

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment ___; Repeal <u>x</u> ; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Rule or Section Number:	R590-246	Filing ID: Office Use Only

**Agency Information**

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S. 2700 W.	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
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:
R590-246. Professional Employer Organization (PEO) License Application Rule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The rule is being repealed because the relevant requirements for a professional employer organization to obtain a license are being moved to R590-250. This will create a single PEO rule and streamline the Department's regulations.
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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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 filing repeals the rule.

**Fiscal Information**

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
<b>A) State budget:</b>
There is no anticipated cost or savings to the state budget. The relevant requirements for a PEO are still in rule, and the move will not change how the department functions.
<b>B) Local governments:</b>
There is no anticipated cost or savings to local governments. The changes do not affect local governments.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The relevant requirements for a PEO are still in rule.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There is no anticipated cost or savings to non-small businesses. The relevant requirements for a PEO are still in rule.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
There is no anticipated cost or savings to any other persons. The relevant requirements for a PEO are still in rule.

**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 relevant requirements for a PEO are still in rule.

**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			
Fiscal Cost	FY2023	FY2024	FY2025
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>
Fiscal Benefits	FY2023	FY2024	FY2025
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-40-103	Section 31A-40-302
Section 31A-40-303		

**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>	
<b>Issue Date</b>	
<b>Issue or Version</b>	

<b>8. The public may submit written or oral comments to the agency identified in box 1.</b> (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.)		
<b>A) Comments will be accepted until:</b>	<b>01/03/2023</b>	
<b>B) A public hearing (optional) will be held:</b>		
<b>On (mm/dd/yyyy):</b>	<b>At (hh:mm AM/PM):</b>	<b>At (place):</b>

<b>9. This rule change MAY become effective on:</b>	<b>01/10/2023</b>
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**

<b>To the agency:</b> 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 <i>Utah State Bulletin</i> and delaying the first possible effective date.		
<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b> 11/15/2022

~~**R590. Insurance, Administration.**~~

~~**R590 246. Professional Employer Organization (PEO) License Application Rule.**~~

~~**R590 246 1. Authority.**~~

~~\_\_\_\_\_ This rule is promulgated pursuant to the general rulemaking authority granted the insurance commissioner by Subsection 31A 2-201(3)(a) and the specific authority granted by Sections 31A 40 103 and 31A 40 302 through 31A 40 306.~~

~~**R590 246 2. Purpose and Scope.**~~

- ~~\_\_\_\_\_ (1) The purpose of this rule is to establish:~~
- ~~\_\_\_\_\_ (a) a licensing process;~~
  - ~~\_\_\_\_\_ (b) license application forms; and~~
  - ~~\_\_\_\_\_ (c) other requirements which the commissioner deems necessary for the regulation of professional employer organizations.~~
- ~~\_\_\_\_\_ (2) This rule applies to all professional employer organization license applicants, all licensed professional employer organizations, and any unlicensed person doing the business of a professional employer organization in Utah.~~

~~**R590 246 3. Definitions.**~~

- ~~\_\_\_\_\_ (1) The definitions in Sections 31A 1 301 and 31A 40 102 apply to this rule.~~
- ~~\_\_\_\_\_ (2) "Fully insured" as used in 31A 40 208 means a health benefit plan for which 100% of the liability has been assumed by an insurance company or health maintenance organization authorized to conduct business in Utah.~~
- ~~\_\_\_\_\_ (a) The health benefit plan may include a layer of financial responsibility for claims assumed by the PEO as long as the insurance company or health maintenance organization is responsible for 100% of the PEO's liability in the event of non payment by the PEO.~~
  - ~~\_\_\_\_\_ (b) The covered individual must be entitled to make a claim for payment directly to the insurance company or health maintenance organization.~~
  - ~~\_\_\_\_\_ (c) A fully insured plan may have co pay or deductible requirements as required by contract.~~

~~**R590 246 4. Initial and Renewal Licensing Process.**~~

- ~~\_\_\_\_\_ (1) All professional employer organization types must comply with the appropriate statutory requirements and complete and submit the appropriate initial or renewal license application form and any supporting documents to the commissioner.~~
- ~~\_\_\_\_\_ (2) The initial or renewal application form, and all attachments must be submitted electronically via:~~
- ~~\_\_\_\_\_ (a) a PDF attachment to an email—the preferred method; or~~
  - ~~\_\_\_\_\_ (b) an electronic facsimile.~~
- ~~\_\_\_\_\_ (3) Renewal applications are due September 30th of each year.~~
- ~~\_\_\_\_\_ (4)(a) Pay the initial license fee by check submitted to the address shown at the bottom of the last page of the application found at [www.insurance.utah.gov/insurers/ProfessionalEmployerOrganization.html](http://www.insurance.utah.gov/insurers/ProfessionalEmployerOrganization.html). Checks not drawn on the professional employer organization must be referenced to the organization.~~
- ~~\_\_\_\_\_ (b) Pay renewal fees in accordance with the instructions issued with the renewal invoice.~~
- ~~\_\_\_\_\_ (5) A professional employer organization applicant that was not registered with the Division of Professional Licensing, Utah Department of Commerce prior to May 4, 2008, is a new applicant and must:~~

- ~~\_\_\_\_\_ (a) submit a new application;~~
- ~~\_\_\_\_\_ (b) pay the license fee by check submitted to the address on the Department's webpage at [www.insurance.gov](http://www.insurance.gov). Checks not drawn on the Professional Employer Organization must be referenced to the organization.~~
- ~~\_\_\_\_\_ (6) Professional employer types for initial and renewal licenses:~~
- ~~\_\_\_\_\_ (a) Professional Employer Organization – Not CERTIFIED Through An Assurance Organization.~~
- ~~\_\_\_\_\_ (i) Comply with the requirements in Sections 31A 40 205, 31A 40 302 and 31A 40 305.~~
- ~~\_\_\_\_\_ (ii) Complete the Professional Employer Organization – Not Certified Through An Assurance Organization license application form posted on the Department's webpage at [www.insurance.utah.gov/insurers/ProfessionalEmployerOrganization.html](http://www.insurance.utah.gov/insurers/ProfessionalEmployerOrganization.html).~~
- ~~\_\_\_\_\_ (iii) The requirement in 31A 40 302(2)(g) will be satisfied by completing and submitting the UCAA Biographical Affidavit form posted on the Department's webpage at [www.insurance.utah.gov/insurers/ProfessionalEmployerOrganization.html](http://www.insurance.utah.gov/insurers/ProfessionalEmployerOrganization.html).~~
- ~~\_\_\_\_\_ (b) Professional Employer Organization – CERTIFIED Through An Assurance Organization.~~
- ~~\_\_\_\_\_ (i) Comply with the requirements in Section 31A 40 303.~~
- ~~\_\_\_\_\_ (ii) Complete the Professional Employer Organization – Certified Through An Assurance Organization license application form posted on the Department's webpage at [www.insurance.utah.gov/insurers/ProfessionalEmployerOrganization.html](http://www.insurance.utah.gov/insurers/ProfessionalEmployerOrganization.html).~~
- ~~\_\_\_\_\_ (c) Professional Employer Organization – Small Operation License.~~
- ~~\_\_\_\_\_ (i) Comply with the requirements in Section 31A 40 304.~~
- ~~\_\_\_\_\_ (ii) Complete the Professional Employer Organization – Small Operation License application form posted on the Department's webpage at [www.insurance.utah.gov/insurers/ProfessionalEmployerOrganization.html](http://www.insurance.utah.gov/insurers/ProfessionalEmployerOrganization.html).~~
- ~~\_\_\_\_\_ (d) Professional Employer Organization Group.~~
- ~~\_\_\_\_\_ (i) Comply with the requirements in Section 31A 40 306.~~
- ~~\_\_\_\_\_ (ii) Complete the appropriate Professional Employer Organization license application:~~
- ~~\_\_\_\_\_ (A) Professional Employer Organization – Not Certified Through An Assurance Organization;~~
- ~~\_\_\_\_\_ (B) Professional Employer Organization – Certified Through An Assurance Organization; or~~
- ~~\_\_\_\_\_ (C) Professional Employer Organization – Small Operation License.~~

**~~R590 246 5. Enforcement Date.~~**

~~\_\_\_\_\_ The commissioner will begin enforcing this rule 45 days from the rule's effective date.~~

**~~R590 246 6. Severability.~~**

~~\_\_\_\_\_ If any provision of this rule or its application to any person or circumstance is, for any reason, held to be invalid, the remainder of this rule and its application to other persons and circumstances are not effected.~~

**~~KEY: professional employer organization licensing~~**

**~~Date of Enactment or Last Substantive Amendment: June 27, 2011~~**

**~~Notice of Continuation: August 3, 2018~~**

**~~Authorizing, and Implemented or Interpreted Law: 31A 2 201; 31A 40 103; 31A 40 302; 31A 40 304]~~**