

**State of Utah**  
**Administrative Rule Analysis**  
Revised June 2022

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** New \_\_\_; Amendment \_x\_; Repeal \_\_\_; Repeal and Reenact \_\_\_

**Title No. - Rule No. - Section No.**

**Rule or Section Number:**

**R590-237**

**Filing ID: Office Use Only**

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room number:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S. 2700 W.	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov

**Please address questions regarding information on this notice to the agency.**

**General Information**

**2. Rule or section catchline:**

R590-237. Access to a Health Care Provider in a Rural County

**3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):**

The rule is being changed in compliance with Executive Order 2021-12. During the review of this rule, the department discovered a number of minor issues that needed to be amended.

**4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):**

The majority of the changes are being done to fix style issues to bring the rule text more in line with current rulewriting standards. Other changes make the language of the rule more clear, remove two facilities that no longer meet the definition of "independent hospital," and remove the Penalties section because penalties are already provided for in statute. The changes do not add, remove, or change any regulations or requirements.

**Fiscal Information**

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

**A) State budget:**

There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the department functions.

**B) Local governments:**

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.

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

There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature, and will not affect small businesses.

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

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature, and will not affect non-small businesses.

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

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 31A-2-201	Section 31A-45-501	

**Incorporations by Reference Information**

**7. Incorporations by Reference** (if this rule incorporates more than two items by reference, please include additional tables):

**A) This rule adds, updates, or removes the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Issue Date</b>	
<b>Issue or Version</b>	

**B) This rule adds, updates, or removes the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	

Issue Date	
Issue or Version	

**Public Notice Information**

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** **06/14/2023**

**B) A public hearing (optional) will be held:**

<b>On</b> (mm/dd/yyyy):	<b>At</b> (hh:mm AM/PM):	<b>At</b> (place):

**9. This rule change MAY become effective on:** **06/21/2023**

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

**To the agency:** Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	<b>05/01/2023</b>
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**R590. Insurance, Administration.**

**R590-237. Access to a Health Care Provider[s] in a Rural [Counties]County.**

**R590-237-1. Authority.**

This rule is promulgated by the commissioner pursuant to [Subsections 31A-2-201(3)(a) and 31A-45-501(8)(c) wherein the commissioner is empowered to administer and enforce Title 31A, Insurance Code, and make administrative rules to implement Section]Sections 31A-2-201 and 31A-45-501.

**R590-237-2. Purpose and Scope.**

(1) The purpose of this rule is to:

[~~(1)~~](a) identify each county [~~in Utah~~]with a population density of less than 100 people per square mile;

[~~(2)~~](b) identify independent hospitals[~~in Utah~~];

[~~(3)~~](c) identify federally qualified health centers[~~in Utah~~]; and

[~~(4)~~](d) describe how a managed care organization[~~shall~~];

[~~(a)~~](i) uses the information [~~identifying the counties, independent hospitals, and federally qualified health centers described in (1), (2), and (3) above~~]described in Subsections (1)(a), (b), and (c);

[~~(b) notify the subscribers,~~](ii) notifies enrollees, independent hospitals, and federally qualified health centers of the information described in Subsections (1)(a), (b), and (c); and

[~~(c) ensure a managed care organization~~](iii) provides [~~the~~]notice required by Subsection 31A-45-501(8)(d)(ii).

(2) This rule applies to a managed care organization.

**R590-237-3. [Applicability and Scope.**

— This rule applies to a managed care organization as defined in Subsection 31A-45-102(2).

**R590-237-4. ]Definitions.**

[In addition to the definitions in Sections 31A-1-301, 31A-8-101, and 31A-45-102, the following definitions apply for the purposes of this rule]Terms used in this rule are defined in Sections 31A-1-301 and 31A-45-102. Additional terms are defined as follows:

(1)(a) "Board of directors" means [~~the~~]a local board of directors for [~~the~~]an independent hospital that is directly responsible for the daily policy and financial decisions of the hospital.

(b) A board of directors does not include a corporate board of directors for [~~the~~]an entity that owns [~~the~~]an independent hospital.

(2)(a) "Local practice location" means [~~the~~]a provider's office where services are [~~rendered~~]provided.

[~~(a) The~~](b) A local practice location is:

- (i) permanently located within a county with a population density of:
- (i)(A) less than 100 people per square mile [~~prior to~~ before December 31, 2000; or
  - (i)(B) less than 30 people per square mile]; and
- (b) ~~The local practice location is~~ (ii) within 30 miles of paved roads of:
- (i)(A) the place where ~~the~~ an enrollee lives or resides; or
  - (i)(B) the location of ~~the~~ an independent hospital or federally qualified health center ~~[at which the]~~ where an enrollee may receive ~~covered benefits pursuant to Subsections 31A-45-501(2) or 31A-45-501(3)]~~ health care services.
- (3) "Policy and financial decision[s]" means ~~the~~ a day-to-day decision[s] made by ~~the local~~ a board of directors ~~[with regard to]~~ regarding an independent hospital's policy and financial solvency.
- (4) "Provider" means a person who:
- (a) furnishes health care directly to ~~the~~ an enrollee; and
  - (b) is licensed or ~~otherwise~~ authorized to furnish ~~the~~ health care ~~[in Utah]~~.
- (5) "Referral" means:
- (a) ~~the~~ a request by a health care provider for an item, service, test, or procedure to be performed by another health care provider;
  - (b) ~~the~~ a request by a physician for a consultation with another physician; or
  - (c) ~~the~~ a request ~~[or establishment of]~~ to establish a plan of care by a physician.
  - (6) "Rural county" means a county with a population density of less than 100 people per square mile.

#### **R590-237-~~5~~4. Rural Counties.**

~~\_\_\_\_\_ (1) For the purposes of Subsection 31A-45-501(8)(c)(ii)(A), the counties with a population density of less than 100 people per square mile are each county in Utah except Cache, Davis, Salt Lake, Utah, and Weber, as reported by the Utah Office of Vital Statistics, updated February 11, 2019, located at <https://opendata.utah.gov/Government-and-Taxes/Population-Density-By-Land-Area-And-County-In-Utah/bzur-buif>.~~

~~\_\_\_\_\_ (2) For the purposes of Subsection 31A-45-501(2)(b), rural counties where an independent hospital was built prior to December 31, 2000 include each county in Utah except Davis, Salt Lake, Utah, and Weber.~~

~~\_\_\_\_\_ (3) For the purposes of Subsection 31A-45-501(2)(b), rural counties where an independent hospital was built after December 31, 2000 include each county in Utah except Cache, Davis, Salt Lake, Utah, Washington, and Weber.~~

~~\_\_\_\_\_ (4) For the purposes of Subsection 31A-45-501(6)(b)(i), non-contracting provider referrals to non-contracting providers are allowed in each county in Utah except Cache, Davis, Salt Lake, Utah, Washington, and Weber.]~~

\_\_\_\_\_ (1) Under Subsection 31A-45-501(8)(c)(ii)(A), a county with a population density of less than 100 people per square mile, as reported by the Utah Office of Vital Statistics as of February 11, 2019, includes each county except:

- \_\_\_\_\_ (a) Cache;
- \_\_\_\_\_ (b) Davis;
- \_\_\_\_\_ (c) Salt Lake;
- \_\_\_\_\_ (d) Utah; and
- \_\_\_\_\_ (e) Weber.

\_\_\_\_\_ (2) Under Subsection 31A-45-501(2)(b), a rural county where an independent hospital was built before December 31, 2000, includes each county except:

- \_\_\_\_\_ (a) Davis;
- \_\_\_\_\_ (b) Salt Lake;
- \_\_\_\_\_ (c) Utah; and
- \_\_\_\_\_ (d) Weber.

\_\_\_\_\_ (3) Under Subsection 31A-45-501(2)(b), a rural county where an independent hospital was built after December 31, 2000, includes each county except:

- \_\_\_\_\_ (a) Cache;
- \_\_\_\_\_ (b) Davis;
- \_\_\_\_\_ (c) Salt Lake;
- \_\_\_\_\_ (d) Utah;
- \_\_\_\_\_ (e) Washington; and
- \_\_\_\_\_ (f) Weber.

\_\_\_\_\_ (4) Under Subsection 31A-45-501(6)(b)(i), a non-contracting provider referral to a non-contracting provider is allowed in each county except:

- \_\_\_\_\_ (a) Cache;
- \_\_\_\_\_ (b) Davis;
- \_\_\_\_\_ (c) Salt Lake;
- \_\_\_\_\_ (d) Utah;
- \_\_\_\_\_ (e) Washington; and
- \_\_\_\_\_ (f) Weber.

#### **R590-237-~~6~~5. Independent Hospitals.**

[For the purposes of 31A-45-501(8)(c)(ii)(B) each of the following is considered an independent hospital for the purposes of

~~]~~The following are independent hospitals under Subsections 31A-45-501(1)(e) and 31A-45-501(2)(b):

- ~~(1) [Ashley Regional Medical Center, Vernal, Uintah County, Utah;~~
- ~~(2)]~~Beaver Valley Hospital, Beaver, Beaver County~~[-Utah];~~
- ~~[(3)]~~~~(2)~~ Blue Mountain Hospital, Blanding, San Juan County~~[-Utah];~~
- ~~[(4)]~~Castleview Hospital, Price, Carbon County, Utah~~;~~
- ~~[(5)]~~~~(3)~~ Central Valley Medical Center, Nephi, Juab County~~[-Utah];~~
- ~~[(6)]~~~~(4)~~ Gunnison Valley Hospital, Gunnison, Sanpete County~~[-Utah];~~
- ~~[(7)]~~~~(5)~~ Kane County Hospital, Kanab, Kane County~~[-Utah];~~
- ~~[(8)]~~~~(6)~~ Milford Valley Memorial Hospital, Milford, Beaver County~~[-Utah];~~
- ~~[(9)]~~~~(7)~~ Moab Regional Hospital, Moab, Grand County~~[-Utah];~~
- ~~[(10)]~~~~(8)~~ San Juan Hospital, Monticello, San Juan County~~[-Utah];~~ and
- ~~[(11)]~~~~(9)~~ Uintah Basin Medical Center, Roosevelt, Duchesne County~~[-Utah].~~

#### **R590-237-~~[7]~~6. Federally Qualified Health Centers.**

~~[For the purposes of Subsection 31A-45-501(8)(c)(ii)(C) each of the following is considered a federally qualified health center for the purposes of]~~The following are federally qualified health centers under Subsection 31A-45-501(3)(b):

- (1) Bear Lake Community Health Center, Garden City, Rich County~~[-Utah];~~
- (2) Bear River Health Clinic, Tremonton, Box Elder County~~[-Utah];~~
- (3) Blanding Family Chiropractic, Blanding, San Juan County~~[-Utah];~~
- (4) Blanding Family Practice Community Health Center, Blanding, San Juan County~~[-Utah];~~
- (5) Blanding Family Vision Center, Blanding, San Juan County~~[-Utah];~~
- (6) Box Elder Community Health Center, Brigham City, Box Elder County~~[-Utah];~~
- (7) Brigham City Community Health Center, Brigham City, Box Elder County~~[-Utah];~~
- (8) Carbon Medical Service Association -- Helper Clinic, Helper, Carbon County~~[-Utah];~~
- (9) Carbon Medical Service Association, Sunnyside, Carbon County~~[-Utah];~~
- (10) Cedar Community Health Center, Cedar City, Iron County~~[-Utah];~~
- (11) Family Healthcare, Cedar City, Iron County~~[-Utah];~~
- (12) Green River Medical Center, Green River, Emery County~~[-Utah];~~
- (13) Kanosh Community Health Center, Kanosh, Millard County~~[-Utah];~~
- (14) Kazan Memorial Clinic, Escalante, Garfield County~~[-Utah];~~
- (15) Koosharem Community Health Center, Richfield, Sevier County~~[-Utah];~~
- (16) Montezuma Creek Community Health Center, Montezuma Creek, San Juan County~~[-Utah];~~
- (17) Mountainlands Community Health Center, Vernal, Uintah County~~[-Utah];~~
- (18) Southwest WCHC Mental Health, Panguitch, Garfield County~~[-Utah];~~
- (19) Wayne Community Health Center, Hanksville, Wayne County~~[-Utah];~~ and
- (20) Wayne Community Health Center, Bicknell, Wayne County~~[-Utah].~~

#### **R590-237-~~[8]~~7. Rural Health Notification.**

(1) A managed care organization shall provide to ~~[a subscriber]~~an enrollee the notice ~~[required by]~~under Subsection 31A-45-501(8)(d)(ii) no later than:

- ~~(a)~~ at the time of enrollment; or
- ~~(b)~~ when ~~[the time]~~the group or individual contract and ~~[evidence]~~certificate of coverage are issued~~[-and].~~

~~(2) A managed care organization shall provide the notice under Subsection 31A-45-501(8)(d)(ii) upon request thereafter. [The information must be included and]~~

~~(3) The notice shall be easily accessible on the managed care organization's website.~~

~~(4) When a rural county, independent hospital, or federally qualified health center [changes]is reclassified, the managed care organization shall provide an updated notice to each affected [subscriber]enrollee within 30 days of the change.~~

~~[(2)]~~~~(5)~~ When an independent hospital or federally qualified health center ~~[status changes]is reclassified, a managed care organization shall provide [a-]notice to the independent hospital [and]or federally qualified health center [in the managed care organization's service area]~~within 30 days of the change.

#### **R590-237-~~[9]~~9. Penalties.**

~~A managed care organization found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

#### **R590-237-~~10]~~8. Severability.**

If any provision of this rule, R590-237, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule ~~[which]~~that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

**KEY: health care providers**

**Date of Last Change: 2023[September 22, 2020]**

**Notice of Continuation: August 12, 2021**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-45-501**

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