

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 Division of Administrative Rules, part of the Department of Administrative Services, produces the *Bulletin* under authority of Section 63G-3-402.

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Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764. Additional rulemaking information and electronic versions of all administrative rule publications are available at <http://www.rules.utah.gov/>.

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

Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Commerce Occupational and Professional Licensing

Public Notice of 2015 Board and Committee Meeting Schedules

NOTE: Meetings are subject to change - contact the Division at (801) 530-6628 to confirm meetings or check the Public Meeting Notice website (www.pmn.utah.gov). Most meetings are held in the Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah. Updated October 23, 2014.

January

6	Psychologist Licensing Board	9:00 a.m.
6	UBCC Architectural Advisory Committee and Unified Code Analysis Council combined meeting	9:00 a.m.
7	Plumbers Licensing Board	9:00 a.m.
7	Alarm System Security and Licensing Board	9:00 a.m.
7	Utah Board of Accountancy	1:30 p.m.
8	Board of Nursing	8:30 a.m.
8	Chiropractic Physicians Licensing Board	9:00 a.m.
8	UBCC Plumbing/Health Advisory Committee	9:30 a.m.
8	UBCC Structural Advisory Committee	3:00 p.m.
13	UBCC Mechanical Advisory Committee	1:00 p.m.
14	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
14	Substance Use Disorder Counselors Licensing Board	9:00 a.m.
14	Podiatric Physician Board	9:00 a.m.
14	Uniform Building Code Commission	9:00 a.m.
15	Electricians Licensing Board	9:00 a.m.
15	Veterinary Board	9:00 a.m.
15	UBCC Electrical Advisory Committee	1:30 p.m.
20	Board of Massage Therapy	9:00 a.m.
20	Acupuncture Licensing Board	9:00 a.m.
20	UBCC Education Advisory Committee	1:00 p.m.
20	Hunting Guides and Outfitters Licensing Board	1:00 p.m.
21	Physicians Licensing Board	9:00 a.m.
21	Professional Engineers and Professional Land Surveyor Licensing Board	9:00 a.m.
22	Contract Security Education Advisory Committee	10:00 a.m.
27	State Board of Pharmacy	8:30 a.m.
27	Optometrist Licensing Board	9:00 a.m.
27	Athletic Trainer Licensing Board	9:00 a.m.
28	Construction Services Commission	9:00 a.m.
29	Hearing Instrument Specialist Licensing Board	9:00 a.m.

February

3	Online Prescribing, Dispensing and Facilitation Licensing Board	9:00 a.m.
3	UBCC Architectural Advisory Committee and Unified Code Analysis Council combined meeting	9:00 a.m.
4	Plumbers Licensing Board	9:00 a.m.
4	Utah Board of Accountancy	1:30 p.m.
5	Nursing Education Peer Committee	8:30 a.m.
5	Social Worker Licensing Board	9:00 a.m.
5	UBCC Plumbing/Health Advisory Committee	9:30 a.m.
5	UBCC Structural Advisory Committee	3:00 p.m.
10	UBCC Mechanical Advisory Committee	1:00 p.m.

SPECIAL NOTICES

11	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
11	Architects Licensing Board	10:00 a.m.
11	Uniform Building Code Commission	9:00 a.m.
12	Board of Nursing	8:30 a.m.
12	Osteopathic Physician and Surgeon's Licensing Board	9:00 a.m.
12	Security Services Licensing Board	9:00 a.m.
12	Professional Geologist Licensing Board	10:00 a.m.
12	UBCC Electrical Advisory Committee	1:30 p.m.
17	UBCC Education Advisory Committee	1:00 p.m.
18	Speech-Language Pathology and Audiology Licensing Board	9:00 a.m.
18	Board of Funeral Service	9:00 a.m.
18	Vocational Rehabilitation Counselor Licensing Board	2:00 p.m.
19	Electricians Licensing Board	9:00 a.m.
24	State Board of Pharmacy	8:30 a.m.
24	Health Facility Administrators Licensing Board	9:00 a.m.
25	Construction Services Commission	9:00 a.m.
27	Licensed Direct-Entry Midwife Board	9:00 a.m.

March

2	Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board	9:00 a.m.
3	UBCC Architectural Advisory Committee and Unified Code Analysis Council combined meeting	9:00 a.m.
4	Plumbers Licensing Board	9:00 a.m.
4	Utah Board of Accountancy	1:30 p.m.
5	Nursing Education Peer Committee	8:30 a.m.
5	Dentist and Dental Hygienist Licensing Board	9:00 a.m.
5	Alarm System Security and Licensing Board	9:00 a.m.
5	UBCC Plumbing/Health Advisory Committee	9:30 a.m.
5	UBCC Structural Advisory Committee	3:00 p.m.
9	Physician Assistant Licensing Board	9:00 a.m.
9	Controlled Substance Advisory Committee	4:00 p.m.
10	UBCC Mechanical Advisory Committee	1:00 p.m.
11	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
11	Uniform Building Code Commission	9:00 a.m.
12	Board of Nursing	8:30 a.m.
12	Radiology Technologist Licensing Board	1:00 p.m.
12	UBCC Electrical Advisory Committee	1:30 p.m.
13	Marriage and Family Therapist Licensing Board	9:00 a.m.
17	UBCC Education Advisory Committee	1:00 p.m.
17	Clinical Mental Health Counselor Board	9:00 a.m.
17	Board of Massage Therapy	9:00 a.m.
17	Physical Therapy Licensing Board	9:00 a.m.
17	Respiratory Care Licensing Board	9:00 a.m.
17	Building Inspector Licensing Board	10:00 a.m.
18	Physicians Licensing Board	9:00 a.m.
18	Professional Engineers and Professional Land Surveyor Licensing Board	9:00 a.m.
18	Deception Detection Examiners Licensing Board	1:00 p.m.
19	Electricians Licensing Board	9:00 a.m.
24	State Board of Pharmacy	8:30 a.m.
25	Construction Services Commission	9:00 a.m.

April

1	Plumbers Licensing Board	9:00 a.m.
1	Utah Board of Accountancy	1:30 p.m.
2	Nursing Education Peer Committee	8:30 a.m.

2	UBCC Plumbing/Health Advisory Committee	9:30 a.m.
2	UBCC Structural Advisory Committee	3:00 p.m.
6	Recreation Therapy Board	9:00 a.m.
7	Psychologist Licensing Board	9:00 a.m.
7	UBCC Architectural Advisory Committee and Unified Code Analysis Council combined meeting	9:00 a.m.
8	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
8	Podiatric Physician Board	9:00 a.m.
8	Uniform Building Code Commission	9:00 a.m.
8	Architects Licensing Board	10:00 a.m.
9	Board of Nursing	8:30 a.m.
9	Security Services Licensing Board	9:00 a.m.
9	Social Worker Licensing Board	9:00 a.m.
9	Chiropractic Physicians Licensing Board	9:00 a.m.
9	UBCC Electrical Advisory Committee	1:30 p.m.
14	Occupational Therapy Board	9:00 a.m.
14	UBCC Mechanical Advisory Committee	1:00 p.m.
15	Landscape Architects Licensing Board	1:00 p.m.
16	Electricians Licensing Board	9:00 a.m.
16	Certified Court Reporter Licensing Board	2:00 p.m.
21	UBCC Education Advisory Committee	1:00 p.m.
21	Hunting Guides and Outfitters Licensing Board	1:00 p.m.
22	Substance Use Disorder Counselors Licensing Board	9:00 a.m.
23	Genetic Counselor Licensing Board	9:00 a.m.
28	State Board of Pharmacy	8:30 a.m.
28	Optometrist Licensing Board	9:00 a.m.
28	Athletic Trainer Licensing Board	9:00 a.m.
29	Construction Services Commission	9:00 a.m.
30	Environmental Health Scientist Licensing Board	9:00 a.m.
30	Hearing Instrument Specialist Licensing Board	9:00 a.m.

May

5	UBCC Architectural Advisory Committee and Unified Code Analysis Council combined meeting	9:00 a.m.
6	Plumbers Licensing Board	9:00 a.m.
6	Utah Board of Accountancy	1:30 p.m.
7	Nursing Education Peer Committee	8:30 a.m.
7	Alarm System Security and Licensing Board	9:00 a.m.
7	UBCC Plumbing/Health Advisory Committee	9:30 a.m.
7	UBCC Structural Advisory Committee	3:00 p.m.
12	UBCC Mechanical Advisory Committee	1:00 p.m.
13	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
13	Dietitian Board	9:00 a.m.
13	Uniform Building Code Commission	9:00 a.m.
14	Board of Nursing	8:30 a.m.
14	Osteopathic Physician and Surgeon's Licensing Board	9:00 a.m.
14	UBCC Electrical Advisory Committee	1:30 p.m.
19	Board of Massage Therapy	9:00 a.m.
19	Certified Nurse Midwife Board	2:00 p.m.
19	UBCC Education Advisory Committee	1:00 p.m.
20	Physicians Licensing Board	9:00 a.m.
20	Board of Funeral Service	9:00 a.m.
20	Professional Engineers and Professional Land Surveyor Licensing Board	9:00 a.m.
21	Electricians Licensing Board	9:00 a.m.
21	Contract Security Education Advisory Committee	10:00 a.m.
26	State Board of Pharmacy	8:30 a.m.
27	Construction Services Commission	9:00 a.m.

SPECIAL NOTICES

June

1	Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board	9:00 a.m.
2	UBCC Architectural Advisory Committee and Unified Code Analysis Council combined meeting	9:00 a.m.
3	Plumbers Licensing Board	9:00 a.m.
3	Utah Board of Accountancy	1:30 p.m.
4	Nursing Education Peer Committee	8:30 a.m.
4	Social Worker Licensing Board	9:00 a.m.
4	Veterinary Board	9:00 a.m.
4	UBCC Plumbing/Health Advisory Committee	9:30 a.m.
4	UBCC Structural Advisory Committee	3:00 p.m.
8	Controlled Substance Advisory Committee	4:00 p.m.
9	UBCC Mechanical Advisory Committee	1:00 p.m.
10	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
10	Uniform Building Code Commission	9:00 a.m.
10	Architects Licensing Board	10:00 a.m.
11	Board of Nursing	8:30 a.m.
11	Security Services Licensing Board	9:00 a.m.
11	Naturopathic Physicians Licensing Board	9:00 a.m.
11	Dentist and Dental Hygienist Licensing Board	9:00 a.m.
11	Professional Geologist Licensing Board	10:00 a.m.
11	UBCC Electrical Advisory Committee	1:30 p.m.
12	Marriage and Family Therapist Licensing Board	9:00 a.m.
15	Physician Assistant Licensing Board	9:00 a.m.
16	Clinical Mental Health Counselor Board	9:00 a.m.
16	Acupuncture Licensing Board	9:00 a.m.
16	Physical Therapy Licensing Board	9:00 a.m.
16	Building Inspector Licensing Board	10:00 a.m.
16	UBCC Education Advisory Committee	1:00 p.m.
17	Respiratory Care Licensing Board	9:00 a.m.
18	Electricians Licensing Board	9:00 a.m.
18	Private Probation Providers Licensing Board	10:00 a.m.
23	State Board of Pharmacy	8:30 a.m.
24	Construction Services Commission	9:00 a.m.

July

1	Plumbers Licensing Board	9:00 a.m.
1	Utah Board of Accountancy	1:30 p.m.
2	Nursing Education Peer Committee	8:30 a.m.
2	Alarm System Security and Licensing Board	9:00 a.m.
2	UBCC Plumbing/Health Advisory Committee	9:30 a.m.
2	UBCC Structural Advisory Committee	3:00 p.m.
7	Psychologist Licensing Board	9:00 a.m.
7	UBCC Architectural Advisory Committee and Unified Code Analysis Council combined meeting	9:00 a.m.
8	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
8	Substance Use Disorder Counselors Licensing Board	9:00 a.m.
8	Podiatric Physician Board	9:00 a.m.
8	Uniform Building Code Commission	9:00 a.m.
9	Board of Nursing	8:30 a.m.
9	Chiropractic Physicians Licensing Board	9:00 a.m.
9	Radiology Technologist Licensing Board	1:00 p.m.
9	UBCC Electrical Advisory Committee	1:30 p.m.
14	UBCC Mechanical Advisory Committee	1:00 p.m.
15	Physicians Licensing Board	9:00 a.m.
15	Speech-Language Pathology and Audiology Licensing Board	9:00 a.m.

15	Professional Engineers and Professional Land Surveyor Licensing Board	9:00 a.m.
16	Electricians Licensing Board	9:00 a.m.
20	Contract Security Education Advisory Committee	10:00 a.m.
21	Board of Massage Therapy	9:00 a.m.
21	UBCC Education Advisory Committee	1:00 p.m.
28	State Board of Pharmacy	8:30 a.m.
28	Optometrist Licensing Board	9:00 a.m.
28	Athletic Trainer Licensing Board	9:00 a.m.
29	Construction Services Commission	9:00 a.m.
30	Hearing Instrument Specialist Licensing Board	9:00 a.m.

August

4	Online Prescribing, Dispensing and Facilitation Licensing Board	9:00 a.m.
4	UBCC Architectural Advisory Committee and Unified Code Analysis Council combined meeting	9:00 a.m.
4	Hunting Guides and Outfitters Licensing Board	1:00 p.m.
5	Plumbers Licensing Board	9:00 a.m.
5	Utah Board of Accountancy	1:30 p.m.
6	Nursing Education Peer Committee	8:30 a.m.
6	Social Worker Licensing Board	9:00 a.m.
6	UBCC Plumbing/Health Advisory Committee	9:30 a.m.
6	UBCC Structural Advisory Committee	3:00 p.m.
11	Environmental Health Scientist Licensing Board	9:00 a.m.
11	UBCC Mechanical Advisory Committee	1:00 p.m.
12	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
12	Architects Licensing Board	10:00 a.m.
12	Uniform Building Code Commission	9:00 a.m.
13	Board of Nursing	8:30 a.m.
13	Security Services Licensing Board	9:00 a.m.
13	Osteopathic Physician and Surgeon's Licensing Board	9:00 a.m.
13	UBCC Electrical Advisory Committee	1:30 p.m.
18	UBCC Education Advisory Committee	1:00 p.m.
19	Board of Funeral Service	9:00 a.m.
20	Electricians Licensing Board	9:00 a.m.
25	State Board of Pharmacy	8:30 a.m.
25	Health Facility Administrators Licensing Board	9:00 a.m.
26	Construction Services Commission	9:00 a.m.

September

1	UBCC Architectural Advisory Committee and Unified Code Analysis Council combined meeting	9:00 a.m.
2	Plumbers Licensing Board	9:00 a.m.
2	Utah Board of Accountancy	1:30 p.m.
3	Nursing Education Peer Committee	8:30 a.m.
3	Dentist and Dental Hygienist Licensing Board	9:00 a.m.
3	Alarm System Security and Licensing Board	9:00 a.m.
3	UBCC Plumbing/Health Advisory Committee	9:30 a.m.
3	UBCC Structural Advisory Committee	3:00 p.m.
9	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
9	Uniform Building Code Commission	9:00 a.m.
9	UBCC Mechanical Advisory Committee	1:00 p.m.
10	Board of Nursing	8:30 a.m.
10	UBCC Electrical Advisory Committee	1:30 p.m.
11	Marriage and Family Therapist Licensing Board	9:00 a.m.

SPECIAL NOTICES

14	Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board	9:00 a.m.
14	Physician Assistant Licensing Board	9:00 a.m.
14	Controlled Substance Advisory Committee	4:00 p.m.
15	Physical Therapy Licensing Board	9:00 a.m.
15	Clinical Mental Health Counselor Board	9:00 a.m.
15	Respiratory Care Licensing Board	9:00 a.m.
15	Building Inspector Licensing Board	10:00 a.m.
15	UBCC Education Advisory Committee	1:00 p.m.
16	Physicians Licensing Board	9:00 a.m.
16	Professional Engineers and Professional Land Surveyor Licensing Board	9:00 a.m.
16	Deception Detection Examiners Licensing Board	1:00 p.m.
17	Electricians Licensing Board	9:00 a.m.
22	State Board of Pharmacy	8:30 a.m.
22	Board of Massage Therapy	9:00 a.m.
24	Licensed Direct-Entry Midwife Board	9:00 a.m.
30	Construction Services Commission	9:00 a.m.

October

1	Nursing Education Peer Committee	8:30 a.m.
1	Social Worker Licensing Board	9:00 a.m.
1	Veterinary Board	9:00 a.m.
1	UBCC Plumbing/Health Advisory Committee	9:30 a.m.
1	UBCC Structural Advisory Committee	3:00 p.m.
5	Recreation Therapy Board	9:00 a.m.
6	Psychologist Licensing Board	9:00 a.m.
6	UBCC Architectural Advisory Committee and Unified Code Analysis Council combined meeting	9:00 a.m.
7	Plumbers Licensing Board	9:00 a.m.
7	Utah Board of Accountancy	1:30 p.m.
8	Board of Nursing	8:30 a.m.
8	Security Services Licensing Board	9:00 a.m.
8	Chiropractic Physicians Licensing Board	9:00 a.m.
8	Professional Geologist Licensing Board	10:00 a.m.
8	UBCC Electrical Advisory Committee	1:30 p.m.
13	Occupational Therapy Board	9:00 a.m.
13	UBCC Mechanical Advisory Committee	1:00 p.m.
14	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
14	Substance Use Disorder Counselors Licensing Board	9:00 a.m.
14	Podiatric Physician Board	9:00 a.m.
14	Uniform Building Code Commission	9:00 a.m.
14	Architects Licensing Board	10:00 a.m.
14	Vocational Rehabilitation Counselor Licensing Board	2:00 p.m.
15	Electricians Licensing Board	9:00 a.m.
20	UBCC Education Advisory Committee	1:00 p.m.
20	Certified Court Reporter Licensing Board	2:00 p.m.
21	Landscape Architects Licensing Board	1:00 p.m.
27	State Board of Pharmacy	8:30 a.m.
27	Optometrist Licensing Board	9:00 a.m.
27	Athletic Trainer Licensing Board	9:00 a.m.
28	Construction Services Commission	9:00 a.m.
29	Hearing Instrument Specialist Licensing Board	9:00 a.m.

November

3	UBCC Architectural Advisory Committee and Unified Code Analysis Council combined meeting	9:00 a.m.
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4	Plumbers Licensing Board	9:00 a.m.
4	Utah Board of Accountancy	1:30 p.m.
5	Nursing Education Peer Committee	8:30 a.m.
5	Alarm System Security and Licensing Board	9:00 a.m.
5	UBCC Plumbing/Health Advisory Committee	9:30 a.m.
5	UBCC Structural Advisory Committee	3:00 p.m.
10	UBCC Mechanical Advisory Committee	1:00 p.m.
11	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
11	Uniform Building Code Commission	9:00 a.m.
12	Board of Nursing	8:30 a.m.
12	Naturopathic Physicians Licensing Board	9:00 a.m.
12	Osteopathic Physician and Surgeon's Licensing Board	9:00 a.m.
12	Radiology Technologist Licensing Board	1:00 p.m.
12	UBCC Electrical Advisory Committee	1:30 p.m.
14	Board of Massage Therapy	9:00 a.m.
17	Certified Nurse Midwife Board	2:00 p.m.
17	UBCC Education Advisory Committee	1:00 p.m.
17	Hunting Guides and Outfitters Licensing Board	1:00 p.m.
18	Physicians Licensing Board	9:00 a.m.
18	Board of Funeral Service	9:00 a.m.
18	Professional Engineers and Professional Land Surveyor Licensing Board	9:00 a.m.
19	Electricians Licensing Board	9:00 a.m.
19	Contract Security Education Advisory Committee	10:00 a.m.
24	State Board of Pharmacy	8:30 a.m.
25	Construction Services Commission	9:00 a.m.

December

1	UBCC Architectural Advisory Committee and Unified Code Analysis Council combined meeting	9:00 a.m.
2	Plumbers Licensing Board	9:00 a.m.
2	Utah Board of Accountancy	1:30 p.m.
3	Nursing Education Peer Committee	8:30 a.m.
3	Social Worker Licensing Board	9:00 a.m.
3	Dentist and Dental Hygienist Licensing Board	9:00 a.m.
3	UBCC Plumbing/Health Advisory Committee	9:30 a.m.
3	UBCC Structural Advisory Committee	3:00 p.m.
7	Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board	9:00 a.m.
8	UBCC Mechanical Advisory Committee	1:00 p.m.
9	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
9	Uniform Building Code Commission	9:00 a.m.
9	Architects Licensing Board	10:00 a.m.
10	Board of Nursing	8:30 a.m.
10	Security Services Licensing Board	9:00 a.m.
10	UBCC Electrical Advisory Committee	1:30 p.m.
11	Marriage and Family Therapist Licensing Board	9:00 a.m.
14	Physician Assistant Licensing Board	9:00 a.m.
15	Physical Therapy Licensing Board	9:00 a.m.
15	Clinical Mental Health Counselor Board	9:00 a.m.
15	Respiratory Care Licensing Board	9:00 a.m.
15	Building Inspector Licensing Board	10:00 a.m.
15	UBCC Education Advisory Committee	1:00 p.m.
17	Electricians Licensing Board	9:00 a.m.
17	Private Probation Providers Licensing Board	10:00 a.m.
22	State Board of Pharmacy	8:30 a.m.
30	Construction Services Commission	9:00 a.m.

Health
Health Care Financing, Coverage and Reimbursement Policy
Notice for December 2014 Medicaid Rate Changes

Effective December 1, 2014, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between October 16, 2014, 12:00 a.m., and October 31, 2014, 11:59 p.m. are included in this, the November 15, 2014, issue of the *Utah State Bulletin*.

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

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them (~~example~~). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Division of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the 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 December 15, 2014. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through March 15, 2015, 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 OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

**Commerce, Occupational and
Professional Licensing
R156-11a
Barber, Cosmetologist/Barber,
Esthetician, Electrologist and Nail
Technician Licensing Act Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38928

FILED: 10/30/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Board reviewed this rule and determined that the following changes need to be made. The purpose of this filing is to: 1) define "acrylic nail" in accordance with S.B. 143, which was passed during the 2014 General Legislative Session; 2) add definitions for "microneedling" and "source capture system"; 3) add clarifying language to the existing definitions of "dermabrasion or open dermabrasion" and "exfoliation"; 4) add language so that the Division may, under extenuating circumstances, accept an applicant's examination results that are more than one year prior to the date of application; 5) remove the Utah Barber, Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Law and Rule Examination requirement from licensure; 6) add administrative penalties for additional violations of unlawful conduct; 7) create consistency in unlawful conduct penalties; 8) change the penalty for using methyl methacrylate (MMA) to apply not only nail technicians but to all professions licensed under this chapter; 9) clarify the language for evaluating whether a newly-licensed school entity succeeded a previously-licensed school entity; 10) clarify the language under the standards for protection of schools and standards for instructors; 11) establish boundaries for microneedling in the standards for the use of acids; 12) establish the requirements for a microneedling device to be approved; and 13) add microneedling to the standards for disclosure.

SUMMARY OF THE RULE OR CHANGE: In Section R156-11a-102, adds definitions for "acrylic nail", "microneedling", and "source capture system". Also, adds language to the existing definitions of "dermabrasion or open dermabrasion" and "exfoliation". In Section R156-11a-302a, modifies language so that the Division may, under extenuating circumstances, accept an applicant's examination results that are more than one year prior to the date of application and removes the Utah Barber, Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Law and Rule Examination requirement for licensure. In Section R156-11a-503, adds

administrative penalties for additional violations of unlawful conduct, modifies the unlawful conduct penalties for consistency and changes the penalty for using methyl methacrylate to apply not only nail technicians but to all professions licensed under this chapter. In Section R156-11a-601, clarifies language for evaluating whether a newly-licensed school entity has succeeded a previously-licensed school entity for the purposes of accreditation. In Section R156-11a-606, adds a reference to Section R156-11a-302c. In Section R156-11a-609, establishes that basic esthetics may be taught only by a cosmetology/barbering instructor as part of the cosmetology/barbering curriculum. In Section R156-11a-610, establishes that any exfoliating acid may not be applied to a client's skin within seven days of undergoing microneedling unless under the general supervision of a licensed health care practitioner. In Section R156-11a-611, establishes the requirements for a microneedling device to be approved. In Section R156-11a-612, adds microneedling to the standards for disclosure.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-11a-101 and Subsection 58-1-106(1) (a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

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

♦ **LOCAL GOVERNMENTS:** The proposed amendments apply to various license classifications provided in Title 58, Chapter 11a, and to applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.

♦ **SMALL BUSINESSES:** The proposed amendments apply to various license classifications provided in Title 58, Chapter 11a, and to applicants for licensure in those classifications. Licensees and applicants for licensure may work in a small business or qualify as a small business. The Division anticipates that these proposed amendments will not result in any additional encumbrances for small businesses beyond what is currently identified in statute or rule or what was considered by the Legislature in the passage of S.B. 143 (2014).

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments apply to licensees in various license classifications provided in Title 58, Chapter 11a, and to applicants for licensure in those classifications. The change made in Subsection R156-11a-503(1) increases the second offense fine amount for practicing or engaging in activity for which a license is required and the changes made in Subsections R156-11a-503(2) and (3) expand the use or possession of MMA to all professions outlined in Title 58, Chapter 11a. The Division anticipates these proposed changes will increase the total fine amounts collected by the Division; however, a total amount cannot be quantified due to a wide range of circumstances. The Division also notes that

due to the discontinuance of the law and rule examination for applicants, no fees were involved with this examination as the examination was included as a part of the application for licensure only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments apply to licensees in various license classifications provided in Title 58, Chapter 11a, and applicants for licensure in those classifications. The change made in Subsection R156-11a-503(1) increases the second offense fine amount for practicing or engaging in activity for which a license is required and the changes made in Subsections R156-11a-503(2) and (3) expand the use or possession of MMA to all professions outlined in Title 58, Chapter 11a. The Division anticipates these proposed changes will increase the total fine amounts collected by the Division; however, a total amount cannot be quantified due to a wide range of circumstances. The Division also notes that due to the discontinuance of the law and rule examination for applicants, no fees were involved with this examination as the examination was included as a part of the application for licensure only.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing responds to legislative action under S.B. 143 (2014), which requires rulemaking to establish a definition for the term "acrylic nail". In addition, the filing clarifies the testing requirements that apply to several licenses. The filing also responds to industry trends by establishing definitions for new equipment and techniques and by stating the standards and circumstances under which licensees may appropriately use such equipment and techniques. Finally, the filing broadens administrative penalties section to apply to all professional licenses regulated under Title 58, Chapter 11a. These amendments apply to individuals who are either seeking licensure or practicing with the profession. No fiscal impact to businesses is anticipated.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Dane Ishihara by phone at 801-530-7632, by FAX at 801-530-6511, or by Internet E-mail at dishihara@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2014

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 12/01/2014 10:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2014

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-11a. Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule.
R156-11a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 11a, as used in Title 58, Chapters 1 and 11a or this rule:

(1) "Acrylic nail", as used in Subsections 15A-3-401(4) and R156-11a-102(25), means an extension for natural nails molded out of a polymer powder and a liquid monomer buffed to a shine.

([1]2) "Advanced pedicures", as used in Subsection 58-11a-102(34)(a)(i)(D), means any of the following while caring for the nails, cuticles or calluses of the feet:

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

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

(c) utilizing topical products and preparations for chemical exfoliation as defined in Subsection R156-11a-610(4).

([2]3) "Aroma therapy" means the application of essential oils which are applied directly to the skin, undiluted or in a misted dilution with a carrier oil or lotion. for varied applications such as massage, hot packs, cold packs, compress, inhalation, steam or air diffusion, or in hydrotherapy services.

([3]4) "BCA acid" means bicloroacetic acid.

([4]5) "Body wraps", as used in Subsection 58-11a-102(34)(a)(i)(A), means body treatments utilizing products or equipment to enhance and maintain the texture, contour, integrity and health of the skin and body.

([5]6) "Chemical exfoliation", as defined in Subsections 58-11a-102(34)(a)(i)(C) and R156-11a-610(4), means a resurfacing procedure performed with a chemical solution or product for the purpose of removing superficial layers of the epidermis to a point no deeper than the stratum corneum.

([6]7) "Dermabrasion or open dermabrasion" means the surgical application of a wire or diamond frieze for deep skin resurfacing by a physician to abrade the skin to the epidermis and possibly down to the papillary dermis.

([7]8) "Dermaplane" means the use of a scalpel or bladed instrument under the direct supervision of a health care practitioner to shave the upper layers of the stratum corneum.

([8]9) "Direct supervision by a licensed health care practitioner" means a health care practitioner who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4)(a).

- ([9]10) "Equivalent number of credit hours" means:
- (a) the following conversion table if on a semester basis:
 - (i) theory - 1 credit hour - 30 clock hours;
 - (ii) practice - 1 credit hour - 30 clock hours; and
 - (iii) clinical experience - 1 credit hour - 45 clock hours;

and

- (b) the following conversion table if on a quarter basis:
 - (i) theory - 1 credit hour - 20 clock hours;
 - (ii) practice - 1 credit hour - 20 clock hours; and
 - (iii) clinical experience - 1 credit hour - 30 clock hours.

([10]11) "Exfoliation" means the sloughing off of non-living skin cells "corneocytes" by superficial and non-invasive means.

([11]12) "Extraction" means the following:

(a) "advanced extraction", as used in Subsections 58-11a-102(34)(a)(i)(F) and R156-11a-611(2)(b), means to perform extraction with a lancet or device that removes impurities from the skin;

(b) "manual extraction", as used in Subsection 58-11a-102(25)(a), means to remove impurities from the skin with protected fingertips, cotton swabs or a loop comedone extractor.

([12]13) "Galvanic current" means a constant low-voltage direct current.

([13]14) "General supervision by a licensed health care practitioner" means a health care practitioner who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4)(c).

([14]15) "Health care practitioner" means a physician/surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a podiatrist under Title 58, Chapter 5A, Podiatric Physician Licensing Act, or a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Practice Act, acting within the appropriate scope of practice.

([15]16) "Hydrotherapy", as used in Subsection 58-11a-102(34)(a)(i)(B), means the use of water for cosmetic purposes or beautification of the body.

([16]17) "Indirect supervision" means the supervising instructor who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4)(b).

([17]18) "Limited chemical exfoliation" means a non-invasive chemical exfoliation and is further defined in Subsection R156-11a-610(3).

([18]19) "Lymphatic massage", as used in Subsections 58-11a-102(34)(a)(ii) and 58-11a-302(11)(e), means a method using a light rhythmic pressure applied by manual or other means to the skin using specific lymphatic maneuvers to promote drainage of the lymphatic fluid through the tissue.

([19]20) "Manipulating", as used in Subsection 58-11a-102(28)(a), means applying a light pressure by the hands to the skin.

([20]21) "Microdermabrasion", as used in Subsection 58-11a-102(34)(a)(i)(E), means a gentle, progressive, superficial, mechanical exfoliation of the uppermost layers of the stratum corneum using a closed-loop vacuum system.

(22) "Microneedling" means the use of multiple tiny solid needles designed to pierce the skin for the purpose of stimulating collagen production or cellular renewal. Devices used may be in the form of rollers, stamps or electronic "pens". It is also known as:

(a) dermal needling;

(b) Collagen Induction Therapy (CIT);

(c) dermal rolling;

(d) cosmetic dry needling;

(e) multitrepannic collagen actuation; or

(f) percutaneous collagen induction.

([21]23) "Patch test" or "predisposition test" means applying a small amount of a chemical preparation to the skin of the arm or behind the ear to determine possible allergies of the client to the chemical preparation.

([22]24) "Pedicure" means any of the following:

(a) cleaning, trimming, softening, or caring for the nails, cuticles, or calluses of the feet;

(b) the use of manual instruments or implements on the nails, cuticles, or calluses of the feet;

(c) callus removal by sanding, buffing, or filing; or

(d) massaging of the feet or lower portion of the leg.

(25) "Source capture system", as used in Subsections 15A-3-401(4) and 58-11a-502(7), means an air filtration and recirculation system that shall be:

(a) maintained and cleaned according to the manufacturer's instructions; and

(b) capable of:

(i) filtering and recirculating air to inside space not less than 50 cubic feet per minute (cfm) per acrylic nail station; or

(ii) exhausting not less than 50 cubic feet per minute (cfm) per acrylic nail station.

([23]26) "TCA acid" means trichloroacetic acid.

([24]27) "Unprofessional conduct" is further defined, in accordance with Section 58-1-501, in Section R156-11a-502.

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

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

(1) Applicants for each classification listed below shall pass within one year prior to the date of application, or within other reasonable timeframe as approved by the Division upon review of applicable extenuating circumstances, the respective examination with a passing score of at least 75% as determined by the examination provider.

(a) Applicants for licensure as a barber shall pass the National Interstate Council of State Boards of Cosmetology (NIC) Barber Theory and Practical Examinations.

(b) Applicants for licensure as a cosmetologist/barber shall pass the NIC Cosmetology/Barber Theory and Practical Examinations.

(c) Applicants for licensure as an electrologist shall pass the NIC Electrologist Theory and Practical Examinations.

(d) Applicants for licensure as a basic esthetician shall pass the NIC Esthetics Theory and Practical Examinations.

(e) Applicants for licensure as a master esthetician shall pass the NIC Master Esthetician Theory and Practical Examinations.

(f) Applicants for licensure as a barber instructor, cosmetologist/barber instructor, electrology instructor, esthetician instructor, or nail technology instructor shall pass the NIC Instructor Examination.

(g) Applicants for licensure as a nail technician shall pass the NIC Nail Technician Theory and Practical Examinations.

~~(2) [Applicants for licensure shall pass with a score of at least 75% the Utah Barber, Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Law and Rule Examination.~~

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

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

In accordance with Subsections 58-1-501(1)(a) and (c), 58-11a-301(1) and (2), 58-11a-502(1), (2), ~~or (4), (5), (6), or (7),~~ and 58-11a-503(4), unless otherwise ordered by the presiding officer, the following fine schedule shall apply to citations issued under Title 58, Chapter 11a.

(1) Practicing or engaging in, or attempting to practice or engage in activity for which a license is required under Title 58, Chapter 11a in violation of Subsection 58-11a-502(1).

First Offense: \$200

Second Offense: ~~[\$300]~~400

(2) Knowingly employing any other person to engage in or practice or attempt to engage in or practice any occupation or profession for which a license is required under Title 58, Chapter 11a in violation of Subsection 58-11a-502(2).

First Offense: \$400

Second Offense: \$800

(3)(a) Using ~~[as a nail technician]~~ a solution composed of at least 10% methyl methacrylate (MMA) on a client in violation of Subsection 58-11a-502(4)

First Offense: \$500

Second Offense: \$1,000

(b) Possessing ~~[as a nail technician]~~ a solution composed of at least 10% methyl methacrylate (MMA) in violation of Subsection 58-11a-502(4)

First Offense: \$500

Second Offense: \$1,000

(4) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-11a-503(4) (h).

(5) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(6) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(7) The presiding officer for a contested citation shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence reviewed.

R156-11a-601. Standards for Accreditation.

In accordance with Subsections 58-11a-302(3)(c)(iv), (6) (c)(iv), (9)(c)(iv), (13)(c)(iv), and (16)(c)(iv), the accreditation standards for a barber school, a cosmetology/barber school, an electrology school, an esthetics school, and a nail technology school include:

(1) Each school shall be required to become accredited by:

(a) the National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS); or

(b) other accrediting commissions recognized by the Utah Board of Regents for post secondary schools.

(2) Each school shall maintain and keep the accreditation current.

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

(a) A new school shall:

(i) submit an application for candidate status for accreditation to an accrediting commission within one month of the date when the school was licensed by the Division as a barber school, a cosmetology/barber school, an electrology school, an esthetics school, or a nail technology school;

(ii) provide evidence received from the accrediting commission to the Division of achieving candidate status within 12 months of the date the school was licensed;

(iii) file an "Exemption of Registration as a Post-Secondary Proprietary School" form with the Division of Consumer Protection pursuant to Sections 13-34-101 and R152-34-1;

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

(v) have 24 months following the date of achieving candidate status to be approved for accreditation.

~~(b) The Division shall determine whether a newly-licensed school entity has succeeded a previously-licensed school entity for the purposes of achieving accreditation.~~

~~(c) If a newly-licensed school is determined by the Division to be a new entity, then the newly-licensed school shall comply with the accreditation deadlines that are specified in Subsection R156-11a-601(3)(a) above.~~

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

~~(4) The Division's determination shall be based upon whether the newly-licensed school:~~

~~(a) operates on essentially the same premises as the previously-licensed school;~~

~~(b) uses essentially the same staff;~~

~~(c) operates under essentially the same ownership; and~~

~~(d) maintains the previously-licensed schools's accreditation status with the applicable governing accreditation commission.~~

~~(5) A licensee whose accreditation has been withdrawn shall immediately notify the Division.~~

~~(b)(i) If the entity is a newly licensed school, but the facility is operated on essentially the same premises with essentially~~

~~the same staff then the newly licensed school shall meet the accreditation deadlines that were applicable to the predecessor licensed school.~~

~~(ii) The determination of whether a newly licensed school entity has succeeded a predecessor shall be made by the Division.~~

] (4) A licensee who fails to obtain or maintain accreditation status, as required herein, shall immediately surrender to the Division its license as a school. Failure to do so shall constitute a basis for immediate revocation of licensure in accordance with Section 63G-4-502.

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

In accordance with Subsections 58-11a-302(3)(c)(iv), (6)(c)(iv), (9)(c)(iv), (13)(c)(iv), and (16)(c)(iv), standards for the protection of barber, cosmetology/barber, electrology, esthetics, and nail technology schools shall include the following:

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

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

(3) Hours obtained ~~while~~ by a student who is enrolled in a barber, cosmetology/barber, esthetics, master esthetics, or nail technology apprenticeship ~~shall~~ may not be used to satisfy any of the required hours of school instruction.

R156-11a-609. Standards for Instructors.

(1) In accordance with Subsections 58-11a-302(2)(e) and (f), (5)(e) and (f), (8)(e) and (f), (12)(e) and (f), and (15)(e) and (f), barber, cosmetology/barber, electrology, esthetics, and nail technology instructors may only teach in those areas for which they have received training and are qualified to teach.

(2) In accordance with Subsection 58-11a-102(9), an individual licensed as a cosmetology/barbering instructor may teach barbering, basic esthetics as part of the cosmetology/barbering curriculum or nail technology in a licensed barber school, a licensed cosmetology/barber school or a licensed nail technology school or in an approved barber, cosmetology/barber ~~basic esthetics~~ or nail technology apprenticeship, provided the individual can demonstrate the same experience as required in Subsection (1).

(3) An instructor may only teach the use of a mechanical or electrical apparatus for which the instructor is trained and qualified.

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

In accordance with Subsections 58-11a-102(25)(b) and (31)(a)(i)(C) and 58-11a-501(17), the standards for the use of any acid or concentration of acids, shall be:

(1) The use of any acid or acid solution which would exfoliate the skin below the stratum corneum, including those listed in Subsections (3) and (4), is prohibited unless used under the supervision of a licensed health care practitioner.

(2) The following acids are prohibited unless used under the supervision of a licensed health care practitioner:

- (a) phenol;
- (b) bichloroacetic acid;

(c) resorcinol, except as provided in Subsection (4)(b); and

(d) any acid in any concentration level that requires a prescription.

(3) Limited chemical exfoliation for a basic esthetician does not include the mixing, combining or layering of skin exfoliation products or services, but does include:

(a) alpha hydroxy acids of 30% or less, with a pH of not less than 3.0; and

(b) salicylic acid of 15% or less.

(4) Chemical exfoliation for a master esthetician includes:

(a) acids allowed for a basic esthetician;

(b) modified jessner solution on the face and the tissue immediately adjacent to the jaw line;

(c) alpha hydroxy acids with a pH of not less than 1.0 and at a concentration of 50% must include partially neutralized acids, and any acid above the concentration of 50% is prohibited;

(d) beta hydroxy acids with a concentration of not more than 30%;

(e) trichloroacetic acid, in accordance with Subsection 58-11a-501(17)(c), may be used in a concentration of not more than 15%, but no manual, mechanical or acid exfoliation can be used prior to treatment unless under the general supervision of a licensed health care practitioner; and

(f) vitamin based acids.

(5) A licensee may not apply any exfoliating acid to a client's skin that has undergone microdermabrasion or microneedling within the previous seven days unless under the general supervision of a licensed health care practitioner.

(6)(a) A licensee shall prepare and maintain current documentation of the licensee's cumulative experience in chemical exfoliation, including:

(i) courses of instruction;

(ii) specialized training;

(iii) on-the-job experience; and

(iv) the approximate percentage that chemical exfoliation represents in the licensee's overall business.

(b) A licensee shall provide the documentation required by Subsection (6)(a) to the Division upon request.

(7) A licensee may not use an acid or perform a chemical exfoliation for which the licensee is not competent to use or perform through training and experience and as documented in accordance with Subsection (6).

(8) Only commercially available products utilized in accordance with manufacturers' instructions may be used for chemical exfoliation purposes.

(9) A patch test shall be administered to each client prior to beginning any chemical exfoliation series.

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

In accordance with Subsections 58-11a-102(31)(a)(i)(G)(II) and (H), the standards for approval of mechanical or electrical apparatus shall be:

(1) No mechanical or electrical apparatus that is considered a prescription medical device by the FDA may be used by a licensee, unless such use is completed under the appropriate

level of supervision by a licensed health care practitioner acting within the licensed health care practitioner's scope of practice.

(2) Dermaplane procedures, dermabrasion procedures, blades, knives, and lancets are prohibited except for:

- (a) advanced pedicures;
- (b) advanced extraction of impurities from the skin; and
- (c) dermaplane procedures for advanced exfoliation as defined in Subsection R156-11a-102(7) by a master esthetician under direct supervision of a health care practitioner.

(3) The use of any procedure in which human tissue is cut or altered by laser energy or ionizing radiation is prohibited for all individuals licensed under this chapter unless it is within the scope of practice for the licensee and under the appropriate level of supervision by a licensed health care practitioner acting within the licensed health care practitioner's scope of practice.

(4) To be approved, a microdermabrasion machine must:

- (a) be specifically labeled for cosmetic or esthetic purposes;
- (b) be a closed-loop vacuum system that uses a tissue retention device; and
- (c) the normal and customary use of the machine does not result in the removal of the epidermis beyond the stratum corneum.

(5) To be approved, a microneedling device shall:

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

R156-11a-612. Standards for Disclosure.

(1) In accordance with Subsections 58-11a-102(25)(b) and (31)(i)(C), a licensee acting within the licensee's scope of practice shall inform a client of the following before applying a chemical exfoliant, using a microneedling device or using a microdermabrasion machine:

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

KEY: cosmetologists/barbers, estheticians, electrologists, nail technicians

Date of Enactment or Last Substantive Amendment: ~~August 8, 2013~~ 2014

Notice of Continuation: February 6, 2012

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

Commerce, Occupational and
Professional Licensing
R156-31c-201
Issuing a License

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38921

FILED: 10/28/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Recognizing the difficulty that some states have processing nurse licensing applications in a timely manner, the National Council of State Boards of Nursing (NCSBN) recently amended the Nurse Licensure Compact Model Rules and Regulations to extend the time period for application processing from 30 days to 90 days. As a result of this national change, a related change is made to the Division's Nurse Licensure Compact Rule.

SUMMARY OF THE RULE OR CHANGE: Amendment to Subsection R156-31c-201(6) extends the length of time a nurse may continue to practice in Utah under the former home-state license and multi-state licensure privilege, during the processing of the nurse's Utah licensure application from 30 days to 90 days. Amendments to Subsection R156-31c-201(7) update the period of time that shall be stayed until resolution of the pending investigation in the event that a nurse applies for licensure in Utah as a new home state while under pending investigation by the former home state.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-31c-103 and Subsection 58-1-106(1)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

♦ **LOCAL GOVERNMENTS:** The proposed amendments apply only to nurses with compact licenses from other states who are declaring Utah as their new home state and seeking home-state licensure in Utah. As a result, the proposed amendments do not apply to local governments.

♦ **SMALL BUSINESSES:** The proposed amendments apply only to nurses with compact licenses from other states who are declaring Utah as their new home state and seeking home-state licensure in Utah. Applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments apply only to nurses with compact licenses from other states who are declaring Utah as their new home state and seeking home-state licensure in Utah. As a result, no costs or savings are anticipated for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments apply only to nurses with compact licenses from other states who are declaring Utah as their new home state and seeking home-state licensure in Utah. The Division anticipates the proposed amendments will not result in compliance costs for applicants nor will they affect application fees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing increases (from 30 days to 90 days) the time period during which a nurse may practice in Utah under a license that has been issued by another state and that is subject to the multi-state licensure privilege. This change will allow an individual nurse to pursue employment while an application for licensure is under review with the Division. No fiscal impact to businesses is anticipated.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Suzette Farmer by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at sfarmer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2014

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2014

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-31c. Nurse Licensure Compact Rule.
R156-31c-201. Issuing a License.**

(1) As of July 1, 2005 no applicant for initial licensure will be issued a compact license granting a multi-state privilege to practice unless the applicant first obtains a passing score on the applicable NCLEX examination or any predecessor examination used for licensure.

(2) A nurse applying for a license in a home party state shall produce evidence of the nurse's primary state of residence. Such evidence shall include a declaration signed by the licensee. Further evidence that may be requested may include:

- (a) driver's license with a home address;
- (b) voter registration card displaying a home address;
- (c) federal income tax return declaring the primary state of residence;
- (d) military form no. 2058 - state of legal residence certificate; or

(e) W-2 form from the United States government or any bureau, division or agency thereof indicating the declared state of residence.

(3) A nurse on a visa from another country applying for licensure in a party state may declare either the country of origin or the party state as the primary state of residence. If the foreign country is declared the primary state of residence, a single state license will be issued by the party state.

(4) A license issued by a party state is valid for practice in all other party states unless clearly designated as valid only in the state which issued the license.

(5) When a party state issues a license authorizing practice only in that state and not authorizing practice in other party states (i.e. a single state license), the license shall be clearly marked with words indicating that it is valid only in the state of issuance.

(6) A nurse changing primary state of residence, from one party state to another party state, may continue to practice under the former home state license and multi-state privilege during the processing of the nurse's licensure application in the new home state for a period not to exceed [30]90 days.

(7) The licensure application in the new home state of a nurse under pending investigation by the former home state shall be held in abeyance and the [30]90 day period in Subsection ([2]6) shall be stayed until resolution of the pending investigation.

(8) The former home state license shall be expired and no longer valid upon the issuance of a new home state license.

(9) If a decision is made by the new home state denying licensure the new home state shall notify the former home state within ten business days and the former home state shall take action in accordance with that state's laws and rules.

KEY: nurses, licensing

Date of Enactment or Last Substantive Amendment: [~~August 16, 2010~~]2014

Notice of Continuation: August 21, 2014

Authorizing, and Implemented or Interpreted Law: 58-31c-103; 58-1-106(1)(a)

Commerce, Occupational and
Professional Licensing
R156-47b
Massage Therapy Practice Act Rule

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 38915
FILED: 10/16/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this filing is to define scopes of practice for exemptions to licensure added to Title 58, Chapter 47b, during the 2014 General Legislative Session in H.B. 207. Also, the filing removes the Utah Massage Law

and Rule Exam licensure requirement in order to increase license processing efficiency.

SUMMARY OF THE RULE OR CHANGE: In Section R156-47b-102, definitions for body wrap, industry organization and ortho-bionomy are added. In Section R156-47b-302b, amendments in this section delete the Utah Massage Law and Rule Exam as a licensure requirement.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-47b-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$75 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. It should also be noted that additional costs of regulatory enforcement were included in the legislation's consideration when passing H.B. 207 (2014).

◆ **LOCAL GOVERNMENTS:** The proposed amendments only apply to individuals who are exempt from licensure under Title 58, Chapter 47b, and applicants for licensure as either a massage therapist or massage apprentice. The proposed amendments with respect to individuals who are exempt from licensure may aid local governments in determining qualification for business licensure and enforcement. The Division is not able to determine an exact cost or savings due to varying circumstances or frequency involving local business licensure and enforcement.

◆ **SMALL BUSINESSES:** The proposed amendments only apply to individuals who are exempt from licensure under Title 58, Chapter 47b. If the exempted scopes of practice are currently being performed by individuals who may operate as a small business, there may be an unknown cost. The Division is not able to determine an exact cost due to the varying circumstances of each individual or business or the frequency involving the exempted scopes of practice.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments apply only to individuals who are exempt from licensure under Title 58, Chapter 47b. The proposed amendments clarify exempted scopes of practice to the benefit and safety of the public.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments should not increase compliance costs for licensed massage therapists and massage apprentices or applicants for licensure in those classifications. It should be noted that there was no fee associated with the Utah Massage Law and Rule Examination. This examination is only an open book, part of the application for licensure as either a massage therapist or massage apprentice. If the exempted scopes of practices are currently being performed by individuals, there may be an unknown costs to those persons. However, the Division is not able to determine an exact cost due to the varying circumstances of each

individual or the frequency involving the exempted scopes of practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As stated in the rule analysis, this filing adds new definitions to reflect industry developments and deletes existing language that requires an applicant for licensure to pass the Utah Massage Law and Rule Exam. It is anticipated that these changes will affect individuals, both those working toward licensure and those practicing within the profession, with no fiscal impact to businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Dane Ishihara by phone at 801-530-7632, by FAX at 801-530-6511, or by Internet E-mail at dishihara@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2014

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 11/18/2014 08:45 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2014

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-47b. Massage Therapy Practice Act Rule.
R156-47b-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 47b, as used in Title 58, Chapters 1 and 47b, or this rule:

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

(2) "Body wrap" means a body treatment which:
(a) may include one or more therapeutic preparations;
(b) is not for cosmetic purposes; and
(c) involves covering the body fully or partially with material.

(3) "Clinic" means performing the techniques and skills learned as a student under the curriculum of a registered school or

an accredited school on the public, while in a supervised student setting.

([3]4) "Direct supervision" as used in Subsection 58-47b-302(3)(e) means that the apprentice supervisor, acting within the scope of the supervising licensee's license, is in the facility where massage is being performed and directs the work of an apprentice pursuant to this chapter under Subsection R156-1-102a(4)(a) while the apprentice is engaged in performing massage.

([4]5) "Distance learning" means the acquisition of knowledge and skills through information and instruction encompassing all technologies and other forms of learning at a distance, outside a school of massage meeting the standards in Section R156-47b-302 including internet, audio/visual recordings, mail or other correspondence.

([5]6) "FSMTB" means the Federation of State Massage Therapy Boards.

([6]7) "Hands on instruction" means direct experience with or application of the education or training in either a school of massage therapy or apprenticeship.

(8) "Industry organization", as used in Subsection 58-47b-304(1)(m), means any of the following organizations:

- (a) American FootZonology Practitioners Association (AFZPA);
- (b) American Reflexology Certification Board (ARCB);
- (c) Reflexology Association of America (RAA);
- (d) Society of Ortho-Bionomy International; or
- (e) Utah Foot Zone Association.

([7]9) "Lymphatic massage" means a method using light pressure applied by the hands to the skin in specific maneuvers to promote drainage of the lymphatic fluid from the tissue.

([8]10) "Manipulation", as used in Subsection 58-47b-102(6)(b), means contact with movement, involving touching the clothed or unclothed body.

([9]11) "Massage client services" means practicing the techniques and skills learned as an apprentice on the public in training under direct supervision.

([10]12) "NCBTMB" means the National Certification Board for Therapeutic Massage and Bodywork.

(13) "Ortho-Bionomy" means a structural and neurological system of healing exempt from licensure in accordance with Subsection 58-47b-3034(1)(m) limited to:

- (a) non-invasive, gentle movement;
- (b) comfortable positioning;
- (c) brief compression; and
- (d) subtle contact to stimulate self-correcting reflexes to:
 - (i) relax muscles;
 - (ii) release tension;
 - (iii) relieve joint and muscle pain;
 - (iv) reduce stress; and
 - (v) re-establish structural alignment.

([11]14) "Recognized school" means a school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that jurisdiction.

([12]15) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 47b, is further defined, in accordance with Subsection 58-1-203(1)(e) in Section R156-47b-502.

R156-47b-302b. Qualifications for Licensure - Examination Requirements.

In accordance with Subsections 58-47b-302(2)(f) and 58-47b-302(3)(f), the examination requirements for licensure are defined, clarified, or established as follows:

(1) Applicants for licensure as a massage therapist shall: ~~(a) pass the Utah Massage Law and Rule Examination; and~~

~~(b) pass one of the following examinations:~~

~~(i) the National Certification Examination for Therapeutic Massage and Bodywork (NCETMB);~~

~~(ii) the National Certification Examination for Therapeutic Massage (NCETM);~~

~~(iii) the National Examination for State Licensure (NESL); or~~

~~(iv) the Federation of State Massage Therapy Boards (FSMTB) Massage and Bodywork Licensing Examination (MBLEx).~~

(2) Applicants for licensure as a massage therapist who have completed a "Utah Massage Apprenticeship" shall pass the FSMTB MBLEx.

~~(3) Applicants for licensure as a massage apprentice shall pass the Utah Massage Law and Rule Examination.]~~

KEY: licensure, massage therapy, massage therapist, massage apprentice

Date of Enactment or Last Substantive Amendment: [January 26, 2012] 2014

Notice of Continuation: May 1, 2012

Authorizing, Implemented, or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-47b-101

Commerce, Occupational and Professional Licensing **R156-84** State Certification of Music Therapists Act Rule

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 38916

FILED: 10/16/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 277, which was passed during the 2014 General Legislative Session, created a certification designation for music therapists. The newly created statute in Title 58, Chapter 84, granted authority to the Division to create rules defining certification qualifications and renewal requirements.

SUMMARY OF THE RULE OR CHANGE: This filing establishes rules under the State Certification of Music Therapists Act Rule. New sections are created for the following: title, definitions, authority-purpose, organization-relationship to Rule R156-1, qualifications for state certification-application requirements, renewal cycle-procedures, and unprofessional conduct.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-84-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$75 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
- ◆ **LOCAL GOVERNMENTS:** The proposed new rule only applies to certified music therapists and applicants for certification in that classification. As a result, the proposed amendments do not apply to local governments.
- ◆ **SMALL BUSINESSES:** The proposed new rule only applies to certified music therapists and applicants for certification in that classification. Small businesses may incur costs if they pay the music therapist application fee of \$70 and renewal fee of \$47 for employees. If a small business pays costs for employees, there may also be a cost involved with becoming board certified with the Certification Board for Music Therapists. However, the Division is not able to determine this cost due to a wide range of circumstances for persons who wish to become certified as a music therapist.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed new rule only applies to certified music therapists and applicants for certification in that classification.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed new rule only applies to certified music therapists and applicants for certification in that classification. Applicants for certification as a music therapist will pay an application fee of \$70 and certified music therapists will pay a renewal fee of \$47 every two years. There may also be a cost involved with becoming board certified with the Certification Board for Music Therapists. However, the Division is not able to determine this cost due to a wide range of circumstances for persons who wish to become certified as a music therapist. It should also be noted that the costs associated with the certification application fee, renewal fee and enforcement of the newly created statute were included in the Legislature's passing of H.B. 277 (2014).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As stated in the rule analysis, this filing responds to H.B. 277 (2014), which mandates rulemaking in order to establish the requirements for obtaining state certification as a music therapist. Any costs to businesses were considered by the Legislature in determining to implement state regulation of the music therapy profession.

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:

- ◆ Suzette Farmer by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at sfarmer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2014

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 11/20/2014 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 464, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2014

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-84. State Certification of Music Therapists Act Rule.
R156-84-101. Title.

This rule is known as the "State Certification of Music Therapists Act Rule."

R156-84-102. Definitions.

In addition to the definitions in Title 58, Chapter 1, as used in this rule, "unprofessional conduct" is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-84-502.

R156-84-103. Authority - Purpose.

This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 84.

R156-84-104. Organization - Relationship to Rule R156-1.

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

R156-84-302a. Qualifications for State Certification - Application Requirements.

In accordance with Subsection 58-1-203(1)(b) and Section 58-1-301, the application requirements for licensure in Section 58-84-201 are clarified as follows:

(1) The Division has determined there are no boards equivalent to the Certification Board for Music Therapists.

(2) A board may apply for equivalency status by submitting appropriate credentials for evaluation by the Division. If

determined equivalent, the board will be issued a letter of equivalency and listed herein.

R156-84-303. 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 84 is established by rule in Subsection R156-1-308a(1).

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

R156-84-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) receiving disciplinary action imposed against certification by the Certification Board for Music Therapists or an equivalent board; or

(2) failing to maintain an active and in good standing certification by the Certification Board for Music Therapists or an equivalent board.

KEY: licensing, certified music therapist

Date of Enactment or Last Substantive Amendment: 2014

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-84-101

Commerce, Securities
R164-15-2
 Notice Filings for Rule 506 Offerings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38926

FILED: 10/29/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule sets forth the procedures that must be followed in giving notice to the Utah Division of Securities (Division) that an issuer of securities is relying on the exemption from registration found in Rule 506 of Regulation D of the federal Securities Act of 1933.

SUMMARY OF THE RULE OR CHANGE: The North American Securities Administrators Association (NASAA) is inaugurating a new electronic filing system to receive, transmit, and store Rule 506 notice filings. The proposed system is called the Electronic Filing Depository (EFD) and will process both the aforementioned filings, as well as the fee payments accompanying them. This amendment: 1) authorizes the EFD to receive filings on behalf of the Division; 2) establishes EFD as the sole authorized channel for making Rule 506 notice filings; and 3) requires the Division to give 30-days notice prior to ceasing to accept Rule 506 notice filings by other means. The Utah Securities Commission has reviewed and approved this amendment.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-1-15.5

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** No additional costs or savings to the state budget are expected.

♦ **LOCAL GOVERNMENTS:** Local governments do not regulate these type of securities offerings.

♦ **SMALL BUSINESSES:** Although the filing fees charged by the Utah Division of Securities will remain unchanged, NASAA will charge a system access fee of \$150 per filing to maintain and operate the EFD system.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Although the filing fees charged by the Utah Division of Securities will remain unchanged, NASAA will charge a system access fee of \$150 per filing to maintain and operate the EFD system.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Although the filing fees charged by the Utah Division of Securities will remain unchanged, NASAA will charge a system access fee of \$150 per filing to maintain and operate the EFD system. However, this cost will in most cases be wholly or partially offset by other savings as noted in the Director's comments below.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Rule 506 exemption is the most widely utilized private offering exemption in U.S. federal securities laws. Most companies raising money by means of this provision will do so simultaneously in numerous state and territorial jurisdictions within the United States. Under current procedures, each jurisdiction requires the issuing company to submit by mail a multi-page filing document and a fee payment. These mailings are typically handled by overnight delivery services. The new EFD system will provide a one-stop filing solution--allowing companies to avoid overnight mailing costs to up to 50 separate jurisdictions.

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

COMMERCE
 SECURITIES
 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:

♦ Benjamin Johnson by phone at 801-530-6134, by FAX at 801-530-6980, or by Internet E-mail at bnjohnson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2014

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2014

AUTHORIZED BY: Keith Woodwell, Director

R164. Commerce, Securities.

R164-15. Federal Covered Securities.

R164-15-2. Notice Filings for Rule 506 Offerings.

(A) Authority and purpose.

(1) The Division enacts this rule under authority granted by Sections 61-1-15.5 and 61-1-24.

(2) The rule requires a notice filing within 15 days after the first sale in this state of securities described in Subsection 61-1-15.5(2) and sets forth the filing procedure.

(3) This rule is hereby amended to recognize the following:

(3)(a) The amendment of Regulation D by the Securities and Exchange Commission (SEC) to authorize the filing of Form D in electronic format with the SEC through the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR) in accordance with EDGAR rules set forth in Regulation S-T (17 CFR Part 232) as described in Securities and Exchange Commission Securities Act Release No. 8891; and

(3)(b) The establishment of the Electronic Filing Depository (EFD), operated by the North American Securities Administrators Association, Inc. (NASAA) to receive and store all Form D notice filings and amendments (17 CFR 239.500) and to collect filing fees on behalf of the Division.

~~[(3) This rule has been amended in recognition of the amendment of Regulation D by the Securities and Exchange Commission (SEC) to authorize the filing of Form D in electronic format with the SEC through the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR) in accordance with EDGAR rules set forth in Regulation S-T (17 CFR Part 232) as described in Securities and Exchange Commission Securities Act Release No. 8891.~~

~~(4) This rule authorizes an issuer to file Temporary Form D while that form remains in effect or a copy of the notice of sales on Form D filed electronically with the SEC until an electronic filing system acceptable to the Division is implemented that permits the electronic filing of Form D with the Division or its designee.~~

(B) Definitions

(1) "Division" means the Division of Securities, Utah Department of Commerce.

(2) "NASAA" means the North American Securities Administrators Association, Inc.

(3) "EFD" means the Electronic Filing Depository established and maintained by NASAA.

(C) Designation and filing requirements

(1) For all notice filings authorized by Subsection 61-1-15.5(2), the Division hereby designates EFD to receive and store all notice filings made on SEC Form D (17 CFR 239.500) and to collect related filing fees on behalf of the Division.

(2) Unless otherwise provided, upon notice in paragraph (C) (3) below, all Form D notice filings, amendments, and related filing fees shall be filed electronically with and transmitted to EFD.

(3) Notwithstanding paragraph (C)(2) of this rule, the electronic filing of Form D notice filings and amendments and the collection of related processing fees shall not be required until such time as EFD provides for receipt of such filings and fees and thirty (30) days notice is provided by the Division. Any documents or fees

required to be filed with the Division that are not permitted to be filed with, or cannot be accepted by, EFD shall be filed directly with the Division.

(4) A duly authorized person of the issuer shall affix his or her electronic signature to the Form D filing by typing his or her name in the appropriate fields and submitting the filing to EDGAR. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individual whose name is typed on the filing both for purposes of authorizing the disclosures in the Form as well as giving effect to any consent to service provisions found therein.

(5) Subsequent to the expiration of the notice period in paragraph (C)(3), no filing, partial filing, or filing fee submitted to the Division by means other than EFD shall act to grant such a filing the status of being duly received by the Division for any purpose relating to the timeliness of the filing or the avoidance of the assessment of any late filing fee.

~~[(C)](D)~~ Filing requirements prior to Paragraph (C)(3) notice

(1) An issuer offering a security that is a covered security under section 18(b)(4)(D) of the Securities Act of 1933 must file with the Division or its designee, no later than 15 days after the first sale of such federal covered security in this state, an initial notice and a filing fee as follows:

(1)(a) The issuer shall file an initial notice on SEC Form D. For Purposes of Subsection 61-1-15.5(2), the initial notice on SEC Form D shall consist of ~~either,~~

~~(1)(a)(i) the Temporary Form D (17 CFR 239.500T), including Part E and the Appendix, as adopted by the SEC while that form remains in effect from September 15, 2008 through March 15, 2009; or~~

~~(1)(a)(ii) a copy of the notice of sales on Form D filed in electronic format with the SEC through the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR) in accordance with EDGAR rules set forth in Regulation S-T (17 CFR Part 232) and in effect on September 15, 2008.~~

(1)(b) ~~Regardless of whether the issuer files a notice of sales on Temporary Form D or a copy of the notice of sales on Form D filed in electronic format with the SEC,~~ [S]such form shall be manually signed by a person duly authorized by the issuer;

~~(1)(c) If the issuer files a notice on Temporary Form D, it shall also furnish a completed manually signed NASAA Form U-2 - Uniform Consent to Service of Process;~~

~~[(1)(d)](1)(c)~~ The issuer shall include with the initial notice a statement indicating:

~~[(1)(d)(i)](1)(c)(i)~~ The date of the first sale of securities in the state of Utah; or

~~[(1)(d)(ii)](1)(c)(ii)~~ That sales have yet to occur in the state of Utah; and

~~[(1)(e)](1)(d)~~ The issuer shall submit a fee as specified in the Division's fee schedule.

~~(2) An issuer who has filed a Form U-2 in connection with a previous notice filing need not file another.~~

~~(3)](2)~~ An issuer may file an amendment to a previously filed notice of sales on Form D at any time and must file such an amendment to correct a material mistake of fact or error in the previously filed notice of sales on Form D, as soon as practicable after discovery of the mistake or error.

~~(4)~~(3) An issuer that files an amendment to a previously filed notice of sales on Form D must provide current information in response to all requirements of the notice of sales on Form D regardless of why the amendment is filed.

KEY: mutual funds, securities, securities regulation

Date of Enactment or Last Substantive Amendment: ~~January 12, 2009~~2014

Notice of Continuation: July 25, 2012

Authorizing, and Implemented or Interpreted Law: 61-1-15.5; 61-1-24

Education, Rehabilitation R280-203 Certification Requirements for Interpreters for the Hearing Impaired

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38930

FILED: 10/31/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R280-203 had not been substantively amended since 2003. The rule is amended to provide changes consistent with the 2009 revision of the Policies and Procedures Governing Certification of Interpreters and Transliterator Manual (Manual), provide new language relating to interpreter/transliterator services to students in the public schools, and update terminology.

SUMMARY OF THE RULE OR CHANGE: Amendments to Rule R280-203 provide for new definitions and update existing definitions, provide for temporary exemptions from certification for interpreters/transliterator providing services to students in the public schools if certain requirements are met, including a fingerprint background check; change the policy and procedures manual to its current title, reference the Manual for specific procedures for certification throughout the rule, provide language about the appeals process, and provide additional minor wording and terminology changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-24-103 and Subsection 53A-1-401(3)

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds Policies and Procedures Governing Certification of Interpreters and Transliterator, published by Utah State Office of Rehabilitation, Division of Services to the Deaf and Hard of Hearing, January 2009

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The amendments to the rule provide updated language consistent with the Manual which likely will not result in a cost or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** The amendments to the rule provide updated language consistent with the Manual which likely will not result in a cost or savings to local government.
- ◆ **SMALL BUSINESSES:** The amendments to the rule provide updated language consistent with the Manual which likely will not result in a cost or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The amendments to the rule provide updated language consistent with the Manual which likely will not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments to the rule provide updated language consistent with the Manual which likely will not result in any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I believe that there is likely no fiscal impact on businesses.

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

EDUCATION
REHABILITATION
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 by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2014

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2014

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R280. Education, Rehabilitation.

R280-203. Certification Requirements for Interpreters/Transliterators for the Hearing Impaired.

R280-203-1. Definitions.

A. "Advisory board" means the Interpreters Certification Board created to assist the Board created by and with the responsibilities of 53A-26a-201 and 202.

[C]B. "[~~Signed English;~~]American Sign Language (ASL), cued speech,~~[American Sign Language (ASL);]~~ and oral

interpreting" are types of alternative communications for [the] purposes of this [R]ule.

[D]C. "Board" means the Utah State Board of Education.

[B]D. "Certified [of deaf] interpreter[s]/transliterators" means [the written approval of the Board required of individuals seeking payment for facilitating effective communication between hearing and hearing-impaired persons] an individual who provides interpreter/transliterators services and is certified or qualified as required by state or federal law.

E. "Hearing impaired or deaf" means a hearing loss which:

(1) necessitates the visual acquisition of the language; or

(2) adversely affects the acquisition of language and communication but which does not preclude the auditory acquisition of language.

F. "Interpreter/transliterators services" means services that facilitate effective communication between a hearing person and a person who is hearing impaired or deaf, such as student to teacher, student to staff and student to peer, through ASL or a language system or code that is modeled after ASL, in whole or in part, or is in any way derived from ASL; or cued speech.

G. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

H. "Policies & Procedures Governing Certification of Interpreters and Transliterators Manual, 2009 (Manual)," hereby incorporated by reference under 63G-3-201(7), means the manual that provides procedures for the certification examination process, renewal of certification, length of certification, levels of certification, examination, scoring, temporary permits, and the disciplinary process for interpreters/transliterators in the event of misconduct.

[E]I. "USOR" means the Utah State Office of Rehabilitation.

R280-203-2. Authority and Purpose.

A. This rule is authorized by 53A-24-103 which places the USOR under the policy direction of the Board. The Board is authorized under 53A-1-401(3) to adopt rules and policies in accordance with its responsibilities.

B. The purpose of this rule is to satisfy the directives of 53A-26a-202(2) including:

(1) certification qualifications provided in the [UTAH STATE BOARD OF EDUCATION INTERPRETERS AND TRANSLITERATORS FOR THE DEAF CERTIFICATION POLICY AND PROCEDURE MANUAL ("INTERPRETERS/TRANSLITERATORS MANUAL"), December 2002] Manual;

(2) procedures governing applications for certification;

(3) provisions for a fair and impartial method of examination of applicants; and

(4) procedures for determining unprofessional conduct by interpreters/transliterators [and].

[~~(5) conditions and procedures for reinstatement and renewal of certification.~~

R280-203-3. Certification Qualifications and Report to the USOE.

A. Candidates for certification shall be at least 18 years old.

B. Candidates shall pass written and performance evaluations provided by the Division of Services to the Deaf.

C. Candidates shall meet the criteria of 53A-26a-302.

D. All individuals who provide interpreter/transliterators services to an LEA shall complete a background check, prior to working in an LEA with students, through their employer or an LEA that contracts for the contractor's services.

E. An LEA shall identify and report to the USOE individuals, including contractors, who provide interpreter/transliterators services to students for the LEA, annually upon request.

F. An LEA shall identify and report to the USOE students who receive interpreter/transliterators services together with the provider of services, annually upon request.

R280-203-4. Examination of Applicants for Certification.

[Individuals]The Division of Services for the Deaf and Hard of Hearing Interpreters Certification Panel shall test and rate candidates applying for interpreter/transliterators certification [shall be tested and rated by the Division of Services for the Deaf and Hard of Hearing Interpreters Certification Panel according to procedures established in]consistent with the [INTERPRETERS/TRANSLITERATORS MANUAL]Manual.

R280-203-5. Temporary Exemptions from Certification.

A. Individuals may engage in the practice of a certified interpreter/transliterators in the public schools without being certified subject to the following circumstances and limitations:

(1) a candidate is engaged in providing interpreters/transliterators services while in training in a recognized school approved by the Board to the extent the candidate's activities are supervised by qualified staff, or designee, the services are a defined part of the training program, and the training program has a record that the candidate has had a successful fingerprint background check within one year prior to the date of the interpreting/transliterating services being provided.

(2) a candidate is engaged in an internship, residency, apprenticeship, or an on-the-job training program approved by the Board while under the supervision of qualified persons, and who have record of a successful fingerprint background check, consistent with Section 53A-3-410(2) and R277-516.

(3) a candidate meets the criteria consistent with Sections 53A-26a-305(1)(d) through 53A-26a-305(f).

B. Violation of any limitation identified in R280-203-5 is grounds for rescission of exemption, denial of certification, or other discipline as determined by the Board.

R280-203-[5]6. Unprofessional Conduct.

A. The Manual supplements [F]the definition of [un]unprofessional conduct["] provided in 53A-26a-502[shall be supplemented with the definition applied to educators in R277-514-3 and provided in the INTERPRETERS/TRANSLITERATORS MANUAL].

B. The Board designates the procedure in R280-203-6 as an informal adjudicative proceeding, under Section 63G-4-203.

[B]C. A complaint alleging unprofessional conduct by a certified interpreter/transliterators may be filed [under]consistent with the procedure[~~of R277-514. The procedure is provided~~] in the [INTERPRETERS/TRANSLITERATORS MANUAL]Manual.

~~C. The complaint shall be reviewed by the Commission as provided for in R277-514-4.~~

D. A member of the advisory board shall assist the Board in reviewing the recommendation of the Commission, as provided in 53A-26a-202(3) and upon request by the Board.

E. The Board shall make the final disciplinary decision consistent with the Manual.

R280-203-[6]7. Renewal and Reinstatement.

A. An individual holding an interpreter[~~'s~~]/transliterator certificate is eligible to have that certificate renewed as provided in the [~~INTERPRETERS/TRANSLITERATORS MANUAL~~]Manual.

B. An individual whose interpreter[~~'s~~]/transliterator certificate has been suspended or revoked for unlawful or unprofessional conduct may apply for reinstatement to the Board. The Board may require the applicant for reinstatement to complete the procedure for certification or may, upon consultation with the advisory board, designate the areas of the application process in which the applicant shall be reviewed.

KEY: certification, interpreters/transliterators

Date of Enactment or Last Substantive Amendment: [~~January 3, 2003~~]2014

Notice of Continuation: September 9, 2014

Authorizing, and Implemented or Interpreted Law: 53A-24-103; 53A-1-401(3); 53A-26a-201 and 202

Governor, Energy Development (Office
of)
R362-3
Energy Efficiency Fund

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38931

FILED: 10/31/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed changes will update the current rules to reflect a legislative amendment made in the 2010 General Legislative Session (H.B. 318). The changes will further amend eligibility criteria and loan terms, as well as remove definitions already defined in code.

SUMMARY OF THE RULE OR CHANGE: The changes: update eligible applicants from "School Districts" to "Political Subdivisions"; remove definitions already defined in code; and update eligibility criteria and loan terms including loan interest rate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 11-45-101

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** State budget is not affected because it only effects definitions and criteria.

◆ **LOCAL GOVERNMENTS:** Cities and counties may apply for loans as a result of the 2010 amendment. Fiscal burdens may include administrative costs for loan filing, costs associated with compliance, loan interest (rates will be set at or below market values), and energy audits required for loan approval. Exact fiscal costs are not possible to estimate as each city and county will have a different capacity to meet compliance requirements.

◆ **SMALL BUSINESSES:** Small businesses are not eligible for the loan fund.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Companies providing goods and services for new buildings or retrofits may benefit financially from the broader range of entities eligible to apply for loans. Jobs may be retained or created as a result of loan fund availability. Exact fiscal benefits are not possible to estimate as each project will have unique costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS:

Compliance costs may include administrative fees for loan filing, costs associated with compliance, loan interest, and costs associated with energy audits.

COMMENTS BY THE DEPARTMENT HEAD ON THE

FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The impact to business will be neutral or positive. To the extent that local suppliers are engaged for public upgrades, these changes will positively impact local businesses. Costs associated with compliance will likely fall within the standard operating costs of the organization. Loan interest is a standard assumption of debt and will add a minimal burden.

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

GOVERNOR

ENERGY DEVELOPMENT (OFFICE OF)

60 E SOUTH TEMPLE 3RD FLR

SALT LAKE CITY, UT 84111

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Teresa Pinkal by phone at 801-538-8662, or by Internet E-mail at tpinkal@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2014

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2014

AUTHORIZED BY: Jeffrey Barrett, Infrastructure and Incentives Manager

R362. Governor, Energy Development (Office of).

R362-3. Energy Efficiency Fund.

R362-3-1. Purpose.

(1) This rule is for the purposes of

~~[A:]~~(a) ~~[Conducting]Implementing~~ the responsibilities assigned to the Utah Governor's Energy Advisor (Advisor), and the Utah ~~[Governor's]Office of Energy Development [(OED)](Office)~~ ~~[and the State Energy Program (SEP)]~~ in managing the Energy Efficiency Fund as defined in Utah Code Section 11-45-102, and implementing the associated loan program established in Utah Code Section ~~[53A-20e-102]~~11-45-201; and

~~[B:]~~(b) Establishing requirements for eligibility for loans from the Energy Efficiency Fund, procedures for accepting, evaluating, and prioritizing applications for loans, and the terms and conditions for loans.

R362-3-2. Authority.

(1) Pursuant to Utah Code Section ~~[53A-20e-102]~~11-45-204, the ~~[OED]~~Advisor shall make rules establishing criteria, procedures, priorities, and conditions for the award of loans from the Energy Efficiency Fund.

R362-3-3. Definitions.

~~[A:]~~(1) "Advisor" means the Governor's Energy Advisor, who oversees the Utah ~~[Governor's]Office of Energy Development~~.

~~[B:]~~(2) "Energy" means, for the purposes of this rule, electricity, natural gas or other methane, fuel oil, coal, or propane that is used by a ~~[school district]~~political subdivision to operate a building's electrical devices, lighting, heating and cooling systems, and other equipment necessary for the building's operation.

~~[C:]~~(3) "Energy cost payback" means the period of time, generally expressed in years, that is needed for the energy cost savings of an energy efficiency project to equal the cost of the energy efficiency project. It does not include the time-value of money and is sometimes referred to as simple payback.

~~[D:]~~(4) "Energy cost savings" means the monetary value to a ~~[school district]~~political subdivision of the energy that is saved or is not consumed as a result of an energy efficiency project and is generally stated on an annual cost savings basis. This value is measured based upon the current cost per unit of the energy source or sources used by the building at which an energy efficiency project is to take place.

~~[E:]~~ "Energy efficiency project" means

- ~~1. For existing buildings, a retrofit to improve energy efficiency; or~~
- ~~2. For new buildings, an enhancement to improve energy efficiency beyond the minimum required by the energy code.~~
- ~~3. It does not mean~~
 - ~~a. The repair of existing buildings or equipment;~~
 - ~~b. Projects that save money through the switching of fuels, energy sources, or vendors;~~
 - ~~c. Projects or measures intended to save money by changing the time of day or year at which energy is consumed (i.e. thermal energy storage or other peak demand reduction systems); or~~
 - ~~d. Upgrades to non-fixed appliances or equipment within a building such as computers, copiers, and other systems.~~

~~[F:]~~(5) "Energy savings" means the combined value, in British thermal units (Btu's), of all energy sources saved or not consumed as a result of an energy efficiency project. For purposes of

this rule, the following conversion factors are used in calculating the total energy savings:

- ~~[1:]~~(a) Electricity - One kilowatt hour = 10,495 Btu's.
- ~~[2:]~~(b) Natural gas or methane - One therm = 100,000 Btu's.
- ~~[3:]~~(c) Natural gas or methane - One cubic foot = 1,030

Btu's.

~~[4:]~~(d) Fuel oil - One gallon = 138,690 Btu's.

~~[5:]~~(e) Coal - One pound = 11,580 Btu's.

~~[6:]~~(f) Propane - One gallon = 91,333 Btu's.

~~[G:]~~ "Fund" means the Energy Efficiency Fund established by Utah Code Section ~~53A-20e-102~~.

~~[H:]~~ "Utah Energy Code" means the most recent edition of the International Energy Conservation Code currently in effect within the State of Utah and as incorporated and amended by Utah Rule ~~156.56 (Utah Uniform Building Standard Act Rules)~~.

~~[I:]~~(6) "Quarter" means a three month period beginning with one of the following dates: January 1, April 1, July 1, and October 1.

~~[J:]~~ "SEP" means the State Energy Program, a subdivision of the Utah Governor's Office of Energy Development, which is required by Utah Code ~~53A-20e-102~~ to serve as staff to the revolving loan program associated with the Energy Efficiency Fund.

~~[K:]~~ "OED" means the Utah Governor's Office of Energy Development.

~~[L:]~~(7) "Director" means Director of the Utah Office of Energy Development.

~~[M:]~~(8) "Associate Director" means Associate Director of the Utah Office of Energy Development.

R362-3-4. Eligibility of Projects for Loans.

~~[A:]~~(1) Eligibility for loans from the Fund is limited to ~~[school districts]~~political subdivisions within the ~~[s]~~State of Utah.

~~[B:]~~(2) Loans may be used only by ~~[school districts]~~political subdivisions to fully or partially finance energy efficiency projects within buildings owned and operated by the ~~[school district]~~political subdivision.

~~[C:]~~(3) For energy efficiency projects involving renovation, upgrade, or improvement of existing buildings, the following project measures are eligible for loan financing from the Fund:

- ~~[1:]~~(a) Building exterior weatherization, air sealing, or thermal efficiency;
- ~~[2:]~~(b) Increase or improvement in building insulation;
- ~~[3:]~~(c) Door, window, or skylight upgrades;
- ~~[4:]~~(d) Lighting technology upgrades, or reduction of the number of fixtures;
- ~~[5:]~~(e) Heating, ventilation, and air conditioning (HVAC) replacements or upgrades;
- ~~[6:]~~(f) Improvements to energy control systems;
- ~~[7:]~~(g) Renewable energy systems;

~~[8:]~~(h) Other energy efficiency projects that a ~~[school district]~~political subdivision can demonstrate will result in a significant reduction in the consumption of energy within a building.

(4) The following project measures are not eligible for energy efficiency projects from the Fund involving renovation, upgrade, or improvement of existing buildings:

- ~~(a) The repair of existing buildings or equipment;~~
- ~~(b) Projects that save money through switching of fuels, energy sources, or vendors, except in the case of the installation of a~~

renewable energy system or other fuel changes that result in energy savings:

(c) Projects or measures intended to save money by changing the time of day or year at which energy is consumed (i.e. thermal energy storage or other peak demand reduction systems); or

(d) Upgrades to non-fixed appliances or equipment within a building such as computers, copiers, and other systems.

~~[D-](5)~~ An energy efficiency project can be eligible as part of a new building construction if the following conditions are met:

~~[1-](a)~~ The building measure or system for which a loan is sought must surpass the minimum prescriptive requirements of the Utah Energy Code; and

~~[2-](b)~~ The completed building must exceed the minimum energy performance standards of the Utah Energy Code for its building type by at least 10%.

~~[E. There is no limit to the total number of loans a single school district may receive from the Fund, however, no school district may receive a loan that would cause the sum of its outstanding loan balances to exceed \$500,000.~~

~~]~~ ~~[F-](6)~~ An energy efficiency project is eligible for a loan only if the total amount of funds awarded to the project are repaid in a term of ~~[more than two and less than twelve years]~~ between two and twelve years.

R362-3-5. Eligible Costs.

~~[A-](1)~~ This section defines the specific costs incurred by an energy efficiency project that are eligible for financing from the Fund.

~~[B-](2)~~ The following direct costs of an energy efficiency project may be eligible for financing, subject to the remaining conditions of this section:

~~[1-](a)~~ Building materials;

~~[2-](b)~~ Doors, windows, and skylights;

~~[3-](c)~~ Mechanical systems and components including HVAC and hot water;

~~[4-](d)~~ Electrical systems and components including lighting, renewable energy systems, and energy management systems.

~~[5-](e)~~ Labor necessary for the construction or installation of the energy efficiency project;

~~[6-](f)~~ Design and planning of the energy efficiency project;

~~[7-](g)~~ Energy audits that identify measures that are included in the energy efficiency project;

~~[8-](h)~~ Commissioning, inspections or certifications necessary for implementing the energy efficiency project.

~~[C-](3)~~ The following costs are not eligible for financing from the Fund:

~~[1-](a)~~ The costs of a construction or renovation project that are not directly related to energy efficiency measures;

~~[2-](b)~~ Costs incurred for the acquisition of financing for the project;

~~[3-](c)~~ Costs for equipment or systems that reduce energy costs without also resulting in reductions in the use of energy.

~~[D-](4)~~ In cases for which the ~~[school district]~~ political subdivision receives a financial incentive or rebate from a utility or other third party for undertaking some or all of the measures in an energy efficiency project, such incentives or rebates are to be deducted from the costs that are eligible for financing from the Fund. No loans made from the Fund may exceed the final cost incurred by the ~~[school district]~~ political subdivision for the project after third party financing.

~~[E-](5)~~ For an energy efficiency project undertaken as part of a new building construction, only the incremental cost of the project is eligible. For purposes of this section, incremental cost means the portion of the overall cost of a measure or system that exceeds the cost that would have been incurred by meeting the minimum prescriptive requirements of the Utah Energy Code.

~~[F-](6)~~ For an energy efficiency project undertaken as part of the renovation of an existing building, building components or systems that are covered by the prescriptive requirements of the Utah Energy Code must exceed the minimum Utah Energy Code requirements in order for their costs to be eligible for a loan from the Fund.

R362-3-6. Loan Application Process.

~~[A-](1)~~ The ~~[Advisor]~~ Office shall receive and evaluate applications for loans from the Fund ~~[on a rolling basis as complete proposals are developed in conjunction with SEP staff.]~~ during competitive bid cycles, based on Fund availability.

~~[B- School districts]~~ (2) Political subdivisions interested in applying for a loan should first contact ~~[SEP]~~ the Office. ~~[SEP]~~ Office staff will consult or meet with ~~[school district]~~ political subdivision staff to make an initial assessment of the strength or weakness of a proposed project. ~~[SEP]~~ Office staff may also choose to conduct a site visit of the proposed project location prior to an application. ~~[SEP]~~ Office staff shall engage with ~~[school districts]~~ political subdivisions in a pre-application process evaluating potential project measures and preparing applications. ~~[Final applications shall be checked for completeness and eligibility by SEP staff prior to submission to the Advisor.]~~

~~[C-](3)~~ Applications for loans will be made using forms developed by ~~[SEP]~~ the Office. Application forms shall require that the following information be provided by the ~~[school district]~~ political subdivision:

~~[1-](a)~~ Identification of ~~[school district]~~ political subdivision personnel responsible for financial authority and project management;

~~[2-](b)~~ Name and location of the building or buildings where the energy efficiency project will take place;

~~[3-](c)~~ A description of the energy efficiency project to be undertaken, including existing conditions, specific measures to be undertaken, the cost or incremental cost of each measure, and the equipment or building materials to be installed;

~~[4-](d)~~ Projected or estimated energy savings that result from each measure undertaken as part of the project;

~~[5-](e)~~ Projected or estimated energy cost savings from each measure undertaken as part of the project;

~~[6-](f)~~ Appendices providing supplemental information detailing the extent of ~~[school district]~~ political subdivision commitment to the project (i.e. special needs, prior investments, existing audit/design documents) or descriptions of any additional community or environmental benefits that may result from the project.

~~[D-](4)~~ The ~~Office and the Advisor or Director~~ shall establish a Review Committee to provide in-depth evaluation of loan applications. The Committee ~~must~~ shall consist of at least the following:

~~[1-](a)~~ The ~~[SEP]~~ State Energy Program Manager;

~~[2-](b)~~ An ~~[SEP]~~ Office technical specialist ~~[chosen by the SEP Manager];~~

~~[3-](c)~~ The ~~[OED]~~ Associate Director; and

~~4. One member of the Governor's Energy Task Force selected by the Advisor for a two year renewable term;~~

~~5. A representative of the Utah Office of Education approved by the Advisor for a two year renewable term.~~

(d) Other members as may be designated at the discretion of the Advisor or Director.

(5) When the Office has deemed that an application is complete and that the proposed project complies with this rule, the application will be forwarded to the Review Committee for its evaluation.

(6) The Review Committee will review and discuss the merits of each application in light of all materials submitted by the political subdivision and technical analysis undertaken by the Office staff. After discussion of each application, Review Committee members will evaluate each according to the following criteria and scoring:

(a) The feasibility and practicality of the project (maximum 35 points);

(b) The projected energy cost payback period of the project (maximum 25 points);

(c) The energy savings and energy cost savings attributable to the project (maximum 40 points);

~~4. Any supplemental information contained in the appendices or available to the Review Committee through the Utah State Office of Education (i.e. school district finances and enrollment) (maximum 20 points).~~

A separate score sheet will be completed by each Review Committee member for each application under consideration.

(7) The Review Committee will compile the scores of each of its members for each application. Based upon the compiled scores of all members, the Committee will make recommendations to the Advisor or Director for the funding of energy efficiency projects. ~~For applications that receive an average score of less than 70 points, the Review Committee shall recommend that the Advisor not provide a loan from the Fund. Applications receiving an average score over 70 will normally be recommended for funding. However, if the current balance of the fund does not permit for the funding of all projects with an average score over 70, the Review Committee will recommend, beginning with the highest scoring application and working downward in score, those applications that may be funded given the current balance of the Fund.~~

(8) The Review Committee provides advice and recommendations to the Advisor or Director. It is not vested with the authority to make decisions regarding the public's business in connection with the Fund. The Advisor or Director is the decision making authority with regard to the award of loans from the Fund.

(9) Based upon the Review Committee's evaluations and recommendations, the Office will prepare a memorandum for the Advisor or Director that will

(a) Provide a brief description of each project reviewed by the Review Committee;

(b) List estimates of energy savings, energy cost savings and simple paybacks.

(c) Specify projects recommended for funding and those not recommended for funding;

(d) Provide a brief explanation of the Review Committee's rationale for each application that is not recommended for funding.

(10) The Advisor or Director can approve or deny loans through electronic correspondence~~;~~ if a majority of the Review Committee is in favor.

(11) When considering loan applications, the Office upon consultation with the Advisor or Director may modify the dollar amount or project scope for approved projects if the Office determines that individual measures included in a project do not meet the requirements of this rule, are not cost effective, or that funds could better be used for funding of other projects.

R362-3-7. Loan Terms.

(1) The maximum amount that may be approved by the Advisor or Director for any single energy efficiency project is ~~\$250,000~~ \$1,000,000. The minimum amount that may be approved is \$5,000.

~~B. No school district may receive a loan that would cause the sum of its outstanding loan balances to exceed \$500,000.~~

(2) The final value of any loan may vary from the Advisor or Director-approved amount according to the actual incursion of costs by the political subdivision. In cases where costs have exceeded those presented in the initial application, a political subdivision may request that the Advisor or Director increase its loan award, subject to the limitations of subsections ~~(A)~~ (1) and ~~(B)~~ (2) above.

(3) After approval of a loan application by the Advisor or Director, a political subdivision has one year in which to complete the energy efficiency project. If at the end of one year a political subdivision is unable to meet this time limitation, it may request an extension from the Office of no more than six additional months.

(4) Loan amounts from the Fund will ~~be encumbered in an escrow account for~~ be reserved for periodic disbursement upon invoice approval at the discretion of the ~~school district appointed project manager (designated in loan application form, see R362-3-6.C) Office,~~ with invoices of the ~~e~~ Expenditures will be documented in each quarterly progress report, and the final 10% withheld pending a determination of substantial completion by the Office.

(5) Once a project has been completed, the political subdivision shall provide ~~to SEP~~ the Office documentation of actual costs incurred, such as invoices from contractors, as well as information on any third party financial incentives received. The Office will use this information to determine the actual cost of the project measures approved by the Advisor or Director.

(6) The final loan amount will be equal to actual costs incurred for the project minus the value of any third party incentives received unless

(a) This amount exceeds ~~\$250,000~~ \$1,000,000, in which case the amount of the loan will be set at ~~\$250,000~~ \$1,000,000; or

(b) This amount exceeds the amount approved by the Advisor or Director, in which case the loan amount will be set at the amount originally approved by the Advisor or Director; or

(c) This amount exceeds the amount approved by the Advisor or Director and the Advisor or Director increases the loan award at the request of the political subdivision.

~~[H-](7)~~ ~~[No interest]~~ At the discretion of the Office, interest will be charged to ~~[school districts]~~ political subdivisions receiving loans for energy efficiency projects from the Fund~~[-]~~ at or below market interest rates.

~~[I-](8)~~ An administrative fee may be charged to loan recipients to defray the cost of servicing loan accounts.

~~[J-](9)~~ Loan repayment periods will be set to any term desired by the applicant between two and twelve years at the discretion of the Office. The loan repayment period for a specific energy efficiency project begins with the first day of the next quarter after all of the loan funds have been disbursed.

~~[K-](10)~~ Loan repayments will be due at the beginning of each quarter.

~~[L-](11)~~ Quarterly loan repayment amounts will be calculated ~~[as follows:~~

~~—————(Total loan amount + (annual administrative fee x loan repayment period) / loan repayment period) / 4.]~~ using a standard amortization schedule.

~~[M-](12)~~ ~~[School districts]~~ Political subdivisions that are approved for a loan award will enter into a contract with ~~[SEP]~~ the Office that specifies all terms applying to the loan, including the terms specified in this rule and standard contract terms for contracts and loans currently in effect for the State of Utah.

R362-3-8. Reporting and Site Visits.

~~[A-](1)~~ In the period between ~~[Advisor]~~ approval and project completion, the ~~[school district]~~ political subdivision shall complete and provide to ~~[SEP]~~ the Office a report at the beginning of each quarter. The report shall include information on the ~~[school district's]~~ political subdivision's progress in completing the energy efficiency project, its most-current estimate for the time of project completion, what proportion of the loan award has been disbursed in the quarter and total to date, and any notable problems or changes in the project since Advisor or Director approval such as construction delays or cost overruns.

~~[B-](2)~~ If a ~~[school district]~~ political subdivision fails to submit the quarterly reports described in subsection (~~[A-]~~1) above, the Office upon consulting with the Advisor or Director may freeze the remainder of the loan award ~~[escrow account].~~

~~[C-](3)~~ After loan funds have been completely disbursed, the ~~[school district]~~ political subdivision shall complete and provide to ~~[SEP]~~ the Office annual reports due at the beginning of the calendar quarter in which the anniversary of the loan repayment period began. This report shall include the following:

~~[1-](a)~~ A description of the performance of the building and of the performance of the measures included in the energy efficiency project;

~~[2-](b)~~ A description of any notable problems that have occurred with the building or the project;

~~[3-](c)~~ A description of any notable changes to the building or to its operations that would cause a significant change in its energy consumption;

~~[4-](d)~~ Documentation of building energy consumption and cost in the prior year.

Annual reports shall be provided for either the first four years after project completion or for each year of the repayment period, whichever is longer.

~~[D-](4)~~ If a ~~[school district]~~ political subdivision fails to submit the annual reports described in subsection (~~[C-]~~3) above, the

Office upon consulting with the Advisor or Director may bar the ~~[school district]~~ political subdivision from eligibility for future loans from the Fund.

~~[E-](5)~~ Approximately one year after project completion, ~~[SEP]~~ Office staff will conduct a site visit to the location of the energy efficiency project to verify project completion and assess the success of the project. Additional site visits may also be conducted by ~~[SEP]~~ Office staff during the repayment period. Loan recipients will assist ~~[SEP]~~ the Office with such site visits, including providing access to all components of the energy efficiency project.

KEY: energy, efficiency, municipalities, ~~[schools,]~~ loans

Date of Enactment or Last Substantive Amendment: ~~[April 6, 2009]~~ 2014

Notice of Continuation: August 30, 2012

Authorizing, and Implemented or Interpreted Law: ~~[53A-20e-102]~~ 11-45-101

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-310**

Medicaid Primary Care Network Demonstration Waiver

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38922

FILED: 10/28/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is necessary because the Office of Refugee Resettlement (ORR) and the Centers for Medicare and Medicaid Services (CMS) recommend the Department enroll eligible refugees in the Refugee Medical Assistance program (RMA) instead of the Primary Care Network (PCN) to better serve the refugee population and to protect public health in the communities of Utah.

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies that individuals who are eligible for RMA without a spenddown are not eligible for PCN. It also clarifies eligibility decisions and reviews for the RMA program at the time of application.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no impact to the state budget because the RMA program is 100% federally funded.
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund nor provide Medicaid and PCN services to Medicaid and PCN recipients.

♦ **SMALL BUSINESSES:** There is no impact because this rule does not impose new costs or requirements on small businesses, and any increase or loss in revenue as a result of clients changing programs is negligible.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact because this rule does not impose new costs or requirements on providers of Medicaid and PCN services, and any increase or loss in revenue as a result of clients changing programs is negligible. Some clients may see nominal savings with more available refugee services, but there is no data to estimate those savings at this time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this rule does not impose new costs or requirements on a single provider of Medicaid or PCN services. Further, any loss in revenue to a single provider of these services is negligible.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment will have no effect on business because it does not impose new costs or requirements on Medicaid and PCN service providers.

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 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 NO LATER THAN AT 5:00 PM ON 12/15/2014

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

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

R414-310. Medicaid Primary Care Network Demonstration Waiver.

R414-310-6. Creditable Health Coverage.

(1) The Department adopts and incorporates by reference 42 CFR 433.138(b) and 435.610, October 1, 2013 ed., and Section 1915(b) of the Compilation of the Social Security Laws, in effect January 1, 2013.

(2) An applicant who is covered under a group health plan or other creditable health insurance coverage as defined in 29 CFR 2590.701-4, July 1, 2013 ed., is not eligible for enrollment in PCN. This includes coverage under student health insurance and the Veteran's Administration Health Care System.

(a) An individual who is enrolled in the Utah Health Insurance Pool or who can receive health coverage through Indian Health Services may enroll in PCN.

(b) An individual who could enroll in Medicare is not eligible for enrollment in PCN, even if the individual must wait for a Medicare open enrollment period to apply.

(c) An individual who is eligible to enroll in the VA Health Care System, but who has not yet enrolled, may be eligible for PCN as long as the individual applies for and takes all necessary steps to enroll. Eligibility for PCN ends once the individual's coverage in the VA Health Care System begins.

(d) Individuals who are full-time students and who can enroll in student health insurance coverage are not eligible to enroll in PCN.

(3) An individual is not eligible for PCN if the individual becomes eligible for Refugee Medical without a spenddown as defined in Section R414-303-10. An individual who is eligible for Refugee Medical with a spenddown may choose to enroll in either Refugee Medical or PCN.

~~(3)~~(4) An individual who has access to but has not yet enrolled in employer-sponsored health insurance coverage through an employer or a spouse's employer is not eligible for PCN if the individual's cost for the least expensive health insurance plan offered by the employer directly, or for the employer's default plan offered through Avenue H, does not exceed 15% of the countable MAGI-based income for the individual's household.

(a) The cost of coverage includes a deductible if the employer-sponsored plan has a deductible.

(b) The eligibility agency will include in the cost of coverage for the spouse, the cost to enroll the employee, if the employee must be enrolled to enroll the spouse.

(c) The eligibility agency considers the individual to have access to coverage if the individual has had at least one opportunity to enroll

~~(4)~~(5) An individual who voluntarily terminates health insurance coverage is ineligible to enroll in PCN for 180 days from the date the coverage ended. The eligibility agency ~~shall~~ may not apply a 180-day ineligibility period in the following situations:

(a) Voluntary termination of COBRA.

(b) Voluntary termination of Utah Comprehensive Health Insurance Pool coverage.

~~(5)~~(6) To be eligible to enroll in PCN, the 180-day ineligibility period must end by the earlier of the following dates or the eligibility agency shall deny the application:

(a) the last day of the open enrollment period during which the individual applies for PCN; or

(b) the last day of the month that follows the month in which the individual applies for PCN, if the open enrollment period does not expire before that following month ends.

(c) Enrollment in PCN may not begin before the 180-day ineligibility period ends.

R414-310-11. Eligibility Decisions and Reviews.

(1) The Department adopts and incorporates by reference 42 CFR 435.911 and 435.912, October 1, 2013 ed., regarding eligibility determinations.

(2) At application and review, the eligibility agency shall determine whether the individual is eligible for Medicaid, Refugee Medical or CHIP.

(a) An individual who qualifies for Medicaid or Refugee Medical without paying a spenddown or ~~an~~for Medicaid Work Incentive (MWI) without paying an MWI premium ~~can~~may not enroll in PCN.

(b) An applicant who is eligible for Medicaid, Refugee Medical or CHIP during the application month, or a Medicaid, Refugee Medical or CHIP recipient who requests PCN enrollment during an open enrollment period, may enroll in PCN in accordance with Subsection R414-310-12(1).

(3) An individual open on Medicaid, Refugee Medical or UPP may request to enroll in PCN.

(a) A new application form is not required.

(b) The rules in Section R414-310-12 govern the effective date of enrollment.

(c) If the individual is moving from UPP, the eligibility agency shall waive the open enrollment requirement if there is no break in coverage.

(d) If the individual is moving from Medicaid or Refugee Medical, the eligibility agency shall waive the open enrollment period if the individual was previously on PCN, became eligible for Medicaid or Refugee Medical, and requests to reenroll in PCN without a break in coverage.

(e) If the individual is moving from Medicaid or Refugee Medical and was not previously on PCN, or there has been a break in coverage of one or more months, the individual must reapply during an open enrollment period.

(f) All other eligibility requirements must be met.

(4) The eligibility agency shall complete an eligibility determination for each application unless:

(a) the applicant voluntarily withdraws the application and the eligibility agency sends a notice to the applicant to confirm the withdrawal;

(b) the applicant dies;

(c) the applicant cannot be located; or

(d) the applicant does not respond to requests for information within the 30-day application period or by the verification due date, if the verification date is later.

(5) The eligibility agency shall complete a periodic review of an enrollee's eligibility for medical assistance in accordance with the requirements of 42 CFR 435.916.

(a) The agency may request a recipient to contact the agency to complete the eligibility review.

(b) The agency shall provide the recipient a written request for verification needed to complete the review.

(c) The agency shall provide proper notice of an adverse decision.

(d) If the agency cannot provide proper notice of an adverse decision, the agency extends eligibility to the following month to allow for proper notice.

(6) If a recipient fails to respond to a request to complete the review or fails to provide all requested verification to complete the

review, the eligibility agency shall end eligibility effective the end of the month for which the agency sends proper notice to the recipient.

(a) If the recipient contacts the agency to complete the review or returns all requested verification within three calendar months of the closure date, the eligibility agency shall treat such contact or receipt of verification as a new application. The agency may not require a new application form.

(b) The application processing period applies to this request to reapply.

(c) Eligibility can begin in the month the client contacts the agency to complete the review if all verification is received within the application processing period.

(d) If the recipient fails to return the verification timely, but before the end of the three calendar months, eligibility becomes effective the first day of the month in which all verification is provided and the individual is found eligible.

(e) The eligibility agency may not continue eligibility while it makes a new eligibility determination.

(f) The eligibility agency shall waive the open enrollment requirement during these three calendar months.

(g) If the enrollee does not respond to the request to complete the review for PCN during the three calendar months immediately following the review closure date, the enrollee must reapply for PCN and meet all eligibility criteria.

(7) If the individual files a new application or makes a request to reenroll within the calendar month that follows the effective closure date when the closure is for a reason other than incomplete review, the eligibility agency shall waive the open enrollment period and process the request as a new application.

(8) The enrollee must reapply if the case closes for one or more calendar months for any reason other than an incomplete review.

(9) The eligibility agency shall comply with the requirements of 42 CFR 435.1200(e), regarding transfer of the electronic file for the purpose of determining eligibility for other insurance affordability programs.

KEY: Medicaid, primary care, demonstration

Date of Enactment or Last Substantive Amendment: [~~April 21,~~ 2014

Notice of Continuation: June 4, 2012

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

Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-320
Medicaid Health Insurance Flexibility
and Accountability Demonstration
Waiver

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38929

FILED: 10/30/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is necessary because the Office of Refugee Resettlement (ORR) and the Centers for Medicare and Medicaid Services (CMS) recommend the Department enroll eligible refugees in the Refugee Medical Assistance program (RMA) instead of Utah's Premium Partnership for Health Insurance (UPP) to better serve the refugee population and to protect public health in the communities of Utah.

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies that individuals who are eligible for RMA without a spenddown are not eligible for UPP. It also clarifies eligibility decisions and reviews for the RMA program at the time of application.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no impact to the state budget because the RMA program is 100% federally funded.
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund nor provide Medicaid and UPP services to Medicaid and UPP recipients.
- ◆ **SMALL BUSINESSES:** There is no impact because this rule does not impose new costs or requirements on small businesses, and any increase or loss in revenue as a result of clients changing programs is negligible.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact because this rule does not impose new costs or requirements on providers of Medicaid and UPP services, and any increase or loss in revenue as a result of clients changing programs is negligible. Some clients may see nominal savings with more available refugee services, but there is no data to estimate those savings at this time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this rule does not impose new costs or requirements on a single provider of Medicaid or UPP services. Further, any loss in revenue to a single provider of these services is negligible.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment will have no effect on business because it does not impose new costs or requirements on Medicaid and UPP service providers.

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 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 NO LATER THAN AT 5:00 PM ON 12/15/2014

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**R414-320. Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver.****R414-320-6. Creditable Health Coverage.**

(1) The Department adopts and incorporates by reference 42 CFR 433.138(b), October 1, 2013 ed.

(2) An applicant who is covered under a group health plan or other creditable health insurance coverage, as defined in 29 CFR 2590.701-4, July 1, 2013 ed., is not eligible for enrollment.

(3) An applicant who is covered by COBRA coverage may be eligible for UPP enrollment.

(4) An individual is not eligible for UPP if the individual becomes eligible for Refugee Medical without a spenddown as defined in Section R414-303-10. An individual who is eligible for Refugee Medical with a spenddown may choose to enroll in either Refugee Medical or UPP.

([4]5) The following requirements apply to an individual who has access to but has not yet enrolled in employer-sponsored health insurance:

(a) If the individual's cost for the employer-sponsored coverage offered by the employer directly, or for the employer's default plan offered through Avenue H, is less than 5% of the countable MAGI-based income for the individual's household, the individual is not eligible for the UPP program.

(b) If the individual's cost for the employer-sponsored coverage offered by the employer directly, or for the employer's default plan offered through Avenue H, equals or exceeds 5% of the countable MAGI-based income for the individual's household, the individual may enroll in UPP.

(i) An eligible child may choose enrollment in either UPP or CHIP.

(ii) If the cost of coverage exceeds 15% for an adult, the individual may enroll in either UPP or PCN. To enroll in PCN, it must be an open enrollment period and the individual must meet the PCN criteria.

(c) The cost of coverage includes a deductible if the employer-sponsored plan has a deductible.

(d) The eligibility agency will include in the cost of coverage for the spouse or dependent child, the cost to enroll the employee if the employee must be enrolled to enroll the spouse or dependent child.

([5]6) An eligible individual who has access to or who is enrolled in a COBRA plan may choose to enroll in UPP and the COBRA plan if the individual's cost for the COBRA plan exceeds 5% of the countable MAGI-based income for the individual's household.

([6]7) An individual who could enroll in Medicare is not eligible for UPP enrollment, even if the individual must wait for a Medicare open enrollment period to apply.

([7]8) An individual who is enrolled in the Veteran's Administration (VA) Health Care System is not eligible for UPP enrollment.

(a) An individual who is eligible to enroll in the VA Health Care System, but who has not yet enrolled, may be eligible for the UPP program while waiting for enrollment in the VA Health Care System to become effective. To be eligible during this waiting period, the individual must apply for and take all necessary steps to enroll in the VA Health Care System.

(b) Eligibility for the UPP program ends once the individual's coverage in the VA Health Care System begins.

([8]9) An individual who voluntarily terminates health insurance coverage is ineligible to enroll in UPP for 90 days from the date the coverage ends.

(a) The eligibility agency may not apply a 90-day waiting period in the following situations:

(i) The premium paid by the individual or family for coverage of the individual or family member exceeded 5% of the MAGI-based household income.

(ii) The cost of the premium paid and deductible that includes the individual for the family coverage health plan exceeds 9.5% of the MAGI-based household income.

(iii) An employer stopped offering coverage under an ESI.

(iv) Loss of coverage due to a change in employment or involuntary separation.

(v) The individual has special health care needs as defined by the Department.

(vi) Loss of coverage due to the death or divorce of an UPP individual.

(vii) Voluntary termination of COBRA.

(viii) Voluntary termination of Utah Comprehensive Health Insurance Pool coverage.

(ix) Voluntary termination of coverage for an adult child from the parent's or guardian's ESI plan.

(x) Voluntary termination of coverage by a spouse who does not live in the same household as the UPP applicant.

(xi) Voluntary termination of coverage for a child from a non-custodial parent's ESI plan.

(xii) The individual is voluntarily terminated from insurance that does not provide coverage in Utah;

(xiii) The individual is voluntarily terminated from a limited health insurance plan;

(xiv) A child is terminated from a parent's insurance because ORS reverses the forced enrollment requirement due to the insurance being unaffordable.

(b) The eligibility agency will determine the individual's eligibility at the end of the waiting period without requiring a new application.

(i) The agency may request information about changes in the individual's circumstances that may affect eligibility.

(ii) If eligible, enrollment in UPP can begin in the month in which the 90-day ineligibility period ends.

([9]10) An individual is eligible to enroll in UPP if the individual's prior health insurance coverage expires before the end of the calendar month that follows the month in which he applies for UPP, and the individual has access to another employer-sponsored health insurance plan that meets the criteria of an UPP qualified health plan. The UPP enrollment date must be after the prior health insurance coverage ends.

([1]0) An eligible individual with access to an employer-sponsored health plan who also has creditable health coverage operated or financed by Indian Health Services may enroll in the UPP program.

R414-320-11. Eligibility Decisions and Eligibility Reviews.

(1) The Department adopts and incorporates by reference 42 CFR 435.911 and 435.912, October 1, 2013 ed., regarding eligibility determinations.

(2) At application and review, the eligibility agency shall determine whether the individual applying for UPP enrollment is eligible for Medicaid or Refugee Medical.

(a) An individual who qualifies for Medicaid without paying a spenddown or a ~~an~~ Medicaid Work Incentive (MWI) premium ~~can~~ may not enroll in the UPP program.

(b) An individual who qualifies for Refugee Medical without paying a spenddown may not enroll in the UPP program.

([b]c) An individual who must pay a spenddown or MWI premium to receive Medicaid or pay a spenddown for Refugee Medical may enroll in UPP if the individual elects not to receive Medicaid or Refugee Medical.

(3) An individual who is open for Medicaid, Refugee Medical, PCN, or CHIP may request to enroll in the UPP program.

(a) A new application form is not required.

(b) The rules in Section R414-320-12 govern the effective date of enrollment.

(c) A new income test must be completed for the individual. If the individual's income places the UPP household over the income limit for UPP, the individual is not eligible to enroll in UPP.

(d) If the individual is moving from PCN or CHIP, the eligibility agency shall waive the open enrollment requirement if there is no break in coverage.

(e) If the individual was previously on UPP, became eligible for Medicaid or Refugee Medical, and requests to reenroll in UPP without a break in coverage, the eligibility agency shall waive the open enrollment period and the requirement in Subsection 414-320-6(2).

(f) If the individual is moving from Medicaid or Refugee Medical and was not previously on UPP, or there has been a break in coverage of one or more months, an adult individual must reapply during an open enrollment period.

(g) For a PCN or CHIP individual who enrolls in an employer-sponsored health plan, the eligibility agency shall waive the requirement found in Subsection 414-320-6(2) if the change is reported within ten calendar days of signing up for coverage or within ten calendar days after coverage begins, whichever is later.

(h) All other eligibility requirements must be met.

(4) The eligibility agency shall process each application to a decision unless:

(a) the applicant voluntarily withdraws the application and the eligibility agency sends a notice to the applicant to confirm the withdrawal;

(b) the applicant dies;

- (c) the applicant cannot be located; or
- (d) the applicant does not respond to requests for information within the 30-day application period or by the verification due date, if that date is later.
- (5) The eligibility agency shall complete a periodic review of an enrollee's eligibility for medical assistance in accordance with the requirements of 42 CFR 435.916.
- (a) The agency may request a recipient to contact the agency to complete the eligibility review.
- (b) The agency shall provide the recipient a written request for verification needed to complete the review.
- (c) The agency shall provide proper notice of an adverse decision.
- (d) If the agency cannot provide proper notice of an adverse decision, the agency extends eligibility to the following month to allow for proper notice.
- (6) If a recipient fails to respond to a request to complete the review or fails to provide all requested verification to complete the review, the eligibility agency shall end eligibility effective the end of the month for which the agency sends proper notice to the recipient.
- (a) If the recipient contacts the agency to complete the review or returns all requested verification within three calendar months of the closure date, the eligibility agency shall treat such contact or receipt of verification as a new application. The agency may not require a new application form.
- (b) The application processing period applies to this request to reapply.
- (c) Eligibility can begin in the month the client contacts the agency to complete the review if all verification is received within the application processing period.
- (d) If the recipient fails to return the verification timely, but before the end of the three calendar months, eligibility becomes effective the first day of the month in which all verification is provided and the individual is found eligible.
- (e) The eligibility agency may not continue eligibility while it makes a new eligibility determination.
- (f) During these three calendar months, the eligibility agency shall waive the open enrollment period requirement and the requirement at Subsection R414-320-6(2).
- (g) If the enrollee does not respond to the request to complete a review for UPP during the three calendar months immediately following the review closure date, the enrollee must reapply for UPP and meet all eligibility criteria.
- (7) If the individual files a new application or makes a request to reenroll within the calendar month that follows the effective closure date, when the closure is for a reason other than an incomplete review, the eligibility agency will process the request as a new application and waive the open enrollment period and the requirement found at Subsection R414-320-6(2).
- (8) The enrollee must reapply if the case closes for one or more calendar months for any reason other than an incomplete review.
- (9) The eligibility agency shall comply with the requirements of 42 CFR 435.1200(e), regarding transfer of the electronic file for the purpose of determining eligibility for other insurance affordability programs.

KEY: CHIP, Medicaid, PCN, UPP

Date of Enactment or Last Substantive Amendment: [~~April 21,~~ 2014

Notice of Continuation: October 13, 2011

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

Human Services, Substance Abuse and Mental Health **R523-8**

Evidence-Based Prevention Registry

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 38917

FILED: 10/16/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As required by H.B. 40 in the 2014 General Legislative Session, the purpose of this rule is to define evidence-based prevention and evidence-informed prevention and prescribe standards for listing a prevention program or intervention on a statewide registry of evidence-based prevention programs.

SUMMARY OF THE RULE OR CHANGE: This new rule provides definitions to key terms and phrases; provides requirements for listing on statewide registry of evidence-based programs; and establishes a review process by the Division of Substance Abuse and Mental Health (DSAMH).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 32B-2-402(1)(f)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Implementation of this rule will cost DSAMH an estimated \$100,000 per year. DSAMH intends to use existing federal substance abuse prevention and treatment block grant funds to cover this cost. Funds will be reallocated from other prevention administrative and research activities.

◆ **LOCAL GOVERNMENTS:** There may be a small budgetary impact for local government. DSAMH anticipates local government staff being involved in preparing submissions. Implementation of evidence-based prevention activities may also result in overall cost savings associated with criminal justice, healthcare. In the end, the impact should be small.

◆ **SMALL BUSINESSES:** There may be a small impact on small businesses in preparing submissions and not a material impact on them.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There will not be an impact on persons other than small businesses, local government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance cost for affected persons is expected to be minimal and is not anticipated to have a material impact on them.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There may be a small impact on small businesses in preparing submissions, but this is not expected to have a material impact on them.

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

HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov
◆ L Ray Winger by phone at 801-538-4319, by FAX at 801-538-9892, or by Internet E-mail at raywinger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2014

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2014

AUTHORIZED BY: Doug Thomas, Director

R523. Human Services, Substance Abuse and Mental Health.

R523-8. Evidence-Based Prevention Registry.

R523-8-1. Purpose and Statutory Authority.

(1) Purpose. These rules define evidence-based prevention and evidence-informed prevention and prescribe standards for listing a prevention program or intervention on a statewide registry of evidence-based prevention programs.

(2) Statutory Authority. These definitions and standards are promulgated by the Utah Department of Human Services through the Division of Substance Abuse and Mental Health (DSAMH) as authorized by Subsection 32B-2-402(1)(f).

(3) Intent. The objective of this rule is to decrease the harmful effects of substance use through implementation of evidence-based and evidence-informed prevention.

R523-8-2. Definitions.

(1) Evidence-based prevention includes programs, activities and strategies (hereinafter referred to as "interventions") that:

(a) Are included in private or federal registries that identify evidence-based interventions proven to result in sustained positive benefits to individuals or communities.

(b) Have been reported in peer-reviewed journals and with demonstrated positive effects on the primary targeted outcome;

or
(c) Have documented effectiveness supported by other sources of information and the consensus judgment of informed experts, and meet the following criteria:

(i) The intervention is based on a theory of change that is documented in a clear logic or conceptual model; and

(ii) The intervention is similar in content and structure to interventions that appear in registries and/or the peer-reviewed literature; and

(iii) The intervention is supported by documentation that it has been effectively implemented in the past, and multiple times, in a manner attentive to scientific standards of evidence and with results that show a consistent pattern of credible and positive effects; and

(iv) The intervention is reviewed and deemed appropriate by the Division of Substance Abuse and Mental Health.

(2) Evidence-informed prevention includes programs, activities and strategies (hereinafter referred to as "interventions"):

(a) With documented effectiveness supported by other sources of information and the consensus judgment of informed experts; and

(b) Have been reviewed by the DSAMH and determined to meet the criteria for listing on Utah's Statewide Registry of Evidence-based Programs.

R523-8-3. Requirements For Listing On Statewide Registry of Evidence-Based Programs.

(1) The DSAMH shall develop and publish a statewide registry of evidence-based prevention interventions. This registry should be made available to the public in print and electronic formats.

(2) The DSAMH shall develop and make available registry application forms that include guidance on the documentation needed for review by DSAMH to the public in print and electronic formats.

(3) Only programs/interventions determined to be evidence-based in accordance with the definition in this rule shall be listed on the registry upon completion of an application and required forms.

(4) The registry shall at a minimum include contact information for key staff, a short program description, identification of the target population, and identify the long-term goals.

(5) Programs/interventions shall annually submit an application with a DSAMH approved logic model for continued listing on the registry.

R523-8-4. DSAMH Review Process.

(1) The DSAMH shall create an evidence-based prevention workgroup comprised of informed prevention experts to review programs that includes:

(a) At least one Doctorate level social scientist with at least three years experience evaluating prevention interventions similar to those under review;

- (b) At least one urban prevention practitioner;
- (c) One rural prevention practitioner;
- (d) One representative from the Utah Substance Abuse Advisory Council;
- (e) A representative from public health;
- (f) DSAMH prevention staff; and
- (f) Other members as needed.
- (2) The Evidence-based Prevention Workgroup shall review all submissions to DSAMH and make recommendations to the DSAMH Division Director regarding whether the submission should be listed on the Statewide Registry of Evidence-based Programs.
- (3) Programs for which the Evidence-based Workgroup determines do not meet the criteria for inclusion on the Statewide Registry of Evidence-Based Programs shall receive a written explanation of the decision and recommendations for the intervention that would improve the likelihood of meeting the requirements for listing on the registry.

KEY: evidence-based prevention; statewide registry; evidence-based prevention workgroup
Date of Enactment or Last Substantive Amendment: 2014
Authorizing, and Implemented or Interpreted Law: 32B-2-402(1)(f)

Labor Commission, Industrial Accidents
R612-400-5
Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 38920
 FILED: 10/23/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Workers' Compensation insurance premiums in Utah include an assessment to fund the Employers' Reinsurance Fund (ERF) and the Uninsured Employers' Fund (UEF). Employers that self-insure their workers' compensation liabilities are required to pay an equivalent assessment. These assessment rates are reviewed annually and amended as appropriate in order to ensure the funds remain viable and are fully funded. The proposed change establishes these assessment rates for the 2015 calendar year.

SUMMARY OF THE RULE OR CHANGE: For 2015, the proposed amendment increases the ERF's premium assessment rate from 2.9% to 3.0% and maintains the UEF's premium assessment rate at 0.35%.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 59-9-101(2)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: The proposed amendment will impose no additional administrative or enforcement costs on the Labor Commission, which is the state agency charged with administering and enforcing Utah's workers' compensation system. This increase, however, may marginally affect the state's budget in that it may be passed on in the form of an increase in the state's workers' compensation insurance premiums.
- ◆ LOCAL GOVERNMENTS: This increase may marginally affect local governments in that it may be passed on in the form of increased workers' compensation insurance premiums.
- ◆ SMALL BUSINESSES: This increase may marginally affect small businesses in that it may be passed on in the form of increased workers' compensation insurance premiums.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This increase will not impact persons who do not own a business, have no employees, and have no workers' compensation insurance policy.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This increase may affect the workers' compensation insurance premiums paid by the state of Utah, local governments, and businesses. The total cost cannot be determined at this time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This increase may affect the workers' compensation insurance premiums paid by the state of Utah, local governments, and businesses. The total cost cannot be determined at this time.

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

LABOR COMMISSION
 INDUSTRIAL ACCIDENTS
 HEBER M WELLS BLDG
 160 E 300 S
 SALT LAKE CITY, UT 84111-2316
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at rdressler@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2014

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2014

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R612. Labor Commission, Industrial Accidents.**R612-400. Workers' Compensation Insurance, Self-Insurance and Waivers.****R612-400-5. Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund.**

A. Pursuant to Section 59-9-101(2), Section 59-9-101.3 and 34A-2-202 the workers' compensation premium rates effective January 1, 2014~~5~~, as established by the Labor Commission, shall be:

1. 0.35% for the Uninsured Employers' Fund;
2. ~~[2.9]~~3.0% for the Employers' Reinsurance Fund;

B. The premium rates are a percentage of the total workers' compensation insurance premium income as detailed in Section 59-9-101(2)(a).

KEY: workers' compensation, insurance, rates, waivers

Date of Enactment or Last Substantive Amendment: ~~[October 22,~~]2014

Authorizing, and Implemented or Interpreted Law: 59-9-101(2)

Public Safety, Peace Officer Standards and Training **R728-409** Suspension or Revocation of Peace Officer Certification

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38925

FILED: 10/29/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this change is to update the administrative rule to match the change in the Utah Code. This change was as a result of H.B. 178 and H.B. 179 from the 2014 General Legislative Session.

SUMMARY OF THE RULE OR CHANGE: The language of this rule is changed to reflect the change in Utah Code Section 53-6-211. The term "relinquish" is now defined in the change to this rule as found in Section 53-6-211.5. Section R728-409-4 clearly defines what conduct will not be investigated to include a violation of an employer's policy or procedure not rising to the level of a violation of Section 53-6-211 or Subsection 53-6-309(1) or sexual activity protected under the right of privacy recognized by the United States Supreme Court in *Lawrence v. Texas*, 539 U.S. 558 (2003). Sections 53-6-211.5 and 53-6-311 allows for a respondent who has engaged in conduct described in Subsections 53-6-211(1) or 53-6-309(1) to now voluntarily relinquish the certification by submitting a Relinquishment of Certification

form to the division. As soon as the relinquishment form is received by the division, the investigation into the complaint will cease.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-6-211 and Section 53-6-211.5 and Section 53-6-309 and Section 53-6-311

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** With the addition of Sections 53-6-211.5 and 53-6-311, a peace officer or dispatcher may now relinquish their certification at any time when a disciplinary issue has been referred to the division. When this occurs, an investigation stops or does not take place thus saving investigation time and resources.

♦ **LOCAL GOVERNMENTS:** The changes in this law did not fiscally affect local government and the rule changes in turn also will not have a fiscal affect.

♦ **SMALL BUSINESSES:** Small business is not a class or group that will be affected by this administrative rule change.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** It is not anticipated that any other groups or organizations will have any fiscal impact with the change to this administrative rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs to affected persons for this change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses with this administrative rule.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY, UT 84070
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ♦ Debbie Johnson by phone at 801-592-8883, by FAX at 801-965-4608, or by Internet E-mail at debbiejohnson@utah.gov
- ♦ Wade Breur by phone at 801-256-2329, or by Internet E-mail at wbreur@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2014

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2014

AUTHORIZED BY: Scott Stephenson, Director

R728. Public Safety, Peace Officer Standards and Training.**R728-409. Suspension ~~or~~, Revocation, or Relinquishment of [Peace Officer] Certification.****R728-409-1. Authority.**

Section 53-6-105(1)(k) provides that the director shall, with the advice of the council, make rules necessary to administer Title 53 Chapter 6.

R728-409-2. Purpose.

The purpose of this rule is to establish procedures for the suspension, ~~or~~ revocation, or relinquishment of a ~~peace officer's~~ respondent's certification.

R728-409-3. Definitions.

[A:](1) Terms used in this rule are defined in Section 53-6-102.

[B:](2) In addition:

[1:](a) "ALJ" means an administrative law judge who conducts administrative hearings as ~~provided in Subsection~~ described in Subsections 53-6-211(3) and 53-6-309(3);

~~2. "Garrity warning" means a warning issued based on the decision in Garrity v. New Jersey, 385 U.S. 493 (1967);~~

[3:](b) "on duty" means that a ~~peace officer~~ respondent is:

[a:](i) actively engaged in any of the duties of ~~his~~ the respondent's employment as a peace officer or dispatcher;

[b:](ii) receiving compensation for activities related to ~~his~~ the respondent's employment as a peace officer or dispatcher;

[e:](iii) on the property of a law enforcement facility, correctional facility or dispatch center;

[d:](iv) in a law enforcement vehicle which is located in a public place; or

[e:](v) in a public place and is wearing a badge or uniform, authorized by ~~a law enforcement agency~~ the respondent's employer, which readily identifies the wearer as a peace officer or dispatcher;

(c) "relinquish" means the permanent deprivation of the respondent's certification pursuant to Section 53-6-211.5 or 53-6-311, which precludes a respondent from:

(i) admission into a training program conducted by, or under the approval of, the division; or

(ii) reinstatement or restoration of the respondent's certification by the division;

[4:](d) "respondent" means a peace officer or dispatcher against whom the division has initiated an investigation or adjudicative proceeding under ~~Section~~ Sections 53-6-211 or 53-6-309;

[5:](e) "revocation" means the permanent deprivation of a ~~peace officer's~~ respondent's certification, which ~~does not allow for a peace officer whose certification has been revoked to be readmitted into any peace officer training program conducted by or under the approval of the division, or to have peace officer certification reinstated or restored by the division~~ precludes a respondent from:

(i) admission into a training program conducted by, or under the approval of, the division; or

(ii) reinstatement or restoration of the respondent's certification by the division;

[6:](f) "sexual conduct" means the touching of the anus, buttocks or any part of the genitals of a person, or the touching of the breast of a female, whether or not through clothing, with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant; and

[7:](g) "suspension" means the temporary deprivation of a ~~peace officer's~~ respondent's certification.

[R728-409-4. Cause for the Suspension or Revocation of a Peace Officer's Certification.

~~The division may initiate an investigation when it receives information that grounds for the suspension or revocation of a peace officer's certification exist under Subsection 53-6-211(1).~~

R728-409-5. Conduct Not in Violation of Subsection 53-6-211(1).

~~Conduct which shall not be considered a violation of Subsection 53-6-211(1) includes:~~

~~A. Any traffic offense which is a class C misdemeanor or infraction;~~

~~B. A violation of a law enforcement agency's policy or procedure;~~

~~C. Conduct which is discovered or established through questioning which goes beyond the scope of a properly administered interview as established in Garrity v. New Jersey, 385 U.S. 493 (1967); or~~

~~D. Sexual activity which is protected under the right of privacy as recognized by the United States Supreme Court in Lawrence v. Texas, 539 U.S. 558 (2003).~~

[R728-409-6]4. Investigative Procedure.

[A:](1) The division shall initiate an investigation when it receives information from any reliable source that ~~grounds for the suspension or revocation of certification exist under Subsection~~ a violation of Subsections 53-6-211(1) or 53-6-309(1) has occurred, including when ~~any of the following circumstances occur~~:

~~1. A peace officer (a) a respondent is charged with or convicted of a [criminal violation of law] crime;~~

~~2. A peace officer (b) there is evidence a respondent has [committed] engaged in conduct which is a criminal act under law, but which has not been criminally charged or where criminal prosecution is not anticipated;~~

~~3. A peace officer (c) a respondent's employer notifies the division that the respondent has [committed] been investigated, disciplined, terminated, retired or resigned as a result of conduct in violation of [Subsection] Subsections 53-6-211(1) or 53-6-309(1) [where the peace officer's employing agency has conducted disciplinary action and notified the division;~~

~~4. A peace officer is terminated for conduct which is in violation of Subsection 53-6-211(1);~~

~~5. A peace officer resigns for conduct which is in violation of Subsection 53-6-211(1);~~

~~6. A citizen (d) a person makes a complaint [which, on its face, appears to be] regarding a violation of [Subsection] Subsections 53-6-211(1) or 53-6-309(1) and there is independent evidence to support the complaint;~~

~~7. The media reports about officer misconduct which appears to be in (e) a violation of [Subsection] Subsections 53-6-211(1) or 53-6-309(1) is reported in the media and there is independent evidence to confirm that the conduct occurred; or~~

~~8. A peace officer or law enforcement agency makes a complaint about a peace officer alleging conduct in violation of Subsection 53-6-211(1);~~

9. A criminal justice related agency or political subdivision makes a complaint about a peace officer alleging conduct in violation of Subsection 53-6-211(1);

[10. A](f) a background investigation [has been conducted by the division on a peace officer seeking peace officer certification or entrance into a certified peace officer training program which] indicates that [the peace officer] a respondent has engaged in conduct in violation of [Subsection]Subsections 53-6-211(1) or 53-6-309(1); or

11. A peace officer has provided false information to the peace officer's employing agency after having been issued a properly administered Garrity warning].

(2) The division may not investigate conduct which is limited to:

(a) a violation of an employer's policy or procedure; or

(b) sexual activity protected under the right of privacy recognized by the United States Supreme Court in *Lawrence v. Texas*, 539 U.S. 558 (2003).

[C.](3) A [citizen]person seeking to file a complaint against a [peace officer]respondent may be [required]asked to sign a written statement, detailing the incident and swearing to the accuracy of the statement after being advised that providing a false statement may result in prosecution under Section 76-8-511, Falsification of Government Record.

[D. A peace officer seeking to file a complaint against another peace officer may submit written documentation detailing the incident.

E. If the division receives a complaint or information about misconduct of a peace officer, an [4] An investigator from the division [will]shall be assigned to investigate the complaint [or information and to make a recommendation to proceed or to discontinue action in the matter. Assigned investigators are to]and ensure that [all investigative procedures are properly]the investigation is fully documented [and recorded]in the investigative case file.

[F.](5)(a) If a [peace officer]respondent under investigation is employed [by a law enforcement agency]as peace officer or dispatcher, the division shall notify the [peace officer's]respondent's [employing agency]employer concerning the complaint or [information]investigation, unless the nature of the complaint would make such a course of action impractical.

(b) The division shall keep a record of the date [and time the department administrator]the employer and the [officer]respondent are notified[should be noted in the appropriate space on the complaint form].

[G.](6) The division [will]shall refer any complaints [made by officers or citizens]of a criminal nature against a respondent to the appropriate law enforcement agency having jurisdiction over the crime for investigation and prosecution if such a referral has not already been made.

[H.](7) If the [law enforcement agency which employs the peace officer]respondent's employer has an open and active investigation, the division [will]may wait until the [agency]employer has completed [their]its investigation before taking action unless the division determines [that]it is not in the public's best interest to [wait]delay the investigation.

[I.](8) The division may use the information gathered by the [law enforcement agency which employs the peace officer]respondent's employer in its investigation[and may use any adjudicative findings to help determine what course of action to take.

This will not preclude the division from conducting an independent investigation if the division finds it is necessary].

[J.](9) The division [will]shall take action based on the actual conduct of the [peace officer]respondent as determined by [an]investigative process, not necessarily on the punishment instituted by the law enforcement agency which employs the peace officer or any court findings [the division's own independent investigation, not on any findings or sanctions issued by the respondent's employer or the court.

[K.](10) Witnesses and other evidence may be subpoenaed [for the]during an investigation pursuant to [Section]Sections 53-6-210 and 53-6-308.

[L.](11) If ordinary investigative procedures cannot resolve the facts at issue, a [peace officer]respondent may be requested to submit to a polygraph examination.

[M.](12) The director may immediately suspend a [peace officer's]respondent's certification as provided in Section 63G-4-502 if the director believes it is necessary to ensure the safety and welfare of the public, the continued public trust or professionalism of law enforcement.

[N.](13) Once the investigation is concluded, the division shall determine whether there is sufficient evidence to proceed with an adjudicative proceeding.

[O.](14) If the division determines [that]there is insufficient evidence to find that a [peace officer]respondent engaged in conduct in violation of [Subsection]Subsections 53-6-211(1) or 53-6-309(1), the director shall issue a letter to the [peace officer]respondent indicating that the investigation has been concluded and that the division shall take no action.

R728-409-[7]5. Purpose of Adjudicative Proceedings.

[A.](1) The purpose of an adjudicative proceeding [will]is [be]to determine whether there is sufficient evidence to find that the respondent [committed]engaged in the [alleged]conduct alleged in the Notice of Agency Action by clear and convincing evidence and whether such conduct falls within the grounds for administrative action enumerated in [Subsection]Subsections 53-6-211(1) or 53-6-309(1).

[B.](2) All adjudicative proceedings initiated by the division for the purpose of suspending or revoking a [peace officer's]respondent's certification shall be formal proceedings as provided by Section 63G-4-202.

R728-409-[8]6. Commencement of Adjudicative Proceedings - Filing of the Notice of Agency Action.

[A.](1) Except as provided by 63G-4-502, all adjudicative proceedings initiated by the division for the purpose of suspending or revoking a [peace officer's]respondent's certification shall be commenced by the filing of a Notice of Agency Action.

[B.](2) The Notice of Agency Action shall be signed by the director and [shall]comply with the requirements of Section 63G-4-201.

[C.](3) The Notice of Agency Action shall be filed with the division and a copy [shall be]sent to the respondent by certified mail.

R728-409-[9]7. Responsive Pleadings.

[A.](1) The respondent [must]shall file [with the division]a written response with the division, signed by the respondent or [his]the respondent's attorney, within 30 days [of the mailing date of]from the date the Notice of Agency Action is signed by the director.

~~[B:]~~(2) The written response ~~[must]~~ shall comply with the requirements in Section 63G-4-204.

R728-409-~~[10]~~8. ~~[Consent Agreements]~~Hearing Waivers.

~~[A:]~~(1) Once a Notice of Agency Action has been issued, the division ~~[may seek a consent agreement with]~~ shall send a hearing waiver form to the respondent.

~~[B:]~~(2) The respondent ~~[will]~~ shall have ~~[20]~~30 days from the date ~~[that]~~the ~~[consent agreement]~~Notice of Agency Action is signed by the director to ~~[respond to the division regarding the consent agreement]~~sign a hearing waiver.

~~[C:]~~(3)(a) If ~~[a consent agreement is not sought or is not reached]~~the respondent does not waive the right to a hearing before the ALJ, the adjudicative proceeding will continue.

~~[b]~~ The period of time in which the respondent must file a responsive pleading to the Notice of Agency Action is not extended if the ~~[parties are unable to reach a consent agreement]~~respondent does not sign a hearing waiver.

~~[D:]~~ If a consent agreement is reached, it shall be signed by the respondent and the director and be filed with the division. The consent agreement shall indicate that~~(4)~~ If the respondent signs a hearing waiver and files it with the division, the matter shall be heard at the next regularly scheduled council meeting.

R728-409-~~[11]~~9. Default.

~~[A:]~~(1) The ALJ may enter an order of default against a ~~[party]~~respondent if:

~~[1:]~~(a) the respondent fails to file the response required ~~[by]~~in rule R728-409-~~[9]~~7; or

~~[2:]~~(b) the respondent fails to attend or participate in the hearing.

~~[B:]~~(2) The order of default shall include a statement of the grounds for default and shall indicate that the matter will be heard at the next regularly scheduled council meeting.

~~[C:]~~The ALJ shall issue the order of default.~~(3)~~ The order of default shall be filed with the division and a copy ~~[shall be]~~sent to the respondent by certified mail.

~~[D:]~~(4)(a) The respondent may seek to set aside the default order by filing a motion within 3 months ~~[of]~~from the date of the order of default.

~~[b]~~ The ALJ may set aside ~~[the]~~an order of default before the matter is heard by the council for good cause shown.

R728-409-~~[12]~~10. Scheduling a Hearing before the ALJ.

~~[A:]~~After~~(1)~~(a) If the division receives ~~[the]~~a responsive pleading from the respondent, a notice ~~[of]~~containing the location, date and time for the hearing ~~[will]~~shall be issued by the division.

~~[b]~~ The notice of hearing shall be filed with the division and a copy ~~[shall be]~~sent to the respondent by certified mail.

~~[B:]~~(2) The hearing ~~[will]~~shall be held within a reasonable time after service of the responsive pleading unless a later scheduling is ordered by the ALJ, or mutually agreed upon by the respondent and the division.

R728-409-~~[13]~~11. Discovery and Subpoenas.

~~[A:]~~(1)(a) In formal POST adjudicative proceedings parties may conduct only limited discovery.

~~[b]~~ A respondent's right to discovery does not extend to interrogatories, requests for admissions, request for the production of documents, request for the inspection of items, or depositions.

~~[B:]~~(2) Upon request, the respondent is entitled to a copy of the materials contained in the division's investigative file that the division intends to use in the adjudicative proceeding.

~~[C:]~~(3)(a) The disclosure of all discovery materials is subject to the provisions in the Government Records Access and Management Act, Section 63G-2-101 et seq.

~~[b]~~ The division may charge a fee for discovery in accordance with Section 63G-2-203.

~~[D:]~~(4) Subpoenas and other orders to secure the attendance of witnesses or the production of evidence for adjudicative proceedings shall be issued by the division pursuant to ~~[Section]~~Sections 53-6-210 and 53-6-308, by the ALJ when requested by any party, or by the ALJ on his own motion pursuant to Section 63G-4-205.

R728-409-~~[14]~~12. Hearing Procedures.

~~[A:]~~(1) All hearings shall be conducted by the ALJ ~~[according to the requirements of]~~in accordance with Section 63G-4-206.

~~[B:]~~(2)(a) At the hearing, the respondent has the right to be represented by an attorney.

~~[b]~~ Legal counsel will not be provided to the respondent by the division and all costs associated with representation will be the sole responsibility of the respondent.

R728-409-~~[15]~~13. ALJ Decision.

~~[A:]~~(1)(a) Within 30 days from the date a hearing is held, the ALJ shall sign and issue a written decision, which ~~[shall include]~~includes a statement of:

~~[1:]~~(b) the ALJ's findings of fact based exclusively on the evidence of record in the adjudicative hearing or on facts officially noted;

~~[2:]~~(c) the ALJ's conclusions of law; and

~~[3:]~~(d) the reasons for the ALJ's decision.

~~[B:]~~(c) If the ALJ ~~[finds that]~~determines there is sufficient evidence to find that the respondent engaged in conduct in violation of ~~[Subsection]~~Subsections 53-6-211(1) or 53-6-309(1), the ALJ's decision shall indicate that the matter will be heard at the next regularly scheduled council meeting.

~~[C:]~~(3) If the ALJ ~~[finds that]~~determines there is insufficient evidence to find that the respondent engaged in conduct in violation of ~~[Subsection]~~Subsections 53-6-211(1) or 53-6-309(1), the matter ~~[will]~~shall be dismissed.

~~[D:]~~(4) The ~~[ALJ shall file the]~~ALJ's decision shall be filed with the division and a copy ~~[shall be]~~sent to the respondent by certified mail.

R728-409-~~[16]~~14. Action by the Council.

~~[A:]~~Once a consent agreement has been reached or~~(1)~~ If the respondent waives the right to a hearing with a ALJ, there has been an order of default, or a decision is issued by the ALJ, the division shall present the matter to the council at ~~[their]~~its next regularly scheduled meeting. ~~[The]~~

~~_____~~ (2) The division shall notify the respondent of the date, time, and location of the council meeting.

~~_____~~ (3)(a) Prior to the council meeting, the division shall provide the council with the pleadings contained in the administrative file.

~~_____~~ (b) The division shall also provide the council with any written information or comments provided by the [chief, sheriff, or administrative officer of the]respondent's [employing agency]employer.

~~[B:]~~(4) At the council meeting the respondent or the respondent's attorney may address the council regarding whether the respondent's [peace officer]certification should be suspended or revoked.

~~[C:]~~(5) The council shall review the matter and [shall] determine whether suspension or revocation of the respondent's [peace officer]certification is appropriate based upon the facts of the case and the POST Disciplinary Guidelines which were adopted on June 7, 2010 and amended on [March 22, 2012]June 5, 2013.

R728-409-[17]15. Final Order.

~~[A:]~~(1) After the council has decided the matter, the council chairperson shall issue a final order within 30 days of the council meeting.

~~[B:]~~(2) The final order shall indicate the action taken by the council with regards to the respondent's [peace officer]certification and shall include information on the appeal process outlined in R728-409-[18]16.

~~[C:]~~(3) The council's action shall be effective on the date that the final order is [issued]signed by the chairperson.

~~[D:]~~(4)(a) The [council chairperson shall file the]final order shall be filed with the division.

~~_____~~ (b) A copy of the final order shall be sent to:

~~_____~~ (i) the respondent by certified mail; and

~~_____~~ (ii) the respondent's [employing agency]employer by regular mail, if the respondent is employed as peace officer or dispatcher.

R728-409-[18]16. Judicial Review.

~~[A:]~~(1) A respondent may obtain judicial review of the council's action by filing a petition for judicial review with the Utah

Court of Appeals within 30 days after the date that the final order is issued by the council chairperson.

~~[B:]~~(2) The petition must meet all requirements specified in Sections 63G-4-401 and 63G-4-403.

R728-409-17. Relinquishment Procedures.

~~_____~~ (1) At any time after the division receives a complaint that a respondent has engaged in conduct described in Subsections 53-6-211(1) or 53-6-309(1), a respondent who is the subject of the complaint may voluntarily relinquish the respondent's certification by submitting a Relinquishment of Certification form to the division.

~~_____~~ (2) The Relinquishment of Certification form must be signed by the respondent and notarized.

~~_____~~ (3) As soon as the division receives a properly executed Relinquishment of Certification form, the respondent's certification shall be terminated and the respondent will no longer be a certified peace officer or dispatcher.

~~_____~~ (4) Upon the termination of the respondent's certification, the division's investigation into the complaint and any adjudicative proceedings will cease.

~~_____~~ (5) Notice of the termination of the respondent's certification shall be provided to:

~~_____~~ (a) the respondent;

~~_____~~ (b) the respondent's employer if the respondent is employed as a peace officer or dispatcher; and

~~_____~~ (6) the National Peace Officer De-Certification database administered by the International Association of Directors of Law Enforcement Standards and Training, if the respondent is a peace officer.

KEY: [law enforcement officers,]certification, investigations, revocation, relinquishment[rules and procedures]

Date of Enactment or Last Substantive Amendment: [August 6, 2012]2014

Notice of Continuation: December 21, 2011

Authorizing, and Implemented or Interpreted Law: 53-6-211; 53-6-211.5; 53-6-309; 53-6-311

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <http://www.rules.utah.gov/publicat/code.htm>. The rule text may also be inspected at the agency or the Division of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-61** Home and Community-Based Services Waivers

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 38927
FILED: 10/30/2014

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 26-18-3(2)(a) requires the Department to implement the Medicaid program through administrative rules. In addition, Section 1915(c) of the Social Security Act allows payment for home and community-based services under waiver to be "medical assistance".

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it implements the administration of home and community-based services for Medicaid recipients.

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 by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 10/30/2014

Heritage and Arts, History **R455-13** Capital Funds Request Prioritization

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 38923
FILED: 10/28/2014

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The division may make, amend,

or repeal rules for the conduct of its business in governing the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act and authorized by Sections 9-8-203 and 9-8-205.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule is necessary because the purpose of this rule is to establish the procedure regarding annual capital grant request prioritization by the Board of State History, in the Division of State History, within the Department of Heritage and Arts. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HERITAGE AND ARTS
 HISTORY
 300 RIO GRANDE ST
 SALT LAKE CITY, UT 84101-1182
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Alycia Aldrich by phone at 801-245-7226, by FAX at 801-533-3503, or by Internet E-mail at aaldrich@utah.gov

AUTHORIZED BY: Julie Fisher, Executive Director

EFFECTIVE: 10/28/2014

**Regents (Board of), University of Utah,
 Administration**

R805-4

**Illegal, Harmful, and Disruptive
 Behavior on University of Utah Property**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 38918
 FILED: 10/16/2014

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 53B-1-104(8) and 53B-2-106(2)(d) authorize the Board of Regents and the University president to enact rules for the appropriate

administration and operation of the institution. Section 63G-4-102 of the Utah Administrative Procedures Act defines the requirements for the administrative rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: On 12/05/2009 received a written comment from a University of Utah student with questions/concerns about possible sanctions. On 12/18/2009 receive a written comment from a University of Utah graduate student making suggestions to help identify people who may be on campus with intent to do harm or disrupt.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R805-4 provides the processes for excluding disruptive visitors from campus. The rule is needed to help define the process and to put the public on notice of these processes. Therefore, this rule should be continued. The University has received no opposition to the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 REGENTS (BOARD OF)
 UNIVERSITY OF UTAH, ADMINISTRATION
 ROOM 309 PARK BLDG
 201 S PRESIDENTS CIR
 SALT LAKE CITY, UT 84112-9009
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Robert Payne by phone at 801-585-7002, by FAX at 801-585-7007, or by Internet E-mail at robert.payne@legal.utah.edu

AUTHORIZED BY: David Pershing, President

EFFECTIVE: 10/16/2014

Transportation, Program Development

R926-12

**Share the Road Bicycle Support
 Restricted Account**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 38919
 FILED: 10/22/2014

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS

ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under authority granted to the Department of Transportation by Subsection 72-2-127(6)(c), which authorizes the Department to make rules providing procedures and requirements for an organization to apply to the Department to receive a distribution under Subsection 72-2-127(5).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received from interested persons since the rule was promulgated on 10/22/2009.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Share the Road Bicycle Support Restricted Account is an ongoing program. Without Rule R926-12, the Department has no framework to follow when distributing funds and interested organizations have no

framework to follow when applying for funds. The Department cannot manage the account without the rule. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TRANSPORTATION
PROGRAM DEVELOPMENT
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 10/22/2014

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Division of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal & Reenact
REP = Repeal

Agriculture and Food

Regulatory Services
No. 38813 (AMD): R70-101-7. Manufacturer Identification and Tag Requirements
Published: 09/15/2014
Effective: 10/22/2014

Commerce

Consumer Protection
No. 38748 (AMD): R152-23. Utah Health Spa Services
Published: 09/01/2014
Effective: 10/16/2014

No. 38763 (AMD): R152-32a-2. Exempt Businesses
Published: 09/01/2014
Effective: 10/16/2014

Occupational and Professional Licensing

No. 38792 (AMD): R156-15A-231. Administration of Building Code Training Fund and Factory Built Housing Fees Account
Published: 09/15/2014
Effective: 10/23/2014

No. 38825 (AMD): R156-55d. Burglar Alarm Licensing Rule
Published: 09/15/2014
Effective: 10/23/2014

No. 38814 (AMD): R156-64. Deception Detection Examiners Licensing Act Rule
Published: 09/15/2014
Effective: 10/23/2014

Environmental Quality

Radiation Control
No. 38752 (AMD): R313-12-3. Definitions
Published: 09/01/2014
Effective: 10/21/2014

No. 38754 (AMD): R313-22-33. General Requirements for the Issuance of Specific Licenses
Published: 09/01/2014
Effective: 10/21/2014

No. 38755 (AMD): R313-25-2. Definitions
Published: 09/01/2014
Effective: 10/21/2014

Health

Children's Health Insurance Program
No. 38817 (AMD): R382-10. Eligibility
Published: 09/15/2014
Effective: 11/01/2014

Disease Control and Prevention, Epidemiology
No. 38662 (NEW): R386-80. Local Public Health Emergency Funding Protocols
Published: 07/15/2014
Effective: 10/24/2014

Health Care Financing, Coverage and Reimbursement Policy
No. 38818 (AMD): R414-303-11. Presumptive Pregnant Woman and Child Medicaid
Published: 09/15/2014
Effective: 11/01/2014

No. 38819 (AMD): R414-320. Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver
Published: 09/15/2014
Effective: 11/01/2014

NOTICES OF RULE EFFECTIVE DATES

Human Services

Administration, Administrative Services, Licensing
No. 38835 (AMD): R501-22. Residential Support Programs
Published: 09/15/2014
Effective: 10/23/2014

Insurance

Administration
No. 38823 (AMD): R590-170-4. Establishing the Trust
Account
Published: 09/15/2014
Effective: 10/30/2014

Labor Commission

Industrial Accidents
No. 38809 (AMD): R612-100-1. Authority
Published: 09/15/2014
Effective: 10/22/2014

No. 38805 (AMD): R612-100-2. Definitions
Published: 09/15/2014
Effective: 10/22/2014

No. 38811 (AMD): R612-100-3. Official Forms
Published: 09/15/2014
Effective: 10/22/2014

No. 38806 (AMD): R612-200. Workers' Compensation Rules
- Filing and Paying Claims
Published: 09/15/2014
Effective: 10/22/2014

No. 38810 (AMD): R612-300. Workers' Compensation Rules
- Medical Care
Published: 09/15/2014
Effective: 10/22/2014

No. 38803 (AMD): R612-400-1. Notification of Workers'
Compensation Insurance Coverage
Published: 09/15/2014
Effective: 10/22/2014

No. 38804 (AMD): R612-400-2. Employee Leasing
Company Workers' Compensation Policy Endorsements
Published: 09/15/2014
Effective: 10/22/2014

No. 38808 (AMD): R612-400-3. Workers' Compensation
Rules Self-Insurance
Published: 09/15/2014
Effective: 10/22/2014

No. 38807 (AMD): R612-400-4. Waivers
Published: 09/15/2014
Effective: 10/22/2014

Tax Commission

Property Tax
No. 38822 (AMD): R884-24P-33. 2014 Personal Property
Valuation Guides and Schedules Pursuant to Utah Code Ann.
Section 59-2-301
Published: 09/15/2014
Effective: 10/23/2014

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, 2014 through October 31, 2014. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to the Division of Administrative Rules (801-538-3764).

A copy of the **RULES INDEX** is available for public inspection at the Division of Administrative Rules (5110 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 (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Administration</u>					
R13-2	Access to Records	38570	5YR	06/02/2014	2014-12/53
R13-2	Access to Records	38569	AMD	07/22/2014	2014-12/6
<u>Child Welfare Parental Defense (Office of)</u>					
R19-1	Parental Defense Counsel Training	38547	5YR	05/21/2014	2014-12/53
<u>Debt Collection</u>					
R21-2	Office of State Debt Collection Administrative Procedures	38497	NSC	05/29/2014	Not Printed
R21-3	Debt Collection Through Administrative Offset	38496	NSC	05/29/2014	Not Printed
<u>Facilities Construction and Management</u>					
R23-2	Procurement of Architect-Engineer Services	38870	5YR	09/16/2014	2014-20/73
R23-3	Planning and Programming for Capital Projects	38405	5YR	04/03/2014	2014-9/49
R23-19	Facility Use Rules	38617	AMD	08/07/2014	2014-13/8
R23-22	General Procedures for Acquisition and Selling of Real Property	38618	R&R	08/07/2014	2014-13/13
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	38587	5YR	06/10/2014	2014-13/133
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	38615	AMD	08/07/2014	2014-13/18
R23-29	Across the Board Delegation	38404	5YR	04/03/2014	2014-9/49
R23-29	Across the Board Delegation	38425	R&R	06/09/2014	2014-9/4
R23-33	Rules for the Prioritization and Scoring of Capital Improvements by the Utah State Building Board	38247	NEW	03/10/2014	2014-3/2
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	38175	AMD	02/07/2014	2014-1/4
R25-7	Travel-Related Reimbursements for State Employees	38471	AMD	06/23/2014	2014-10/4
R25-7-8	Reimbursement for Lodging	38742	AMD	10/08/2014	2014-17/12
R25-10	State Entities' Posting of Financial Information to the Utah Public Notice Website	38653	5YR	06/25/2014	2014-14/79
R25-11	Utah Transparency Advisory Board, Procedures for Electronic Meetings	38634	NEW	08/21/2014	2014-14/4
<u>Fleet Operations</u>					
R27-4-13	Disposal of State Vehicles	38312	AMD	04/22/2014	2014-6/4
R27-7-3	Driver Eligibility to Operate a State Vehicle	38073	AMD	03/11/2014	2013-22/14

Purchasing and General Services

R33-1	Utah State Procurement Rules Definitions	38500	R&R	07/08/2014	2014-11/4
R33-1	Utah Procurement Rules, "General Procurement Provisions," Definitions	38689	5YR	07/08/2014	2014-15/61
R33-2	Procurement Organization	38501	R&R	07/08/2014	2014-11/6
R33-2	Rules of Procedure for Procurement Policy Board	38690	5YR	07/08/2014	2014-15/61
R33-3	Source Selection and Contract Formation	38502	R&R	07/08/2014	2014-11/9
R33-3	Procurement Organization	38691	5YR	07/08/2014	2014-15/62
R33-4	Specifications	38503	R&R	07/08/2014	2014-11/28
R33-4	General Procurement Provisions, Prequalifications, Specifications, and Small Purchases	38692	5YR	07/08/2014	2014-15/62
R33-5	Construction and Architect-Engineer Selection	38504	R&R	07/08/2014	2014-11/32
R33-5	Request for Information	38693	5YR	07/08/2014	2014-15/63
R33-6	Modification and Termination of Contracts for Supplies, Services, Construction, and Technology	38218	EXT	01/02/2014	2014-3/57
R33-6	Modification and Termination of Contracts for Supplies, Services, Construction, and Technology	38446	5YR	04/17/2014	2014-10/111
R33-6	Modification and Termination of Contracts for Supplies, Services, Construction, and Technology	38505	R&R	07/08/2014	2014-11/43
R33-6	Bidding	38694	5YR	07/08/2014	2014-15/64
R33-6-103	Pre-Bid Conferences/Site Visits	38756	AMD	10/08/2014	2014-17/13
R33-7	Cost Principles	38219	EXT	01/02/2014	2014-3/57
R33-7	Cost Principles	38447	5YR	04/17/2014	2014-10/111
R33-7	Cost Principles	38506	R&R	07/08/2014	2014-11/49
R33-7	Request for Proposals	38695	5YR	07/08/2014	2014-15/64
R33-7-201	Pre-proposal Conferences/Site Visits	38759	AMD	10/08/2014	2014-17/15
R33-7-601	Best and Final Offers	38757	AMD	10/08/2014	2014-17/16
R33-8	Property Management	38507	R&R	07/08/2014	2014-11/56
R33-8	Exceptions to Procurement Requirements	38696	5YR	07/08/2014	2014-15/65
R33-9	Insurance Procurement	38220	EXT	01/02/2014	2014-3/57
R33-9	Insurance Procurement	38448	5YR	04/17/2014	2014-10/112
R33-9	Insurance Procurement	38508	R&R	07/08/2014	2014-11/59
R33-9	Cancellations, Rejections, and Debarment	38697	5YR	07/08/2014	2014-15/65
R33-10	State Construction Contracts and Drug and Alcohol Testing	38509	R&R	07/08/2014	2014-11/62
R33-10	Preferences	38698	5YR	07/08/2014	2014-15/66
R33-11	Surplus Property	38524	R&R	07/08/2014	2014-11/64
R33-11	Form of Bonds	38699	5YR	07/08/2014	2014-15/66
R33-12	Rules of Procedure for Procurement Policy Board and Procurement Appeals Panel	38510	R&R	07/08/2014	2014-11/71
R33-12	Terms and Conditions, Contracts, Change Orders and Costs	38700	5YR	07/08/2014	2014-15/67
R33-13	General Construction Provisions	38511	NEW	07/08/2014	2014-11/79
R33-14	Procurement of Design-Build Transportation Project Contracts	38512	NEW	07/08/2014	2014-11/83
R33-15	Architect-Engineer Services	38513	NEW	07/08/2014	2014-11/84
R33-16	Controversies and Protests	38514	NEW	07/08/2014	2014-11/86
R33-17	Procurement Appeals Board	38515	NEW	07/08/2014	2014-11/87
R33-18	Appeal to the Utah Court of Appeals	38516	NEW	07/08/2014	2014-11/89
R33-19	General Provisions Related to Protest or Appeal	38518	NEW	07/08/2014	2014-11/90
R33-20	Records	38519	NEW	07/08/2014	2014-11/91
R33-21	Interaction Between Procurement Units	38520	NEW	07/08/2014	2014-11/92
R33-22	Reserved	38526	NEW	07/08/2014	2014-11/94
R33-23	Reserved	38527	NEW	07/08/2014	2014-11/95
R33-24	Unlawful Conduct	38521	NEW	07/08/2014	2014-11/95
R33-24	Unlawful Conduct	38758	AMD	10/08/2014	2014-17/18
R33-25	Executive Branch Insurance Procurement	38522	NEW	07/08/2014	2014-11/97
R33-26	State Surplus Property	38523	NEW	07/08/2014	2014-11/98

RULES INDEX

Records Committee

R35-1	State Records Committee Appeal Hearing Procedures	38572	5YR	06/03/2014	2014-13/133
R35-1	State Records Committee Appeal Hearing Procedures	38640	AMD	09/09/2014	2014-14/5
R35-1a	State Records Committee Definitions	38573	5YR	06/03/2014	2014-13/134
R35-1a	State Records Committee Definitions	38641	AMD	09/09/2014	2014-14/7
R35-2	Declining Appeal Hearings	38574	5YR	06/03/2014	2014-13/135
R35-2	Declining Appeal Hearings	38642	AMD	09/16/2014	2014-14/8
R35-3	Prehearing Conferences	38575	5YR	06/03/2014	2014-13/135
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R651-213	Dealer Numbers and Registrations	38488	NSC	06/24/2014	Not Printed
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R657-46	The Use of Game Birds in Dog Field Trials and Training	38603	AMD	08/11/2014	2014-13/109
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R657-54	Taking Wild Turkey	38790	5YR	08/18/2014	2014-18/97
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R657-60	Aquatic Invasive Species Interdiction	38477	AMD	06/24/2014	2014-10/99
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R708-22	Commercial Driver License Administrative Proceedings	38406	5YR	04/03/2014	2014-9/59
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R708-26	Learner Permit Rule	38372	NSC	04/14/2014	Not Printed
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R704-1	Search and Rescue Financial Assistance Program	38704	R&R	09/29/2014	2014-16/27
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R805-6	University of Utah Shooting Range Access and Use Requirements	38018	NEW	02/11/2014	2013-20/46
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R895-4	Sub-Domain Naming Conventions for Executive Branch Agencies	38239	NSC	01/30/2014	Not Printed
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R895-7	Acceptable Use of Information Technology Resources	38470	AMD	09/11/2014	2014-10/100
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R909-19	Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification	38449	AMD	07/08/2014	2014-10/102

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R982-402	Energy Assistance Programs Standards	38715	AMD	10/01/2014	2014-16/34
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R982-405	Energy Assistance: Program Benefits	38717	AMD	10/01/2014	2014-16/40
R982-407	Energy Assistance: Records and Benefit Management	38718	AMD	10/01/2014	2014-16/41
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R986-100-117	Disqualification For Fraud (Intentional Program Violations or IPVs)	38268	AMD	04/15/2014	2014-4/45
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R986-200-218	Exceptions to the Time Limit	38720	AMD	10/01/2014	2014-16/43
R986-700	Child Care Assistance	38159	AMD	03/01/2014	2013-24/38
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R994-311	Governmental Units and Indian Tribes	38667	5YR	07/01/2014	2014-14/85
R994-312	Employing Units Records	38668	5YR	07/01/2014	2014-14/86
R994-312-102	Examination of Employer Records: Scope and Authority	38248	AMD	04/15/2014	2014-3/41

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ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>abortion</u> Health, Health Care Financing, Coverage and Reimbursement Policy	38369	R414-1B	5YR	03/18/2014	2014-8/39
<u>acceptable use</u> Technology Services, Administration	38428 38470	R895-7 R895-7	5YR AMD	04/15/2014 09/11/2014	2014-9/60 2014-10/100
<u>access to information</u> Administrative Services, Administration	38570 38569	R13-2 R13-2	5YR AMD	06/02/2014 07/22/2014	2014-12/53 2014-12/6
<u>accidents</u> Administrative Services, Fleet Operations	38073	R27-7-3	AMD	03/11/2014	2013-22/14
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<u>accounts receivable</u> Administrative Services, Debt Collection	38497 38496	R21-2 R21-3	NSC NSC	05/29/2014 05/29/2014	Not Printed Not Printed
<u>accreditation</u> Education, Administration	38434 38829	R277-410-5 R277-504	AMD 5YR	06/09/2014 09/02/2014	2014-9/13 2014-18/89
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<u>adjudicative process</u>					
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	38464	R477-101	AMD	07/01/2014	2014-10/92
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	38539	R280-150	AMD	07/08/2014	2014-11/117
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	38333	R455-15	NEW	07/21/2014	2014-7/71
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	38463	R477-15	AMD	07/01/2014	2014-10/90
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	38554	R602-2-4	AMD	07/22/2014	2014-12/41
	38193	R602-2-5	AMD	02/21/2014	2014-2/7
	38327	R602-7	5YR	03/05/2014	2014-7/94
	38328	R602-8	5YR	03/05/2014	2014-7/94
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	38805	R612-100-2	AMD	10/22/2014	2014-18/32
	38811	R612-100-3	AMD	10/22/2014	2014-18/35
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	38553	R612-200-8	AMD	07/22/2014	2014-12/43
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<u>adoptions</u>					
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	38217	R512-43	AMD	03/10/2014	2014-3/15
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	38061	R307-110-17	AMD	01/09/2014	2013-21/8
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	38492	R307-214	AMD	08/07/2014	2014-11/123
	38105	R307-214-3	AMD	03/06/2014	2013-23/18
	38166	R307-302	AMD	03/06/2014	2014-1/20
	37829	R307-335	AMD	06/02/2014	2013-15/23
	37829	R307-335	CPR	06/02/2014	2013-23/54
	37829	R307-335	CPR	06/02/2014	2014-7/85
	37829	R307-335	CPR	06/02/2014	2014-9/46
	38583	R307-342-3	AMD	09/04/2014	2014-13/37
	38681	R307-348	AMD	10/07/2014	2014-15/28
	38332	R307-357-4	AMD	05/08/2014	2014-7/16
	38495	R307-357-4	NSC	05/29/2014	Not Printed
	38491	R307-401-12	AMD	08/07/2014	2014-11/127
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	37833	R307-401-19	CPR	01/06/2014	2013-23/55
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	38489	R307-410-2	AMD	08/07/2014	2014-11/128
	38490	R307-410-6	AMD	08/07/2014	2014-11/129
	38582	R307-504	NEW	10/07/2014	2014-13/43
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	38323	R81-1-32	AMD	04/29/2014	2014-6/7
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	38800	R590-227-10	NSC	09/15/2014	Not Printed
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	38465	R414-303	AMD	07/01/2014	2014-10/51
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	38872	R70-440	5YR	09/16/2014	2014-20/73	
	38871	R70-540	5YR	09/16/2014	2014-20/74	
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Education, Administration	38351	R277-724	5YR	03/14/2014	2014-7/90	
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	38656	R392-104	NEW	09/12/2014	2014-14/53	
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	38465	R414-303	AMD	07/01/2014	2014-10/51	
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	38689	R33-1	5YR	07/08/2014	2014-15/61
	38503	R33-4	R&R	07/08/2014	2014-11/28
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	38519	R33-20	NEW	07/08/2014	2014-11/91
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	38358	R277-524	AMD	05/08/2014	2014-7/8	
<u>NESHAP</u>						
Environmental Quality, Air Quality	38492	R307-214	AMD	08/07/2014	2014-11/123	
	38105	R307-214-3	AMD	03/06/2014	2013-23/18	

<u>NetCare</u>						
Insurance, Administration	38789	R590-255	REP	10/10/2014	2014-17/121	
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Environmental Quality, Air Quality	38104	R307-210-2	AMD	03/06/2014	2013-23/17	
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Health, Family Health and Preparedness, Children with Special Health Care Needs	38139	R398-4	NEW	01/17/2014	2013-23/25	
<u>newborn screening</u>						
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	38839	R398-1	5YR	09/04/2014	2014-19/80	
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Workforce Services, Unemployment Insurance	38665	R994-309	5YR	07/01/2014	2014-14/84	
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Education, Administration	38434	R277-410-5	AMD	06/09/2014	2014-9/13	
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Commerce, Real Estate	38213	R162-2f	AMD	02/25/2014	2014-2/4	
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Commerce, Occupational and Professional Licensing	38475	R156-31b	R&R	06/23/2014	2014-10/11	
	38801	R156-31c	5YR	08/21/2014	2014-18/89	
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Health, Health Care Financing, Coverage and Reimbursement Policy	38418	R414-401	5YR	04/07/2014	2014-9/53	
	38478	R414-401-3	AMD	07/01/2014	2014-10/53	
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Commerce, Occupational and Professional Licensing	38548	R156-40a-302a	AMD	07/22/2014	2014-12/13	
	38151	R156-55a	AMD	01/21/2014	2013-24/10	
	38736	R156-55a	AMD	10/09/2014	2014-17/28	
	38902	R156-55a-102	NSC	10/31/2014	Not Printed	
	38380	R156-55a-301	NSC	04/14/2014	Not Printed	
	38760	R156-55a-302f	AMD	10/09/2014	2014-17/31	
	38648	R156-55b	AMD	08/21/2014	2014-14/44	
	38731	R156-55c	AMD	10/09/2014	2014-17/33	
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Labor Commission, Adjudication	38328	R602-8	5YR	03/05/2014	2014-7/94	
<u>occupational therapy</u>						
Commerce, Occupational and Professional Licensing	38254	R156-42a	5YR	01/21/2014	2014-4/68	
	38313	R156-42a	AMD	04/21/2014	2014-6/24	
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Environmental Quality, Air Quality	38582	R307-504	NEW	10/07/2014	2014-13/43	
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Commerce, Real Estate	38213	R162-2f	AMD	02/25/2014	2014-2/4	
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	38552	R156-68	AMD	07/28/2014	2014-12/14	
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	38552	R156-68	AMD	07/28/2014	2014-12/14	
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	38358	R277-524	AMD	05/08/2014	2014-7/8	
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	38441	R651-409	AMD	06/09/2014	2014-9/38	
	38439	R651-608	AMD	06/09/2014	2014-9/40	
	38442	R651-619	AMD	06/09/2014	2014-9/41	
	38225	R651-636	5YR	01/06/2014	2014-3/51	
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	38878	R671-201	5YR	09/22/2014	2014-20/77	
	38314	R671-201-1	EMR	03/01/2014	2014-6/73	
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	38629	R671-309-1	AMD	09/29/2014	2014-13/122	
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	38092	R477-6-9	AMD	01/14/2014	2013-22/125
	38460	R477-9	AMD	07/01/2014	2014-10/84
	38462	R477-14	AMD	07/01/2014	2014-10/88
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	38656	R392-104	NEW	09/12/2014	2014-14/53
	38177	R392-200-4	AMD	02/19/2014	2014-1/24
<u>public health emergency</u>					
Health, Disease Control and Prevention, Epidemiology	38662	R386-80	NEW	10/24/2014	2014-14/51
<u>public information</u>					
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	38569	R13-2	AMD	07/22/2014	2014-12/6
Human Resource Management, Administration	38457	R477-2-3	AMD	07/01/2014	2014-10/62
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Attorney General, Administration	38245	R105-2	NSC	01/30/2014	Not Printed
	38749	R105-2	NSC	08/28/2014	Not Printed
Environmental Quality, Administration	38244	R305-1	NSC	01/30/2014	Not Printed
Natural Resources, Parks and Recreation	38343	R651-102	NSC	04/01/2014	Not Printed
<u>public sales</u>					
Administrative Services, Purchasing and General Services	38523	R33-26	NEW	07/08/2014	2014-11/98
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Education, Administration	38434	R277-410-5	AMD	06/09/2014	2014-9/13
	38590	R277-463	5YR	06/10/2014	2014-13/138
	38622	R277-463	AMD	08/07/2014	2014-13/24
	38780	R277-620	AMD	10/09/2014	2014-17/53
	38627	R277-710	NEW	08/07/2014	2014-13/33
	38412	R277-916	5YR	04/04/2014	2014-9/53
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Public Service Commission, Administration	38644	R746-200-7	AMD	08/22/2014	2014-14/67
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<u>pupil-teacher ratio reporting</u>					
Education, Administration	38590	R277-463	5YR	06/10/2014	2014-13/138
	38622	R277-463	AMD	08/07/2014	2014-13/24
<u>qualified depository</u>					
Money Management Council, Administration	38180	R628-21	NEW	04/15/2014	2014-1/42

	38180	R628-21	CPR	04/15/2014	2014-6/70
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Agriculture and Food, Regulatory Services	38813	R70-101-7	AMD	10/22/2014	2014-18/4
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Natural Resources, Wildlife Resources	38600	R657-6	AMD	08/11/2014	2014-13/102
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	38082	R313-25	CPR	04/03/2014	2014-4/53
	38755	R313-25-2	AMD	10/21/2014	2014-17/99
<u>radioactive materials</u>					
Environmental Quality, Radiation Control	38754	R313-22-33	AMD	10/21/2014	2014-17/97
	38145	R313-22-34	AMD	02/14/2014	2013-23/19
	38147	R313-38-3	AMD	04/07/2014	2013-23/20
	38147	R313-38-3	CPR	04/07/2014	2014-5/56
	38751	R313-70	AMD	10/21/2014	2014-17/104
	38146	R313-70-5	AMD	02/18/2014	2013-23/22
<u>radioactive waste disposal</u>					
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	38082	R313-25	CPR	04/03/2014	2014-4/53
	38755	R313-25-2	AMD	10/21/2014	2014-17/99
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	38804	R612-400-2	AMD	10/22/2014	2014-18/56
	38808	R612-400-3	AMD	10/22/2014	2014-18/58
	38807	R612-400-4	AMD	10/22/2014	2014-18/63
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	38389	R162-2g	AMD	05/22/2014	2014-8/8
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	38740	R645-106	5YR	08/05/2014	2014-17/141
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	38146	R313-70-5	AMD	02/18/2014	2013-23/22

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	38759	R33-7-201	AMD	10/08/2014	2014-17/15	
	38757	R33-7-601	AMD	10/08/2014	2014-17/16	
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	38300	R277-400	AMD	04/07/2014	2014-5/17	
	38773	R277-400	AMD	10/09/2014	2014-17/41	
	38426	R277-400-5	NSC	04/29/2014	Not Printed	
Labor Commission, Boiler and Elevator Safety	38226	R616-2-3	AMD	03/10/2014	2014-3/22	
	38378	R616-3-3	AMD	05/22/2014	2014-8/31	
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Education, Administration	38296	R277-400	5YR	02/13/2014	2014-5/59	
	38300	R277-400	AMD	04/07/2014	2014-5/17	
	38773	R277-400	AMD	10/09/2014	2014-17/41	
	38426	R277-400-5	NSC	04/29/2014	Not Printed	
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Human Resource Management, Administration	38092	R477-6-9	AMD	01/14/2014	2013-22/125	
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Transportation, Motor Carrier	38215	R909-3	5YR	01/02/2014	2014-3/55	
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Commerce, Real Estate	38270	R162-2g	AMD	03/31/2014	2014-4/16	
	38389	R162-2g	AMD	05/22/2014	2014-8/8	
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Administrative Services, Facilities Construction and Management	38247	R23-33	NEW	03/10/2014	2014-3/2	
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Administrative Services, Purchasing and General Services	38511	R33-13	NEW	07/08/2014	2014-11/79	
	38520	R33-21	NEW	07/08/2014	2014-11/92	
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	38641	R35-1a	AMD	09/09/2014	2014-14/7
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	38642	R35-2	AMD	09/16/2014	2014-14/8
	38575	R35-3	5YR	06/03/2014	2014-13/135
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	38116	R277-709	AMD	01/14/2014	2013-23/13
	38834	R277-709-1	NSC	09/19/2014	Not Printed
	38359	R277-709-11	AMD	05/08/2014	2014-7/10
	38852	R277-713	NSC	09/30/2014	Not Printed

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	38253	R156-1-501	NSC	01/31/2014	Not Printed	
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	38545	R746-341	AMD	08/06/2014	2014-12/44	
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