O. Box 143102, Salt Lake City, UT 84114-3102. Comments are welcome at the same address. A copy of the change is also available at local county health department offices.

Health
Health Care Financing, Coverage and Reimbursement Policy

July 2009 Children's Health Insurance Program (CHIP) Benefit Changes

The Utah Department of Health has submitted an amendment to the CHIP State Plan. This amendment increases enrollee cost sharing for certain service, increases quarterly premiums for some clients, imposes a late fee for overdue quarterly premiums, and changes some medical and dental benefits. All changes will be implemented effective 07/01/2009. Changes are posted to the web and can be viewed at: <http://health.utah.gov/chip/>

The proposed changes are subject to Centers for Medicare and Medicaid Services approval.

For questions regarding this notice, please contact Heidi Weaver at 801-538-6806, or hweaver@utah.gov.

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between May 2, 2009, 12:00 a.m., and May 15, 2009, 11:59 p.m. are included in this, the June 1, 2009, issue of the *Utah State Bulletin*.

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

Following the RULE ANALYSIS, the text of the PROPOSED RULE is usually printed. New rules or additions made to existing rules are underlined (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not printed. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will 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 Division of Administrative Rules.

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least July 1, 2009. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63G-3-302 requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through September 29, 2009, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 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 Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

The Proposed Rules Begin on the Following Page.

Commerce, Occupational and
Professional Licensing
R156-5a
Podiatric Physician Licensing Act Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32653

FILED: 05/05/2009, 11:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Podiatric Physician Board reviewed this rule and determined that proposed changes needed to be made. The proposed amendments update an examination name and add the Division as an approved provider of continuing education.

SUMMARY OF THE RULE OR CHANGE: In Section R156-5a-302b, clarified that the National Board of Podiatric Medical Examiners is the NBPME examination. In Section R156-5a-303, updated rule citations. In Section R156-5a-304, added that the Division is an approved provider of continuing education and added that a maximum of six hours of continuing education may come from training conducted by the Division.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-5a-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print 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 only apply to licensed podiatric physicians and applicants for licensure as a podiatric physician. As a result, the proposed amendments do not apply to local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The proposed amendments only apply to licensed podiatric physicians and applicants for licensure as a podiatric physician. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business. As a result of the proposed amendments, licensed podiatric physicians will now have an additional option with respect to obtaining required continuing education hours. Licensed podiatric physicians may see minimal savings in continuing education costs as a result of the Division now providing continuing education training for the profession. However, any exact amount of savings is unable to be determined.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed podiatric physicians and applicants for licensure as a podiatric physician. As a result of the proposed amendments, licensed podiatric physicians will now have an additional option with respect to obtaining

required continuing education hours. Licensed podiatric physicians may see minimal savings in continuing education costs as a result of the Division now providing continuing education training for the profession. However, any exact amount of savings is unable to be determined.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As indicated in the rule summary, no fiscal impact to businesses is anticipated from the adoption of standards for licensees and clarifications of existing provisions. Francine A. Gian, Executive Director

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 Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Noel Taxin at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/02/2009 at 9:30 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 475, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2009

AUTHORIZED BY: Thad LeVar, Deputy Director

**R156. Commerce, Occupational and Professional Licensing.
R156-5a. Podiatric Physician Licensing Act Rule.
R156-5a-302b. Qualifications for Licensure - Examination Requirements.**

(1) In accordance with Subsection 58-1-203(1) and 58-1-301(3), the examination requirements for licensure in Section 58-5a-302 are established as follows:

(a) the National Board of Podiatric Medical Examiners examination (NBPME); or

(b) the Podiatric Medicine Licensing examination (PMLexis); and

(c) the Utah Podiatric law examination.

(2) To be eligible to sit for the NBPME or PMLexis, an applicant must submit the following to the Division:

(a) an application for licensure as a podiatric physician;

(b) licensing application fee;

(c) a transcript indicating completion of an approved podiatric program; and

(d) a copy of the test application submitted to NBPME or PMLexis.

R156-5a-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1)(a), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 5a is established by rule in Section R156-1-308a.

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

R156-5a-304. Continuing Education.

(1) There is hereby established a continuing professional education requirement for all individuals licensed under Title 58, Chapter 5a.

(2) During each two year period commencing on September 30 of each even numbered year, a licensee shall be required to complete not less than 40 hours of qualified professional education directly related to the licensee's professional clinical practice.

(3) The required number of hours of professional education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period year preceding the date on which that individual first became licensed.

(4) Qualified professional education under this section shall:

(a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of a podiatric physician;

(b) be relevant to the licensee's professional practice;

(c) be presented in a competent, well organized, and sequential manner consistent with the stated purpose and objective of the program;

(d) be prepared and presented by individuals who are qualified by education, training, and experience;~~and~~

(e) have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review; ~~or~~ and

(f) be sponsored or approved by a combination of the following:

(i) one of the organizations listed in Subsection 58-5a-304(3);~~or~~

(ii) the American Podiatric Medical Association; or

(iii) the Division of Occupational and Professional Licensing.

(5) Credit for professional education shall be recognized in accordance with the following:

(a) unlimited hours shall be recognized for professional education completed in blocks of time of not less than one hour in formally established classroom courses, seminars, or conferences;

(b) a maximum of 40 hours per two year period may be recognized for teaching in a college or university or teaching qualified professional education courses in the field of podiatry;

(c) a maximum of ten hours per two year period may be recognized for clinical readings directly related to practice as a podiatric physician; and

(d) a maximum of six hours of continuing education may come from the Division of Occupational and Professional Licensing.

(6) A licensee shall be responsible for maintaining competent records of completed qualified professional education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain such information with respect to qualified professional education to demonstrate it meets the requirements under this section.

(7) ~~[A licensee who documents they are]~~ If properly documented that a licensee is engaged in full time activities or is

subjected to circumstances which prevent that licensee from meeting the continuing professional education requirements established under this section, the licensee may be excused from the requirement for a period of up to three years; however, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

R156-5a-305. Radiology Course for Unlicensed Podiatric Assistants.

In accordance with Subsection 58-54-4.3(3), radiology courses for an unlicensed person performing services under the supervision of a podiatric physician shall include radiology theory consisting of the following:

(1) orientation of radiation technology;

(2) terminology;

(3) radiographic podiatric anatomy and pathology (cursory);

(4) radiation physics (basic);

(5) radiation protection to patient and operator;

(6) radiation biology including interaction of ionizing radiation on cells, ~~and~~ tissues and matter;

(7) factors influencing biological response to cells and tissues to ionizing radiation and cumulative effects of x-radiation;

(8) external radiographic techniques;

(9) processing techniques including proper disposal of chemicals; and

(10) infection control in podiatric radiology.

KEY: licensing, podiatrists, podiatric physician

Date of Enactment or Last Substantive Amendment: ~~[July 17, 2001]~~ **2009**

Notice of Continuation: October 7, 2008

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-5a-101

◆ ————— ◆

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

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 32661

FILED: 05/12/2009, 10:14

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the State Board of Pharmacy reviewed the rule and determined that changes needed to be made. Proposed amendments: 1) correct minor drafting errors; 2) reflect the current practice of recognizing two certification examinations for pharmacy technicians; 3) establish a temporary license for new graduates from pharmacy school who are no longer in school and eligible for licensure as a pharmacy intern; and 4) recognize the Division as a provider of approved continuing education.

SUMMARY OF THE RULE OR CHANGE: In Section R156-17b-102, added a definition for "ExCPT" (Exam for the Certification of Pharmacy Technicians). Updated the USP-NF (United States Pharmacopeia-National Formulary) to include the December 1, 2008, Supplement 2. In Section R156-17b-302, amendments clarify that the Pharmacy Technician Law and Rule Examination is to be taken as part of the licensure application process. Also recognizes both the PTCB (Pharmacy Technician Certification Board) and the ExCPT certification examinations for licensure as a pharmacy technician. In Section R156-17b-304, deletes any reference to an equivalent credential agency to the Foreign Pharmacy Graduate Education Committee. Section R156-17b-305 is a new section which establishes the requirements and expiration date of a temporary license issued to a new graduate pharmacist applicant. In Subsection R156-17b-306(4)(b), (c) and (d), made minor wording changes. In Section R156-17b-308, deletes language regarding an extended intern license following graduation from a pharmacy school. In Section R156-17b-309, qualified continuing education is broadened to include training or educational presentations offered by the Division of Occupational and Professional Licensing. Also recognizes current ExCPT certification as meeting the continuing education requirement for pharmacy technicians. In Section R156-17b-618, requires changes to ownership and the physical location of a pharmacy be requested by submitting a new application for licensure. A name change request form must be completed and approved, but it does not require the submission of a new application.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 58-17b-101 and 58-37-1, and Subsections 58-17b-601(1), 58-1-106(1)(a), and 58-1-202(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Updates the USP-NF to include Supplement 2, dated December 1, 2008

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print the rule and distribute it once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. The Division currently has the staff and resources to provide educational training on a variety of topics; however, the Controlled Substance Database improvements and recent statute changes will be emphasized at this time.

❖ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed pharmacy classifications and applicants for licensure in those classifications. The only effect on local government would be if the government agency hired a new pharmacy school graduate and the agency paid the additional temporary license fee of \$50.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The proposed amendments only apply to licensed pharmacy classifications and applicants for licensure in those classifications. Those small pharmacies that hire new graduates with a temporary pharmacist license may pay the \$50 cost of the temporary license as an incentive to work for that particular pharmacy. If a pharmacy does not pay the \$50

temporary license fee, then the new pharmacy school graduate applicant would be required to pay this fee if a temporary license is desired. Pharmacy technicians who are currently certified by either PTCB or ExCPT will meet the continuing education requirement and would not be required to attend continuing education events at distant locations thus requiring time off and additional costs to attend. As a result of the proposed amendments, licensees will now have an additional option with respect to obtaining required continuing education hours as a result of the Division being added as an approved continuing education provider. Licensees may see minimal savings in continuing education costs as a result of the Division now providing continuing education training for the profession. However, any exact amount of savings is unable to be determined. Implementation of the proposed amendments will help those pharmacy technicians who are currently certified by ExCPT by recognizing the certification as meeting continuing education requirements. Also, the Division will be able to offer continuing education credit as a "carrot" to licensees to entice them to attend any continuing education courses that are offered by the Division. Any organization or association that currently offers continuing education courses for a cost may see more and more licensees taking advantage of continuing education offered by the Division and could thus experience a slight decrease in continuing education revenue.

This scenario is highly unlikely though because the Division currently has plans to offer only a 1-2 hour course regarding the Controlled Substance Database.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed pharmacy classifications and applicants for licensure in those classifications. New pharmacy school graduates will be required to pay an additional \$50 for a temporary license if one is desired. Any continuing education offering provided by the Division of Occupational and Professional Licensing should have low or no cost thus helping licensees accumulate the required number of continuing education hours needed for renewal of licensure.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing makes technical changes, clarifies existing procedures, permits the Division to provide continuing education, recognizes an alternative examination for pharmacy technicians and establishes a temporary license procedure for new pharmacy school graduates. As more fully discussed in the rule filing, these changes will likely result in a cost savings to licensees and to the pharmacy industry. No other fiscal impact to businesses is anticipated. Francine A. Giani, Executive Director

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 Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Laura Poe at the above address, by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at lpoe@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/23/2009 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2009

AUTHORIZED BY: Thad LeVar, Deputy 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) "ACPE" means the American Council on Pharmaceutical Education or Accreditation Council for Pharmacy Education.

(2) "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.

(3) "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.

(4) "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.

(5) "Central Order Entry" means a pharmacy where functions are performed at the request of another pharmacy to perform processing functions such as dispensing, drug review, refill authorizations, and therapeutic interventions.

(6) "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.

(7) "Co-licensed partner or product" means an instance where two or more parties have the right to engage in the manufacturing and/or marketing of a prescription drug, consistent with FDA's implementation of the Prescription Drug Marketing Act.

(8) "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.

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

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

(11) "Dispense", as defined in Subsection 58-17b-102(23), 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.

(12) "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.

(13) "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.

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

~~(15)~~ "ExCPT", as used in this rule, means the Exam for the Certification of Pharmacy Technicians.

~~(16)~~ "FDA" means the United States Food and Drug Administration and any successor agency.

~~(17)~~ "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.

~~(18)~~ "Hospice facility pharmacy" means a pharmacy that supplies drugs to patients in a licensed healthcare facility for terminal patients.

~~(19)~~ "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.

(~~149~~20) "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".

(~~20~~21) "Maintenance medications" means medications the patient takes on an ongoing basis.

(~~24~~22) "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 must 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".

(~~22~~23) "MPJE" means the Multistate Jurisprudence Examination.

(~~23~~24) "NABP" means the National Association of Boards of Pharmacy.

(~~24~~25) "NAPLEX" means North American Pharmacy Licensing Examination.

(~~25~~26) "Normal distribution channel" means a chain of custody for a prescription drug that goes directly, by drop shipment as defined in Subsection (12), 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.

(~~26~~27) "Parenteral" means a method of drug delivery injected into body tissues but not via the gastrointestinal tract.

(~~27~~28) "Pedigree" means a document or electronic file containing information that records each distribution of any given prescription drug.

(~~28~~29) "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.

(~~29~~30) "PTCB" means the Pharmacy Technician Certification Board.

(~~30~~31) "Qualified continuing education", as used in this rule, means continuing education that meets the standards set forth in Section R156-17b-309.

(~~31~~32) "Refill" means to fill again.

(~~32~~33) "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 responsible for dispensing the product to a patient.

(~~33~~34) "Reverse distributor" means a person or company that retrieves unusable or outdated drugs from a pharmacy or pharmacist for the purpose of removing those drugs from stock and destroying them.

(~~34~~35) "Sterile products preparation facility" means any facility, or portion of the facility, that compounds sterile products using aseptic technique.

(~~35~~36) "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 must 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".

(~~36~~37) "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.

(~~37~~38) "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 expiration date for the drug.

(~~38~~39) "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.

(~~39~~40) "USP-NF" means the United States Pharmacopeia-National Formulary (USP 31-NF 26), 2008 edition, which is official from May 1, 2008 through Supplement 2, dated December 1, ~~2007~~2008, which is hereby adopted and incorporated by reference.

(~~40~~41) "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.

(~~41~~42) "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. Licensure - Examinations.

(1) In accordance with Subsection 58-17b-303(1)(h), the examinations that must be successfully passed by an applicant for licensure as a pharmacist are:

(a) the NAPLEX with a passing score as established by NABP; and

(b) the Multistate Pharmacy Jurisprudence Examination (MPJE) with a minimum passing score as established by NABP.

(2) In accordance with Subsection 58-17b-303(3)(j), an applicant applying by endorsement is required to pass the MPJE.

(3) In accordance with Subsection 58-17b-305(1)(g), the examinations which must be passed by an applicant applying for licensure as a pharmacy technician are:

(a) the Utah Pharmacy Technician Law and Rule Examination with a passing score of at least 75 and taken ~~[within six months prior to]~~ at the time of making application for licensure; and

(b) the ~~[National Pharmacy Technician Certification Board Examination, or equivalent certifying body,] PTCB or ExCPT~~ with a passing score as established by the certifying body. The certificate must exhibit a valid date and that the certification is active.

R156-17b-304. Licensure - Education Requirements.

(1) In accordance with Subsections 58-17b-303(2) and 58-17b-304(7)(c), the credentialing agency recognized to provide certification and evaluate equivalency of a foreign educated pharmacy graduate is the Foreign Pharmacy Graduate Examination Committee of the National Association of Boards of Pharmacy Foundation ~~[, or an equivalent credentialing agency as approved by the Division].~~

(2) In accordance with Subsection 58-17b-304(6), an applicant for a pharmacy intern license shall demonstrate that he meets one of the following education criteria:

(a) current admission in a College of Pharmacy accredited by the ACPE by written verification from the Dean of the College; ~~[or]~~

(b) a graduate degree from a school or college of pharmacy which is accredited by the ACPE; or

(c) a graduate degree from a foreign pharmacy school as established by a certificate of equivalency from an approved credentialing agency defined in Subsection (1).

(3) In accordance with Subsection 58-17b-305(1)(f), a pharmacy technician must complete an approved program of education and training that meets the following standards:

(a) The didactic training program must be approved by the Division in collaboration with the Board and must address, at a minimum, the following topics:

(i) legal aspects of pharmacy practice including federal and state laws and rules governing practice;

(ii) hygiene and aseptic techniques;

(iii) terminology, abbreviations and symbols;

(iv) pharmaceutical calculations;

(v) identification of drugs by trade and generic names, and therapeutic classifications;

(vi) filling of orders and prescriptions including packaging and labeling;

(vii) ordering, restocking, and maintaining drug inventory;

(viii) computer applications in the pharmacy; and

(ix) non-prescription products including cough and cold, nutritional, analgesics, allergy, diabetic testing supplies, first aid, ophthalmic, family planning, foot, feminine hygiene, gastrointestinal preparations, and pharmacy care over-the-counter drugs, except those over-the-counter drugs that are prescribed by a practitioner.

(b) This training program's curriculum and a copy of the final examination shall be submitted to the Division for approval by the Board prior to starting any training session with a pharmacy technician in training. The final examination must include questions covering each of the topics listed in Subsection (3)(a) above.

(c) Approval must be granted by the Division in collaboration with the Board before a student may start a program of study. An individual who completes a non-approved program is not eligible for licensure.

(d) The training program must require at least 180 hours of practical training supervised by a licensed pharmacist in good standing with the Division and must include written protocols and guidelines for the teaching pharmacist outlining the utilization and supervision of pharmacy technicians in training that includes:

(i) the specific manner in which supervision will be completed; and

(ii) an evaluative procedure to verify the accuracy and completeness of all acts, tasks and functions performed by the pharmacy technician in training.

(e) An individual must complete an approved training program and successfully pass the required examinations as listed in Subsection R156-17b-302(3) within one year from the date of the first day of the training program, unless otherwise approved by the Division in collaboration with the Board.

(i) An individual who has completed an approved program, but did not seek licensure within the one year time frame must complete a minimum of 180 hours of refresher practice in a pharmacy approved by the board if it has been more than six months since having exposure to pharmacy practice.

(ii) An individual who has been licensed as a pharmacy technician but allowed that license to expire for more than two years and wishes to renew that license must complete a minimum of 180 hours of refresher hours in an approved pharmacy under the direct supervision of a pharmacist.

(iii) An individual who has completed an approved program, but is awaiting the results of the required examinations may practice as a technician-in-training under the direct supervision of the pharmacist for a period not to exceed three months. If the individual fails the examinations, that individual can no longer work as a technician-in-training while waiting to retake the examinations. The individual shall work in the pharmacy only as supportive personnel.

(4) An applicant for licensure as a pharmacy technician is deemed to have met the qualification for licensure in Subsection 58-17b-305(f) if the applicant:

(a) is currently licensed and in good standing in another state and has not had any adverse action taken on that license;

(b) has engaged in the practice as a pharmacy technician for a minimum of 1,000 hours in that state within the past two years or equivalent experience as approved by the Division in collaboration with the Board; and

(c) has passed and maintained current ~~[the]PTCB or ExCPT~~ certification ~~[or a Board approved equivalent]~~ and passed the Utah law exam.

R156-17b-305. 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 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;

(b) submit a complete application for licensure as a pharmacist except the passing of the NABP 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) A pharmacist temporary license issued in accordance with this section cannot be renewed or extended.

R156-17b-306. Licensure - Pharmacist - Pharmacy Internship Standards.

(1) In accordance with Subsection 58-17b-303(1)(g), the standards for the pharmacy internship required for licensure as a pharmacist include the following:

(a) At least 1500 hours of practice supervised by a pharmacy preceptor shall be obtained in Utah or another state or territory of the United States, or a combination of both.

(i) Internship hours completed in Utah shall include at least 360 hours but not more than 900 hours in a college coordinated practical experience program as an integral part of the curriculum which shall include a minimum of 120 hours in each of the following practices:

- (A) community pharmacy;
- (B) institutional pharmacy; and
- (C) any clinical setting.

(ii) Internship hours completed in another state or territory of the United States shall be accepted based on the approval of the hours by the pharmacy board in the jurisdiction where the hours were obtained.

(b) Evidence of completed internship hours shall be documented to the Division by the pharmacy intern at the time application is made for a Utah pharmacist license.

(c) Pharmacy interns participating in internships may be credited no more than 50 hours per week of internship experience.

(d) No credit will be awarded for didactic experience.

(2) If a pharmacy intern is suspended or dismissed from an approved College of Pharmacy, the intern must notify the Division within 15 days of the suspension or dismissal.

(3) If a pharmacy intern ceases to meet all requirements for intern licensure, he shall surrender his pharmacy intern license to the Division within 60 days unless an extension is required and granted by the Division in collaboration with the Board.

(4) In accordance with Subsections 58-17b-102(50), to be an approved preceptor, a pharmacist must meet the following criteria:

(a) hold a Utah pharmacist license that is active and in good standing;

(b) ~~[have been engaged]~~document engaging in active practice as a licensed pharmacist for not less than two years in any jurisdiction;

(c) ~~[is]~~not be currently under any sanction nor ~~[has been]~~under any sanction at any time which when considered by the Division and the Board would be of such a nature that the best interests of the intern and the public would not be served[-];

(d) ~~[shall]~~provide direct, on-site supervision to only one pharmacy intern during a working shift; and

(e) refer to the intern training guidelines as outlined in the Pharmacy Coordinating Council of Utah Internship Competencies, October 12, 2004, as information about a range of best practices for training interns.

R156-17b-308. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 17b is established by rule in Section R156-1-308a.

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

(3) An intern license may be extended upon the request of the licensee and approval by the Division under the following conditions:

(a) the intern applied to the Division for a pharmacist license and to sit for the NAPLEX and MJPE examinations within three calendar months after obtaining full certification from the Foreign Pharmacy Graduate Equivalency Commission; or

(b) the intern lacks the required number of internship hours for licensure.[-]

~~—(c) An individual must pass the NAPLEX and MJPE examinations and seek licensure as a pharmacist within six months of graduation and receipt of a degree from a school or college of pharmacy which is accredited by the ACPE. An internship license will not be extended beyond the six month time frame from graduation and receipt of a degree.~~

~~—(4) The extended internship hours shall be under the direct supervision of a preceptor who meets the criteria established in R156-17b-306(4).[-]~~

R156-17b-309. Continuing Education.

(1) In accordance with Section 58-17b-310 and Subsections 58-1-203(1)(g) and 58-1-308(3)(b), there is created a requirement for continuing education as a condition for renewal or reinstatement of a pharmacist or pharmacy technician license issued under Title 58, Chapter 17b.

(2) Requirements shall consist of the following number of qualified continuing education hours in each preceding renewal period:

- (a) 30 hours for a pharmacist; and

(b) 20 hours for a pharmacy technician.

(3) The required number of hours of qualified continuing professional education for an individual who first becomes licensed during the two year renewal cycle shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed.

(4) Qualified continuing professional education hours shall consist of the following:

(a) for pharmacists:

(i) institutes, seminars, lectures, conferences, workshops, various forms of mediated instruction, and programmed learning courses, presented by an institution, individual, organization, association, corporation or agency that has been approved by ACPE;

(ii) programs approved by health-related continuing education approval organizations provided the continuing education is nationally recognized by a healthcare accrediting agency and the education is related to the practice of pharmacy; ~~and~~

(iii) programs of certification by qualified individuals, such as certified diabetes educator credentials, board certification in advanced therapeutic disease management or other certification as approved by the Division in consultation with the Board; and

(iv) training or educational presentations offered by the division.

(b) for pharmacy technicians:

(i) institutes, seminars, lectures, conferences, workshops, various forms of mediated instruction, and programmed learning courses, presented by an institution, individual, organization, association, corporation or agency that has been approved by ACPE;

(ii) programs approved by health-related continuing education approval organizations provided the continuing education is nationally recognized by a healthcare accrediting agency and the education is related to the practice of pharmacy; and

(iii) educational meetings that meet ACPE continuing education criteria sponsored by the Utah ~~[Pharmaceutical]~~ Pharmacist Association, the Utah Society of Health-System Pharmacists or ~~[a pharmacy technician training program approved in accordance with Subsection R156-17b-304(3)(b)]~~ other professional organization or association; and

(iv) training or educational presentations offered by the division.

(5) Credit for qualified continuing professional education shall be recognized in accordance with the following:

(a) Pharmacists:

(i) a minimum of 12 hours shall be obtained through attendance at live or technology enabled participation lectures, seminars or workshops;

(ii) a minimum of 15 hours shall be in drug therapy or patient management; and

(iii) a minimum of one hour shall be in pharmacy law or ethics.

(b) Pharmacy Technicians:

(i) a minimum of eight hours shall be obtained through attendance at live or technology enabled participation at lectures, seminars or workshops; and

(ii) a minimum of one hour shall be in pharmacy law or ethics.

(iii) documentation of current ~~[Pharmacy Technician Certification Board]~~ PTCB or ExCPT certification will count as meeting the requirement for continuing education.

(6) A licensee shall be responsible for maintaining competent records of completed qualified continuing professional education for a period of four years after the close of the two year period to which the records pertain. It is the responsibility of the licensee to

maintain such information with respect to qualified continuing professional education to demonstrate it meets the requirements under this section.

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

(1)(a) In accordance with Section 58-17b-614, except for changes in ownership caused by a change in the stockholders in corporations which are publicly listed and whose stock is publicly traded, a licensed pharmaceutical facility that proposes to change its ~~[name,]location[-]~~ or ownership shall make application for a new license and receive approval from the division prior to the proposed change. ~~[The application shall be on application forms provided by the division and shall include:~~

~~— (a) the name and current address of the licensee;~~

~~— (b) the pharmacy license number and the controlled substance license number of the facility;~~

~~— (c) the DEA registration number of the facility; and~~

~~— (d) other information required by the division in collaboration with the board.~~

~~— (2) A new license shall be issued upon a change of ownership, name or a change in location only after an application for change has been submitted and approved.]~~

(1)(b) Upon ~~[completion]~~ approval of the change in ownership~~[-~~ name] or location, the original licenses shall be surrendered to the division.

(2)(a) In accordance with Section 58-17b-614, a licensed pharmaceutical facility that proposes to change its names without a change in ownership shall submit the request in writing upon a form provided by the division, no later than ten business days before the proposed name change. The request for a name change must be approved by the division prior to implementing the change.

(b) Upon approval of the name change, the original licenses shall be surrendered to the division.

KEY: pharmacists, licensing, pharmacies

Date of Enactment or Last Substantive Amendment: ~~[November 24, 2008]~~ 2009

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 **R156-20a** Environmental Health Scientist Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32652

FILED: 05/05/2009, 11:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Environmental Health Scientist Board reviewed this rule and determined that proposed changes needed to be

made. The proposed amendment adds an additional qualifying examination and makes other minor changes.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule the term "rules" has been changed to "rule" where applicable. In Section R156-20a-302b, the National Environmental Health Association Registered Environmental Health Specialist/Registered Sanitarian-in-training Examination is being added as an additional examination qualifying an applicant for licensure. Section R156-20a-302d, regarding an application deadline, is no longer applicable and is thus being deleted.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-20a-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print 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 only apply to applicants for licensure as either an environmental health scientist or an environmental health scientist-in-training. As a result, the proposed amendments do not apply to local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The proposed amendments only apply to applicants for licensure as either an environmental health scientist or an environmental health scientist-in-training. Applicants in these licensure classifications may work in a small business; however, the proposed amendments would not directly affect the business. For applicants, the examination cost for either qualifying examination for licensure is the same cost for either examination. The Division does not anticipate any additional costs or savings as a result of these proposed amendments for applicants for licensure beyond those currently required.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to applicants for licensure as either an environmental health scientist or an environmental health scientist-in-training. For applicants, the examination cost for either qualifying examination for licensure is the same cost for either examination. The Division does not anticipate any additional costs as a result of these proposed amendments for applicants for licensure beyond those currently required.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated from this rule filing which recognizes an alternative examination to meet licensure requirements and otherwise make minor technical amendments. A positive fiscal impact to businesses could result to license applicants and to the industry from the acceptance of the alternative examination, but that cost savings depends on the number of applicants and is difficult to ascertain. Francine A. Giani, Executive Director

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 Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sally Stewart at the above address, by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at SStewart@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/10/2009 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 210 (second floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2009

AUTHORIZED BY: Thad LeVar, Deputy Director

R156. Commerce, Occupational and Professional Licensing.

R156-20a. Environmental Health Scientist Act Rule[s].

R156-20a-101. Title.

~~[These rules are]~~ This rule is known as the "Environmental Health Scientist Act Rule[s]."

R156-20a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 20a, as used in Title 58, Chapters 1 and 20a or ~~[these rules]~~ this rule:

(1) "Qualified professional continuing education," as used in ~~[these rules]~~ this rule, means professional continuing education that meets the standards set forth in Section R156-20a-304.

(2) "Unprofessional conduct," as defined in Title 58 Chapters 1 and 20a, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-20a-502.

R156-20a-103. Authority - Purpose.

~~[These rules are]~~ This rule is adopted by the division under the authority of Subsection 58-1-106(1) to enable the division to administer Title 58, Chapter 20a.

R156-20a-302a. Qualifications for Licensure - Education Requirements.

In accordance with Subsections 58-20a-302(1)(d), (2)(d) and (3)(d), an applicant shall satisfy the education requirement as follows:

(1) submit evidence of a bachelor's or master's degree from an environmental health program accredited by the National Environmental Health Science and Protection Accreditation Council (EHAC); or

(2) submit evidence of a bachelor's or master's degree from an accredited program in a college or university with major study in one of the following:

- (a) agronomy;
- (b) biology;
- (c) botany;
- (d) chemistry;
- (e) environmental health science;
- (f) geology;
- (g) microbiology;
- (h) physics;
- (i) physiology;
- (j) sanitary engineering; or
- (k) zoology; or

(3) submit evidence of a bachelor's or master's degree from an accredited program in a college or university including:

- (a) a college or university level algebra or math course; and
- (b) 30 semester hours or 45 quarter hours from at least three of the ~~curricula~~areas of study listed in Subsection (2).

R156-20a-302b. Qualifications for Licensure - Examination Requirement.

(1) In accordance with Subsection 58-20a-302(1)(e), an applicant shall satisfy the examination requirement by submitting evidence of having passed the National Environmental Health Association Registered Environmental Health Specialist/Registered Sanitarian (REHS/RS) Examination or the National Environmental Health Association Registered Environmental Health Specialist/Registered Sanitarian-in-training Examination.

(2) An applicant may take ~~the REHS/RS examination~~either examination identified in Subsection (1) upon completion of the education requirements listed in Section R156-20a-302a.

~~**R156-20a-302d. Qualifications for Licensure — Application Deadline.**~~

~~— An applicant for licensure under Subsection 58-20a-302(2) shall apply before July 1, 1996.~~

R156-20a-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 20a is established by rule in Section R156-1-308a.

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

R156-20a-304. Professional Continuing Education.

(1) In accordance with Section 58-20a-304, during each two year period commencing January of each even numbered year, an environmental health scientist or environmental health scientist-in-training shall be required to complete not less than 30 hours of qualified professional continuing education directly related to the licensee's professional practice.

(2) The required number of hours of professional continuing education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed.

(3) Qualified professional continuing education under this section shall:

(a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of a environmental health scientist;

(b) be relevant to the licensee's professional practice;

(c) be presented in a competent, well organized, and sequential manner consistent with the stated purpose and objective of the program;

(d) be prepared and presented by individuals who are qualified by education, training, and experience; and

(e) have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review.

(4) Credit shall be recognized for professional continuing education on an hour for hour basis as a student completed in blocks of time of not less than 50 minutes in formally established classroom courses, seminars, lectures, labs, or specific environmental conferences approved, taught or sponsored by:

(a) Utah Environmental Health Association;

(b) Bureau of Environmental Services;

(c) Utah Department of Environmental Quality;

(d) Bureau of Epidemiology;

(e) State Food Program;

(f) National Environmental Health Association;

(g) Food and Drug Administration;

(h) Center for Disease Control and Prevention;

(i) any local, state or federal health agency; and

(j) a college or university which provides courses in or related to environmental health science.

(5) A maximum of 15 hours of credit may be recognized for a person who teaches continuing professional education on an hour for hour basis completed in block of time of not less than 50 minutes in formally established classroom courses, seminars, lectures, conferences which meet the requirements in Subsections (3) and (4).

(6) A licensee is responsible for maintaining competent records of completed qualified professional continuing education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain such information with respect to qualified continuing professional education to demonstrate it meets the requirements under this section.

(7) ~~[A licensee who documents they are]~~If properly documented that a licensee is engaged in full time activities or is subjected to circumstances which prevent that licensee from meeting the continuing professional education requirements established under this section, the licensee may be excused from the requirement for a period of up to three years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

KEY: licensing, environmental health scientist[[§]], sanitarian[[§]], enviromental health scientist-in-training

Date of Enactment or Last Substantive Amendment: ~~January 2, 1996~~2009

Notice of Continuation: October 6, 2005

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-20a-101

◆ ————— ◆

**Commerce, Occupational and
Professional Licensing
R156-31b
Nurse Practice Act Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32662

FILED: 05/12/2009, 13:42

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division reviewed the rule and determined that changes needed to be made. The proposed amendments add the Division as a provider of approved continuing education and eliminate the Psychiatric Mental Health Nursing Peer Committee as a peer committee of the Board of Nursing.

SUMMARY OF THE RULE OR CHANGE: Adds Subsection R156-31b-102(5)(d) to the definition of approved continuing education which recognizes and approves training or educational presentations offered by the Division of Occupational and Professional Licensing. In Section R156-31b-202, eliminates the Psychiatric Mental Health Nursing Peer Committee. This peer committee has not met for over five years. It was originally implemented when the Division was working with the mental health professions to improve and make consistent the licensure requirements and scope of practice of the various mental health professions. Since that time there has not been a reason to convene a meeting. Should the need for such a peer committee be identified in the future, the rule could be amended and a new committee appointed.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print the rule and distribute it once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. The Division currently has the staff and resources to provide educational training on a variety of topics; however, the Controlled Substance Database improvements and recent statute changes will be emphasized at this time. Although the Committee has not met for several years, Division staff was required to ensure the Committee had appointments and every year would contact a number of associations requesting nominations. Elimination of the Committee will save a little staff time. Eliminating the Committee could also be viewed as down-sizing government and eliminating an unnecessary Committee. The Division will not see any budget reduction as a result of the elimination of this Committee since service on the Committee was voluntary.

❖ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed nursing classifications and applicants for licensure in those classifications. The only effect on local

government would be if the government agency paid for its nurses' continuing education courses. If that were the case, the continuing education to be provided by the Division would be offered at no cost, thus saving the agency the usual cost of continuing education courses which range from \$30 to \$300 depending on the topic and length of the course.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The proposed amendments only apply to licensed nursing classifications and applicants for licensure in those classifications. The Division anticipates no effect on small businesses as a result of the proposed amendments unless the business pays for continuing education credits for nurse employees. As a result of the proposed amendments, licensees will now have an additional option with respect to obtaining required continuing education hours as a result of the Division being added as an approved continuing education provider. Licensees may see minimal savings in continuing education costs as a result of the Division now providing continuing education training for the profession. However, any exact amount of savings is unable to be determined. Also, the Division will be able to offer continuing education credit as a "carrot" to licensees to entice them to attend any continuing education courses that are offered by the Division. Any organization or association that currently offers continuing education courses for a cost may see more and more licensees taking advantage of continuing education offered by the Division and could thus experience a slight decrease in continuing education revenue. This scenario is highly unlikely though because the Division currently has plans to offer only a 1-2 hour course regarding the Controlled Substance Database.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed nursing classifications and applicants for licensure in those classifications. Any continuing education offering provided by the Division of Occupational and Professional Licensing should have low or no cost thus helping licensees accumulate the required number of continuing education hours needed for renewal of licensure. Given the Psychiatric Mental Health Nursing Peer Committee has not met for years, there should be no effect on those licensed in that specialty or those applying for licensure in that specialty.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing permit the Division to provide continuing education and eliminates a peer advisory committee that is no longer necessary. As more fully discussed in the rule filing, these changes will likely result in a cost savings to licensees and to the nursing industry. No other fiscal impact to businesses is anticipated. Francine A. Giani, Executive Director

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 Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Laura Poe at the above address, by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at lpoe@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/11/2009 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2009

AUTHORIZED BY: Thad LeVar, Deputy 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) "Academic year", as used in Section R156-31b-601, means three quarters or two semesters or 900 clock hours. A quarter is defined to be equal to ten weeks and a semester is defined to be equal to 14 or 15 weeks.

(2) "Affiliated with an institution of higher education", as used in Subsection 58-31b-601(1), means the general and science education courses required as part of a nursing education program are provided by an educational institution which is approved by the Board of Regents or an equivalent governmental agency in another state or a private educational institution which is regionally accredited by an accrediting board recognized by the U.S. Department of Education; and the nursing program and the institution of higher education are affiliated with each other as evidenced by a written contract or memorandum of understanding.

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

(4) "APRN-CRNA" means an advanced practice registered nurse specializing and certified as a certified registered nurse anesthetist.

(5) "Approved continuing education" in Subsection R156-31b-303(3) means:

(a) continuing education that has been approved by a professional nationally recognized approver of health related continuing education;

(b) nursing education courses taken from an approved education program as defined in Subsection R156-31b-102(6);~~and~~

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

(d) training or educational presentations offered by the division.

(6) "Approved education program" as defined in Subsection 58-31b-102(3) is further defined to include any nursing education program located within the state of Utah which meets the standards established in Sections R156-31b-601, 602 and 603; and any nursing

education program located outside of Utah which meets the standards established in Section R156-31b-607.

(7) "CCNE" means the Commission on Collegiate Nursing Education.

(8) "CGFNS" means the Commission on Graduates of Foreign Nursing Schools.

(9) "COA", as used in this rule, means the Council of Accreditation of Nurse Anesthesia Education Programs.

(10) "Clinical preceptor", as used in Section R156-31b-608, means an individual who is employed by a clinical health care facility and is chosen by that agency, in collaboration with the Parent Nursing Education-Program, to provide direct, on-site supervision and direction to a nursing student who is engaged in a clinical rotation, and who is accountable to both the clinical agency and the supervisory clinical faculty member.

(11) "Comprehensive nursing assessment", as used in Section R156-31b-704, means an extensive data collection (initial and ongoing) for individuals, families, groups and communities addressing anticipated changes in patient conditions as well as emergent changes in patient's health status; recognizing alterations to previous patient conditions; synthesizing the biological, psychological, spiritual and social aspects of the patient's condition; evaluating the impact of nursing care; and using this broad and complete analysis to make independent decisions and identification of health care needs; plan nursing interventions, evaluate need for different interventions and the need to communicate and consult with other health team members.

(12) "Contact hour" means 60 minutes.

(13) "Delegatee", as used in Sections R156-31b-701 and 701a, means one or more competent persons receiving a delegation who acts in a complementary role to the delegating nurse, who has been trained appropriately for the task delegated, and whom the delegating nurse authorizes to perform a task that the delegates is not otherwise authorized to perform.

(14) "Delegation" means transferring to delegates the authority to perform a selected nursing task in a selected situation. The delegating nurse retains accountability for the delegation.

(15) "Delegator", as used in Sections R156-31b-701 and 701a, means the nurse making the delegation.

(16) "Diabetes medical management plan (DMMP)", as used in this rule, means an individualized plan that describes the health care services that the student is to receive at school. The plan is developed and signed by the student's parent or guardian and health care team. It provides the school with information regarding how the student will manage diabetes at school on a daily basis. The DMMP shall be incorporated into and shall become a part of the student's IHP.

(17) "Direct supervision" is the supervision required in Subsection 58-31b-306(1)(a)(iii) and means:

(a) the person providing supervision shall be available on the premises at which the supervisee is engaged in practice; or

(b) if the supervisee is specializing in psychiatric mental health nursing, the supervisor may be remote from the supervisee if there is personal direct voice communication between the two prior to prescribing a prescription drug.

(18) "Disruptive behavior", as used in this rule, means conduct, whether verbal or physical, that is demeaning, outrageous, or malicious and that places at risk patient care or the process of delivering quality patient care. Disruptive behavior does not include criticism that is offered in good faith with the aim of improving patient care.

(19) "Equivalent to an approved practical nursing education program", as used in Subsection 58-31b-302(2)(e), means the applicant for licensure as an LPN by equivalency is currently enrolled in an RN education program with full approval status, and has completed course work which is equivalent to the course work of an NLNAC accredited practical nursing program.

(20) "Focused nursing assessment", as used in Section R156-31b-703, means an appraisal of an individual's status and situation at hand, contributing to the comprehensive assessment by the registered nurse, supporting ongoing data collection and deciding who needs to be informed of the information and when to inform.

(21) "Individualized healthcare plan (IHP)", as used in Section R156-31b-701a, means a plan for managing the health needs of a specific student, written and reviewed at least annually by a school nurse. The IHP is developed by a nurse working in a school setting in conjunction with the student and the student's parent or guardian to guide school personnel in the care of a student with medical needs. The plan shall be based on the student's practitioner's orders for the administration of medications or treatments for the student, or the student's DMMP.

(22) "Licensure by equivalency" as used in this rule means licensure as a licensed practical nurse after successful completion of course work in a registered nurse program which meets the criteria established in Sections R156-31b-601 and R156-31b-603.

(23) "LPN" means a licensed practical nurse.

(24) "MA-C" means a medication aide - certified.

(25) "Medication", as used in Sections R156-31b-701 and 701a, means any prescription or nonprescription drug as defined in Subsections 58-17b-102(39) and (61) of the Pharmacy Practice Act.

(26) "NLNAC" means the National League for Nursing Accrediting Commission.

(27) "NCLEX" means the National Council Licensure Examination of the National Council of State Boards of Nursing.

(28) "Non-approved education program" means any foreign nurse education program.

(29) "Nurse", as used in this rule, means an individual licensed under Title 58, Chapter 31b as a licensed practical nurse, registered nurse, advanced practice registered nurse, or advanced practice registered nurse-certified registered nurse anesthetist, or a certified nurse midwife licensed under Title 58, Chapter 44a.

(30) "Nurse accredited", as used in this rule, means accreditation issued by NLNAC, CCNE or COA.

(31) "Other specified health care professionals", as used in Subsection 58-31b-102(15), who may direct the licensed practical nurse means:

- (a) advanced practice registered nurse;
- (b) certified nurse midwife;
- (c) chiropractic physician;
- (d) dentist;
- (e) osteopathic physician;
- (f) physician assistant;
- (g) podiatric physician;
- (h) optometrist;
- (i) naturopathic physician; or
- (j) mental health therapist as defined in Subsection 58-60-102(5).

(32) "Parent academic institution", as used in this rule, means the educational institution which grants the academic degree or awards the certificate of completion.

(33) "Parent nursing education-program", as used in Section R156-31b-607, means a nationally accredited, Board of Nursing

approved nursing education program that is providing nursing education (didactic, clinical or both) to a student and is responsible for the education program curriculum, and program and student policies.

(34) "Patient", as used in this rule, means a recipient of nursing care and includes students in a school setting or clients of a health care facility, clinic, or practitioner.

(35) "Patient surrogate", as used in Subsection R156-31b-502(1)(d), means an individual who has legal authority to act on behalf of the patient when the patient is unable to act or decide for himself, including a parent, foster parent, legal guardian, or a person designated in a power of attorney.

(36) "Psychiatric mental health nursing specialty", as used in Subsection 58-31b-302(4)(g), includes psychiatric mental health nurse specialists and psychiatric mental health nurse practitioners.

(37) "Practitioner", as used in Sections R156-31b-701 and 701a, means a person authorized by law to prescribe treatment, medication, or medical devices, and who acts within the scope of such authority.

(38) "RN" means a registered nurse.

(39) "School", as used in Section R156-31b-701a, means any private or public institution of primary or secondary education, including charter schools, pre-school, kindergarten, and special education programs.

(40) "Supervision", as used in this rule, means the provision of guidance and review by a licensed nurse for the accomplishment of a nursing task or activity, including the provision for the initial direction of the task, periodic inspection of the actual act of accomplishing the task or activity, and evaluation of the outcome.

(41) "Supervisory clinical faculty", as used in Section R156-31b-608, means one or more individuals employed by an approved nursing education program who meet the accreditation and Board of Nursing specific requirements to be a faculty member and are responsible for the overall clinical experiences of nursing students and may supervise and coordinate clinical preceptors who provide the actual direct clinical experience.

(42) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 31b, is further defined in Section R156-31b-502.

R156-31b-202. Advisory Peer Committee created - Membership - Duties.

(1) In accordance with Subsection 58-1-203(1)(f), there is created ~~the Psychiatric Mental Health Nursing Peer Committee and~~ the Nursing Education Peer Committee.]

~~(2) Psychiatric Mental Health Nursing Peer Committee.~~

~~(a) The duties and responsibilities of the Psychiatric Mental Health Nursing Peer Committee are to:~~

~~(i) review applications for licensure as an APRN specializing in psychiatric mental health nursing when appropriate; and~~

~~(ii) advise the board and division regarding practice issues.~~

~~(b) The composition of the Psychiatric Mental Health Nursing Peer Committee shall be:~~

~~(i) three APRNs specializing in psychiatric mental health nursing;~~

~~(ii) at least one member shall be a faculty member actively teaching in a psychiatric mental health nursing program; and~~

~~(iii) at least one member shall be actively participating in the supervision of an APRN intern.~~

~~(3) Nursing Education Peer Committee.]~~

(~~a~~)² The duties and responsibilities of the Nursing Education Peer Committee are to:

((i)a) review applications for approval of nursing education programs;

((ii)b) advise the board and division regarding standards for approval of nursing education programs; and

((iii)c) assist the board and division to conduct site visits of nursing education programs.

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

((i)a) five RNs or APRNs actively involved in nursing education; and

((ii)b) members of the board may also serve on this committee.

KEY: licensing, nurses

Date of Enactment or Last Substantive Amendment: ~~May 1,~~ **2009**

Notice of Continuation: April 1, 2008

Authorizing, and Implemented or Interpreted Law: 58-31b-101; 58-1-106(1)(a); 58-1-202(1)(a)



**Commerce, Occupational and
Professional Licensing
R156-69
Dentist and Dental Hygienist Practice
Act Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32655

FILED: 05/07/2009, 09:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Dentist and Dental Hygienist Licensing Board reviewed this rule and determined that changes needed to be made.

SUMMARY OF THE RULE OR CHANGE: In Section R156-69-102, added a definition for "PALS" (Pediatric Advanced Life Support) and added Subsection R156-69-102(15) which defines the scope of each anesthesia classification within the scope of the practice of dentistry. The anesthesia classifications are now parallel to the American Dental Association (ADA) guidelines. In Section R156-69-202, updated the American Dental Association Guidelines document to the October 2007 edition. In Sections R156-69-204 and R156-69-303, made minor subsection numbering and rule citation amendments. In Section R156-69-304a, amendments are made in this section with respect to continuing education to clarify the expectations and requirements while obtaining continuing education. The Division of Occupational and Professional Licensing is also added as an approved provider for continuing education. In Section R156-69-502, added two new behaviors that would be categorized as unprofessional conduct: failing to provide records to patients and failing to report an anesthetic or sedative drug incident to the Division. In Section R156-69-

602, added that laser periodontal debridement is within the scope of practice of a dental hygienist as it is a function they currently perform. In Section R156-69-603, added the requirement of cardiopulmonary resuscitation (CPR) or Basic Cardiac Life Support (BCLS) certification for a dental assistant which is consistent with other practitioners in the profession.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-69-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Deletes the Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, Parts I, II, or III of the American Dental Association, July 1993 edition; and adds the Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, published by the American Dental Association, October 2007 edition

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs of approximately \$50 to print 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 only apply to licensed dentists and dental hygienists and applicants for licensure as either a dentist or dental hygienist and dental assistants. As a result, the proposed amendments do not apply to local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The proposed amendments only apply to licensed dentists and dental hygienists and applicants for licensure in these classifications and dental assistants which are not licensed by the Division. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business. As a result of the proposed amendments, licensees will now have an additional option with respect to obtaining required continuing education hours as a result of the Division being added as an approved continuing education provider. Licensees may see minimal savings in continuing education costs as a result of the Division now providing continuing education training for the profession. However, any exact amount of savings is unable to be determined. There may be unknown costs if a licensee engages in either of the new behaviors which are being added as unprofessional conduct and if an administrative proceeding is initiated as a result of those behaviors against the licensee.

However, if a licensee does not engage in the unprofessional conduct behaviors, no costs will be incurred. Dental assistants who are not licensed/regulated by the Division will need to maintain regular CPR or BCLS certification in order to work in a dental office. The Division anticipates minimal costs of less than \$100 every 2 years to the dental assistant to complete a course necessary to maintain that certification. This cost may be incurred by the dental assistant or a dental office if the office chooses to pay the certification course fee for a dental assistant employee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed dentists and dental hygienists and applicants for licensure in these classifications

and dental assistants which are not licensed by the Division. As a result of the proposed amendments, licensees will now have an additional option with respect to obtaining required continuing education hours as a result of the Division being added as an approved continuing education provider. Licensees may see minimal savings in continuing education costs as a result of the Division now providing continuing education training for the profession. However, any exact amount of savings is unable to be determined. There may be unknown costs if a licensee engages in either of the new behaviors which are being added as unprofessional conduct and if an administrative proceeding is initiated as a result of those behaviors against the licensee. However, if a licensee does not engage in the unprofessional conduct behaviors, no costs will be incurred. Dental assistants who are not licensed/regulated by the Division will need to maintain regular CPR or BCLS certification in order to work in a dental office. The Division anticipates minimal costs of less than \$100 every 2 years to the dental assistant to complete a course necessary to maintain that certification. This cost may be incurred by the dental assistant or a dental office if the office chooses to pay the certification course fee for a dental assistant employee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing further defines the practice of dentistry with respect to the administration of anesthesia, further defines unprofessional conduct, clarifies continuing education requirements, updates references to the ADA guidelines and makes other technical changes. No fiscal impact to businesses is anticipated from the adoption of these standards and the clarifications. Francine A. Giani, Executive Director

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 Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Noel Taxin at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/18/2009 at 1:30 PM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2009

AUTHORIZED BY: Thad LeVar, Deputy Director

**R156. Commerce, Occupational and Professional Licensing.
R156-69. Dentist and Dental Hygienist Practice Act Rule.
R156-69-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 69, as used in Title 58, Chapters 1 and 69 or this rule:

- (1) "ACLS" means Advanced Cardiac Life Support.
- (2) "ADA" means the American Dental Association.
- (3) "ADA CERP" means American Dental Association Continuing Education Recognition Program.
- (4) "BCLS" means Basic Cardiac Life Support.
- (5) "ADHA" means the American Dental Hygienists' Association.
- (6) "CPR" means cardiopulmonary resuscitation.
- (7) "CRDTS" means the Central Regional Dental Testing Service, Inc.
- (8) "Competency" means displaying special skill or knowledge derived from training and experience.
- (9) "Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, produced by a pharmacologic or non-pharmacologic method, or a combination thereof.
- (10) "DANB" means the Dental Assisting National Board, Inc.
- (11) "Deep sedation" means a controlled state of depressed consciousness, accompanied by partial loss of protective reflexes, including inability to respond purposefully to verbal command, produced by a pharmacologic or non-pharmacologic method, or combination thereof.
- (12) "General anesthesia" means a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or non-pharmacologic method or a combination thereof.
- (13) "NERB" means Northeast Regional Board of Dental Examiners, Inc.
- (14) "PALS" means Pediatric Advanced Life Support.
- (15) "Practice of dentistry" in regard to administering anesthesia is further defined as follows:
 - (a) a Class I permit allows for local anesthesia which is the elimination of sensation, especially pain, in one part of the body by the topical application or regional injection of a drug;
 - (b) a Class II permit allows for minimal sedation which is a minimally depressed level of consciousness, produced by a pharmacological method, that retains the patient's ability to independently and consciously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected;
 - (c) a Class III permit allows for moderate sedation in which a drug induced depression of consciousness occurs during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patient's airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained; and
 - (d) a Class IV permit allows for deep sedation in which a drug induced depression of consciousness occurs from which a patient cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. A patient may

require assistance in maintaining an airway and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

~~(14)16~~ "SRTA" means Southern Regional Testing Agency, Inc.

~~(15)17~~ "Unprofessional conduct," as defined in Title 58 Chapters 1 and 69, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-69-502.

~~(16)18~~ "UDA" means Utah Dental Association.

~~(17)19~~ "UDHA" means Utah Dental Hygienists' Association.

~~(18)20~~ "WREB" means the Western Regional Examining Board.

R156-69-202. Qualifications for Anesthesia and Analgesia Permits - Dentist.

In accordance with Subsection 58-69-301(4)(b), the qualifications for anesthesia and analgesia permits are:

- (1) for a class I permit:
 - (a) current licensure as a dentist in Utah; and
 - (b) documentation of current CPR or BCLS certification;
- (2) for a class II permit:
 - (a) current licensure as a dentist in Utah;
 - (b) documentation of current BCLS certification;
 - (c) evidence of having successfully completed training in the administration of nitrous oxide conscious sedation which conforms to the ~~[Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, Parts I, II, or III, of the American Dental Association, July 1993]~~Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, published by the American Dental Association, October 2007, which is incorporated by reference; and
 - (d) certification that the applicant will comply with the scope of practice as set forth in Subsection R156-69-601(2);
 - (3) for a class III permit:
 - (a) compliance with Subsections (1)(a) and (2) above;
 - (b) evidence of current Advanced Cardiac Life Support (ACLS) certification;
 - (c) evidence of holding a current Utah controlled substance license in good standing and a current Drug Enforcement Administration (DEA) Registration in good standing;
 - (d) evidence of having successfully completed comprehensive predoctoral or post doctoral training in the administration of parenteral conscious sedation which conforms to the ~~[Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, Part III, of the American Dental Association, July 1993]~~Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, published by the American Dental Association, October 2007, and a letter from the course director documenting competency in performing parenteral conscious sedation; and 60 hours of didactic education in sedation and successful completion of 20 cases; and
 - (e) certification that the applicant will comply the scope of practice as set forth in Subsection R156-69-601(3); and
 - (4) for a class IV permit:
 - (a) compliance with Subsections (1), (2), and (3) above;
 - (b) evidence of current ACLS certification;
 - (c) evidence of having successfully completed advanced training in the administration of general anesthesia and deep sedation consisting of not less than one year in a program which conforms to the ~~[Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, Part II, of the American~~

~~Dental Association, July 1993]~~Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, published by the American Dental Association, October 2007, and a letter from the course director documenting competency in performing general anesthesia and deep sedation;

(d) documentation of successful completion of advanced training in obtaining a health history, performing a physical examination and diagnosis of a patient consistent with the administration of general anesthesia or deep sedation; and

(e) certification that the applicant will comply with the scope of practice as set forth in Subsection R156-69-601(4).

R156-69-204. Qualifications for Anesthesia and Analgesia Permits - Dental Hygienist.

In accordance with Subsection 58-69-301(4)(b), the qualifications for a local anesthesia permit are the following:

- (1) current Utah licensure as a dental hygienist or documentation of meeting all requirements for licensure as a dental hygienist;
- (2) successful completion of a program of training in the administration of local anesthetics accredited by the Commission on Dental Accreditation of the ADA; and
- (3)~~(a)~~ a passing score on the WREB examination in anesthesiology; or
 - ~~(14)b~~ documentation of having a current, active license to administer local anesthesia in another state in the United States.

R156-69-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 69, is established by rule in Section R156-1-308a.

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

R156-69-304a. Continuing Education - Dentist and Dental Hygienist.

In accordance with Section 58-69-304, qualified continuing professional education requirements are established as the following:

- (1) All licensed dentists and dental hygienists shall complete 30 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 relevant to the licensee's professional practice;
 - (b) be prepared and presented by individuals who are qualified by education, training and experience to provide dental and dental hygiene continuing education; and
 - (c) have a method of verification of attendance and completion.
- (4) Credit for continuing education shall be recognized in accordance with the following:
 - (a) unlimited hours shall be recognized for continuing education completed in blocks of time of not less than 50 minutes in formally established classroom courses, seminars, lectures, conferences, or training sessions which meet the criteria listed in Subsection (3) above, and which are approved by, conducted by or under sponsorship of:
 - (i) the Division of Occupational and Professional Licensing;
 - (ii) recognized universities and colleges;

(iii) professional associations, societies and organizations representing a licensed profession whose program objectives relate to the practice of dentistry and dental hygiene; or

(iv) ADA or any subgroup thereof, the ADHA or any subgroup thereof, an accredited dental, dental hygiene or dental postgraduate program, a government agency, a recognized health care professional association or a peer study club;

(b) a maximum of ten hours per two year period may be recognized for teaching continuing education relevant to dentistry and dental hygiene;

(c) a maximum of 15 hours per two year period may be recognized for continuing education that is provided via Internet or through home study which provides an examination and a completion certificate;

(d) a maximum of six hours per two year period may be recognized for continuing education provided by the Division of Occupational and Professional Licensing; and

(e) qualified continuing professional education may include up to three hours in practice and office management.

(5) If properly documented that a licensee is engaged in full time activities or is subjected to circumstances which prevent that licensee from meeting the continuing education requirements established under this section, the licensee may be excused from the requirement for a period of up to three years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

[(4) Qualified continuing professional education shall consist of clinically oriented institutes, seminars, lectures, conferences, workshops, various forms of mediated instruction, and programmed learning.

—(5)

(a) Qualified continuing professional education shall be approved by the Academy of General Dentistry or ADA CERP; or

(b) sponsored or presented by the ADA or any subgroup thereof, the ADHA or any subgroup thereof, an accredited dental, dental hygiene, or dental postgraduate program, a government agency, a recognized dental or health care professional association, or a peer study club.

(6) Qualified continuing professional education does not include courses in practice management.

—[(7) Any licensee with a class III or IV anesthesia permit must complete at least 15 hours of continuing education related to parenteral anesthesia every two years. These 15 hours may be part of the 30 hours required in Subsection (1).] Hours for recertification in BCLS, ACLS and PALS do not count as continuing education.

[(3) A licensee shall be responsible for maintaining 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. It is the responsibility of the licensee to maintain such information with respect to qualified continuing professional education to demonstrate it meets the requirements under this section.

R156-69-502. Unprofessional Conduct.

"Unprofessional Conduct" includes the following:

(1) failing to provide continuous in-operator observation by a trained dental patient care staff member for any patient under nitrous oxide administration;

(2) advertising or being listed under a specialty heading when having not completed an ADA accredited educational program beyond the dental degree in one or more recognized areas: dental

public health, endodontics, oral pathology, oral and maxillofacial surgery, orthodontics, pediatric dentistry, periodontics and prosthodontics;

(3) engaging in practice as a dentist or dental hygienist without prominently displaying a copy of the current Utah license;

(4) failing to personally maintain current CPR or BCLS certification, or employing patient care staff who fail to maintain current CPR or BCLS certification;

(5) providing consulting or other dental services under anonymity;

(6) engaging in unethical or illegal billing practices or fraud, including:

(a) reporting an incorrect treatment date for the purpose of obtaining payment;

(b) reporting charges for services not rendered;

(c) incorrectly reporting services rendered for the purpose of obtaining payment;

(d) generally representing a charge to a third party that is different from that charged to the patient; ~~and~~

(7) failing to establish and maintain appropriate records of treatment rendered to all patients for a period of seven years;

(8) failing to provide copies of x-rays, reports or records to a patient or the patient's designee upon written request and payment of a nominal fee for copies regardless of the payment status of the services reflected in the record; and

(9) failing to submit a complete report to the Division within 30 calendar days concerning an incident, in which any anesthetic or sedative drug was administered to any patient, which resulted in, either directly or indirectly, the death or adverse event resulting in patient admission to a hospital.

R156-69-602. Practice of Dental Hygiene.

In accordance with Subsection 58-69-102(7)(a)(ix), other practices of dental hygiene include performing laser bleaching and laser periodontal debridement.

R156-69-603. Use of Unlicensed Individuals as Dental Assistants.

In accordance with Section 58-69-803, the standards regulating the use of unlicensed individuals as dental assistants are that an unlicensed individual shall not, under any circumstance:

(1) render definitive treatment diagnosis;

(2) place, condense, carve, finish or polish restorative materials, or perform final cementation;

(3) cut hard or soft tissue or extract teeth;

(4) remove stains, deposits, or accretions, except as is incidental to polishing teeth coronally with a rubber cup;

(5) initially introduce nitrous oxide and oxygen to a patient for the purpose of establishing and recording a safe plane of analgesia for the patient, except under the direct supervision of a licensed dentist;

(6) remove bonded materials from the teeth with a rotary dental instrument or use any rotary dental instrument within the oral cavity except to polish teeth coronally with a rubber cup;

(7) take jaw registrations or oral impressions for supplying artificial teeth as substitutes for natural teeth, except for diagnostic or opposing models for the fabrication of temporary or provisional restorations or appliances;

(8) correct or attempt to correct the malposition or malocclusion of teeth, or make an adjustment that will result in the movement of teeth upon an appliance which is worn in the mouth;

- (9) perform sub-gingival instrumentation;
- (10) render decisions concerning the use of drugs, their dosage or prescription; ~~or~~
- (11) expose radiographs without meeting the following criteria:
- (a) completing a dental assisting course accredited by the ADA Commission on Dental Accreditation; or
- (b) passing one of the following examinations:
- (i) the DANB Radiation Health and Safety Examination (RHS); or
- (ii) a radiology exam approved by the board that meets the criteria established in Section R156-69-604; or
- (12) work without a current CPR or BCLS certification.

KEY: licensing, dentists, dental hygienists

Date of Enactment or Last Substantive Amendment: ~~[June 9, 2008]~~2009

Notice of Continuation: June 19, 2006

Authorizing, and Implemented or Interpreted Law: 58-69-101; 58-1-106(1)(a); 58-1-202(1)(a)



Crime Victim Reparations, Administration **R270-1** Award and Reparation Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32673

FILED: 05/14/2009, 16:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In Section R270-1-4, the change establishes standards and payment limits for mental health counseling expenses and the amendment is a cost containing budget restriction. In Section R270-1-10, the change establishes standards and payment limits for relocation expenses and the amendment is a cost containing budget restriction. In Section R270-1-22, the change establishes standards and payment limits for Sexual Assault Forensic Exam expenses and the amendment is a cost containing budget restriction.

SUMMARY OF THE RULE OR CHANGE: In Section R270-1-4, the amendment reduces the maximum spending for primary victims from \$3,500 to \$2,500 and secondary victims from \$2,000 to \$1,250. The amendment also implements a cap on the number of counseling sessions for primary victims at 25 and secondary victims at 15. The cap on the number of sessions is added to ensure all applicants receive the same number of benefit sessions without regard of available collateral sources. The amendment makes the rule more equitable among applicants and allows the office to realize a more predictable savings than reducing only the monetary cap. In Section R270-1-10, the amendment reduces the maximum relocation benefit per claim from \$2,000 to \$1,000. Currently the office pays an estimated average of

approximately \$1,200 on relocation per claim. The amendment is not anticipated to cause a hardship on eligible recipients but does allow for a significant estimated savings to the budget. In Section R270-1-22, the amendment establishes consistency with current legislation and administrative rule, Section 63M-7-521.5 and Subsection R270-1-19(4)(a) respectively, by changing the percentage payable for eligible hospital services and supplies from 85% to 70%. The amendment also establishes a cap of \$350 for the rental or use of the facility space.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 63M-7-506(1)(c) and 63M-7-511(4)(h)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** In Section R270-1-4, the amendment is projected to provide an estimated \$200,000 savings to the Crime Victim Reparation Fund. The office does not access monies from the General Fund; accordingly there should be no effect. In Section R270-1-10, the amendment is projected to provide an estimated \$100,000 savings to the Crime Victim Reparation Fund. The office does not access monies from the General Fund; accordingly there should be no effect. In Section R270-1-22, the amendment is projected to provide an estimated \$190,000 savings to the Crime Victim Reparation Fund. The office does not access monies from the General Fund; accordingly there should be no effect.

❖ **LOCAL GOVERNMENTS:** In Section R270-1-4, the amendment will have no quantifiable budget impact on local governments. In Section R270-1-10, the amendment will have no quantifiable budget impact on local governments. In Section R270-1-22, the amendment will have no quantifiable budget impact on local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** In Section R270-1-4, the amendment should not impose significant impact upon individual counseling service providers. The amendment essentially returns the expense cap to near the level they were prior to the 07/01/2004 increase. This office recognized no significant increase in overall payout of the benefit after the maximums were increased. The annual payout for the benefit in 2003 was \$1,100,000, it rose to \$1,200,000 in 2004 and returned to \$1,100,000 were it stayed from 2005 through 2007. The 2008 payout for the benefit rose to \$1,300,000. The projected \$200,000 in annual savings to the victims' fund would be contributed to by the hundreds of counseling service providers statewide at a relatively minimal impact to each "small business" type provider. The session limitation implemented by this amendment provides a number of sessions which is above the industry standard and should not impose an undue hardship on any individual. In Section R270-1-10, the amendment should not impose noticeable impact upon small businesses. The estimated payout for this claim has remained consistent at the approximate \$1,200 per claim level for the last several years. The estimated \$100,000 annual savings to the victims' fund would be contributed to by the hundreds of small business statewide. Additionally, a significant portion of relocation expenses are paid directly individuals rather than businesses. The number of individuals contributing to the funds' savings is so expansive that the reduction created by the amendment will be a minor impact if

any, on each individual receiving the benefit. In Section R270-1-22, the amendment will have minimal to no impact on small businesses in that currently, to our knowledge, there are no facilities qualified and/or providing this service that have fewer than 50 employees. This amendment pertains to hospitals and other facilities, no individuals or persons are anticipated to contribute to this savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In Section R270-1-4, compliance costs of the amendment will be minimal and born only upon this office. The office will encounter minimal expenses when copying and distributing amended treatment plans. Service providers and benefit recipients will be notified of the amendment at the point of authorization of services and will simply need to remain within the limits and guidelines. Service providers and benefit recipients will only encounter costs by choosing not to remain in compliance with the amended limits. In Section R270-1-10, relocation: compliance costs of the amendment will be minimal and born only upon this office. The office will encounter minimal expenses when copying and distributing amended correspondence. Service providers and benefit recipients will be notified of the amendment at the point of authorization of services and will simply need to remain within the limits and guidelines. Service providers and benefit recipients will only encounter costs by choosing not to remain in compliance with the amended limits. In Section R270-1-22, compliance costs of the amendment will be minimal and born only upon this office. The office will encounter minimal expenses when copying and distributing amended correspondence. Service providers and benefit recipients will be notified of the amendment at the point of authorization of services and will simply need to remain within the limits and guidelines. Service providers and benefit recipients will only encounter costs by choosing not to remain in compliance with the amended limits.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In Section R270-1-4, the amendment should not impose significant impact upon individual counseling service providers. The amendment essentially returns the expense cap to near the level they were prior to the 07/01/2004 increase. This office recognized no significant increase in overall payout of the benefit after the maximums were increased. The annual payout for the benefit in 2003 was \$1,100,000, it rose to \$1,200,000 in 2004 and returned to \$1,100,000 where it stayed from 2005 through 2007. The 2008 payout for the benefit rose to \$1,300,000. The projected \$200,000 in annual savings to the victims' fund would be contributed to by the hundreds of counseling service providers statewide at a relatively minimal impact to each "small business" type provider. The session limitation implemented by this amendment provides a number of sessions which is above the industry standard and should not impose an undue hardship on any individual. In Section R270-1-10, the amendment should not impose noticeable impact upon businesses. The estimated payout for this claim has remained consistent at the approximate \$1,200 per claim level for the last several years. The estimated \$100,000 annual savings to the victims' fund would be contributed to by the hundreds of small business statewide. Additionally, a

significant portion of relocation expenses are paid directly to individuals rather than to businesses. In Section R270-1-22, the amendment will have minimal impact upon the effected businesses. The estimated annual \$190,000 saving to the victims' fund will be contributed by the dozens of hospital and medical facilities statewide that provide the applicable service. The vast majority of the effected hospitals and facilities currently provide the specified services within the amended limits of the rule. The limits established within the amended rule are well in excess of the industry standard, are generously within the limits of "reasonable and customary" and exceed limits set forth by any other state in the country providing the same or similar coverage for the benefit. Gary Scheller, Assistant Director

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

CRIME VICTIM REPARATIONS
ADMINISTRATION
Room 200
350 E 500 S
SALT LAKE CITY UT 84111-3347, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Connie Wettlaufer at the above address, by phone at 801-238-2371, by FAX at 801-533-4127, or by Internet E-mail at cwettlaufer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2009

AUTHORIZED BY: Melvin C Wilson, Director

R270. Crime Victim Reparations, Administration.

R270-1. Award and Reparation Standards.

R270-1-4. Counseling Awards.

A. Pursuant to Subsections 63M-7-502(20) and 63M-7-511(4)(c), out-patient mental health counseling awards are subject to limitations as follows:

1. The reparation officer shall approve a standardized treatment plan.

2. The cost of initial evaluation and testing may not exceed \$300 and shall be part of the maximum allowed for counseling. For purposes herein, an evaluation shall be defined as diagnostic interview examination including history, mental status, or disposition, in order to determine a plan of mental health treatment.

3. Primary victims of a crime shall be eligible for ~~a \$3500 maximum mental health counseling award~~ the lesser of 25 aggregate individual and/or group counseling sessions or \$2,500 maximum mental health counseling award.

(a) Parents, children and siblings of homicide victims shall be considered at the same rate as primary victims for inpatient and outpatient counseling.

4. Secondary victims of a crime shall be eligible for ~~a \$2000 maximum mental health counseling award~~ the lesser of 15 aggregate

individual and/or group counseling sessions or \$1,250 maximum mental health counseling award.

5. Extenuating circumstances warranting consideration of counseling beyond the maximum may be submitted by the mental health provider when it appears likely that the maximum award will be reached.

6. Counseling costs will not be paid in advance but will be paid on an ongoing basis as victim is being billed.

7. Inpatient hospitalization, residential and day treatment shall be reviewed by the CVR Board or contracting agency who will make recommendations to the Reparation Officers regarding treatment. The CVR Board or contracting agency will review all levels of care and assign a reimbursement percentage based on the crime. All cases having less than a \$1000 balance may be determined by the Reparation Officer. Outpatient cases shall be reviewed at the same rate as inpatient reviews.

8. In-patient hospitalization shall only be considered when the treatment has been recommended by a licensed therapist in life-threatening situations. A direct relationship to the crime needs to be established. Acute in-patient hospitalization shall not exceed \$600 per day, which includes all ancillary expenses, and will be considered payment in full to the provider. Inpatient psychiatric visits will be limited to one visit per day with payment for the visit made to the institution at the highest rate of the individuals providing therapy as set by rule. Reimbursement for testing costs may also be allowed. Parents, children and siblings of homicide victims shall be considered at the same rate as primary victims for inpatient hospitalization. All other secondary victims of other crime types are excluded.

9. Residential and day treatment shall only be considered when the treatment has been recommended by a licensed therapist to stabilize the victim's behavior and symptoms. Only facilities with 24 hour nursing care or 24 hour on call nursing care will be compensated for residential and day treatment. Residential and day treatment shall not be used for extended care of dysfunctional families and containment placements. A direct relationship to the crime needs to be established. Residential treatment shall not exceed \$300 per day and will be considered payment in full to the provider. Residential treatment shall be limited to 30 days, unless there are extenuating circumstances requiring extended care. All residential clients shall receive routine assessments from a psychiatrist and/or APRN at least once a week for medication management. Day treatment shall not exceed \$200 per day and will be capped at \$10,000. These charges will be considered payment in full to the provider. Parents, children and siblings of homicide victims shall be considered at the same rate as primary victims for residential and day treatment. All other secondary victims of other crime types are excluded.

10. Wilderness programs shall not be covered as an appropriate treatment modality when considering inpatient hospitalization, residential or day treatment.

11. Child sexual abuse victims under the age of 13 who become perpetrators shall only be considered for mental health treatment awards directly related to the victimization. Perpetrators age 13 and over who have been child sexual abuse victims shall not be eligible for compensation. The CVR Board or contracting agency for managed mental health care shall help establish a reasonable percentage regarding victimization treatment for inpatient, residential and day treatment. Out-patient claims shall be determined by the Reparation Officer on a case by case basis upon review of the mental health treatment plan.

12. Payment for mental health counseling shall only be made to licensed therapists; or to individuals working towards a license that

provide certified verification of satisfactory completion of an education and earned degree as required by the State of Utah Department of Commerce, Division of Professional and Occupational Licensing, working under the supervision of a supervisor approved by the Division. Student interns otherwise eligible under 58-1-307(1)(b) Exceptions from licensure, and/or the institution/facility/agency responsible for the supervision of the student, shall not be eligible for payment under this rule for counseling services provided by the student.

13. Payment of hypnotherapy shall only be considered when treatment is performed by a licensed mental health therapist based upon an approved Treatment Plan.

14. The following maximum amounts shall be payable for mental health counseling:

(a) up to \$130 per hour for individual and family therapy performed by licensed psychiatrists, and up to \$65 per hour for group therapy;

(b) up to \$90 per hour for individual and family therapy performed by licensed psychologists and up to \$45 per hour for group therapy;

(c) up to \$70 per hour for individual and family therapy performed by a licensed master's level therapist or an Advanced Practice Registered Nurse, and up to \$35 per hour for group therapy. These rates shall also apply to therapists working towards a license and supervised by a licensed therapist;

(d) The above-mentioned rates shall apply to individuals performing treatment, and not those supervising treatment.

15. Chemical dependency specific treatment will not be compensated unless the Reparation Officer determines that it is directly related to the crime. The CVR Board may review extenuating circumstance cases.

R270-1-10. Moving, Transportation Expenses.

A. Pursuant to Subsection 63M-7-511(4)(a), victims of violent crime who suffer a traumatic experience or threat of bodily harm are allowed moving expenses up to ~~[\$2000]~~\$1,000. Board approval is needed where extenuating circumstances exist.

B. Transportation expenses up to \$1000 are allowed for crime-related travel including, but not limited to, participation in court hearings and parole hearings as well as medical or mental health visits for primary and secondary victims. The Board may approve travel expenses in excess of \$1000 where extenuating circumstances exist.

R270-1-22. Sexual Assault Forensic Examinations.

A. Pursuant to Subsections 63M-7-502(20) and 63M-7-511(4)(i), the cost of sexual assault forensic examinations for gathering evidence and providing treatment may be paid by the CVR office in the amount of \$300.00 without photo documentation and up to \$600.00 with a photo examination. Pursuant to Section 63M-7-521.5, ~~the~~the CVR office may also pay for the cost of medication and ~~[up to 85%]~~70% of the eligible hospital [expenses] services and supplies. Payment to the hospital or other eligible facility for the rent or use of an examination room or space for the purpose of conducting a sexual assault forensic exam shall not exceed \$350.00. The following agency guidelines need to be adhered to when making payments for sexual assault forensic examinations:

1. A sexual assault forensic examination shall be reported by the health care provider who performs the examination to law enforcement.

2. Victims shall not be charged for sexual assault forensic examinations.

3. Victims shall not be required to participate in the criminal justice system or cooperate with law enforcement or prosecuting attorneys as a condition of being provided a sexual assault forensic examination or as a condition of payment being made pursuant to this rule.

4. The agency may reimburse any licensed health care facility that provides services for sexual assault forensic examinations.

4. The agency may reimburse licensed medical personnel trained to gather evidence of sexual assaults who perform sexual assault forensic examinations.

5. CVR may pay for the collection of evidence and not attempt to prove or disprove the allegation of sexual assault.

6. A request for reimbursement shall include the law enforcement case number or be signed by a law enforcement officer, victim/witness coordinator or medical provider.

7. The application or billing for the sexual assault forensic examination must be submitted to CVR within one year of the examination.

8. The billing for the sexual assault forensic examination shall:

- a. identify the victim by name, address, date of birth, Social Security number, telephone number, patient number;
- b. indicate the claim is for a sexual assault forensic examination;

and

- c. itemize services and fees for services.

9. All collateral sources that are available for payment of the sexual assault forensic examination shall be considered before CVR Trust Fund monies are used. Pursuant to Subsection 63-25a-411(i), the Director may determine that reimbursement for a sexual assault forensic examination will not be reduced even though a claim could be recouped from a collateral source.

10. Evidence will be collected only with the permission of the victim or the legal guardian of the victim. Permission shall not be required in instances where the victim is unconscious, mentally incapable of consent or intoxicated.

11. Restitution for the cost of the sexual assault forensic examination may be pursued by the CVR office.

12. Payment for sexual assault forensic examinations shall be considered for the following:

- a. Fees for the collection of evidence, for forensic documentation only, to include:

- i. history;
- ii. physical; and
- iii. collection of specimens and wet mount for sperm.

- b. Emergency department services to include:

- i. emergency room, clinic room or office room fee;
- ii. cultures for gonorrhea, chlamydia, trichomonas, and tests for other sexually transmitted disease;
- iii. serum blood test for pregnancy;
- iv. morning after pill or high dose oral contraceptives for the prevention of pregnancy; and
- v. treatment for the prevention of sexually transmitted disease up to four weeks.

13. The victim of a sexual assault that is requesting payment by CVR for services needed or rendered beyond the sexual assault forensic examination needs to submit an application for compensation to the CVR office.

KEY: victim compensation, victims of crimes

Date of Enactment or Last Substantive Amendment: [~~January 24~~July 8, 2009]

Notice of Continuation: July 3, 2006

Authorizing, and Implemented or Interpreted Law: 63M-7-501 et seq.

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Health, Health Care Financing, Coverage and Reimbursement Policy **R414-60B-4** Service Coverage

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32660

FILED: 05/11/2009, 17:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is necessary to comply with the provisions of S.B. 87 that remove the automatic override to the preferred drug list and add prior authorization requirements. (DAR NOTE: S.B. 87 (2009) is found at Chapter 324, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: This change removes the automatic override to the preferred drug list and outlines the prior authorization requirements to dispense nonpreferred drugs to Medicaid clients. (DAR NOTE: A corresponding 120-day (emergency) rule is under DAR No. 32659 in this issue, June 1, 2009, of the Bulletin, and was effective 05/18/2009.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-18-2.4 and 26-18-3

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Department estimates an annual savings to the General Fund of \$1,474,300 and \$3,687,800 in federal dollars.

❖ **LOCAL GOVERNMENTS:** There is no budget impact because local governments do not fund the Medicaid pharmacy program.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** In aggregate, pharmacy providers are expected to see a reduction in total revenue of \$5,162,100 because of this change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Not knowing the profit margins for the pharmacies on the impacted drugs, the Department cannot say with certainty that this change will result in lost profits. Providers may experience an increase in the number of prior authorizations they are required to handle.

The Utah Medical Association and the Utah Pharmacists Association supported the change in law that this rule implements. Any increased cost for health care providers will be minimal compared to the savings for Utah taxpayers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change is expected to save the taxpayers over \$5 million per year in state and federal funds. The additional cost for health care providers and any inconvenience to Medicaid recipients is expected to be minimal by comparison. David N. Sundwall, MD, Executive Director

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 Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2009

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-60B. Preferred Drug List.

R414-60B-4. Service Coverage.

(1) Upon the recommendation of the Pharmacy and Therapeutics (P&T) Committee, DHCF pharmacy staff select the therapeutic classes and select the most clinically effective and cost effective drug or drugs within each class.

(2) The prescriber must ~~write "medically necessary—dispense as written" on the prescription and have justification in the patient's medical record substantiating the medical necessity of a non-preferred drug in order for this to be reimbursed~~ obtain prior authorization from the Department to dispense drugs designated as "non-preferred" in each class, through the Department's current prior authorization system. Criteria for a Non-preferred Prior Authorization (NPA) is established by the Department in consultation with the Pharmacy and Therapeutics Committee.

(3) ~~The preferred drug or drugs are covered without the notation required in (2)~~ A prior authorization is not placed on any preferred drugs under Section R414-60B-4. Nevertheless, a prior authorization may apply if set by the Drug Utilization Review Board.

(4) For NPA requests submitted during normal business hours, Monday through Friday, 8 a.m. to 5 p.m., the prior authorization system shall provide either telephone or fax approval or denial within 24 hours of the receipt of the request.

(5) In an emergency situation for a prior authorization needed outside of normal business hours, a 72-hour supply of a non-preferred drug may be dispensed and the Department shall issue an NPA for the

72-hour supply on the next business day. Further quantity requests shall be subject to all NPA requirements.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: ~~[September 21, 2007]~~ 2009

Authorizing, and Implemented or Interpreted Law: 26-18-2.4; 26-18-3; 26-1-5

◆ ————— ◆

**Health, Health Care Financing,
Coverage and Reimbursement Policy**
R414-303-10
Refugee Medicaid

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32666

FILED: 05/12/2009, 17:14

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In accordance with federal law, the purpose of this change is to provide medical assistance to Iraqi and Afghan Special Immigrants under the Refugee Medicaid program.

SUMMARY OF THE RULE OR CHANGE: This federal mandate changes Department policy and directs Medicaid to provide medical assistance to refugees under the Refugee Medicaid program. It also specifies that Iraqi and Afghan Special Immigrants are eligible to receive the same medical assistance.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-18-3, 42 CFR 400.90 through 400.107, and 45 CFR Part 401

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is no budget impact because at this time there are no Iraqi and Afghan Special Immigrants under the Utah Medicaid program. Further, there is insufficient data to estimate how many clients this policy will affect in the future.

❖ **LOCAL GOVERNMENTS:** This change does not impact local governments because they do not determine Medicaid eligibility and do not provide Medicaid services.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There is no impact to other persons and small businesses because at this time there are no Iraqi and Afghan Special Immigrants under the Utah Medicaid program. Further, there is insufficient data to estimate how many clients this policy will affect in the future.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because at this time there are no Iraqi and Afghan Special Immigrants under the Utah Medicaid program. Further, there is insufficient data to estimate how many clients this policy will affect in the future.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change is required to remain in compliance with federal law. Fiscal impact should be positive on business. David N. Sundwall, MD, Executive Director

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 Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2009

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-303. Coverage Groups.

R414-303-10. Refugee Medicaid.

(1) The Department ~~[adopts]~~ provides medical assistance to refugees in accordance with the provisions of 45 CFR 400.90 through 400.107 ~~[-2001 ed., which are modified by the Federal Register 60 FR 33584, published Wednesday, June 28, 1995,] and 45 CFR, Part 401~~ ~~[-2001 ed., all of which are incorporated by reference].~~

(2) Specified relative rules do not apply.

(3) Child support enforcement rules do not apply.

(4) The sponsor's income and resources are not counted. In-kind service or shelter provided by the sponsor is not counted.

(5) Initial settlement payments made to a refugee from a resettlement agency are not counted.

(6) Refugees may qualify for medical assistance for eight months after entry into the United States.

(7) The Department provides medical assistance to Iraqi and Afghan Special Immigrants in the same manner as medical assistance provided to other refugees.

KEY: income, coverage groups, independent foster care adolescent

Date of Enactment or Last Substantive Amendment:
~~[November 21, 2007]~~2009

Notice of Continuation: January 25, 2008

Authorizing, and Implemented or Interpreted Law: 26-18-3; 26-1-5



Health, Center for Health Data, Health
Care Statistics
R428-12
Health Data Authority Survey of
Enrollees in Health Maintenance
Organizations

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32651

FILED: 05/05/2009, 10:08

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed amendment simplifies the language present in the rule.

SUMMARY OF THE RULE OR CHANGE: Changes have been made to the language in the enrollment criteria in the definitions section. The sample methodology sections have been simplified as well.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 33a

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The language changes have no effect on the budget. This is due to the fact the language changes simplify how to obtain the sample that is to be used in the survey, not the actual survey procedures. While the language has been altered slightly, the procedures are still in place from previous iterations of the rule.

❖ **LOCAL GOVERNMENTS:** The language changes have no effect on the budget. This is due to the fact the language changes simplify how to obtain the sample that is to be used in the survey, not the actual survey procedures. While the language has been altered slightly, the procedures are still in place from previous iterations of the rule.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The language changes have no effect on small business. This is due to the fact the language changes simplify how to obtain the sample that is to be used in the survey, not the actual survey procedures. While the language has been altered slightly, the procedures are still in place from previous iterations of the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It costs anywhere from \$1,000 to \$10,000 to administer the survey depending upon how many covered lives the insurance company has in Utah. This cost is the responsibility of the health plan, and not the state or other business entities.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact. David N. Sundwall, MD, Executive Director

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

HEALTH
 CENTER FOR HEALTH DATA,
 HEALTH CARE STATISTICS
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY UT 84116-3231, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Sam Vanous at the above address, by phone at 801-538-7074, by FAX at 801-538-9916, or by Internet E-mail at svanous@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2009

AUTHORIZED BY: David N. Sundwall, Executive Director

R428. Health, Center for Health Data, Health Care Statistics.
R428-12. Health Data Authority Survey of Enrollees in Health Maintenance Organizations.
R428-12-3. Definitions.

These definitions apply to rule R428-12:

- (1) "Office" as defined in R428-2-3A.
- (2) "Carrier" means:
 - (a) "Health Maintenance Organization"(HMO) means any person licensed under Title 31A, Chapter 8.
 - (b) a governmental plan as defined in Section 414 (d), Internal Revenue Code.
 - (c) a non-electing church plan as described in Section 410 (d), Internal Revenue Code.
 - (d) "Preferred Provider Organization (PPO)" means all commercial insurance companies engaged in the business of health care insurance in the state of Utah (as defined in 31A-1-301(75)(a) and (b)), and offers a insurance product where an insured member has the choice of using either an in network provider at a discounted rate, also called preferred providers, or any out of network provider at a higher rate, also called non-preferred provider. Payments to preferred and non-preferred providers are paid according the preferred provider contract provisions as described in 31A-22-617(2)(a)(b).
- (3) "Enrollee" means any individual who has entered into a contract with a health maintenance organization for health care or on whose behalf such an arrangement has been made.
- (4) "Eligible Enrollee" means an enrollee who meets the [following criteria:]criteria outlined by HEDIS 2009, Volume 3, Specifications for Survey Measures published by NCOA.
 - ~~(a) enrolled with the carrier as of May 1, 2008;~~
 - ~~(b) continuously enrolled with the carrier for at least twelve months prior to May 1 of the current year, allowing one break in coverage for up to 45 days;~~

- ~~(e) not employed by the carrier;~~
- ~~(d) age 18 or older;~~
- ~~(e) not enrolled in Medicaid or Medicare; and~~
- ~~(f) has Utah zip code.~~
- ~~(7) "Sampling Frame" means the carrier enrollment file as described criteria outlined by HEDIS 2009, Volume 3, Specifications for Survey Measures published by NCOA. [in Table 1 for all eligible enrollees of the carrier]. The sampling frame includes only records that meet the eligibility criteria in R428-12-3(4).~~
- ~~(8) "Sample file" means the data file containing records of selected eligible enrollees drawn by the survey agency from the carrier's sampling frame.~~
- ~~(9) "Aggregate statistics" means the total number of enrollees with the particular carrier by age and sex.~~
- ~~(10) "Survey agency" means an independent contractor on contract with the Office of Health Data Analysis.~~

R428-12-4. Creating the Sampling Frame.

- (1) The sources for enrollment data are health plan carriers licensed in Utah. Each carrier shall include in the sampling frame all eligible enrollees. The carrier may not exclude any record except those that do not meet eligibility criteria as specified in R428-12-3(4).
- (2) Each carrier shall create the sampling frame according to the criteria outlined by HEDIS 2009, Volume 3, Specifications for Survey Measures published by NCOA. [the format in the Table 1 or 2.
- ~~(3) The layout described in Table 1 and 2 shall be followed exactly. Column starts or widths of fields shall not be changed. The sample file must be in ASCII format, one member record per line, all records the same length. Records shall not contain quotes, hyphens in phone numbers, dashes, or any other punctuation.~~

TABLE 1
 SAMPLING FRAME LAYOUT (Adult Survey)

Required Data Element	Field Positions		Value Labels
	Length	Start End	
Health care organization name	60	1 60	
Product line	1	61 61	1 - Commercial 2 - Medicaid
Product	1	62 62	1 - HMO 2 - POS
Subscriber or family ID number	16	63 78	This ID differentiates between individuals when family members share the subscriber ID
Member unique ID	16	79 94	
Member first name	25	95 119	
Member middle initial	1	120 120	
Member last name	25	121 145	
Member gender	1	146 146	1 - Male 2 - Female
Member date of birth	8	147 154	MMDDYYYY
Member mailing address 1	50	155 204	Street address or post office box
Member mailing address 2	50	205 254	Mailing address 2nd line (if needed)
Member city	30	255 284	
Member state	2	285 286	2 character state abbreviation
Member Zip code	5	287 291	5 digit number plus 7 digit phone number; no separators or delimiters
Member telephone number	10	292 301	3 digit area code plus 7 digit phone number; no separators or delimiters

Flu Shots for Adults Ages 50-64				
Eligibility Flag	1	302	302	1 - Eligible 2 - Ineligible 9 - Member is in a product or product line for which the measure is not being reported

				9 - Member is in a product or product line for which the CCC measure is not being reported
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(14)3 The sampling frame and procedures used by the reporting carrier are subject to audit by the Office of Health Data Analysis against aggregate statistics for the submitting carrier.

R428-12-5. Sampling Frame Submission.

(1) The carrier shall create the sampling frame according to the eligibility criteria in R428-12-3(4). The carrier shall copy the sampling frame (formatted as described in "Sampling Frame Layout" in Table 4) by HEDIS 2009, Volume 3, Specifications for Survey Measures published by NCOA) onto an IBM PC 3.5 inch high density diskette using a electronic medium acceptable to the survey agency and send to the survey agency.

(2) The carrier shall fill out the "Sample Description" sheet to be provided by the survey agency and send it with the diskette with the electronic sample file. Each carrier shall submit to the survey agency the sampling frame for each of its carrier products no later than four weeks after the receipt of the sampling memo from the survey agency.

KEY: health maintenance organization, performance measurement, health care quality, preferred provider organization Date of Enactment or Last Substantive Amendment: [January 8], 2009

Notice of Continuation: April 3, 2007

Authorizing, and Implemented or Interpreted Law: 26-33a-104; 26-33a-108

TABLE 2
SAMPLING FRAME LAYOUT (Child Survey)

Required Data Elements	Field Positions			Value Labels
	Length	Start	End	
Health care				
organization name	60	1	60	
Product line	1	61	61	1 - Commercial 2 - Medicaid
Product	1	62	62	1 - HMO 2 - POS
Subscriber or family				
ID number	16	63	78	
Member unique ID	16	79	94	This ID differentiates between individuals when family members share the subscriber ID
Member first name	25	95	119	
Member middle initial	1	120	120	
Member last name	25	121	145	
Member gender	1	146	146	1 - Male 2 - Female
Member date of birth	8	147	154	MMDDYYYY
Mailing address 1	50	155	204	Street address or post office box
Mailing address 2	50	205	254	Mailing address 2nd line (if needed)
City	30	255	284	
State	2	285	286	2 character state abbreviation
Zip code	5	287	291	5 digit number
Telephone number	10	292	301	3 digit area code plus 7 digit phone number; no separators or delimiters
Parent/caretaker				
first name	25	302	326	Required only if mailing materials are to be addressed to the parent or caretaker
Parent/caretaker middle initial	1	327	327	Required only if mailing materials are to be addressed to the parent or caretaker
Parent/caretaker last name	25	328	352	Required only if mailing materials are to be addressed to the parent or caretaker
Prescreen status code	1	353	353	1 - No claims or encounters that meet criteria 2 - Claims or encounters that meet criteria

◆ ————— ◆

Human Services, Aging and Adult Services
R510-104
Nutrition Programs for the Elderly (NPE)

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE No.: 32654
FILED: 05/06/2009, 15:03

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule has been extensively reorganized, the numbering of the various sections has been changed, a definitions section has been added, outdated information has been removed (i.e., references to other services that are no longer in existence, practices that are no longer in place, etc.), and some criteria have been updated. In addition to the general clean up, the rule has been updated to incorporate best practices and to bring the rule into compliance with changes to policy that have been updated over the past several years.

SUMMARY OF THE RULE OR CHANGE: The rule change is comprehensive in addressing changes in policy and

procedure, services available to clients, nutritional requirements, and overall operation of the program. It also removes sections that are redundant or are no longer valid. The change process updates, corrects, and clarifies the previous version of the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-3-104 and 42 USC Section 3001

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The update does not change the way agencies are currently providing nutrition services and will not have a fiscal impact.
- ❖ LOCAL GOVERNMENTS: The update does not change the way agencies are currently providing nutrition services and will not have a fiscal impact.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The update does not change the way agencies are currently providing nutrition services and will not have a fiscal impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The update does not change the donation amount paid by the clients.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact due to the change. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
AGING AND ADULT SERVICES
Room 325
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nels R. Holmgren at the above address, by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at NHOLMGREN@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2009

AUTHORIZED BY: Nels R. Holmgren, Director

R510. Human Services, Aging and Adult Services.

~~[R510-104. Nutrition Programs for the Elderly (NPE).~~

~~R510-104-1. Nutrition Program Standards, Policy and Procedures.~~

~~— (1) Program Standards: The Division shall comply with the Dietary Guidelines for Americans released 30 May 2000, published by the U. S. Department of Health and Human Services and the U. S. Department of Agriculture, and provide to each participating older individual:~~

~~— (a) A minimum of 33 1/3 percent of the daily Recommended Dietary Allowances (RDA) and Dietary Reference Intake (DRI) as~~

~~established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, Institute of Medicine and Mathematica Policy Research, Incorporated, if the project provides 1 meal per day;~~

~~— (b) A minimum of 66 2/3 percent of the allowances if the project provides two meals per day; and~~

~~— (c) One hundred percent of the allowances if the project provides three meals per day.~~

~~— (2) Nutrition Services: The Division shall develop a comprehensive and coordinated nutrition service system statewide. The Division shall encourage and assist the AAAs in utilization of resources to develop greater capacity in their nutrition programs and services. The Division will approve a nutrition screening tool that will be used to identify nutritional risk or malnutrition. All seniors participating in the Nutrition Programs For The Elderly, Congregate and Home Delivered Meals, will be required to complete the nutrition screen. If an individual does not want to fill out the screening form, he or she will not be denied a meal. The provider is required to assure the data to National Aging Program Information System (NAPIS). The Division will monitor, coordinate, and assist in the planning of nutritional services, with the advice of a registered dietitian or an individual with comparable expertise. The nutrition service system shall provide older Utahns, particularly those in the greatest economic and social need categories, with particular attention to low income and low income minorities, access and outreach to nutrition services, nutrition education and nutritionally sound meals, to promote better health through improved diet.~~

~~— (3) Coordination: Policy and Procedures approved by the Utah State Board of Aging and Adult Services shall be used by the Division and its contractors/grantees in the conduct of all functions and responsibilities required in carrying out services and funding categories of the Title III Part C Nutrition Program, including Congregate Meals (Part C 1), Home Delivered Meals (Part C 2), Nutrition Education and Nutrition Outreach, and the Cash in Lieu and Commodities Program. The USDA Program authorizes cash payments to the State from the United States Department of Agriculture, based upon the number of eligible Title III Congregate and Home Delivered Meals served. Part of or all of the revenue earned may be received in the form of commodities; as determined by the Division and in consultation with the AAAs.~~

~~R510-104-2. Eligibility for Nutrition and Nutrition Support Services.~~

~~— (1) All persons aged 60 and older and the spouse of any individual regardless of his/her age, are eligible for OAA nutrition services. If sufficient resources are not available to serve all eligible individuals who request a service, the AAA shall ensure that preference is given to those of greatest social or economic need, with particular attention to low income, and low income minorities. All individuals requesting home delivered meals shall be assessed and only those individuals who have been determined to be homebound as defined in R510-104-2.4 shall be eligible for a home delivered meal.~~

~~— (2) Other Individuals who may receive congregate and home-delivered meals include:~~

~~— (a) Any individual with a disability (who has not attained the age of 60), if they reside in a housing facility primarily occupied by elderly persons that has a congregate meal site funded by the OAA on the premises;~~

~~— (b) Clients of Home and Community Based Alternatives programs and/or clients of the Medicaid Home and Community Based programs for the elderly shall be allowed to participate in the nutrition~~

program as capacity allows, if the client's case manager includes the meal in the care plan. The participant's program shall pay the actual cost of the meal as determined by the AAA. The above-named clients shall be given preference over other fee-paying individuals.

—(e) Individuals with disabilities who reside at home with and accompany older individuals who are eligible under the Act.

—(3) Homebound Status:

—(a) A person shall be determined to be homebound if he/she is unable to leave home without assistance because of a disabling physical, emotional, or environmental condition.

—(b) Homebound status shall be documented at the project level. Method of assessment shall be approved by the Division to ensure standard measurable criteria. Homebound status shall be reviewed or re-evaluated on a regular basis, but not less frequently than annually. Written authorization for eligibility shall be provided by the AAA. A written copy of the appeal process shall be made available to those denied this service. Two authorized signatures of approval for eligibility shall be required by the AAA.

—(c) Urgent need: Top priority may be given to emergency requests. Home-delivered meals for an emergency shall start as soon as possible after the determination of urgent need has been made. A regular assessment will be made within 14 calendar days from the date of request to determine continued eligibility.

R510-104-3. Contribution Policy.

—(1) The actual cost, as defined by the AAA and reported to the State, of a congregated meal shall be posted at the nutrition site. Suggested contribution and actual cost shall be posted in a prominent conspicuous location.

—(2) Each eligible participant shall have an opportunity to voluntarily and anonymously contribute toward the cost of a provided meal service.

—(3) Each AAA shall establish and implement procedures which will protect the privacy of the client's decision to contribute or not contribute toward the meal service rendered.

—(4) Under no circumstances may an eligible client be denied service(s) by a provider who received funds from the AAA (for that service) because of the client's decision not to contribute for services rendered.

—(5) AAAs shall have each provider post suggested contributions and fees (actual costs of meal) for nutrition services in a prominent conspicuous location.

—(6) There shall be locked contribution boxes, placed away from the ticket and change table, which shall not be monitored for contributions, in order to assure the confidentiality of the donation.

—(7) Participant contributions shall be counted by two persons, and both individuals shall sign a form attesting to the correct count. A copy of such signed documentation shall be kept on file.

R510-104-4. Nutrition Services.

—(1) Selection of Providers:

—(a) The AAA shall make awards for congregated and home-delivered nutrition services to providers that furnish either or both types of service. Each AAA shall assure that each service provider selected meets all applicable Federal, State and Local regulations.

—(b) Each AAA, when feasible, shall give preference in making awards for home-delivered meal services to providers that meet the following:

—(i) Organizations that have demonstrated an ability to provide home-delivered meals efficiently and reasonably; and

—(ii) Providers will furnish assurances to the AAA that it will maintain efforts to solicit voluntary support and that OAA funds made available will not be used to supplant funds from non-federal sources.

—(2) Requirements for Congregate Meal Providers:

—(a) Each AAA, in consultation with the nutrition provider and AAA Advisory Council, or local equivalent, shall determine the number of congregated sites to be established and their days of operation.

—(b) Local AAA's must provide congregated meals a minimum of five days per week (except in a rural area where such frequency is not feasible (as defined by the Assistant Secretary of Aging by regulation); and a lesser frequency shall be approved by the Division).

—(c) Where feasible, congregated nutrition sites shall be in as close proximity to the majority of eligible individuals' residences as feasible, with particular attention upon a multipurpose senior center, a school, a church, or to other appropriate community facility, preferably within walking distance where possible, and where appropriate, transportation to such site is furnished.

—(d) Congregated meal projects will provide at least one hot or other appropriate meal per day and any additional meals which the nutrition contract provider may elect to provide, with the approval of the AAA.

—(e) A provision for Special Meals will be provided where feasible and appropriate to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals.

—(f) The congregated meals shall comply with the Dietary Guidelines for Americans as stated in R510-104-1(A).

—(g) Each congregated meal project shall comply with applicable State and local laws regarding the safe and sanitary handling of food, equipment, and supplies used in the storage, preparation, service, and delivery of meals to older individuals.

—(h) Each nutrition provider shall establish outreach activities which assure that the maximum number of eligible clients are aware that they have the opportunity to participate.

—(i) Each congregated meal project shall provide nutrition education on at least a semi-annual basis.

—(3) Requirements for Home-Delivered Meal Providers:

—(a) Home-delivered meals service within a Planning and Service Area (PSA) shall be available 5 or more days per week.

—(b) Home-delivered meals that are provided 4 days/week or less in rural areas must be approved by the Division.

—(c) Home-delivered meals shall comply with the Dietary Guidelines for Americans as stated in R510-104-1(A).

—(d) Home-delivered meal/s should consist of solid foods, served hot, cold, frozen, dried, canned, or supplemental foods (with a satisfactory storage shelf life). In situations where nutritional considerations make solid foods inappropriate, the need for nutrient supplements to include liquid supplemental feedings, (meeting the required RDA Guidelines) may be part of medical nutrition therapy recommended by a registered dietitian, registered nurse or physician, with the concurrence of the local AAA, primarily when the participant can not tolerate or digest regular meals. Exceptions to solid foods shall be documented by the nutrition case manager who shall record that other alternatives were tried but unsuccessful. All other sources of home-delivered meal modification should be exhausted before liquid supplemental feedings become the main nutritional regimen.

—(e) Each home-delivered meal project shall comply with applicable State and local laws regarding the safe and sanitary handling of food, equipment, and supplies used in the storage, preparation, service, and delivery of meals to older individuals.

—(f) Each AAA shall provide a mechanism that will assure the review of need for home-delivered meals for absent participants at the Congregate Sites.

—(g) Arrangements for the availability of meals to participants during weather-related emergencies shall be made when feasible and appropriate by the service provider. When appropriate, nutrition service providers shall refer clients to additional health and social services.

—(h) Each home-delivered project shall provide nutrition education to participants on a least a semi-annual basis.

—(4) Food Service Management: All AAAs shall ensure the following:

—(a) Meal Preparation Site: When a project is designed to serve meals at more than one congregate meal site, efforts shall be made to have all meals prepared at one facility and in turn delivered to the various sites, (if more cost effective).

—(b) Sanitation: All State and local sanitation and safety regulations applicable to food preparation, delivery and the serving of meals shall be followed.

—(c) Quality and Quantity: Tested quality recipes adjusted to yield the number of servings needed must be used to achieve constant and desirable quality and quantity of meals.

—(d) Food Preparation: All foods shall be prepared and served in a manner acceptable in flavor and appearance, while retaining nutrients and food value, and critiqued by the local advisory council which considers issues pertaining to the nutrition program.

—(e) Inventories: Each AAA shall require that accurate inventory records for consumable goods, including USDA commodities and supplies be maintained for nutrition projects funded in whole or in part by the Older Americans Act funds. Either the periodic or perpetual system of inventory shall be acceptable, if conducted consistent with generally accepted inventory control principles.

—(f) Training: The provider shall plan and provide training and supervision in sanitation, food preparation, and portion control by qualified personnel for all paid and volunteer staff who prepare, handle and serve food.

—(g) Refrigerated Storage:

—(i) The refrigeration cooling period for hot food shall not exceed 4 hours.

—(ii) All prepared foods that are frozen in a nutrition project kitchen shall be chilled in a rapid chill system which reduces the temperature of foods to 70 degrees within 2 hours and shall be cooled to an internal product temperature of 41 degrees F or below within the following 2 hours.

—(h) Frozen Food Requirements: All packaged frozen meals and freezing methods used to freeze meals utilized by the nutrition project, must meet the requirements of the State of Utah Health Department regulations.

—(i) Leftover Food:

—(i) All food transported to sites which becomes "leftover," except unopened prepackaged food, must be properly disposed of at the meal site or the main food preparation site in compliance with local Health Department regulations.

—(ii) AAAs shall develop policies and procedures to minimize leftover meals to 1.5 percent or less.

—(iii) Leftovers shall be offered to all participants as second helpings at those congregate settings which do not have on-site cooking facilities or methods to preserve leftover food to meet the nutritional standards for later consumption (approved by the local Health Departments).

—(iv) The AAA shall cause to have placed at each nutrition site, in a location that is easily visible to patrons, a disclaimer which shall state:

"For Your Safety: Food removed from the center must be kept hot or refrigerated promptly. We cannot be responsible for illness or problems caused by improperly handled food." No food shall be taken from the site by staff.

—(j) Food Protection: Food on display shall be protected from consumer contamination by the use of packaging or by the use of an easily cleanable counter, serving line, or salad bar protector devices, display cases, or by other effective means. Enough hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous food on display.

—(k) Hot and Cold Food:

—(i) Beef products including hamburger shall be cooked to an internal temperature of 155 degrees F, poultry shall be cooked to an internal temperature of 165 degrees F and pork shall be cooked to an internal temperature of 165 degree F.

—(ii) All hot foods shall be maintained at 140 degrees F or above, from the time of final food preparation to completion of service. All refrigerated food shall reach an internal temperature of 41 degrees F within 4 hours.

—(iii) Cold foods shall be maintained at 41 degrees F or below from time of initial service to completion of service.

—(iv) The nutrition project shall make temperature checks of all prepared, received and transported meals.

—(l) Food Safety:

—(i) All food used by the nutrition service provider(s) must meet standards of quality, sanitation, and safety applying to foods that are processed commercially and purchased by the project.

—(ii) No food prepared or canned in a home or any other non-licensed facility may be used in meals provided by a project financed through the nutrition service provider(s) award.

—(iii) Food service certification in applied food service sanitation by nationally recognized industry programs and approved by the Utah State Department of Health, shall be required for one person per shift where food is prepared and cooked for NPE meals.

—(m) Staffing: The nutrition service provider shall:

—(i) Give preference to employing those qualified persons age sixty (60) and over, including those of greatest economic or social need;

—(ii) Designate a person responsible for the conduct of the project who has the necessary authority to conduct day to day management functions of the provider;

—(iii) Utilize a registered dietitian or nutritionist to provide necessary nutrition services.

—(n) Staff and Volunteer Meals:

—(i) Staff and guest(s), under the age of 60 years, must pay the actual cost, as established by the AAA, of the meal. Payments from those under 60 years of age should be collected and accounted for separately.

—(ii) If serving a meal to staff under age 60 deprives elderly target population individuals from securing a meal, other arrangements shall be made for staff.

—(iii) Each AAA shall establish procedures when they allow nutrition project administrators the option to offer a meal to individuals providing volunteer service during the meal hour, on the same basis as meals that are provided to elderly participants.

—(5) Nutritional Requirements:

—(a) Food Requirements: AAAs shall ensure that the meals provided through their nutrition projects comply with the Dietary Guidelines for Americans to each participating older individual: to include R510-104-1(a)(b)(c). Compliance shall be documented for each meal served by the nutrition provider. The following methods are acceptable:

—(i) Handbook 8 of USDA (located in the University of Utah Marriott Library Federal Documents Collection)

—(ii) Computer analysis based upon an acceptable software program approved by the Division.

—(iii) Computation of food values for portions of foods commonly used; such menus and analysis of menus shall be the responsibility of a qualified dietitian/nutritionist.

—(b) Menu Cycles and Analysis:

—(i) Nutrition providers shall send an approved copy of the menu cycles to be used to the appropriate nutrition site(s) and to the AAA. Any substitutions (deviations) from the nutrient approved menu(s) shall be documented and reported by the nutrition project director.

—(ii) Service providers contracting with a third party shall stipulate in the contract that menu cycles must be received by the service provider at least one week prior to use for analysis and approval.

—(iii) Any substitutions to the original menu cycle must be analyzed for minimum requirements, documented in the menu (by the cook in charge in the nutrition project who initials the changes) and kept on file. For audit purposes, menu cycles and nutrient analysis shall be maintained for a minimum of 3 years, or until disposition is authorized by the grantor agency. The project director shall be responsible for selecting or designating an individual to be trained in the proper procedures for menu analysis and menu substitutions.

—(c) Modified Diets:

—(i) Modified diets shall be available to program participants. Each project will provide special menus, where feasible and appropriate to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals. The AAA shall be responsible for the method of obtaining orders for modified diets from each participant's physician, maintaining such orders on file and reviewing them. In addition, registered/certified dietitians shall identify which modified diets are available to participants.

—(ii) The Division shall recommend a diet manual for modified diets. Any other manuals used shall be approved by the Division prior to their use. Modified diet menus shall be planned and prepared under the supervision of a dietitian/nutritionist to assure that they comply with the Dietary Guidelines for Americans and provide 33 1/3 % of the RDA or DRI as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, Institute of Medicine.

—(d) Vitamins: Vitamins and/or mineral supplements shall not be made available by service providers.

—(e) Utensils for the Blind and Disabled: Upon request, the AAA may provide the appropriate food containers and utensils for the blind and the disabled.

R510-104-5. Use of Nutrition Dollars to Fund Support Services Directly Related to Nutrition Services.

—Project income generated by Title III C can only be used to:

—(1) expand the number of meals provided or to facilitate access to such meals (transportation and outreach);

—(2) integrate systematic nutrition screening for nutrition/malnutrition and food insecurity; or

—(3) to provide other supportive services directly related to nutrition services, such as outreach, information and referral, transportation, access to grocery shopping, help with food stamp procurement, social activities in conjunction with a meal, and nutrition education.

R510-104-6. Restriction on Use of Funds.

—(1) Program income generated by OAA Title III Part C 1 and Part C 2 may be used as the addition alternative (to expand the number of meals provided, or to facilitate access to such meals or to provide other supportive services directly related to expanding nutrition services) or the cost sharing alternatives as stated in 45 CFR 92.259(g)(2) (to match federal and/or state funds) or, a combination of the two alternatives.

—(2) To defray program costs, nutrition providers may also perform Nutrition Services for other groups and programs outside the parameters of the Nutrition Program for the Elderly under the OAA, providing such services will not interfere with the project or programs for which the contract was originally granted. These extra nutrition activities shall be held in a manner that does not impede the preparation or delivery of nutrition services to the elderly, and shall charge, to the recipients, the full cost of preparation and delivery of the nutrition services as set forth by the provider. When persons 60 years of age and older participate in these "special events," they assume the identity of the activity and are obligated to pay the requested fee for participation. This shall not be confused with the donation policy of the Title III Nutrition Programs. However, income earned meaning gross program income directly generated by a contract supported program shall be used to increase the number of meals served by the nutrition project involved.

R510-104-7. USDA Program Participation (Commodities and Cash In Lieu of Commodities).

—(1) Donated Food Standard Agreement: The AAA or nutrition service provider shall enter into a written agreement with the Department of Human Services Federal Food Program of the State of Utah and shall follow all procedures of the "Agreement for Commodities Donated by the U.S. Department of Agriculture."

—(2) USDA cash in lieu of commodities payments or revenue earned, depending on whether the accounting for the USDA program is on a cash or accrual basis, shall be used to offset the cost of raw food and the cost of purchased meals.

—(3) USDA Commodity Storage Billing: In accordance with Section 250.6(10)(j) of the Code of Federal Regulations, Title 7, Chapter 2, FNS, the Distributing Agency reserves the right to bill the actual costs incurred in the storage and/or in state transportation of commodities ordered by and for those Nutrition Programs for the Elderly sites which operate under the auspices of the Division.

—(4) Division Responsibilities:

—(a) The Division, with the assistance of the nutrition projects, may annually conduct a cost analysis comparing costs of commodities to the cost of the same food purchased locally or the cost of utilizing the State award for foods. Based on this study, commodities which are cost efficient, may be recommended to be ordered by the Division from Federal Food for each AAA requesting commodities.

—(5) Nutrition Service Provider Responsibilities:

—(a) Nutrition providers shall accept and use all commodities, including bonus commodities, made available by the Division and funded by the USDA.

—(b) Nutrition projects shall store commodities as prescribed in the "Agreement for Commodities Donated by the U.S. Department of Agriculture."

—(c) AAAs shall report all irregularities in the commodity shipping invoices to Federal Food, State of Utah. The nutrition project shall accept only the quantity and type of food stated on the invoice. If the quantity is less than shown on the invoice, the nutrition project shall note this on the invoice, and request the deliverer to initial, and report it to the AAA.

~~— (6) Cash In Lieu of Commodities:~~

~~— (a) AAAs shall promptly disburse all USDA cash in lieu of commodities to nutrition providers in their planning and service area that are funded with Title III Part C 1 and Part C 2 funds.~~

~~— (b) AAAs shall ensure that payments received by providers in lieu of commodities shall be used solely for the purchase of:~~

~~— (i) United States agricultural commodities and other foods produced in the United States; or~~

~~— (ii) Meals furnished to them under contractual arrangements with food service management companies, caterers, restaurants, or institutions, have provided that each such meal contains United States produced commodities or foods at least equal in value to the per meal cash payment which the nutrition service providers have received.~~

~~— (7) Monitoring, Withholding or Recovering Cash Payments:~~

~~— (a) The Division and the AAAs shall monitor and assess use of payments received in lieu of commodities. Such monitoring shall include periodic on site examination of all pertinent records maintained by service providers, as well as, all such records maintained by suppliers of meals purchased under contractual arrangements.~~

~~— (b) The Division will withhold or recover cash payments in lieu of commodities from an AAA if it determines, through a review of such AAA's reports, program monitoring, financial review or audit, that the AAA has failed to comply with the provisions of this section, or otherwise have failed to adequately document the basis for payments received during the fiscal year.~~

~~— (c) AAAs which do not expend the Cash In Lieu within a maximum of two quarters after it has been allocated by the Division shall be evaluated for need and other available resources at the local AAA. Their rate of entitlement may be reduced in succeeding allocation periods.~~

~~— (8) USDA Documentation:~~

~~— (a) AAAs shall ensure that the cost of U.S. grown food purchased during the project year is at least equal to the amount of the USDA reimbursement under the cash in lieu of commodities program. This documentation shall be based on paid invoices.~~

~~— (b) In the case of meals served under contractual arrangements with food service management companies, caterers, restaurants or institutions, copies of menus and invoices of food purchases that demonstrate that each meal served contained United States produced commodities or food at least equal in value to the per meal cash payments, constitutes adequate documentation.~~

~~— (9) Food Stamps: AAAs shall require all service provider(s) to ensure that information is provided to all participants regarding food coupons or cash out and how to apply for such assistance.~~

R510-104-8. Additional Meal Policy.

~~— (1) Nutrition providers may serve a second meal or third meal if planned as an objective in the Area Plan. When two meals are served per day, they shall provide 66 2/3% of the RDA and DRI. When three meals are served per day, they shall provide 100% of the RDA and DRI. Provision of more than one meal qualifies for USDA reimbursement if each meal meets the 33 1/3% RDA and DRI. Second helpings of the same meal do not qualify for USDA reimbursement. All meals shall comply with the Dietary Guidelines for Americans.~~

~~— (2) A home delivered meal, intended for a meal client and that can not be delivered, may be given to another home delivered meal client as a second meal.~~

~~— (3) To qualify second meals in the local meal count reports for USDA reimbursement, AAAs on Aging will be allowed to serve up to 1.5% of the total meals per quarter in second meals without formally developing a local second meal policy. If second meals claimed in the~~

~~local meal count reports are equal to or greater than 1.5% of total first meals per quarter, a second meal policy will need to be developed by each local AAA for USDA reimbursement.~~

~~— (4) Administration and Program Management: Nutrition services providers may serve a second meal to Senior Citizens who have been identified through nutrition screening to be at nutritional risk and/or socially or economically in need. The AAA shall have written program objectives which are specific, verifiable, and achievable for nutrition service provider(s), including the number and frequency of meals to be served at each designated congregate site or center, and to individual recipients in the home delivered meal program.~~

~~— (a) Nutrition projects who provide a second meal will identify how many participants are in need of the extra meal, and include this number in their daily meal order.~~

~~— (b) Second meals will be packaged so that the food will be kept at proper storage temperatures until the meal is taken home by the participant.~~

~~— (c) A cold "sack lunch" that meets 33 1/3% of the dietary requirements may be offered as the second meal to the eligible participants.~~

~~— (d) The participants who receive a second meal will be given the opportunity to make a second confidential contribution for that meal.~~

~~— (e) Records will be maintained by the nutrition provider(s) on all additional meals served to eligible participants.~~

~~— (f) Nutrition projects take appropriate action to minimize food left over at each site.~~

~~— (g) Leftover foods occurring at on site cooking facilities shall be properly refrigerated and incorporated into subsequent meals whenever possible.~~

~~— (5) Nutrition counseling and educational services for individuals and their primary caretakers may be provided by (or under the direction of) a dietitian or an individual with comparable expertise.~~

~~— (6) There shall be written procedures to be followed by the service providers in the event of weather related emergencies, disasters, or situations which may interrupt meal service or the transportation of participants to the nutrition site.~~

R510-104-9. Transfer of Funds.

~~— Statewide transfers between OAA Title III B and C awards shall not exceed 30%. Transfers between Part C 1 and Part C 2 awards shall not exceed 40% of any one funding category unless the Division requests and receives written approval from the U.S. Department of Health and Human Services Assistant Secretary for Aging.~~

R510-104-10. Documentation and Record Keeping Requirements.

~~— (1) AAAs shall document and maintain all records and forms required to meet state and/or federal requirements of the OAA and the USDA (United States Department of Agriculture).~~

~~— (2) The number of participants participating in Title III C 1, C 2 and their names shall be kept on file in the Planning and Service Area.]~~

R510-104. Nutrition Programs for the Elderly (NPE).

R510-104-1. Purpose.

This Rule explains and clarifies the senior nutrition programs administered in Utah.

R510-104-2. Authority.

This Rule is authorized by 62A-3-104; 42 USC Section 3001

R510-104-3. Nutrition Services Principles.

(1) The Division shall develop a comprehensive and coordinated nutrition service system statewide. The Division shall

encourage and assist the AAAs in utilization of resources to develop greater capacity in their nutrition programs and services. The Division will approve a nutrition screening tool that will be used to identify nutritional risk or malnutrition. All seniors participating in the Nutrition Program For The Elderly, Congregate and Home Delivered Meals, are strongly encouraged to complete the nutrition screen. If an individual does not want to fill out the screening form, he or she will not be denied a meal. A nutrition screen may be required by a AAA for a client to receive liquid meals.

(2) The Division shall monitor, coordinate, and assist in the planning of nutritional services with the advice of a registered dietitian or an individual with comparable expertise. The nutrition service system shall provide older Utahns, particularly those in the greatest economic and social need categories, with particular attention to low-income and low-income minorities, access and outreach to nutrition services, nutrition education and nutritionally sound meals, to promote better health through improved diet.

(3) Policy and Procedures approved by the Utah State Board of Aging and Adult Services shall be used by the Division and its contractors/grantees in the conduct of all functions and responsibilities required in carrying out services and funding categories of the Title III Part C Nutrition Program, including Congregate Meals (Part C-1), Home-Delivered Meals (Part C-2), Nutrition Education and Nutrition Outreach, and the Nutrition Services Incentive Program (NSIP).

R510-104-4. Definitions.

(1) Congregate Meals -- Meals provided five or more days a week (except in a rural area where such frequency is not feasible (as defined by the Assistant Secretary by regulation) and a lesser frequency is approved by the State agency), provide at least one hot or other appropriate meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide; which shall be provided in congregate settings, including adult day care facilities and multigenerational meal sites; and which may include nutrition education services and other appropriate nutrition services for older individuals.

(2) NSIP -- Nutrition Services Incentive Program. The NSIP Program authorizes cash payments to State Units on Aging (SUA) as a proportional share of the Federal fiscal year allocation. The allocation is based on the number of meals served by a single SUA in the previous year in proportion to the total number of meals served by all SUAs that year. Meals counted for purposes of NSIP reporting are those that satisfy the requirements of Title III-C of the OAA.

(3) Provisional Meals -- Meals delivered to a congregate meals participant who is unable to personally visit the congregate meals site for a limited period of time (to be determined by the AAA). The AAA has the discretion to determine what circumstances would make provisional meals appropriate.

(4) NPE -- Nutrition Programs for the Elderly. The term primarily refers to Congregate Meals and Meals on wheels which utilize state and federal funding to provide services to seniors, although Food Stamps may also be considered as a NPE.

(5) Division -- Utah State Division of Aging and Adult Services.

(6) AAA -- Area Agency on Aging.

(7) Dietary Guidelines for Americans -- The "Dietary Guidelines for Americans" has been published jointly every 5 years since 1980 by the Department of Health and Human Services (HHS) and the Department of Agriculture (USDA). The Guidelines

provide authoritative advice for people two years and older about how good dietary habits can promote health and reduce risk for major chronic diseases. They serve as the basis for Federal food and nutrition education programs. The Guidelines also clarify the Daily Reference Intake (DRI), which replaces the Recommended Daily Amounts (RDA) previously used to determine the nutritional values of the meals served under the nutrition programs. The complete document can be accessed at http://www.health.gov/dietary_guidelines/dga2005/document/default.htm

(8) Modified diets -- Now referred to as Medical Nutritional Therapy by the American Dietician Association, this refers to meals that have been altered to make them compatible with a particular client's nutritional needs. Examples include limiting sodium for a client with high blood pressure or restructuring the portions or components of a meal to accommodate a client with diabetes.

(9) NAPIS -- National Aging Program Information Systems. This system allows the Utah Division of Aging and Adult Services to report the services provided under Titles III and VII of the Older Americans Act. RTZ's GetCare system is the vehicle the Division uses to interface with the federal NAPIS system.

(10) Nutrition Case Manager -- the AAA staff person who evaluates a potential client's situation and recommends an appropriate nutrition plan (i.e., Meals on Wheels), as well as other services where appropriate.

(11) OAA -- The Older American's Act. Originally signed into law by President Lyndon B. Johnson the act created the Administration on Aging and authorizes grants to States for community planning and services programs, as well as for research, demonstration and training projects in the field of aging. Later amendments to the Act added grants to Area Agencies on Aging for local needs identification, planning, and funding of services, including but not limited to nutrition programs in the community as well as for those who are homebound; programs which serve Native American elders; services targeted at low-income minority elders; health promotion and disease prevention activities; in-home services for frail elders, and those services which protect the rights of older persons such as the long term care ombudsman program.

R510-104-5. General Provisions.

(1) Nutritional Requirements:

(a) Food Requirements: AAAs shall ensure that the meals provided through their nutrition projects comply with the DRI Guidelines for Americans. Compliance shall be documented for each meal served by the nutrition provider.

(i) Handbook 8 of USDA (located at <http://www.nal.usda.gov/ref/USDAPubs/aghandbk.htm#sortnbr>)

(ii) Computer analysis based upon an acceptable software program approved by the Division.

(iii) Computation of food values for portions of food commonly used.

(b) Menu Cycles and Analysis:

(i) Nutrition providers shall send an approved copy of the menus to be used to the appropriate nutrition site(s) and to the AAA.

(c) A registered dietitian and/or nutritionist shall sign off on the menus and recipes used under the nutrition programs to ensure meals served meet DRI guidelines.) Any substitutions (deviations) from the approved menu(s) shall be documented and reported by the nutrition project director.

(ii) Service providers contracting with a third party shall stipulate in the contract that menus must be received by the service provider at least one week prior to use for analysis and approval.

(iii) Any substitutions to the original menus must be documented and kept on file. For audit purposes, menus shall be maintained for a minimum of 3 years, or until disposition is authorized by the grantor agency.

(d) Modified Diets:

(i) Modified diets shall be available to program participants. Each project will provide modified menus where the AAA director feels they are feasible and appropriate to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals. The AAA shall be responsible for the method of obtaining orders for modified diets, maintaining such orders on file and reviewing them.

(e) Utensils for the Blind and Disabled: Upon request, the AAA may provide the appropriate food containers and utensils for the blind and the disabled. The provider is required to submit nutrition program data to the National Aging Program Information System (NAPIS).

(f) A cold "sack lunch" that meets the DRI requirements may be offered to eligible participants.

(g) A written copy of the appeal process shall be made available to those denied this service.

R510-104-6. Eligibility for Nutrition and Nutrition Support Services.

(1) All persons aged 60 and older and their spouses, regardless of his/her age, are eligible for OAA nutrition services. If sufficient resources are not available to serve all eligible individuals who request a service, the AAA shall ensure that preference is given to those of greatest social or economic need, with particular attention to low-income, limited English speaking individuals and low-income minorities.

(2) Other Individuals who may receive congregate and home-delivered meals at the election of the AAA include those listed below. These individuals do not need to pay for the meal, but are encouraged to make the recommended donation as a qualified senior would:

(a) Individuals with disabilities (who has not attained the age of 60), if they reside in a housing facility primarily occupied by elderly persons that has a congregate meal site funded by the OAA on the premises.

(b) Clients of Home and Community-Based Alternatives program who are under 60 may be allowed to participate in the nutrition program as capacity allows. To be eligible to receive meals through nutrition programs, the client's case manager must include nutrition services in the care plan. If the participant is under 60, the Alternatives program shall pay the actual cost of the meal as determined by the AAA, rather than the suggested donation.

(c) Individuals with disabilities who reside at home with and accompany to a congregate meal site an older individual who may be eligible under the Act.

(d) Volunteers who are specifically assist with the nutrition program may be given a meal regardless of age.

R510-104-7. Providers Selection.

(1) The AAA shall make awards for congregate and home-delivered nutrition services to providers that furnish either or both types of service. Each AAA shall assure that each service provider selected meets all applicable Federal, State and Local regulations.

(2) Each AAA, when feasible, shall give preference in making awards for home-delivered meal services to providers that meet the following:

(a) Organizations that have demonstrated an ability to provide home-delivered meals efficiently and reasonably, and that furnish assurances to the AAA that they will maintain efforts to solicit voluntary support and that OAA funds made available will not be used to supplant funds from non-federal sources.

(b) Food service certification in applied food service sanitation by nationally recognized industry programs and approved by the Utah State Department of Health, shall be required for one person per shift where food is prepared and cooked for NPE meals.

(3) Each AAA shall provide a mechanism that will assure the review of need for home-delivered meals for absent participants at the Congregate Sites. Each AAA shall develop a policy, to be reviewed and approved by DAAS regarding regular attendees who cannot attend the congregate site due to illness or other reasons, which determines whether and how often a client may receive provisional meals delivered to them from the congregate site by a spouse, friend or volunteer. If provisional meals are needed, AAA staff must document the client's needs and should consider the appropriateness of encouraging the client to participate in the home delivered meal program.

R510-104-8. Additional Meal Policy.

(1) Nutrition providers may serve a second meal or third meal if planned as an objective in the Area Plan. When two meals are served per day, they shall provide 66 2/3% of the DRI. When three meals are served per day, they shall provide 100% of the DRI. Provision of more than one meal qualifies for NSIP reimbursement if each meal meets the 33 1/3% DRI. Second helpings of the same meal that do not constitute a complete meal (i.e., a second serving of mashed potatoes) do not qualify for NSIP reimbursement. A second complete meal complying with the DRI, provided to a senior as a second meal, does qualify for NSIP reimbursement.

(2) To qualify second meals in the local meal county reports for USDA reimbursement, AAAs will be allowed to serve up to 1.5% of the total meals per quarter in second meals without formally developing a local second meal policy. If second meals claimed in the local meal count reports are equal to or greater than 1.5% of total first meals per quarter, a second meal policy shall be developed by each local AAA for USDA reimbursement.

(3) Nutrition services providers may serve a second meal to Senior Citizens who have been identified through nutrition screening to be at nutritional risk and/or socially or economically in need. The AAA shall have written program objectives which are specific, verifiable, and achievable for nutrition service provider(s), including the number and frequency of meals to be served at each designated congregates site or center, and to individual recipients in the home delivered meal program, if providing more than 1.5% of total meals as second meals.

(a) Second meals should be packaged so that the food will more likely be kept at proper storage temperatures for a reasonable length of time.

(b) The participants who receive a second meal shall be given the opportunity to make a second confidential contribution for that meal.

(c) Records will be maintained by the nutrition provider(s) on all additional meals served to eligible participants.

R510-104-9. Emergency Meals.

(1) AAAs shall develop written procedures to be followed by the service providers for the provision of emergency meals in the event of weather related emergencies, disasters, or situations which

may interrupt meal service or the transportation of participants to the nutrition site. Through the intake, assessment, and re-evaluation process, clients will be identified who do not have food within their home, or through nearby support networks to provide the nutrition they need to last through short term emergencies.

R510-104-10. Outreach.

(1) Each nutrition provider shall establish outreach activities which encourage the maximum number of eligible clients to participate. Nutrition Education: Each project shall provide nutrition education on at least a semi-annual basis.

R510-104-11. Liquid Meals.

(1) In situations where nutritional considerations make solid foods inappropriate, the need for nutrient supplements to include liquid supplemental feedings (meeting the required RDI Guidelines) may be part of medical nutrition therapy recommended by a registered dietitian, registered nurse or physician, with the concurrence of the local AAA, primarily when the participant can not tolerate or digest regular meals. Exceptions to solid foods shall be documented by the nutrition case manager who shall record that other alternatives were tried but unsuccessful. All other sources of home-delivered meal modification should be exhausted before liquid supplemental feedings become the main nutritional regimen.

(2) Only seniors are eligible for liquid meals purchased through the Nutrition Program for the Elderly (NPE) funding. Exceptions can be made for Alternatives clients under 60. Additionally, AAAs always have the discretion to use county dollars in any way they see fit.

(3) A liquid meal shall only be offered in place of regular food as the first meal, if prescribed by a physician, dietitian, or nurse, or if an AAA makes an exception for a client who prefers a liquid meal, provided the AAA follows the process outlined below.

(a) In order to receive liquid meals through the Nutrition Programs for the Elderly (NPE), the participant must be a client and be determined to be at moderate to severe risk of malnutrition. The participant will fill out the following tools to arrive at a nutrition screening score if they would like an exception made to receive liquid meals without a health professional's prescription:

(i) A demographic questionnaire (for the AAA records).

(ii) The AAA's nutritional health screening tool.

(4) A liquid meal distributed through the AAAs' NPE Programs must meet the 33 1/3 DRI nutrient requirements. If the liquid meal is picked up by the client or client representative at a senior center, the meal will count as a congregate meal (C1) and if the liquid meal is delivered to the client's home by the AAA staff, the meal will be considered a home delivered meal (C2).

(5) The Participant may not be provided more than a one month supply of liquid supplement at one time.

(6) A confidential contribution system shall be in place with a suggested donation in order to qualify the liquid meal for the USDA cash-in-lieu reimbursement.

R510-104-12. Food Service Management.

(1) Food Service Management: All AAAs shall ensure the following:

(a) Each meal project shall comply with applicable State and local laws regarding the safe and sanitary handling of food, equipment, and supplies used in storage, preparation, service, and delivery of meals to older adults. Compliance with current Serv-Safe guidelines (<http://www.servsafe.com/>) ensures proper

compliance to the State and local requirements. All food used by the nutrition service provider(s) must meet standards of quality, sanitation, and safety applying to foods that are processed commercially and purchased by the project. No food prepared or canned in a home or any other non-licensed facility may be used in meals provided by a project financed through the nutrition service provider(s) award.

(b) Inventories: Each AAA shall require that accurate inventory records for consumable goods be maintained for four years by nutrition projects funded in whole or in part by the Older Americans Act funds. Either the periodic or perpetual system of inventory shall be acceptable, if conducted consistent with generally accepted inventory control principles.

(c) Training: The provider shall plan and provide training and supervision in sanitation, food preparation, and portion control by qualified personnel for all paid and volunteer staff who prepare, handle and serve food. Each of these individuals must have a current Food Handlers Permit.

(d) Refrigerated Storage: The refrigeration cooling period for hot food brought below 40 degrees Fahrenheit shall not exceed 4 hours.

(i) All prepared foods that are frozen in a nutrition project kitchen shall be chilled in a rapid chills system which reduces the temperature of foods to 70 degrees within 2 hours and shall be cooled to an internal product temperature of 41 degrees F or below within the following 2 hours.

(e) Frozen Food Requirements: All packaged frozen meals and freezing methods used to freeze meals utilized by the nutrition project, must meet the requirements of the State of Utah Health Department regulations.

(f) Hot Food Requirements:

(i) Beef products including hamburger shall be cooked to an internal temperature of 155 degrees F, poultry shall be cooked to an internal temperature of 165 degrees F and pork shall be cooked to an internal temperature of 165 degrees F.

(ii) All hot foods shall be maintained at 140 degrees F or above, from the time of final food preparation to completion of service.

(g) Cold Food Requirements: Cold foods shall be maintained at 41 degrees F or below from time of initial service to completion of service.

(h) The nutrition project shall make temperature checks of all prepared, received and transported meals.

(i) Staffing: The nutrition service provider shall:

(i) Be encouraged by the AAA to give preference to employing those qualified persons age sixty (60) and over, including those of greatest economic or social need;

(ii) Designate a person responsible for the conduct of the project who has the necessary authority to conduct day-to-day management functions of the provider;

(iii) Use a registered dietitian or nutritionist to provide necessary nutrition services.

(j) If serving a meal to staff under 60 deprives elderly target population individuals with reservations from securing a meal, other arrangements should be made for staff.

R510-104-13. Contribution Policy.

(1) The actual cost, as defined by the AAA and reported to the State, of a congregate meal shall be posted at the nutrition site. Suggested contribution and actual cost shall be posted in a prominent conspicuous location.

(2) Each eligible participant shall have an opportunity to voluntarily and anonymously contribute toward the cost of a provided meal service.

(3) Persons under the age of 60 shall pay the full cost of the meal, which shall be collected and accounted for separately. Exceptions can be made for the individuals previously listed (spouses of seniors regardless of age, individuals with disabilities who reside with seniors, individuals providing volunteer service, and underage individuals residing in senior housing sites in which congregate meals are served) who are encouraged to make the standard meal donation.

(4) Each AAA shall establish and implement procedures which will protect the privacy of the client's decision to contribute or not contribute toward the meal service rendered.

(a) There shall be locked contribution boxes in a place where anonymous donations can be made, which shall not be monitored for contributions, in order to assure the confidentiality of the donation.

(5) Participant contributions shall be counted by two persons, and both individuals shall sign a form attesting to the correct count. A copy of such signed documentation shall be kept on file.

(6) Under no circumstances may an eligible client be denied service(s) by a provider who received funds from the AAA (for that service) because of the client's decision not to contribute for services rendered.

R510-104-14. Congregate Meals.

Requirements for Congregate Meal Providers:

(1) Each AAA and AAA Advisory Council, or local equivalent, shall determine the number of congregate sites to be established and their days of operation.

(2) Local AAA's must provide congregate meals a minimum of five days per week except in a rural area where such frequency is not feasible and a lesser frequency has been approved by the division.

(3) Leftover Food:

(a) All food transported to sites which becomes "leftover," except unopened prepackaged food, must be properly disposed of at the meal site or the main food preparation site in compliance with State Health Department regulations.

(b) AAAs shall develop policies and procedures to minimize leftover meals. Use of a reservation system for participation in the congregate meal program is recommended.

(c) Leftovers shall be offered to all participants as second helpings at those congregate settings which do not have on-site methods to preserve leftover food to meet the nutritional standards for later consumption which are approved by the State Health Department). If a complete meal is provided to a client as a second meal, the client shall be given an opportunity to make another confidential donation.

(d) Each nutrition site, in a location that is easily visible to patrons, shall have a disclaimer which states: "For Your Safety: Food removed from the center must be kept hot or refrigerated promptly. We cannot be responsible for illness or problems caused by improperly handled food."

(e) No food shall be taken from the site by staff.

(f) Leftover foods at on-site cooking facilities shall be properly refrigerated and incorporated into subsequent meals whenever possible.

(4) Food being served shall be protected from consumer contamination by the use of packaging or by the use of an easily cleanable counter, serving line, or salad bar protector devices, display cases, or by other means which minimize human contact

with the food being served. Enough hot or cold food serving containers shall be available to maintain the required temperature of potentially hazardous food.

R510-104-15. Home Delivered Meals.

All individuals requesting home-delivered meals shall be assessed and only those individuals who have been determined to be homebound, as defined below, shall be eligible for a home-delivered meal.

(1) Homebound Status:

(a) A person shall be determined to be homebound if he/she is unable to leave home without assistance because of a disabling physical, emotional or environmental condition.

(b) Homebound status shall be documented. The Division shall approve the method of assessment to ensure standard measurable criteria.

(c) Written documentation of eligibility shall be maintained by the AAA.

(d) Homebound status shall be reviewed or re-evaluated on a regular basis, but not less frequently than annually.

(i) A waiver of the full annual assessment may be approved by the AAA director or designee. A written statement of waiver shall be placed in the client's file and shall be reviewed annually.

(e) Top priority may be given to emergency requests. Home-delivered meals for an emergency may start as soon as possible after the determination of urgent need has been made. A full assessment will be made within 14 calendar days from the date of request to determine continued eligibility.

(2) Requirements for Home-Delivered Meal Providers:

(a) Home-delivered meal service within a Planning and Service Area (PSA) shall be available 5 or more days per week.

(b) Division approval must be obtained for Home-delivered meal plans that provide meals 4 days/week or less in rural areas.

(3) A home-delivered meal, intended for a meal client that cannot be delivered, may be given to another home-delivered meal client as a second meal. This second meal would qualify for NSIP reimbursement, provided the recipient meets the eligibility criteria.

R510-104-16. Financial Policies.

Project income generated by Title III-C can only be used to:

(1) expand the number of meals provided or to facilitate access to such meals (transportation and outreach);

(2) integrate systematic nutrition screening for nutrition/malnutrition and food insecurity; or

(3) to provide other supportive services directly related to nutrition services, such as outreach, information and referral, transportation, access to grocery shopping, help with food stamp procurement, social activities in conjunction with a meal, and nutrition education.

R510-104-17. Restriction on Use of Funds.

(1) Program income generated by OAA Title III Part C-1 and Part C-2 may be used as the additional alternative (to expand the number of meals provided, or to facilitate access to such meals or to provide other supportive services directly related to expanding nutrition services) or the cost sharing alternatives as stated in 45 CFR 92.259(g)(2) (to match federal and/or state funds) or, a combination of the two alternatives.

(2) To defray program costs, a AAA which serves as the nutrition provider may also perform Nutrition Services for other groups and programs outside the parameters of the Nutrition

Program for the Elderly under the OAA, providing such services will not interfere with the project or programs for which the contract was originally granted. These extra nutrition activities shall be managed in a manner that does not impede the preparation or delivery of nutrition services to the elderly, and shall charge the full cost of preparation and delivery of the nutrition services as set forth by the provider. When persons 60 years of age and older participate in these "special events," they assume the identity of the activity and are obligated to pay the requested fee for participation. This shall not be confused with the donation policy of the Title III Nutrition Programs. A nutrition provider who contracts with a AAA is obviously free to serve other clients as it wishes.

R510-104-18. Nutrition Services Incentive Program (NSIP) Participation (Commodities and Cash-In-Lieu of Commodities).

Currently, the NSIP program is used by the federal government to provide reimbursement for meals served under nutrition programs that meet the reporting criteria for federally funded meals. The NSIP reimbursements have, for the most part, replaced the U.S. Department of Agriculture (USDA) practice of presenting nutrition service providers with either food commodities or cash-in-lieu of commodities to supplement the nutrition providers' resources. However, the USDA reserves the right to provide cash or commodities in the future.

(1) Donated Food Standard Agreement: The AAA or nutrition service provider may enter into a written agreement with the Department of Human Services Federal Food Program of the State of Utah and shall follow all procedures of the "Agreement for Commodities Donated by the U.S. Department of Agriculture."

(2) USDA cash-in-lieu of commodities payments or revenue earned, depending on whether the accounting for the USDA program is on a cash or accrual basis, shall be used to offset the cost of raw food and the cost of purchased meals.

(3) Cash-In-Lieu of Commodities:

(a) AAAs shall promptly disburse all USDA cash-in-lieu of commodities to nutrition providers in their planning and service area that are funded with Title III Part C-1 and Part C-2 funds.

(b) AAAs shall ensure that payments received by providers in lieu of commodities shall be used solely for the purchase of:

(i) United States agricultural commodities and other foods produced in the United States; or

(ii) Meals furnished to them under contractual arrangements with food service management companies, caterers, restaurants, or institutions, have provided that each meal contains United States produce commodities or foods at least equal in value to the per meal cash payment which the nutrition service providers have received.

(4) Monitoring, Withholding or Recovering Cash Payments:

(a) The Division and the AAAs shall monitor and assess use of payments received in lieu of commodities. Such monitoring shall include periodic on site examination of all pertinent records maintained by service providers, as well as, all such records maintained by suppliers of meals purchased under contractual arrangements.

(b) The Division will withhold or recover cash payments in lieu of commodities from an AAA if it determines, through a review of such AAA's reports, program monitoring, financial review or audit, that the AAA has failed to comply with the provisions of this section, or otherwise have failed to adequately document the basis for payments received during the fiscal year.

(c) AAAs which do not expend the Cash-In-Lieu within a maximum of two quarters after it has been allocated by the Division

shall be evaluated for need and other available resources at the local AAA. Their rate of entitlement may be reduced in succeeding allocation periods.

(5) USDA Documentation:

(a) AAAs shall ensure that the cost of the U.S. grown food purchased during the project year is at least equal to the amount of the USDA reimbursement under the cash in lieu of commodities program. This documentation shall be based on paid invoices.

(b) In the case of meals served under contractual arrangements with food service management companies, caterers, restaurants or institutions, copies of menus and invoices of food purchases that demonstrate that each meal served contained United States produced commodities or food at least equal in value to the per meal cash payments, constitutes adequate documentation.

R510-104-19. Transfer of Funds.

Statewide transfers between OAA Title III B and C awards shall not exceed 20%. Transfers between Part C-1 and Part C-2 awards shall not exceed 40% of any one funding category unless the Division requests and receives written approval from the U.S. Department of Health and Human Services Assistant Secretary for Aging.

R510-104-20. Documentation and Record Keeping Requirements.

(1) AAAs shall document and maintain all records and forms required to meet state and/or federal requires of the OAA and the USDA (United States Department of Agriculture) for three years.

(2) The number of participants participating in Title III C-1, C-1 and their names shall be kept on file in the Planning and Service Area for three years.

(3) AAAs shall work with the Division to complete the annual federal NAPIS (see definitions) reporting requirements by use of the current data management system or by other means as agreed to by the Division.

KEY: elderly, nutrition, home-delivered meals, congregate meals
Date of Enactment or Last Substantive Amendment: [~~October 2, 2003~~2009]

Notice of Continuation: June 22, 2005

Authorizing, and Implemented or Interpreted Law: 62A-3-104; 42 USC Section 3001



Insurance, Administration
R590-211
Underinsured Motorist Insurer
Notification

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 32667

FILED: 05/13/2009, 12:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed as a result of the passage in 2009 of S.B. 172. The bill eliminated the language in Subsection 31A-22-

305.3(5)(a) requiring the department to specify the manner in which notice of settlement is given, which is what Rule R590-211 does. This change in the code will take effect 07/01/2009, after which this rule will be repealed.

SUMMARY OF THE RULE OR CHANGE: Rule R590-211 is being repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-22-305

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The elimination of this rule will have no affect on the state's budget revenues or workforce. The rule requires insurers to specify how notification is made when policy limits are reached in a claim. It has no impact on the department or state government.
- ❖ LOCAL GOVERNMENTS: The repeal of this rule will have no fiscal impact on local governments since it deals solely with the relationship between the department and its licensees and the consumers of its licensees.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The repeal of this rule will have no impact on small businesses since it relates to how insurers are to communicate with one another in the case of auto claims when underinsured policy limits are reached. Insurers are large businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The repeal of this rule will eliminate the requirement for auto insurers of an auto claimant to send notification by certified mail when the liability limits of their auto policy are reached in a claim. This will save insurers the cost of mailing by certified mail if they choose to notify by some other means, such as electronically.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have little fiscal impact on Utah businesses. It will save auto insurers the cost of sending notices by certified mail if they eliminate this form of notification. D. Kent Michie, Commissioner

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2009

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance Administration.

~~**[R590-211. Underinsured Motorist Insurer Notification.**~~

~~**R590-211-1. Authority.**~~

~~— This rule is promulgated pursuant to the general rulemaking authority vested in the commissioner by Subsection 31A-2-201(3). The authority to set minimum standards by rule for the manner in which notification shall be given between the claimant or a claimant's representative and underinsured motorist insurer is provided in Subsection 31A-22-305(5)(a).~~

~~**R590-211-2. Purpose.**~~

~~— The purpose of this rule is to provide the manner in which a claimant, or a claimant's representative, shall give notification once liability policy limits have been tendered.~~

~~**R590-211-3. Scope.**~~

~~— This rule applies to property and casualty insurers transacting business in Utah.~~

~~**R590-211-4. Rule.**~~

~~— Notification by a claimant or a claimant's representative shall include particulars for proper identification not limited to the following:~~

- ~~— (a) name and address of the insured;~~
- ~~— (b) policy number;~~
- ~~— (c) date of loss;~~
- ~~— (d) date of the payment; and~~
- ~~— (e) amount of the payment.~~

~~— Notification shall be sent or delivered to the underinsured carrier by certified mail, return receipt requested, or by facsimile, or by other electronic means which provides verification of delivery to addressee.~~

~~**R590-211-5. Severability.**~~

~~— If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.~~

~~**R590-211-6. Enforcement Date.**~~

~~— The commissioner will begin enforcing the provisions of this rule 45 days from the rule's effective date.~~

~~**KEY: insurance**~~

~~**Date of Enactment or Last Substantive Amendment: January 10, 2002**~~

~~**Notice of Continuation: December 28, 2006**~~

~~**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-22-305]**~~

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Insurance, Administration
R590-254
Annual Financial Reporting Rule

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 32674

FILED: 05/14/2009, 17:48

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to improve the commissioner's surveillance of the financial condition of insurers by requiring the submission of certain reports and documents.

SUMMARY OF THE RULE OR CHANGE: This rule sets requirements for: the filing and filing extension of an insurer's annual audited financial report and the contents of that report; for designated CPAs used by an insurer to prepare these reports; for the filing of a consolidated or combined audits; also sets the scope of the CPA's audit and report; sets requirements of the notification of adverse financial condition found in the insurer being audited; guidelines for the reporting of internal control related matters to the department; what is to be included in the accountants letter of qualification given to the insurer in an audit; requirements for the maintaining of the CPA's workpapers; the requirements of the audit committee; sets the standard of conduct of the insurer in the course of the audit; guidelines for the filing and contents of the report of internal controls over financial reporting that management of the insurer makes to the department; exemptions to this rule that the commissioner is allowed to make; and penalties for violations to this rule and related laws.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-203, and 31A-5-412

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There will be no fiscal impact on the department or the state's budget as a result of this rule. Insurers will be required to file some reports with the department but these can be handled by existing staff. There will also be no change to the department's revenues.
- ❖ **LOCAL GOVERNMENTS:** This rule will have no fiscal impact on local governments since it deals with the relationship between the department and its licensed insurers.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Small employer insurers will be exempted out of most of this rule. Some may be required to change the make-up of their board but this should not incur a cost to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There could be some cost to larger insurers to do the report of internal controls, especially if weaknesses are found that will need to be corrected. And there may be a cost that comes with the requirement to rotate their external auditor every five years. Insurers with more than \$500,000,000 in premium will have to have a management opinion done, which if subcontracted out would incur a cost to the insurer. So far only two to three insurers meet this requirement now. The estimated cost to have this done could be between \$50,000 to \$100,000, at least in the first year. This rule has been sent to the insurers with their main offices in Utah and none responded negatively to it. It is likely that any costs incurred by the insurers as a

result of this rule will not be passed onto the consumer so that the insurers can remain competitive.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule follows the National Association of Insurance Commissioner Model regulation that was developed in numerous meetings consisting of state regulators and insurance industry representative. It has been presented again to insurers that have main offices in Utah. No complaints were heard. It is possible that the larger insurers could possibly incur a cost of \$50,000 to \$100,000 the first year to comply with this rule. D. Kent Michie, Commissioner

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/23/2009 at 9:00 AM, State Office Building, behind the Capitol, Room 3112, Salt Lake City, UT 84114.

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2009

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.**R590-254. Annual Financial Reporting Rule.****R590-254-1. Authority.**

This rule is promulgated by the Insurance Commissioner pursuant to Utah Insurance Code Sections:

(1) 31A-2-201, which authorizes the commissioner to make rules to implement the provisions of Title 31A; and

(2) 31A-2-203(6)(b)(ii) and 31A-5-412(2)(f), which authorize the commissioner to make rules pertaining to annual financial reporting requirements.

R590-254-2. Purpose and Scope.

(1) The purpose of this rule is to improve the commissioner's surveillance of the financial condition of insurers by requiring the submission of the following reports and documents:

(a) an annual audit of financial statements reporting the financial position and the results of operations of insurers by independent certified public accountants.

(b) communication of internal control related matters noted in an audit; and

(c) management's Report of Internal Control over Financial Reporting.

(2) This rule applies to every insurer, as defined in R590-254-3.

(3) An insurer shall be exempt from this rule for the calendar year if an insurer:

(a) has direct written premium of less than \$1,000,000 written in this state in any calendar year; and

(b) less than 1,000 policyholders or certificate holders of direct written policies nationwide at the end of the calendar year.

(4) The exemption under R590-254-2(3)(a) and (b) shall apply unless:

(a) the commissioner makes a specific finding that compliance is necessary for the commissioner to carry out statutory responsibilities; or

(b) the insurer has assumed premiums pursuant to contracts and treaties, or both, of reinsurance of \$1,000,000 or more.

(5) A foreign or alien insurer filing an audited financial report in another state, pursuant to that state's requirement for filing of audited financial reports, which has been found by the commissioner to be substantially similar to the requirements in this rule, is exempt from R590-254 Sections 4 through 13 if:

(a) a copy of the audited financial report, Communication of Internal Control Related Matters Noted in an Audit, and the Accountant's Letter of Qualifications that are filed with the other state are filed with the commissioner in accordance with the filing dates specified in R590-254 Sections 4, 11 and 12, respectively; or

(b) a Canadian insurer may submit accountants' reports as filed with the Office of the Superintendent of Financial Institutions, Canada; and

(c) a copy of any Notification of Adverse Financial Condition Report filed with the other state is filed with the commissioner within the time specified in R590-254-10.

(6) A foreign or alien insurer required to file a Management's Report of Internal Control over Financial Reporting in another state is exempt from filing the Report in this state provided the other state has:

(a) substantially similar reporting requirements; and

(b) the report is filed with the commissioner of the other state within the time specified.

(7) This rule shall not prohibit, preclude or in any way limit the commissioner from ordering or conducting or performing examinations of insurers under the rules, practices and procedures of the department.

R590-254-3. Definitions.

The terms and definitions contained in this rule are intended to provide definitional guidance as the terms are used within this rule. In addition to the definitions in Sections 31A-1-301, the following definitions shall apply for the purpose of this rule:

(1) "Accountant" or "independent certified public accountant" means an independent certified public accountant or accounting firm in good standing:

(a) with the American Institute of Certified Public Accountants (AICPA); and

(b) in all states in which he or she is licensed to practice;

(c) for Canadian and British companies, it means a Canadian-chartered or British-chartered accountant.

(2) An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(3) "Audit committee" means a committee, or equivalent body, established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of insurers, and audits of financial statements of the insurer or group of insurers.

(a) The audit committee of any entity that controls a group of insurers may be deemed to be the audit committee for one or more of these controlled insurers solely for the purposes of this rule at the election of the controlling person pursuant to R590-254-14(6).

(b) If an audit committee is not designated by the insurer, the insurer's entire board of directors shall constitute the audit committee.

(4) "Audited financial report" means and includes those items specified in R590-254-5.

(5) "Indemnification" means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing of other misrepresentations made by the insurer or its representatives.

(6) "Independent board member" has the same meaning as described in R590-254-14(4).

(7) "Insurer" means a licensed insurer as defined in Subsections 31A-1-301(90)(a) and 31A-1-301(98) or an authorized insurer as defined in Subsection 31A-1-301(163)(b).

(8) "Group of insurers" means those licensed insurers:

(a) included in the reporting requirements of Chapter 31A-16, Insurance Holding Companies; or

(b) a set of insurers as identified by management, for the purpose of assessing the effectiveness of internal control over financial reporting.

(9) "Internal control over financial reporting" means a process effected by an entity's board of directors, management and other personnel designed to provide reasonable assurance regarding the reliability of the financial statements, i.e., those items specified in R590-254-5(2)(b) through (g) and includes those policies and procedures that:

(a) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets;

(b) provide reasonable assurance that transactions are recorded as necessary to permit preparation of the financial statements, i.e., those items specified in R590-254-5(2)(b) through (g) and that receipts and expenditures are being made only in accordance with authorizations of management and directors; and

(c) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of assets that could have a material effect on the financial statements, i.e., those items specified in R590-254-5(2)(b) through (g).

(10) "SEC" means the United States Securities and Exchange Commission.

(11) "Section 404" means Section 404 of the Sarbanes-Oxley Act of 2002 and the SEC's rules and regulations promulgated thereunder.

(12) "Section 404 Report" means management's report on "internal control over financial reporting" as defined by the SEC and

the related attestation report of the independent certified public accountant as described in R590-254-3(1).

(13) "SOX compliant entity" means an entity that either is required to be compliant with, or voluntarily is compliant with, all of the following provisions:

(a) the preapproval requirements of Section 201 of the Sarbanes-Oxley Act of 2002, under Section 10A(i) of the Securities Exchange Act of 1934,

(b) the audit committee independence requirements of Section 301 of the Sarbanes-Oxley Act of 2002, under Section 10A(m)(3) of the Securities Exchange Act of 1934; and

(c) the internal control over financial reporting requirements of Section 404 of the Sarbanes-Oxley Act of 2002, under Item 308 of SEC Regulation S-K.

R590-254-4. General Requirements Related to Filing and Extensions for Filing of an Annual Audited Financial Report and Audit Committee Appointment.

(1) All insurers shall have an annual audit by an independent certified public accountant and shall file an audited financial report with the commissioner on or before June 1 for the year ended December 31 immediately preceding. The commissioner may require an insurer to file an audited financial report earlier than June 1 with 90 days advance notice to the insurer.

(2) Extensions of the June 1 filing date may be granted by the commissioner for 30 day periods upon a showing by the insurer and its independent certified public accountant of the reasons for requesting an extension and determination by the commissioner of good cause for an extension. The request for extension must be submitted in writing not less than 10 days prior to the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

(3) If an extension is granted in accordance with the provisions in R590-254-4(2), a similar extension of 30 days is granted to the filing of Management's Report of Internal Control over Financial Reporting.

(4) Every insurer required to file an annual audited financial report pursuant to this rule shall designate a group of individuals as constituting its audit committee, as defined in R590-254-3. The audit committee of an entity that controls an insurer may be deemed to be the insurer's audit committee for purposes of this rule at the election of the controlling person.

R590-254-5. Contents of an Annual Audited Financial Report.

(1) An annual audited financial report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the department of insurance of the state of domicile.

(2) The annual audited financial report shall include the following:

(a) report of independent certified public accountant;

(b) balance sheet reporting admitted assets, liabilities, capital and surplus;

(c) statement of operations;

(d) statement of cash flow;

(e) statement of changes in capital and surplus;

(f) notes to financial statements;

(i) these notes shall be those required by the appropriate NAIC Annual Statement Instructions and the NAIC Accounting Practices and Procedures Manual;

(ii) the notes shall include a reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed pursuant to Sections 31A-4-113 and 31A-4-113.5 with a written description of the nature of these differences;

(g) the financial statements included in the audited financial report;

(i) shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner; and

(ii) shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31;

(A) the comparative data may be omitted in the first year in which an insurer is required to file an audited financial report.

R590-254-6. Designation of Independent Certified Public Accountant.

(1) Each insurer required by this rule to file an annual audited financial report must within 60 days after becoming subject to the requirement, register with the commissioner in writing the name and address of the independent certified public accountant or accounting firm retained to conduct the annual audit set forth in this rule.

(2) Insurers not retaining an independent certified public accountant on the effective date of this rule shall register the name and address of their retained independent certified public accountant not less than six months before the date when the first audited financial report is to be filed.

(3) The insurer shall obtain a letter from the accountant, and file a copy with the commissioner stating that the accountant is aware of the provisions of the insurance code and the rules of the insurance department of the state of domicile that relate to accounting and financial matters and affirming that the accountant will express his or her opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that insurance department, specifying such exceptions as he or she may believe appropriate.

(4) If an accountant who was the accountant for the immediately preceding filed audited financial report is dismissed or resigns, the insurer shall:

(a) within five business days notify the commissioner of this event;

(b) furnish the commissioner with a separate letter within 10 business days of the above notification stating whether in the 24 months preceding such event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure; which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him or her to make reference to the subject matter of the disagreement in connection with his or her opinion;

(i) the disagreements required to be reported in response to this section include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction.

(ii) disagreements contemplated by this section are those that occur at the decision-making level, i.e., between personnel of the

insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report.

(c) in writing request the former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for which he or she does not agree; and the insurer shall furnish the response letter from the former accountant to the commissioner together with its own.

R590-254-7. Qualifications of Independent Certified Public Accountant.

(1) The commissioner shall not recognize a person or firm as a qualified independent certified public accountant if the person or firm:

(a) is not in good standing with the AICPA and in all states in which the accountant is licensed to practice, or, for a Canadian or British company, that is not a chartered accountant; or

(b) has either directly or indirectly entered into an agreement of indemnity or release from liability, collectively referred to as indemnification, with respect to the audit of the insurer.

(2) Except as otherwise provided in this rule, the commissioner shall recognize an independent certified public accountant as qualified as long as he or she conforms to the standards of his or her profession, as contained in the Code of Professional Ethics of the AICPA and Rules and Regulations and Code of Ethics and Rules of Professional Conduct of the Utah Division of Occupational and Professional Licensing for Accountancy, or similar code.

(3) A qualified independent certified public accountant may enter into an agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration. However, in the event of a delinquency proceeding commenced against the insurer under Chapter 31A-27a, the mediation or arbitration provisions shall operate at the option of the statutory successor.

(4)(a) The lead, or coordinating, audit partner, having primary responsibility for the audit, may not act in that capacity for more than five consecutive years.

(i) The person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of five consecutive years.

(ii) An insurer may make application to the commissioner for relief from the above rotation requirement on the basis of unusual circumstances.

(iii) This application should be made at least 30 days before the end of the calendar year. The commissioner may consider the following factors in determining if the relief should be granted:

(A) number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;

(B) premium volume of the insurer; or

(C) number of jurisdictions in which the insurer transacts business.

(b)(i) The insurer shall file, with its annual statement filing, the approval for relief from R590-254-7(4)(a) with the states that it is licensed in or doing business in and with the NAIC.

(ii) If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

(5) The commissioner shall neither recognize as a qualified independent certified public accountant, nor accept an annual audited financial report, prepared in whole or in part by, a natural person who:

(a) has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Sections 1961 to 1968, or any dishonest conduct or practices under federal or state law;

(b) has been found to have violated the insurance laws of this state with respect to any previous reports submitted under this rule; or

(c) has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this rule.

(6) The commissioner, as provided in Subsection 31A-2-201(4), may, as provided in Subsection 31A-2-201(5), hold a hearing to determine whether an independent certified public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for purposes of expressing his or her opinion on the financial statements in the annual audited financial report made pursuant to this rule and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this rule.

(7)(a) The commissioner shall not recognize as a qualified independent certified public accountant, nor accept an annual audited financial report, prepared in whole or in part by an accountant who provides to an insurer, contemporaneously with the audit, the following non-audit services:

(i) bookkeeping or other services related to the accounting records or financial statements of the insurer;

(ii) financial information systems design and implementation;

(iii) appraisal or valuation services, fairness opinions, or contribution-in-kind reports;

(iv) actuarially-oriented advisory services involving the determination of amounts recorded in the financial statements;

(A) The accountant may assist an insurer in understanding the methods, assumptions and inputs used in the determination of amounts recorded in the financial statement only if it is reasonable to conclude that the services provided will not be subject to audit procedures during an audit of the insurer's financial statements.

(B) An accountant's actuary may also issue an actuarial opinion or certification "opinion" on an insurer's reserves if the following conditions have been met:

(I) neither the accountant nor the accountant's actuary has performed any management functions or made any management decisions;

(II) the insurer has competent personnel, or engages a third party actuary, to estimate the reserves for which management takes responsibility; and

(III) the accountant's actuary tests the reasonableness of the reserves after the insurer's management has determined the amount of the reserves;

(v) internal audit outsourcing services;

(vi) management functions or human resources;

(vii) broker or dealer, investment adviser, or investment banking services;

(viii) legal services or expert services unrelated to the audit; or

(ix) any other services that the commissioner determines, by rule, are impermissible.

(b) In general, the principles of independence with respect to services provided by the qualified independent certified public accountant are largely predicated on three basic principles, violations of which would impair the accountant's independence. The accountant:

(i) cannot function in the role of management;
(ii) cannot audit his or her own work; and
(iii) cannot serve in an advocacy role for the insurer.
(8) Insurers having direct written and assumed premiums of less than \$100,000,000 in any calendar year may request an exemption from R590-254-7(7)(a).

(a) The insurer shall file with the commissioner a written statement discussing the reasons why the insurer should be exempt from these provisions.

(b) If the commissioner finds, upon review of this statement, that compliance with this rule would constitute a financial or organizational hardship upon the insurer, an exemption may be granted.

(9) A qualified independent certified public accountant who performs the audit may engage in other non-audit services, including tax services, that are not described in R590-254-7(7)(a) or that do not conflict with R590-254-7(7)(b), only if the activity is approved in advance by the audit committee, in accordance with R590-254-7(10).

(10)(a) All auditing services and non-audit services provided to an insurer by the qualified independent certified public accountant of the insurer shall be preapproved by the audit committee.

(b) The preapproval requirement is waived with respect to non-audit services if the insurer is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity or:

(i) the aggregate amount of all such non-audit services provided to the insurer constitutes not more than 5% of the total amount of fees paid by the insurer to its qualified independent certified public accountant during the fiscal year in which the non-audit services are provided;

(ii) the services were not recognized by the insurer at the time of the engagement to be non-audit services; and

(iii) the services are promptly brought to the attention of the audit committee and approved prior to the completion of the audit by the audit committee or by one or more members of the audit committee who are the members of the board of directors to whom authority to grant such approvals has been delegated by the audit committee.

(11)(a) The audit committee may delegate to one or more designated members of the audit committee the authority to grant the preapprovals required by R590-254-7(10).

(b) The decisions of any member to whom this authority is delegated shall be presented to the full audit committee at each of its scheduled meetings.

(12)(a)(i) The commissioner shall not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for that insurer, was employed by the independent certified public accountant and participated in the audit of that insurer during the one-year period preceding the date that the most current statutory opinion is due.

(ii) This section shall only apply to partners and senior managers involved in the audit.

(iii) An insurer may make application to the commissioner for relief from the above requirement on the basis of unusual circumstances.

(b)(i) The insurer shall file, with its annual statement filing, the approval for relief from R590-254-7(12)(a) with the states that it is licensed in or doing business in and the NAIC.

(ii) If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

R590-254-8. Consolidated or Combined Audits.

An insurer may make written application to the commissioner for approval to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the insurer is part of a group of insurance companies that utilizes a pooling or 100% reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer cedes all of its direct and assumed business to the pool. In such cases, a columnar consolidating or combining worksheet shall be filed with the report, as follows:

(1) amounts shown on the consolidated or combined audited financial report shall be shown on the worksheet;

(2) amounts for each insurer subject to this section shall be stated separately;

(3) noninsurance operations may be shown on the worksheet on a combined or individual basis;

(4) explanations of consolidating and eliminating entries shall be included; and

(5) a reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers.

R590-254-9. Scope of Audit and Report of Independent Certified Public Accountant.

(1) Financial statements furnished pursuant to R590-254-5 shall be examined by the independent certified public accountant.

(2) The audit of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards.

(3) In accordance with AU Section 319 of the Professional Standards of the AICPA, Consideration of Internal Control in a Financial Statement Audit, the independent certified public accountant should obtain an understanding of internal control sufficient to plan the audit.

(4) To the extent required by AU 319, for those insurers required to file a Management's Report of Internal Control over Financial Reporting pursuant to R590-254-16, the independent certified public accountant should consider, as that term is defined in Statement on Auditing Standards (SAS) No. 102, Defining Professional Requirements in Statements on Auditing Standards or its replacement, the most recently available report in planning and performing the audit of the statutory financial statements.

(5) Consideration shall be given to the procedures illustrated in the Financial Condition Examiners Handbook promulgated by the National Association of Insurance Commissioners as the independent certified public accountant deems necessary.

R590-254-10. Notification of Adverse Financial Condition.

(1) The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to report, in writing, within five business days to the board of directors or its audit committee any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under audit or that the insurer does not meet the minimum capital and surplus requirement of the Utah insurance code as of that date.

(a) An insurer that has received a report pursuant to this paragraph shall forward a copy of the report to the commissioner within five business days of receipt of the report and shall provide the independent certified public accountant making the report with evidence of the report being furnished to the commissioner.

(b) If the independent certified public accountant fails to receive the evidence within the required five business day period, the independent certified public accountant shall furnish to the commissioner a copy of its report within the next five business days.

(2) No independent certified public accountant shall be liable in any manner to any person for any statement made in connection with the above paragraph if the statement is made in good faith in compliance with R590-254-10(1).

(3) If the accountant, subsequent to the date of the audited financial report filed pursuant to this rule, becomes aware of facts that might have affected his or her report, the commissioner notes the obligation of the accountant to take such action as prescribed in Volume 1, Section AU 561 of the Professional Standards of the AICPA.

R590-254-11. Communication of Internal Control Related Matters Noted in an Audit.

(1) In addition to the annual audited financial report, each insurer shall furnish the commissioner with a written communication as to any unremediated material weaknesses in its internal control over financial reporting noted during the audit.

(a) Such communication shall be prepared by the accountant within 60 days after the filing of the annual audited financial report, and shall contain a description of any unremediated material weakness, as the term material weakness is defined by Statement on Auditing Standard 60, Communication of Internal Control Related Matters Noted in an Audit, or its replacement, as of December 31 immediately preceding, so as to coincide with the audited financial report discussed in R590-254-4(1), in the insurer's internal control over financial reporting noted by the accountant during the course of their audit of the financial statements.

(b) If no unremediated material weaknesses were noted, the communication should so state.

(2) The insurer is required to provide a description of remedial actions taken or proposed to correct unremediated material weaknesses, if the actions are not described in the accountant's communication.

R590-254-12. Accountant's Letter of Qualifications.

The accountant shall furnish the insurer in connection with, and for inclusion in, the filing of the annual audited financial report, a letter stating:

(1) that the accountant is independent with respect to the insurer and conforms to the standards of his or her profession as contained in the Code of Professional Ethics and pronouncements of the AICPA and the Rules of Professional Conduct of the Utah Division of Occupational and Professional Licensing for Accountancy, or similar code;

(2)(a) the background and experience in general, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an independent certified public accountant.

(b) Nothing within this rule shall be construed as prohibiting the accountant from utilizing such staff as he or she deems appropriate where use is consistent with the standards prescribed by generally accepted auditing standards;

(3) that the accountant understands the annual audited financial report and his opinion thereon will be filed in compliance with this rule and that the commissioner will be relying on this information in the monitoring and regulation of the financial position of insurers;

(4) that the accountant consents to the requirements of R590-254-13 of this rule and that the accountant consents and agrees to make available for review by the commissioner, or the commissioner's designee or appointed agent, the workpapers, as defined in R590-254-13;

(5) a representation that the accountant is properly licensed by an appropriate state licensing authority and is a member in good standing in the AICPA; and

(6) a representation that the accountant is in compliance with the requirements of R590-254-7 of this rule.

R590-254-13. Definition, Availability and Maintenance of Independent Certified Public Accountants Workpapers.

(1)(a) Workpapers are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the accountant's audit of the financial statements of an insurer.

(b) Workpapers, may include audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of his or her audit of the financial statements of an insurer and which support the accountant's opinion.

(2)(a) Every insurer required to file an audited financial report pursuant to this rule, shall require the accountant to make available for review by insurance department examiners, all workpapers prepared in the conduct of the accountant's audit and any communications related to the audit between the accountant and the insurer, at the offices of the insurer, at the insurance department or at any other reasonable place designated by the commissioner.

(b) The insurer shall require that the accountant retain the audit workpapers and communications until the insurance department has filed a report on examination covering the period of the audit but no longer than seven years from the date of the audit report.

(3)(a) In the conduct of the aforementioned periodic review by the insurance department examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the department.

(b) Such reviews by the department examiners shall be considered investigations and all working papers and communications obtained during the course of such investigations shall be afforded the same confidentiality as other examination workpapers generated by the department.

R590-254-14. Requirements for Audit Committees.

(1) This section shall not apply to foreign or alien insurers licensed in this state or an insurer that is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity.

(2) The audit committee shall be directly responsible for the appointment, compensation and oversight of the work of any accountant, including resolution of disagreements between management and the accountant regarding financial reporting, for the purpose of preparing or issuing the audited financial report or related work pursuant to this rule. Each accountant shall report directly to the audit committee.

(3) Each member of the audit committee shall be a member of the board of directors of the insurer or a member of the board of directors of an entity elected pursuant to R590-254-14(6) and R590-254-3(3).

(4) In order to be considered independent for purposes of this section, a member of the audit committee:

(a) may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee, accept any consulting, advisory or other compensatory fee from the entity or be an affiliated person of the entity or any subsidiary of the entity; or

(b) if law requires board participation by otherwise non-independent members, that law shall prevail and such members may participate in the audit committee and be designated as independent for audit committee purposes, unless they are an officer or employee of the insurer or one of its affiliates.

(5) If a member of the audit committee ceases to be independent for reasons outside the member's reasonable control, that person, with notice by the responsible entity to the state, may remain an audit committee member of the responsible entity until the earlier of the next annual meeting of the responsible entity or one year from the occurrence of the event that caused the member to be no longer independent.

(6) To exercise the election of the controlling person to designate the audit committee for purposes of this rule, the ultimate controlling person shall provide written notice to the commissioners of the affected insurers.

(a) Notification shall be made timely prior to the issuance of the statutory audit report and include a description of the basis for the election.

(b) The election can be changed through notice to the commissioner by the insurer, which shall include a description of the basis for the change.

(c) The election shall remain in effect for perpetuity, until rescinded.

(7)(a) The audit committee shall require the accountant that performs for an insurer any audit required by this rule to timely report to the audit committee in accordance with the requirements of SAS 61, Communication with Audit Committees, or its replacement, including:

(i) all significant accounting policies and material permitted practices;

(ii) all material alternative treatments of financial information within statutory accounting principles that have been discussed with management officials of the insurer, ramifications of the use of the alternative disclosures and treatments, and the treatment preferred by the accountant; and

(iii) other material written communications between the accountant and the management of the insurer, such as any management letter or schedule of unadjusted differences.

(b) If an insurer is a member of an insurance holding company system, the reports required by R590-254-14(7)(a) may be provided to the audit committee on an aggregate basis for insurers in the holding company system, provided that any substantial differences among insurers in the system are identified to the audit committee.

(8) The proportion of independent audit committee members shall meet or exceed the following criteria:

TABLE

Prior Calendar Year Direct Written and Assumed Premiums

\$0 - \$300,000,000

No minimum Requirements. See also Note A and B.

Over \$300,000,000 - \$500,000,000

Majority (50% or more) of members shall be independent. See also Note A and B.

Over \$500,000,000

Super majority of members (75% or more) shall be independent. See also Note A.

Note A: The commissioner has authority afforded by state law to require the entity's board to enact improvements to the independence of the audit committee membership if the insurer is in an RBC action level event, meets one or more of the standards of an insurer deemed to be in hazardous financial condition, or otherwise exhibits qualities of a troubled insurer.

Note B: All insurers with less than \$500,000,000 in prior year direct written and assumed premiums are encouraged to structure their audit committees with at least a supermajority of independent audit committee members.

Note C: Prior calendar year direct written and assumed premiums shall be the combined total of direct premiums and assumed premiums from non-affiliates for the reporting entities.

(9)(a) An insurer with direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$500,000,000 may make application to the commissioner for a waiver from the R590-254-14 requirements based upon hardship.

(b) The insurer shall file, with its annual statement filing, the approval for relief from R590-254-14 with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

R590-254-15. Conduct of Insurer in Connection with the Preparation of Required Reports and Documents.

(1) No director or officer of an insurer shall, directly or indirectly:

(a) make or cause to be made a materially false or misleading statement to an accountant in connection with any audit, review or communication required under this rule; or

(b) omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which the statements were made, not misleading to an accountant in connection with any audit, review or communication required under this rule.

(2) No officer or director of an insurer, or any other person acting under the direction thereof, shall directly or indirectly take any action to coerce, manipulate, mislead or fraudulently influence any accountant engaged in the performance of an audit pursuant to this rule if that person knew or should have known that the action, if successful, could result in rendering the insurer's financial statements materially misleading.

(3) For purposes of R590-254-15(2), actions that, "if successful, could result in rendering the insurer's financial statements materially misleading" include, but are not limited to,

actions taken at any time with respect to the professional engagement period to coerce, manipulate, mislead or fraudulently influence an accountant;

(a) to issue or reissue a report on an insurer's financial statements that is not warranted in the circumstances, due to material violations of statutory accounting principles prescribed by the commissioner, generally accepted auditing standards, or other professional or regulatory standards;

(b) not to perform audit, review or other procedures required by generally accepted auditing standards or other professional standards;

(c) not to withdraw an issued report; or

(d) not to communicate matters to an insurer's audit committee.

R590-254-16. Management's Report of Internal Control over Financial Reporting.

(1)(a) Every insurer required to file an audited financial report pursuant to this rule that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of \$500,000,000 or more shall prepare a report of the insurer's or "group of insurers," "internal control" over financial reporting, as these terms are defined in R590-254-3.

(b) The report shall be filed with the commissioner along with the Communication of Internal Control Related Matters Noted in an audit described under R590-254-11.

(c) Management's Report of Internal Control over Financial Reporting shall be as of December 31 immediately preceding.

(2) Notwithstanding the premium threshold in R590-254-16(1)(a), the commissioner may require an insurer to file Management's Report of Internal Control over Financial Reporting if the insurer is in any RBC level event, or meets any one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in 31A-27a-207 and the NAIC Model Regulation to Define Standards and Commissioner's Authority for Companies Deemed to be in Hazardous Financial Condition.

(3)(a) An insurer or a group of insurers that is:

(i) directly subject to Section 404;

(ii) part of a holding company system whose parent is directly subject to Section 404;

(iii) not directly subject to Section 404 but is a SOX Compliant Entity; or

(iv) a member of a holding company system whose parent is not directly subject to Section 404 but is a SOX Compliant Entity;

(b) may file its or its parent's Section 404 Report and an addendum in satisfaction of R590-254-16(1), provided that those internal controls of the insurer or group of insurers having a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements, as included in R590-254-5(2)(b) through (g), were included in the scope of the Section 404 Report.

(i) The addendum shall be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or group of insurers' audited statutory financial statements, as included in R590-254-5(2)(b) through (g), excluded from the Section 404 Report.

(ii) If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 Report, the insurer or group of insurers may either file:

(A) a R590-254-16 report; or

(B) the Section 404 Report; and

(I) a R590-254-16 report for those internal controls that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements not covered by the Section 404 Report.

(4) Management's Report of Internal Control over Financial Reporting shall include:

(a) a statement that management is responsible for establishing and maintaining adequate internal control over financial reporting;

(b) a statement that management has established internal control over financial reporting and an assertion, to the best of management's knowledge and belief, after diligent inquiry, as to whether its internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles;

(c) a statement that briefly describes the approach or processes by which management evaluated the effectiveness of its internal control over financial reporting;

(d) a statement that briefly describes the scope of work that is included and whether any internal controls were excluded;

(e)(i) disclosure of any unremediated material weaknesses in the internal control over financial reporting identified by management as of December 31 immediately preceding.

(ii) Management is not permitted to conclude that the internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles if there is one or more unremediated material weaknesses in its internal control over financial reporting;

(f) a statement regarding the inherent limitations of internal control systems; and

(g) signatures of the chief executive officer and the chief financial officer, or equivalent position/title.

(5) Management shall document and make available upon financial condition examination the basis upon which its assertions, required in R590-254-16(4), are made.

(a) Management may base its assertions, in part, upon its review, monitoring and testing of internal controls undertaken in the normal course of its activities.

(b) Management shall have discretion as to the nature of the internal control framework used, and the nature and extent of documentation, in order to make its assertion in a cost effective manner and, as such, may include assembly of or reference to existing documentation.

(c) Management's Report on Internal Control over Financial Reporting, required by R590-254-16(1), and any documentation provided in support thereof during the course of a financial condition examination, shall be kept confidential by the department.

R590-254-17. Exemptions and Implementation Dates.

(1) Upon written application of any insurer, the commissioner may grant an exemption from compliance with any and all provisions of this rule if the commissioner finds, upon review of the application, that compliance with this rule would constitute a financial or organizational hardship upon the insurer.

(a) An exemption may be granted at any time and from time to time for a specified period or periods.

(b) Within 10 days from a denial of an insurer's written request for an exemption from this rule, the insurer may request in writing a hearing on its application for an exemption.

(c) The hearing shall be held in accordance with the rules of the department pertaining to administrative hearing procedures.

(2) Domestic insurers retaining a certified public accountant on the effective date of this rule who qualify as independent shall comply with this rule for the year ending December 31, 2010 and each year thereafter unless the commissioner permits otherwise.

(3) Domestic insurers not retaining a certified public accountant on the effective date of this rule who qualifies as independent may meet the following schedule for compliance unless the commissioner permits otherwise:

(a) as of December 31, 2010, file with the commissioner an audited financial report; and

(b) for the year ending December 31, 2010 and each year thereafter, such insurers shall file with the commissioner all reports and communication required by this rule.

(4) Foreign insurers shall comply with this rule for the year ending December 31, 2010 and each year thereafter, unless the commissioner permits otherwise.

(5) The requirements of R590-254-7(4) shall be in effect for audits of the year beginning January 1, 2010 and thereafter.

(6) The requirements of R590-254-14 are to be in effect January 1, 2010.

(a) An insurer or group of insurers that is not required to have independent audit committee members or only a majority of independent audit committee members, as opposed to a supermajority, because the total written and assumed premium is below the threshold and subsequently becomes subject to one of the independence requirements due to changes in premium, shall have one year following the year the threshold is exceeded, but not earlier than January 1, 2010, to comply with the independence requirements.

(b) An insurer that becomes subject to one of the independence requirements as a result of a business combination shall have one calendar year following the date of acquisition or combination to comply with the independence requirements.

(7) The requirements of R590-254-16 except for R590-254-14 covered above, are effective beginning with the reporting period ending December 31, 2010 and each year thereafter.

(a) An insurer or group of insurers that is not required to file a report because the total written premium is below the threshold, and subsequently becomes subject to the reporting requirements, shall have two years following the year the threshold is exceeded, but not earlier than December 31, 2010, to file a report.

(b) An insurer acquired in a business combination shall have two calendar years following the date of acquisition or combination to comply with the reporting requirements.

R590-254-18. Canadian and British Companies.

(1) In the case of Canadian and British insurers, the annual audited financial report shall be defined as the annual statement of total business on the form filed by such companies with their supervision authority duly audited by an independent chartered accountant.

(2) For such insurers, the letter required in R590-254-6(3) shall state that the accountant is aware of the requirements relating to the annual audited financial report filed with the commissioner pursuant to R590-254-4 and shall affirm that the opinion expressed is in conformity with those requirements.

R590-254-19. Penalties.

A person found to be in violation of this rule shall be subject to penalties as provided under 31A-2-308.

R590-254-20. Enforcement Date.

The commissioner will begin enforcing this rule on the effective date of the rule.

R590-254-21. Severability.

If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

KEY: insurance company financial reporting

Date of Enactment or Last Substantive Amendment: 2009

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-203; 31A-5-412



Sports Authority (Utah), Pete Suazo Utah Athletic Commission **R859-1-301** Qualifications for Licensure

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32670

FILED: 05/13/2009, 20:02

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment will require unarmed combat timekeepers to be licensed.

SUMMARY OF THE RULE OR CHANGE: Unarmed combat timekeepers will be required to be licensed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63C, Chapter 11

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no significant cost or savings since there will be fewer than 20 licensed timekeepers if this change is adopted. The commission will collect a \$25 license fee for each timekeeper and spend about the same amount entering, printing, and mailing the license.

❖ LOCAL GOVERNMENTS: There will be no anticipated cost or savings since local government is not impacted by the proposed amendment.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There will be no anticipated cost or savings to small businesses since they are not impacted by the proposed

amendment. Prospective timekeepers who wish to officiate in unarmed combat events will be required to be licensed will be assessed a \$25 annual fee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Prospective timekeepers who wish to officiate in unarmed combat events will be required to be licensed will be assessed a \$25 annual fee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed licensing fee for timekeepers is consistent with other unarmed combat fee license fees for contestants, judges, managers, referees, and seconds. Alan Dayton, Chair PSUAC

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

SPORTS AUTHORITY (UTAH)
PETE SUAZO UTAH ATHLETIC COMMISSION
Room 500
324 S STATE ST
STE 500
SALT LAKE CITY UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bill Colbert at the above address, by phone at 801-538-8876, by FAX at 801-538-8888, or by Internet E-mail at bcolbert@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2009

AUTHORIZED BY: Bill Colbert, Secretary, PSUAC

R859. Sports Authority (Utah), Pete Suazo Utah Athletic Commission.

R859-1. Pete Suazo Utah Athletic Commission Act Rule.

R859-1-301. Qualifications for Licensure.

(1) In accordance with Section 63C-11-308, a license is required for a person to act as or to represent that the person is a promoter, timekeeper, manager, contestant, second, referee, or judge.

(2) A licensed amateur MMA contestant shall not compete against a professional unarmed combat contestant, or receive a purse and/or other remuneration (other than for reimbursement for reasonable travel expenses, consistent with IRS guidelines).

(3) A licensed manager shall not hold a license as a referee or judge.

(4) A promoter shall not hold a license as a referee, judge, or contestant.

KEY: licensing, boxing, unarmed combat, white-collar contests
Date of Enactment or Last Substantive Amendment: [March 1], 2009

Notice of Continuation: May 10, 2007

Authorizing, and Implemented or Interpreted Law: 63C-11-101 et seq.

**Sports Authority (Utah), Pete Suazo
Utah Athletic Commission**

R859-1-501

**Promoter's Responsibility in Arranging
Contests - Permit Fee, Bond,
Restrictions**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32671

FILED: 05/13/2009, 20:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The revisions to Title 63C, Chapter 11 during the last legislative session (H.B. 400) removed the section establishing event and broadcasting fees from the statute. Event and broadcast fees now need to be defined through rulemaking. (DAR NOTE: H.B. 400 (2009) is found at Chapter 369, Laws of Utah 2009, and will be effective 07/01/2009.)

SUMMARY OF THE RULE OR CHANGE: This amendment defines event and broadcast fees.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63C, Chapter 11

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: If there are events with more than 5,000 attendees, there will be increase in event fees that will help offset some of the costs of regulating the events. It is anticipated there will be 1 or 2 events of this size each year which may result a \$2,800 annual savings to the state. In addition, for unarmed combat events, if the promoter hasn't submitted the event and card and paid the applicable record keeping fees, the commission will collect the designated record keeping fee(s) established by the Association of Boxing Commissions (ABC). This fee is currently \$50 per event or \$5 per contestant for boxing and forward the fee(s) to the designated ABC record keeper.

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings since this proposed amendment will not impact local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: For large events attracting more than 5,000 people, the increased cost to a local business or person will be either \$400 or \$1,400 depending on the size of the event. Then net total increased annual costs to local businesses for large events is anticipated to be less than \$2,800. In addition, for unarmed combat events, if the promoter hasn't submitted the

event and card and paid the applicable record keeping fees, the commission will collect the designated record keeping fee(s) established by the ABC. This fee is currently \$50 per event or \$5 per contestant for boxing and forward the fee(s) to the designated ABC record keeper. Assuming 100 unarmed combat events per year, the increase in fees per year is estimated at \$5,000.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The net total increased annual cost to local businesses or individuals is anticipated to be less than \$8,000.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The net total increased annual cost to local businesses or individuals is anticipated to be less than \$8,000. These fees will help offset some of the costs the commission incurs in regulating these events and allow the commission to participate in the ABC designated record keeping databases to help ensure the accuracy of contestant records, including suspensions, medical history, and fight record. Alan Dayton, Chair PSUAC

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

SPORTS AUTHORITY (UTAH)
PETE SUAZO UTAH ATHLETIC COMMISSION
Room 500
324 S STATE ST
STE 500
SALT LAKE CITY UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bill Colbert at the above address, by phone at 801-538-8876, by FAX at 801-538-8888, or by Internet E-mail at bcolbert@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2009

AUTHORIZED BY: Bill Colbert, Secretary, PSUAC

R859. Sports Authority (Utah), Pete Suazo Utah Athletic Commission.

R859-1. Pete Suazo Utah Athletic Commission Act Rule.

R859-1-501. Promoter's ~~Responsibility~~Responsibilities in Arranging a Contest[s] [~~Permit Fee, Bond, Restrictions~~].

(1) Before a licensed promoter may hold a contest or single contest as part of a single promotion, the promoter shall file with the Commission an application for a permit to hold the contest not less than 15 days before the date of the proposed contest, or not less than seven days for televised contests.

(2) The application shall include the date, time, and place of the contest as well as information concerning the on-site emergency facilities, personnel, and transportation.

(3) The permit application must be accompanied by a contest registration fee determined by the Department under Section 63-38-32.

(4) Before a permit to hold a contest is granted, the promoter shall post a surety bond with the Commission in the amount of \$10,000.

(5) Prior to the scheduled time of the contest, the promoter shall have available for inspection the completed physical facilities which will be used directly or indirectly for the contest. The designated Commission member shall inspect the facilities in the presence of the promoter or the promoter's authorized representative, and all deficiencies cited upon inspection shall be corrected before the contest.

(6) A promoter shall be responsible for verifying the identity, ring record, and suspensions of each contestant. A promoter shall be held responsible for the accuracy of the names and records of each of the participating contestants in all publicity or promotional material.

(7) A promoter shall be held responsible for a contest in which one of the contestants is disproportionately outclassed.

(8) Before a contest begins, the promoter shall give the designated Commission member the money for payment of contestants, referees, judges, and the attending physician. The designated Commission member shall pay each contestant, referee, judge, and physician in the presence of one witness.

(9) A promoter shall be not under the influence of alcohol or controlled substances during the contest and until all purses to the contestants and all applicable fees are paid to the commission, officials and ringside physician.

(10) At the time of an unarmed combat contest weigh-in, the promoter of a contest shall provide primary insurance coverage for each uninsured contestant and secondary insurance for each insured contestant in the amount of \$10,000 for each licensed contestant to provide medical, surgical and hospital care for licensed contestants who are injured while engaged in a contest or exhibition:

(a) The term of the insurance coverage must not require the contestant to pay a deductible for the medical, surgical or hospital care for injuries he sustains while engaged in a contest of exhibition.

(b) If a licensed contestant pays for the medical, surgical or hospital care, the insurance proceeds must be paid to the contestant or his beneficiaries as reimbursement for the payment.

(c) The promoter should also have life insurance coverage of \$10,000 for each contestant in case of death.

(11) In addition to the payment of any other fees and money due under this part, the promoter shall pay the following event fees:

(a)(i) \$100 for a contest or event occurring in a venue of fewer than 200 seats;

(ii) \$200 for a contest or event occurring in a venue of at least 200 but fewer than 500 seats;

(iii) \$300 for a contest or event occurring in a venue of at least 500 seats but fewer than 1,000 seats;

(iv) \$400 for a contest or event occurring in a venue of at least 1,000 seats but fewer than 3,000 seats;

(v) \$600 for a contest or event occurring in a venue of at least 3,000 seats but fewer than 5,000 seats;

(vi) \$1000 for a contest or event occurring in a venue of at least 5,000 seats but fewer than 10,000 seats; or

(viii) \$2000 for a contest or event occurring in a venue of at least 10,000 seats; and

(b) 3% of total gross receipts from the sale, lease, or other exploitation of broadcasting, television, and motion picture rights for each contest or exhibition.

(c) the applicable fees assessed by the Association of Boxing Commission designated official record keeper.

(d) the commission may exempt from the payment of all or part of the assessed fees under this section for a special contest or exhibition based on factors which include:

(i) a showcase event promoting a greater interest in contests in the state;

(ii) attraction of the optimum number of spectators;

(iii) costs of promoting and producing the contest or exhibition;

(iv) ticket pricing;

(v) committed promotions and advertising of the contest or exhibition;

(vi) rankings and quality of the contestants; and

(vii) committed television and other media coverage of the contest or exhibition.

(viii) contribution to a 501(c)(3) charitable organization.

KEY: licensing, boxing, unarmed combat, white-collar contests
Date of Enactment or Last Substantive Amendment: [March 1, 2009]

Notice of Continuation: May 10, 2007

Authorizing, and Implemented or Interpreted Law: 63C-11-101 et seq.

◆ ————— ◆
Sports Authority (Utah), Pete Suazo
Utah Athletic Commission
R859-1-802
Martial Arts Contest Weights and
Classes

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE No.: 32669
FILED: 05/13/2009, 19:45

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The revisions to Title 63C, Chapter 11 during the last legislative session (H.B. 400) removed the martial arts weight classes from the statute. Martial arts weight classes now need to be defined by rulemaking. (DAR NOTE: H.B. 400 (2009) is found at Chapter 369, Laws of Utah 2009, and will be effective 07/01/2009.)

SUMMARY OF THE RULE OR CHANGE: This amendment defines martial arts weight classes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63C, Chapter 11

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated cost or savings since no new requirements are being implemented.
- ❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings since no new requirements are being implemented.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated cost or savings since no new requirements are being implemented.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no change in compliance costs since no new requirements are being implemented.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses. This change only moves the existing definition of the martial arts weight classes from statute to rule. Alan Dayton, Chair PSUAC

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

SPORTS AUTHORITY (UTAH)
PETE SUAZO UTAH ATHLETIC COMMISSION
Room 500
324 S STATE ST
STE 500
SALT LAKE CITY UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bill Colbert at the above address, by phone at 801-538-8876, by FAX at 801-538-8888, or by Internet E-mail at bcolbert@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2009

AUTHORIZED BY: Bill Colbert, Secretary, PSUAC

R859. Sports Authority (Utah), Pete Suazo Utah Athletic Commission.

R859-1. Pete Suazo Utah Athletic Commission Act Rule.

R859-1-802. Martial Arts Contest Weights and Classes.

Martial Arts Contest Weights and Classes:

- (a) flyweight is up to and including 125 lbs. (56.82 kgs.);
- (b) bantamweight is over 125 lbs. (56.82 kgs.) to 135 lbs. (61.36 kgs.);
- (c) featherweight is over 135 lbs (61.36 kgs.) to 145 lbs. (65.91 kgs.);
- (d) lightweight is over 145 lbs. (65.91 kgs.) to 155 lbs. (70.45 kgs.);
- (e) welterweight is over 155 lbs. (70.45 kgs.) to 170 lbs. (77.27 kgs.);

(f) middleweight is over 170 lbs. (77.27 kgs.) to 185 lbs. (84.09kgs.);

(g) light-heavyweight is over 185 lbs. (84.09 kgs.) to 205 lbs. (93.18 kgs.);

(h) heavyweight is over 205 lbs. (93.18 kgs.) to 265 lbs. (120.45 kgs.); and

(i) super heavyweight is over 265 lbs. (120.45 kgs.).

KEY: licensing, boxing, unarmed combat, white-collar contests
Date of Enactment or Last Substantive Amendment: [March 1, 2009]

Notice of Continuation: May 10, 2007

Authorizing, and Implemented or Interpreted Law: 63C-11-101 et seq.



**Workforce Services, Employment
Development**
R986-200-239
**How to Determine the Amount of the
Financial Assistance Payment**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32672

FILED: 05/14/2009, 13:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to comply with legislative changes.

SUMMARY OF THE RULE OR CHANGE: H.B. 218 in the 2009 General Session states that the Department will set the amount of payment for Family Employment Plan (FEP) clients and not the legislature. This rule is to reflect that change. The dollar amounts are the same as were set by the legislature previously. No changes in the amount of FEP are being made at this time. (DAR NOTE: H.B. 218 (2009) is found at Chapter 55, Laws of Utah 2009, and was effective 05/12/2009.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsections 35A-1-104(4) and 35A-3-302(5)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This applies to federally-funded programs so there are no costs or savings to the state budget. The amount of assistance has not changed since last set by the legislature.
- ❖ LOCAL GOVERNMENTS: This applies to federally-funded programs so there are no costs or savings to any local government.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This applies to federally-funded programs so there are no costs or savings to any small business or any persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for any affected persons. This amendment is being made to make Department rules match statutory changes. The program does not require a fee nor are any costs associated with FEP.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. Kristen Cox, Executive Director

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

WORKFORCE SERVICES
 EMPLOYMENT DEVELOPMENT
 140 E 300 S
 SALT LAKE CITY UT 84111-2333, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2009

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.

R986-200. Family Employment Program.

R986-200-239. How to Determine the Amount of the Financial Assistance Payment.

(1) Once the household's size and income have been determined, the gross countable income must be less than or equal to 185% of the Standard Needs Budget (SNB) for the size of the household. This is referred to as the "gross test".

(2) If the gross countable income is less than or equal to 185% of the SNB, the following deductions are allowed:

(a) a work expense allowance of \$100 for each person in the household unit who is employed;

(b) fifty percent of the remaining earned income after deducting the work expense allowance as provided in paragraph (a) of this subsection, if the individual has received a financial assistance payment from the Department for one or more of the immediately preceding four months; and

(c) after deducting the amounts in paragraphs (a) and (b) of this subsection, if appropriate, the following deductions can be made:

(i) a dependent care deduction as described in subsection (3) of this section; and

(ii) child support paid by a household member if legally owed to someone not included in the household.

(3) The amount of the dependant care deduction is set by the Department and based on the number of hours worked by the parent and the age of the dependant needing care. It can only be deducted if the dependant care:

(a) is paid for the care of a child or adult member of the household assistance unit, or a child or adult who would be a member of the household assistance unit except that this person receives SSI. An adult's need for care must be verified by a doctor; and

(b) is not subsidized, in whole or in part, by a CC payment from the Department; and

(c) is not paid to an individual who is in the household assistance unit.

(4) After deducting the amounts allowed under paragraph (2) above, the resulting net income must be less than 100% of SNB for size of the household assistance unit. If the net income is equal to or greater than the SNB, the household is not eligible.

(5) If the net income is less than 100% of the SNB the following amounts are deducted:

(a) Fifty percent of earned countable income for all employed household assistance unit members if the household was not eligible for the 50% deduction under paragraph (2)(b) above; and/or

(b) All of the earned income of all children in the household assistance unit, if not previously deducted, who are:

(i) in school or training full-time, or

(ii) in part-time education or training if they are employed less than 100 hours per month. "Part-time education or training" means enrolled for at least one-half the number of hours or periods considered by the institution to be customary to complete the course of study within the minimum time period. If no schedule is set by the school, the course of study must be no less than an average of two class periods or two hours per day, whichever is less.

(6) The resulting net countable income is compared to the full financial assistance payment for the household size. If the net countable income is more than the financial assistance payment, the household is not eligible. If it is less, the net countable income is deducted from the financial assistance payment and the household is paid the difference.

(7) The amount of the standard financial assistance payment is set by the ~~State Legislature and~~ Department. The current amount is in the table that follows:

TABLE

Household Size	Payment Amount
1	\$288
2	\$399
3	\$498
4	\$583
5	\$663
6	\$731
7	\$765
8	\$801

Amounts for household sizes larger than 8 are available at all Department offices.

KEY: family employment program

Date of Enactment or Last Substantive Amendment: ~~[February 12], 2009~~

Notice of Continuation: September 14, 2005

Authorizing, and Implemented or Interpreted Law: 35A-3-301 et seq.



End of the Notices of Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (. . . .) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by Section 63G-3-304; and Section R15-4-8.

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-60B-4** Service Coverage

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 32659
FILED: 05/11/2009, 17:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is necessary to comply with the provisions of S.B. 87 that remove the automatic override to the preferred drug list and add prior authorization requirements. (DAR NOTE: S.B. 87 (2009) is found at Chapter 324, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: This change removes the automatic override to the preferred drug list and outlines the prior authorization requirements to dispense nonpreferred drugs to Medicaid clients. (DAR NOTE: A corresponding proposed amendment is under DAR No. 32660 is this issue, June 1, 2009, of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-18-2.4 and 26-18-3

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The Department estimates an annual savings to the General Fund of \$1,474,300 and \$3,687,800 in federal dollars.
- ❖ **LOCAL GOVERNMENTS:** There is no budget impact because local governments do not fund the Medicaid pharmacy program.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** In aggregate, pharmacy providers are expected to see a reduction in total revenue of \$5,162,100 because of this change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Not knowing the profit margins for the pharmacies on the impacted drugs, the Department cannot say with certainty that this change will result in lost profits. Providers may experience an increase in the number of prior authorizations they are required to handle. The Utah Medical Association and the Utah Pharmacists Association supported the change in law that this rule implements. Any increased cost for health care providers will be minimal compared to the savings for Utah taxpayers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change is expected to save the taxpayers over \$5 million per year in state and federal funds. The additional cost for health care providers and any inconvenience to Medicaid recipients is expected to be minimal by comparison. David N. Sundwall, MD, Executive Director

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent budget reduction because of budget restraints or federal requirements. place the agency in violation of federal or state law.

The reason for this change is to comply with the provisions of S.B. 87 that remove the automatic override to the preferred drug list and add prior authorization requirements.

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 Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

THIS RULE IS EFFECTIVE ON: 05/18/2009

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-60B. Preferred Drug List.

R414-60B-4. Service Coverage.

(1) Upon the recommendation of the Pharmacy and Therapeutics (P&T) Committee, DHCF pharmacy staff select the therapeutic classes and select the most clinically effective and cost effective drug or drugs within each class.

(2) The prescriber must ~~write "medically necessary" on the prescription and have justification in the patient's medical record substantiating the medical necessity of a non-preferred~~

~~drug in order for this to be reimbursed~~ obtain prior authorization from the Department to dispense drugs designated as "non-preferred" in each class, through the Department's current prior authorization system. Criteria for a Non-preferred Prior Authorization (NPA) is established by the Department in consultation with the Pharmacy and Therapeutics Committee.

(3) ~~The preferred drug or drugs are covered without the notation required in (2)~~ A prior authorization is not placed on any preferred drugs under Section R414-60B-4. Nevertheless, a prior authorization may apply if set by the Drug Utilization Review Board.

(4) For NPA requests submitted during normal business hours, Monday through Friday, 8 a.m. to 5 p.m., the prior authorization system shall provide either telephone or fax approval or denial within 24 hours of the receipt of the request.

(5) In an emergency situation for a prior authorization needed outside of normal business hours, a 72-hour supply of a non-preferred drug may be dispensed and the Department shall issue an NPA for the 72-hour supply on the next business day. Further quantity requests shall be subject to all NPA requirements.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: May 18, 2009
Authorizing, and Implemented or Interpreted Law: 26-18-2.4; 26-18-3; 26-1-5

◆ ————— ◆

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by Section 63G-3-305.

Education, Administration **R277-105**

Recognizing Constitutional Freedoms in the Schools

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 32648
FILED: 05/04/2009, 07:21

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 53A-13-109 directs that curriculum promoting respect for parents and home, morality, qualities of character, and respect for and an understanding of the Constitutions of the United States and the State of Utah be taught in connection with regular school work.

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.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to provide standards and procedures to help public school officials protect and accommodate individual rights in the operation of Utah's schools. Therefore, this rule should be continued.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 05/04/2009



Education, Administration **R277-438**

Dual Enrollment

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 32649
FILED: 05/04/2009, 07:21

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1)(b) directs the Utah State Board of Education to establish rules and minimum standards for access to programs. Section 53A-11-102.5 directs the Utah State Board of Education to make rules to permit home school, charter, and online students and private school students to participate in traditional public school extracurricular or co-curricular school activities.

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.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to provide procedures and criteria for home school, private

school, online, and charter school students' participation in traditional public school activities. Therefore, this rule should be continued.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 05/04/2009

Education, Administration
R277-916

Technology, Life, and Careers, and
Work-Based Learning Programs

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 32650
FILED: 05/04/2009, 07:21

**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 53A-15-202 directs the Utah State Board of Education to establish minimum standards for applied technology education programs in the public education system.

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.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to provide standards and procedures for school districts seeking to qualify for state and federal Technology, Life, and Careers, and Work-Based Learning Program funds. Therefore, this rule should be continued.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 05/04/2009

Environmental Quality, Air Quality
R307-840

Lead-Based Paint Accreditation,
Certification and Work Practice
Standards

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 32656
FILED: 05/07/2009, 10:30

**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: Rule R307-840 implements Subsection 19-2-104(1)(i) which authorizes the Air Quality Board to make rules to "implement the lead-based paint requirements for training, certification, and performance of 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter IV--Lead Exposure Reduction, Sections 402 and 404."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-840 was amended one time since the last five-year review under DAR No. 32350. No comments were received on the amendment. No comments were received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Without Rule R307-840, Utah would not have authority to implement the federal

requirements; implementation would be carried out by the Environmental Protection Agency. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kimberly Kreykes at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at kkreykes@utah.gov

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 05/07/2009

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**Human Services, Child and Family
Services
R512-41
Qualifying Adoptive Families and
Adoption Placement**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 32657
FILED: 05/07/2009, 15:53

**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: Sections 62A-4a-105 and 62A-4a-106 require the Division of Child and Family Services to provide child welfare programs and services, including adoption services, to the citizens of Utah.

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.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed for the Division of Child and Family Services to follow federal and state child welfare system requirements. Therefore, this rule should be continued. There are changes being made to the citation references contained in this rule which will be filed in the future.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Miller at the above address, by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at CAROLMILLER@utah.gov

AUTHORIZED BY: Duane Betournay, Director

EFFECTIVE: 05/07/2009

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**Human Services, Child and Family
Services
R512-306
Transition to Adult Living Services,
Education and Training Voucher
Program**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 32658
FILED: 05/07/2009, 15:56

**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: Sections 62A-4a-105 and 62A-4a-106 require the Division of Child and Family Services to provide child welfare programs and services, including Transition to Adult Living Services, to the citizens of Utah.

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.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed for the Division of Child and Family Services to follow federal and state child welfare system requirements. Therefore, this rule should be continued. There are changes being made to the purpose statement and citation references contained in this rule which will be filed in the future.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Miller at the above address, by phone at 801-557-1772,
by FAX at 801-538-3993, or by Internet E-mail at
CAROLMILLER@utah.gov

AUTHORIZED BY: Duane Betournay, Director

EFFECTIVE: 05/07/2009



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF LEGISLATIVE NONREAUTHORIZATION

Section 63G-3-502 provides that "every agency rule that is in effect on February 28 of any calendar year expires on May 1 of that year unless it has been reauthorized by the Legislature." To do this, the Legislature's Administrative Rules Review Committee prepares omnibus legislation each year. As part of this legislation, the Legislature may elect not to reauthorize a rule or a part of a rule down to the complete paragraph level. When this occurs, the rule or part of a rule is removed from the Code. The list below represents rules that the Legislature has elected not to reauthorize.

Legislative nonreauthorization of administrative rules is governed by Section 63G-3-502.

Education

Administration

No. 32663: R277-470-12. Charter School Parental Involvement. (Only Subsections R277-470-12(B) and (C) were removed.)

Chapter 279, Laws of Utah 2009 (H.B. 197)

EXPIRED: 05/12/2009

Insurance

Title and Escrow Commission

No. 32664: R592-13. Minimum Charges for Escrow Services.

Chapter 279, Laws of Utah 2009 (H.B. 197)

EXPIRED: 05/12/2009

Regents (Board of)

Administration

No. 32665: R765-603. Regents' Scholarship.

Chapter 279, Laws of Utah 2009 (H.B. 197)

EXPIRED: 05/12/2009

Questions regarding the legislative nonreauthorization process or the expiration of rules should be directed to Ken Hansen, Director of the Division of Administrative Rules at 801-538-3777.

End of the Notices of Expired Rules Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63G-3-301(9).

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Administrative Services

Fleet Operations, Surplus Property

No. 32362 (AMD): R28-2-3. Procedures.
Published: March 1, 2009
Effective: May 11, 2009

Career Service Review Board

Administration

No. 32287 (AMD): R137-1-2. Definitions.
Published: February 1, 2009
Effective: May 6, 2009

No. 32290 (AMD): R137-1-22. The Board's Appellate/Step 6 Procedures.
Published: February 1, 2009
Effective: May 6, 2009

Commerce

Occupational and Professional Licensing

No. 32430 (AMD): R156-31c. Nurse Licensure Compact Rules.
Published: April 1, 2009
Effective: May 11, 2009

No. 32438 (AMD): R156-55a. Utah Construction Trades Licensing Act Rule.
Published: April 1, 2009
Effective: May 11, 2009

Education

Administration

No. 32446 (AMD): R277-462. Comprehensive Counseling and Guidance Program.
Published: April 1, 2009
Effective: May 8, 2009

No. 32447 (AMD): R277-477. Distribution of Funds from the School Trust Lands Account and Implementation of the School LAND Trust Program.
Published: April 1, 2009
Effective: May 8, 2009

No. 32448 (AMD): R277-484. Data Standards.
Published: April 1, 2009
Effective: May 8, 2009

No. 32449 (AMD): R277-491. School Community Councils.
Published: April 1, 2009
Effective: May 8, 2009

No. 32450 (AMD): R277-502-4. License Levels, Procedures, and Periods of Validity.
Published: April 1, 2009
Effective: May 8, 2009

Environmental Quality

Air Quality

No. 32351 (AMD): R307-101-3. Version of Code of Federal Regulations Incorporated by Reference.
Published: March 1, 2009
Effective: May 7, 2009

No. 32350 (AMD): R307-840. Lead-Based Paint Accreditation, Certification and Work Practice Standards.
Published: March 1, 2009
Effective: May 7, 2009

Drinking Water

No. 32444 (AMD): R309-105-6. Construction of Public Drinking Water Facilities.
Published: April 1, 2009
Effective: May 12, 2009

No. 32443 (AMD): R309-110-4. Definitions.
Published: April 1, 2009
Effective: May 12, 2009

No. 32445 (AMD): R309-500. Facility Design and Operation: Plan Review, Operation and Maintenance Requirements.
Published: April 1, 2009
Effective: May 12, 2009

Solid and Hazardous Waste

No. 32441 (AMD): R315-315. Special Waste Requirements.
Published: April 1, 2009
Effective: May 15, 2009

NOTICES OF RULE EFFECTIVE DATES

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 32064 (AMD): R414-27. Medicaid Certification of Nursing Care Facilities.

Published: November 1, 2008

Effective: May 12, 2009

No. 32064 (CPR): R414-27. Medicaid Certification of Nursing Care Facilities.

Published: March 1, 2009

Effective: May 12, 2009

Public Safety

Fire Marshal

No. 32451 (AMD): R710-2-6. List of Approved Class C Common State Approved Explosives.

Published: April 1, 2009

Effective: May 12, 2009

Public Service Commission

Administration

No. 32434 (AMD): R746-360-5. Fund Remittances and Disbursements.

Published: April 1, 2009

Effective: May 12, 2009

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, 2009, including notices of effective date received through May 15, 2009. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801-538-3218), Mike Broschinsky (801-538-3003), or Kenneth A. Hansen (801-538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
<u>Administration</u>					
R13-3	Americans with Disabilities Act Grievance Procedures	32204	AMD	02/26/2009	2009-1/3
R13-3-8	Relationship to Other Laws	32431	NSC	03/26/2009	Not Printed
<u>Fleet Operations</u>					
R27-1-2	Definitions	32189	AMD	04/20/2009	2009-1/5
R27-7	Safety and Loss Prevention of State Vehicles	32292	AMD	04/20/2009	2009-3/2
R27-10	Identification Mark for State Motor Vehicles	32291	AMD	04/20/2009	2009-3/4
<u>Fleet Operations, Surplus Property</u>					
R28-2-3	Procedures	32362	AMD	05/11/2009	2009-5/2
<u>Purchasing and General Services</u>					
R33-6	Modification and Termination of Contracts for Supplies and Services (5YR EXTENSION)	31983	NSC	01/29/2009	Not Printed
R33-6	Modification and Termination of Contracts for Supplies and Services	32344	5YR	01/29/2009	2009-4/55

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R33-7	Cost Principles (5YR EXTENSION)	31984	NSC	01/29/2009	Not Printed
R33-7	Cost Principles	32345	5YR	01/29/2009	2009-4/55
R33-9	Insurance Procurement (5YR EXTENSION)	31985	NSC	01/29/2009	Not Printed
R33-9	Insurance Procurement	32346	5YR	01/29/2009	2009-4/56
<u>Records Committee</u>					
R35-1-4	Committee Minutes	32355	NSC	02/26/2009	Not Printed
R35-2	Declining Appeal Hearings	32358	NSC	02/26/2009	Not Printed
R35-4	Compliance with State Records Committee Decisions and Orders	32359	NSC	02/26/2009	Not Printed
R35-5	Subpoenas Issued by the Records Committee	32360	NSC	02/26/2009	Not Printed
R35-6	Expedited Hearings	32361	NSC	02/26/2009	Not Printed
Agriculture and Food					
<u>Administration</u>					
R51-1	Public Petitions for Declaratory Rulings	32536	NSC	05/14/2009	Not Printed
R51-4-1	Authority and Purpose	32537	NSC	05/14/2009	Not Printed
<u>Animal Industry</u>					
R58-17	Aquaculture and Aquatic Animal Health	32199	AMD	02/19/2009	2009-1/7
R58-20	Domesticated Elk Hunting Park	32397	5YR	02/23/2009	2009-6/90
<u>Marketing and Development</u>					
R65-7	Horse Racing	32401	AMD	04/21/2009	2009-6/4
<u>Plant Industry</u>					
R68-2-3	Registration of Products	32031	AMD	02/25/2009	2008-21/4
R68-7	Utah Pesticide Control Act	32332	AMD	03/26/2009	2009-4/4
R68-19-2	Definition of Terms	32516	NSC	05/14/2009	Not Printed
<u>Regulatory Services</u>					
R70-630	Water Vending Machine	32289	5YR	01/08/2009	2009-3/83
Alcoholic Beverage Control					
<u>Administration</u>					
R81-1	Scope, Definitions, and General Provisions	32222	NSC	01/22/2009	Not Printed
R81-1-6	Violation Schedule	32414	AMD	04/22/2009	2009-6/15
R81-1-28	Special Commission Meetings-Fees	32333	AMD	03/24/2009	2009-4/8
R81-4A-2	Application	32556	EMR	05/01/2009	2009-10/145
R81-4A-10	Table Service	32558	EMR	05/01/2009	2009-10/146
R81-4A-11	Consumption at Patron's Table	32560	EMR	05/01/2009	2009-10/147
R81-4A-15	Grandfathered Bar Structures	32562	EMR	05/01/2009	2009-10/148
R81-4C-2	Application	32564	EMR	05/01/2009	2009-10/149
R81-4C-9	Table Service	32568	EMR	05/01/2009	2009-10/150
R81-4C-10	Consumption at Patron's Table	32571	EMR	05/01/2009	2009-10/151
R81-4C-13	Grandfathered Bar Structures	32574	EMR	05/01/2009	2009-10/151
R81-4D-10	State Label	32577	EMR	05/01/2009	2009-10/153
R81-5-18	Age Verification - Dining and Social Clubs	32606	EMR	05/01/2009	2009-10/154
Capitol Preservation Board (State)					
<u>Administration</u>					
R131-2	Capitol Hill Complex Facility Use	32343	AMD	03/26/2009	2009-4/9

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Career Service Review Board					
<u>Administration</u>					
R137-1	Grievance Procedure Rules	32429	NSC	04/07/2009	Not Printed
R137-1-2	Definitions	32286	EMR	01/08/2009	2009-3/77
R137-1-2	Definitions	32287	AMD	05/06/2009	2009-3/5
R137-1-21	The Evidentiary/Step 5 Adjudicatory Procedures	32514	NSC	05/14/2009	Not Printed
R137-1-22	The Board's Appellate/Step 6 Procedures	32288	EMR	01/08/2009	2009-3/79
R137-1-22	The Board's Appellate/Step 6 Procedures	32290	AMD	05/06/2009	2009-3/7
R137-2	Government Records Access and Management Act	32520	NSC	05/14/2009	Not Printed
Commerce					
<u>Consumer Protection</u>					
R152-21	Credit Services Organizations Act Rules	32382	5YR	02/17/2009	2009-5/24
<u>Corporations and Commercial Code</u>					
R154-1-7	Fees	32519	NSC	05/14/2009	Not Printed
R154-100-2	Designation of Informal Adjudicative Proceedings	32518	NSC	05/14/2009	Not Printed
<u>Occupational and Professional Licensing</u>					
R156-1	General Rules of the Division of Occupational and Professional Licensing	32241	AMD	02/24/2009	2009-2/2
R156-22-102	Definitions	32364	AMD	04/07/2009	2009-5/3
R156-22-305	Inactive Status	32500	NSC	05/14/2009	Not Printed
R156-31b	Nurse Practice Act Rule	32212	AMD	05/01/2009	2009-1/13
R156-31b	Nurse Practice Act Rule	32212	CPR	05/01/2009	2009-6/78
R156-31b-607	Approved Nursing Education Programs Located Outside of Utah	32365	NSC	02/26/2009	Not Printed
R156-31c	Nurse Licensure Compact Rules	32430	AMD	05/11/2009	2009-7/2
R156-37-609a	Controlled Substance Database - Reporting Procedure and Format for Submission to the Database for Pharmacies and Pharmacy Groups Selected by the Division for the Real Time Pilot Program	32411	AMD	04/21/2009	2009-6/18
R156-40-302d	Time Limitation for TRT applicants	32236	NSC	01/22/2009	Not Printed
R156-40-302f	Qualifications for Temporary License as a TRS - Supervision Required	32479	NSC	04/14/2009	Not Printed
R156-42a	Occupational Therapy Practice Act Rule	32413	5YR	02/26/2009	2009-6/90
R156-44a	Nurse Midwife Practice Act Rules	32356	5YR	02/05/2009	2009-5/24
R156-46a	Hearing Instrument Specialist Licensing Act Rule	32398	5YR	02/24/2009	2009-6/91
R156-46a-302c	Qualifications for Licensure - Examination Requirements	32235	NSC	01/22/2009	Not Printed
R156-49-304	Temporary Dietitian Certificate - Supervision Required	32478	NSC	04/14/2009	Not Printed
R156-54	Radiology Technologist and Radiology Practical Technician Licensing Act Rules	32412	AMD	04/21/2009	2009-6/20
R156-55a	Utah Construction Trades Licensing Act Rule	32438	AMD	05/11/2009	2009-7/3
R156-55d-302a	Qualifications for Licensure - Application Requirements	32477	NSC	04/14/2009	Not Printed
R156-56	Utah Uniform Building Standard Act Rules	32001	AMD	01/01/2009	2008-21/9
R156-56-302	Licensure of Inspectors	32476	NSC	04/14/2009	Not Printed
R156-61	Psychologist Licensing Act Rule	32366	5YR	02/10/2009	2009-5/25
R156-63a	Security Personnel Licensing Act Contract Security Rule	32475	NSC	04/14/2009	Not Printed

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-63b	Security Personnel Licensing Act Armored Car Rule	32474	NSC	04/14/2009	Not Printed
R156-64-302a	Qualifications for Licensure - Application Requirements	32473	NSC	04/14/2009	Not Printed
<u>Real Estate</u>					
R162-2-2	Licensing Procedure	32115	AMD	01/08/2009	2008-22/19
R162-6	Licensee Conduct	32248	AMD	03/02/2009	2009-2/8
R162-103	Appraisal Education Requirements	31998	AMD	01/01/2009	2008-21/23
R162-211	Adjusted Licensing Terms	32422	NEW	04/29/2009	2009-6/24
<u>Securities</u>					
R164-15-2	Notice Filings for Rule 506 Offerings	32039	AMD	01/12/2009	2008-21/28
Community and Culture					
<u>Administration</u>					
R182-1	Government Records Access And Management Act Rules	32493	NSC	05/14/2009	Not Printed
<u>Arts and Museums, Museum Services</u>					
R210-100	Certified Local Museum Designation	32108	NEW	01/01/2009	2008-22/21
<u>History</u>					
R212-1	Adjudicative Proceedings	32243	NSC	01/22/2009	Not Printed
R212-6	State Register for Historic Resources and Archaeological Sites	32244	NSC	01/22/2009	Not Printed
<u>Library</u>					
R223-1	Adjudicative Procedures	32295	NSC	02/05/2009	Not Printed
R223-2	Public Library Online Access for Eligibility to Receive Public Funds	32296	AMD	03/26/2009	2009-3/9
<u>Indian Affairs</u>					
R230-1	Native American Grave Protection and Repatriation	32522	NSC	05/14/2009	Not Printed
Corrections					
<u>Administration</u>					
R251-105	Applicant Qualifications for Employment with Department of Corrections	31997	AMD	02/26/2009	2008-21/31
Crime Victim Reparations					
<u>Administration</u>					
R270-1-14	Essential Personal Property	32180	AMD	01/21/2009	2008-24/3
R270-1-19	Medical Awards	31950	AMD	01/21/2009	2008-19/13
R270-1-19	Medical Awards	31950	CPR	01/21/2009	2008-24/37
R270-2	Crime Victim Reparations Adjudicative Proceedings	32196	NSC	01/12/2009	Not Printed
R270-3	ADA Complaint Procedure	32197	NSC	01/12/2009	Not Printed
R270-3	ADA Complaint Procedure	32394	5YR	02/19/2009	2009-6/91
R270-4	Government Records Access and Management Act	32395	5YR	02/19/2009	2009-6/92
Education					
<u>Administration</u>					
R277-101	Public Participation in Utah State Board of Education Decisions	32254	AMD	02/24/2009	2009-2/13
R277-102	Adjudicative Proceedings	32372	5YR	02/13/2009	2009-5/26
R277-105	Recognizing Constitutional Freedoms in the Schools	32648	5YR	05/04/2009	2009-11/58

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R277-109-1	Definitions	32139	AMD	01/07/2009	2008-23/2
R277-110-1	Definitions	32140	AMD	01/07/2009	2008-23/2
R277-117	Utah State Board of Education Protected Documents	32255	NEW	02/24/2009	2009-2/15
R277-117-2	Authority and Purpose	32400	NSC	03/14/2009	Not Printed
R277-413	Accreditation of Secondary Schools	32373	5YR	02/13/2009	2009-5/26
R277-425	Budgeting, Accounting, and Auditing for Utah School Districts	32374	5YR	02/13/2009	2009-5/26
R277-433	Disposal of Textbooks in the Public Schools	32417	AMD	04/21/2009	2009-6/25
R277-437	Student Enrollment Options	32265	5YR	01/05/2009	2009-3/83
R277-438	Dual Enrollment	32649	5YR	05/04/2009	2009-11/58
R277-462	Comprehensive Counseling and Guidance Program	32256	AMD	02/24/2009	2009-2/16
R277-462	Comprehensive Counseling and Guidance Program	32446	AMD	05/08/2009	2009-7/5
R277-464-4	Oversight Monitoring, Evaluation and Reports	32219	NSC	01/22/2009	Not Printed
R277-469	Instructional Materials Commission Operating Procedures	32257	AMD	02/24/2009	2009-2/20
R277-469-3	Use of State Funds for Instructional Materials	32369	NSC	02/26/2009	Not Printed
R277-470-12	Charter School Parental Involvement (EXPIRED - Subsections R277-470-12(B) and (C), Legislative Nonreauthorization)	32663	NSC	05/12/2009	Not Printed
R277-473	Testing Procedures	32310	AMD	03/10/2009	2009-3/10
R277-477	Distribution of Funds from the School Trust Lands Account and Implementation of the School LAND Trust Program	32447	AMD	05/08/2009	2009-7/6
R277-484	Data Standards	32448	AMD	05/08/2009	2009-7/10
R277-486	Professional Staff Cost Program	32266	5YR	01/05/2009	2009-3/84
R277-491	School Community Councils	32449	AMD	05/08/2009	2009-7/13
R277-494-3	Requirements for Payment and Participation Integral to the Schedule	32220	NSC	01/22/2009	Not Printed
R277-494-3	Requirements for Payment and Participation Integral to the Schedule	32323	NSC	02/25/2009	Not Printed
R277-495	Required Policies for Electronic Devices in Public Schools	32141	NEW	01/07/2009	2008-23/3
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<u>Pete Suazo Utah Athletic Commission</u>					
R859-1	Pete Suazo Utah Athletic Commission Act Rule	32205	AMD	05/01/2009	2009-1/42

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<u>Auditing</u>					
R865-4D-2	Clean Special Fuel Certificate, Refund Procedures for Undyed Diesel Fuel Used Off-Highway or to Operate a Power Take-Off Unit, and Sales Tax Liability Pursuant to Utah Code Ann. Sections 59-13-301 and 59-13-304	32035	AMD	01/01/2009	2008-21/76
R865-4D-2	Refund Procedures for Undyed Diesel Fuel Used Off-Highway or to Operate a Power Take-Off Unit, and Sales Tax Liability Pursuant to Utah Code Ann. Sections 59-13-301 and 59-13-304	32334	AMD	03/26/2009	2009-4/51
R865-4D-6	Invoices pursuant to Utah Code Ann. Sections 59-13-301 and 59-13-313	32335	AMD	03/26/2009	2009-4/52
R865-4D-24	Off Highway Use of Undyed Diesel Fuel Pursuant to Utah Code Ann. Section 59-13-301	32336	AMD	03/26/2009	2009-4/53
R865-7H	Environmental Assurance Fee	32392	5YR	02/19/2009	2009-6/93
R865-12L-6	Place of Transaction Pursuant to Utah Code Ann. Section 59-12-207	32034	AMD	01/01/2009	2008-21/78
R865-12L-12	Leases and Rentals Pursuant to Utah Code Ann. Section 59-12-204	32032	AMD	01/01/2009	2008-21/79
R865-12L-13	Repairmen and Servicemen Pursuant to Utah Code Ann. Section 59-12-204	32015	AMD	01/01/2009	2008-21/79
R865-19S-12	Filing of Returns Pursuant to Utah Code Ann. Sections 59-12-107 and 59-12-118	32008	AMD	01/01/2009	2008-21/80
R865-19S-27	Retail Sales Defined Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-103(1)(g)	32017	AMD	01/01/2009	2008-21/81
R865-19S-29	Wholesale Sale Defined Pursuant to Utah Code Ann. Section 59-12-102	32030	AMD	01/01/2009	2008-21/82
R865-19S-90	Telephone Service Pursuant to Utah Code Ann. Section 59-12-103	32007	AMD	01/01/2009	2008-21/83
R865-19S-92	Computer software and Other Related Transactions Pursuant to Utah Code Ann. Section 59-12-103	32016	AMD	01/01/2009	2008-21/84
R865-19S-113	Sales Tax Obligations of Jeep, Snowmobile, Aircraft, and Boat Tour Operators, River Runners, Outfitters, and Other Sellers Providing Similar Services Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-107	32012	AMD	01/01/2009	2008-21/85
R865-19S-119	Certain Transactions Involving Food and Lodging Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104	32013	AMD	01/01/2009	2008-21/86
R865-21U-3	Liability of Retailers Pursuant to Utah Code Ann. Section 59-12-107	32033	AMD	01/01/2009	2008-21/87
R865-21U-15	Automobile, Construction Equipment and Other Merchandise Purchased from Out-Of-State Vendors Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-107	32010	AMD	01/01/2009	2008-21/87
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R873-22M-23	Registration Information Update for Vintage Vehicle Special Group License Plates Pursuant to Utah Code Ann. Section 41-1a-1209	32037	AMD	01/01/2009	2008-21/89
<u>Motor Vehicle Enforcement</u>					
R877-23V-7	Misleading Advertising Pursuant to Utah Code Ann. Section 41-3-210	32234	AMD	03/03/2009	2009-2/36
<u>Property Tax</u>					
R884-24P-19	Appraiser Designation Program Pursuant to Utah Code Ann. 59-2-701 and 59-2-702	32260	AMD	03/03/2009	2009-2/39

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R884-24P-27	Standards for Assessment Level and Uniformity of Performance Pursuant to Utah Code Ann. Sections 59-2-704 and 59-2-704.5	32063	AMD	01/01/2009	2008-21/90
R884-24P-47	Uniform Tax on Aircraft Pursuant to Utah Code Ann. Sections 59-2-404, 59-2-1005, 59-2-1302, and 59-2-1303	32036	AMD	01/01/2009	2008-21/92
R884-24P-53	2008 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515	32044	AMD	01/01/2009	2008-21/93
R884-24P-70	Real Property Appraisal Requirements for County Assessors Pursuant to Utah Code Ann. Sections 59-2-303.1 and 59-2-919.1	32052	AMD	01/01/2009	2008-21/97

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R895-4	Sub-Domain Naming Conventions for Executive Branch Agencies	32498	5YR	04/06/2009	2009-9/57
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Administration

R907-1	Appeal of Departmental Actions	32214	AMD	04/14/2009	2009-1/45
R907-3	Administrative Procedure	32217	NSC	01/12/2009	Not Printed
R907-62-7	Classification of Records	32303	NSC	02/05/2009	Not Printed
R907-62-7	Classification of Records	32161	NSC	02/05/2009	Not Printed
R907-64	Longitudinal and Wireless Access to Interstate Highway Rights-of-Way for Installation of Telecommunications Facilities	31961	AMD	01/12/2009	2008-20/25
R907-66	Incorporation and Use of Federal Acquisition Regulations on Federal-Aid and State-Financed Transportation Projects	32213	NSC	01/12/2009	Not Printed

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R909-3	Standards for Utah School Buses (5YR EXTENSION)	32264	NSC	01/05/2009	Not Printed
R909-3	Standards for Utah School Buses	32274	5YR	01/05/2009	2009-3/89
R909-3-2	Authority	32273	NSC	02/05/2009	Not Printed
R909-19	Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification	32215	NSC	01/12/2009	Not Printed

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R916-2	Prequalification of Contractors	32307	NSC	02/05/2009	Not Printed
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R926-11	Rules for Permitting of Eligible Vehicles for a Clean Fuel Special Group License Plate On or After January 1, 2009	32076	NEW	01/05/2009	2008-22/39

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R940-3-2	Definitions	32082	NSC	01/12/2009	Not Printed

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R982-101	Americans with Disabilities Complaint Procedure	32237	NSC	01/22/2009	Not Printed
R982-201	Government Records Access and Management Act	32238	NSC	01/22/2009	Not Printed
<u>Employment Development</u>					
R986-100	Employment Support Programs	32239	NSC	01/22/2009	Not Printed
R986-200-240	Additional Payments Available Under Certain Circumstances	32114	AMD	01/06/2009	2008-22/41
R986-200-246	Transitional Cash Assistance	32209	AMD	02/12/2009	2009-1/48
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<u>Unemployment Insurance</u>					
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R994-405-3	Professional Employment Organization (PEO)	32534	NSC	05/14/2009	Not Printed

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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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<u>access</u> Environmental Quality, Drinking Water	32410	R309-545-15	AMD	04/27/2009	2009-6/36
<u>accessing records</u> Human Services, Recovery Services	32159	R527-5	R&R	01/21/2009	2008-24/27
<u>accidents</u> Administrative Services, Fleet Operations	32292	R27-7	AMD	04/20/2009	2009-3/2
<u>accreditation</u> Education, Administration	32373	R277-413	5YR	02/13/2009	2009-5/26
<u>activities</u> Education, Administration	32220	R277-494-3	NSC	01/22/2009	Not Printed
	32323	R277-494-3	NSC	02/25/2009	Not Printed
<u>ADA</u> Transportation, Administration	32303	R907-62-7	NSC	02/05/2009	Not Printed

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	32197	R270-3	NSC	01/12/2009	Not Printed
<u>ADA*</u>					
Transportation, Administration	32161	R907-62-7	NSC	02/05/2009	Not Printed
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<u>adjudicative proceedings</u>					
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<u>administrative penalties</u>					
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<u>administrative procedures</u>					
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Commerce, Corporations and Commercial Code	32518	R154-100-2	NSC	05/14/2009	Not Printed
Community and Culture, History	32243	R212-1	NSC	01/22/2009	Not Printed
Community and Culture, Library	32295	R223-1	NSC	02/05/2009	Not Printed
Crime Victim Reparations, Administration	32196	R270-2	NSC	01/12/2009	Not Printed
	32372	R277-102	5YR	02/13/2009	2009-5/26
	32424	R477-12-3	AMD	04/21/2009	2009-6/55
	32427	R477-12-3	EMR	03/02/2009	2009-6/87
Human Services, Administration, Administrative Hearings	32328	R497-100	NSC	02/25/2009	Not Printed
	32181	R497-100	AMD	01/21/2009	2008-24/21
Labor Commission, Adjudication	32276	R602-2-2	AMD	03/10/2009	2009-3/51
	32277	R602-7	NEW	03/10/2009	2009-3/52
	32482	R602-7-4	AMD	05/22/2009	2009-8/47
	32278	R602-8	NEW	03/10/2009	2009-3/57
	32483	R602-8-4	AMD	05/22/2009	2009-8/48
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	32485	R652-20-1600	AMD	05/22/2009	2009-8/52
	32486	R652-70	AMD	05/22/2009	2009-8/52
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	32214	R907-1	AMD	04/14/2009	2009-1/45
	32217	R907-3	NSC	01/12/2009	Not Printed
<u>administrative proceedings</u>					
Public Safety, Driver License	32503	R708-22	5YR	04/07/2009	2009-9/55
<u>adoption</u>					
Human Services, Child and Family Services	32657	R512-41	5YR	05/07/2009	2009-11/60
<u>adoption assistance</u>					
Workforce Services, Employment Development	32240	R986-500-502	NSC	01/22/2009	Not Printed

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<u>agriculture law</u>					
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<u>air pollution</u>					
Environmental Quality, Air Quality	32351	R307-101-3	AMD	05/07/2009	2009-5/8
	31928	R307-121	AMD	01/01/2009	2008-19/25
	32275	R307-121	5YR	01/06/2009	2009-3/86
	32353	R307-150	5YR	02/05/2009	2009-5/28
	32354	R307-405	5YR	02/05/2009	2009-5/28
	32042	R307-405-2	AMD	02/05/2009	2008-21/33
	32350	R307-840	AMD	05/07/2009	2009-5/9
	32656	R307-840	5YR	05/07/2009	2009-11/59
<u>aircraft</u>					
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	32037	R873-22M-23	AMD	01/01/2009	2008-21/89
<u>alarm company</u>					
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<u>alcoholic beverages</u>					
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	32414	R81-1-6	AMD	04/22/2009	2009-6/15
	32333	R81-1-28	AMD	03/24/2009	2009-4/8
	32556	R81-4A-2	EMR	05/01/2009	2009-10/145
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	32564	R81-4C-2	EMR	05/01/2009	2009-10/149
	32568	R81-4C-9	EMR	05/01/2009	2009-10/150
	32571	R81-4C-10	EMR	05/01/2009	2009-10/151
	32574	R81-4C-13	EMR	05/01/2009	2009-10/151
	32577	R81-4D-10	EMR	05/01/2009	2009-10/153
	32606	R81-5-18	EMR	05/01/2009	2009-10/154
<u>alternative fuels</u>					
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	32275	R307-121	5YR	01/06/2009	2009-3/86
<u>annuity insurance filings</u>					
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<u>annuity replacement</u>					
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<u>appellate procedures</u>					
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<u>appraisals</u>					
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	32063	R884-24P-27	AMD	01/01/2009	2008-21/90
	32036	R884-24P-47	AMD	01/01/2009	2008-21/92
	32044	R884-24P-53	AMD	01/01/2009	2008-21/93
	32052	R884-24P-70	AMD	01/01/2009	2008-21/97
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<u>archaeological resources</u>					
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<u>armored car security officers</u>					
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<u>audiology</u>					
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	32228	R414-59-4	AMD	02/24/2009	2009-2/29
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	32454	R398-10	5YR	03/19/2009	2009-8/62
<u>automatic fire sprinklers</u>					
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<u>background screening</u>					
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<u>bail bond enforcement agent</u>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	32088	R722-310	AMD	01/01/2009	2008-22/34

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<u>ballots</u> Lieutenant Governor, Elections	32512	R623-2	5YR	04/07/2009	2009-9/54
<u>barrier</u> Transportation, Preconstruction	32000	R930-3	AMD	01/12/2009	2008-21/98
<u>basic application procedures</u> Public Safety, Peace Officer Standards and Training	32132	R728-402	AMD	02/05/2009	2008-23/25
<u>bear</u> Natural Resources, Wildlife Resources	32319	R657-33-19	AMD	03/24/2009	2009-4/50
<u>bed allocations</u> Human Services, Substance Abuse and Mental Health	32183	R523-1-5	AMD	01/22/2009	2008-24/26
<u>bids</u> Transportation, Operations, Construction	32307	R916-2	NSC	02/05/2009	Not Printed
<u>big game</u> Natural Resources, Wildlife Resources	32299	R657-44-3	AMD	03/10/2009	2009-3/69
<u>big game seasons</u> Natural Resources, Wildlife Resources	32337	R657-5	AMD	03/24/2009	2009-4/43
	32462	R657-5-73	NSC	04/14/2009	Not Printed
<u>boilers</u> Labor Commission, Safety	32259	R616-2-3	AMD	02/24/2009	2009-2/34
<u>bonuses</u> Transportation, Administration	32213	R907-66	NSC	01/12/2009	Not Printed
<u>boxing</u> Sports Authority (Utah), Pete Suazo Utah Athletic Commission	32205	R859-1	AMD	05/01/2009	2009-1/42
	32188	R859-1-301	AMD	03/01/2009	2009-1/44
<u>brachytherapy</u> Environmental Quality, Radiation Control	32207	R313-32	AMD	02/12/2009	2009-1/30
<u>broad scope</u> Environmental Quality, Radiation Control	32206	R313-22-75	AMD	02/12/2009	2009-1/27
<u>building codes</u> Commerce, Occupational and Professional Licensing	32001	R156-56	AMD	01/01/2009	2008-21/9
	32476	R156-56-302	NSC	04/14/2009	Not Printed
<u>building inspection</u> Commerce, Occupational and Professional Licensing	32001	R156-56	AMD	01/01/2009	2008-21/9
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<u>buses</u> Education, Administration	32375	R277-601	5YR	02/13/2009	2009-5/27
<u>C plate</u> Transportation, Program Development	32076	R926-11	NEW	01/05/2009	2008-22/39
<u>cancer</u> Health, Community and Family Health Services, Chronic Disease	32465	R384-100	5YR	03/25/2009	2009-8/62
<u>capital punishment</u> Pardons (Board Of), Administration	32065	R671-312	AMD	02/25/2009	2008-22/30
<u>career and technical education</u> Education, Administration	32143	R277-518	AMD	01/07/2009	2008-23/7
	32146	R277-911	AMD	01/07/2009	2008-23/12
<u>cash management</u> Money Management Council, Administration	32293	R628-15-12	NSC	02/05/2009	Not Printed
	32294	R628-16-12	NSC	02/05/2009	Not Printed
<u>certification</u> Labor Commission, Safety	32259	R616-2-3	AMD	02/24/2009	2009-2/34
<u>certifications</u> Transportation, Motor Carrier	32215	R909-19	NSC	01/12/2009	Not Printed
<u>certified local inspector</u> Human Services, Administration, Administrative Services, Licensing	32191	R501-4-7	NSC	01/12/2009	Not Printed
<u>certified local museums</u> Community and Culture, Arts and Museums, Museum Services	32108	R210-100	NEW	01/01/2009	2008-22/21
<u>certified nurse midwife</u> Commerce, Occupational and Professional Licensing	32356	R156-44a	5YR	02/05/2009	2009-5/24
<u>charities</u> Tax Commission, Auditing	32008	R865-19S-12	AMD	01/01/2009	2008-21/80
	32017	R865-19S-27	AMD	01/01/2009	2008-21/81
	32030	R865-19S-29	AMD	01/01/2009	2008-21/82
	32007	R865-19S-90	AMD	01/01/2009	2008-21/83
	32016	R865-19S-92	AMD	01/01/2009	2008-21/84
	32012	R865-19S-113	AMD	01/01/2009	2008-21/85
	32013	R865-19S-119	AMD	01/01/2009	2008-21/86
<u>charter schools</u> Education, Administration	32663	R277-470-12	NSC	05/12/2009	Not Printed
<u>child care</u> Health, Health Systems Improvement, Child Care Licensing	32416	R430-100	AMD	07/01/2009	2009-6/43

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<u>child care facilities</u>					
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	31820	R430-6	R&R	02/16/2009	2008-17/54
	32683	R430-8	5YR	05/19/2009	Not Printed
	32416	R430-100	AMD	07/01/2009	2009-6/43
<u>child welfare</u>					
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	32042	R307-405-2	AMD	02/05/2009	2008-21/33
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	32476	R156-56-302	NSC	04/14/2009	Not Printed
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	32036	R884-24P-47	AMD	01/01/2009	2008-21/92
	32044	R884-24P-53	AMD	01/01/2009	2008-21/93
	32052	R884-24P-70	AMD	01/01/2009	2008-21/97
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