

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE

TYPE OF RULE: New ____; Amendment ____; Repeal ____; Repeal and Reenact x

Title No. - Rule No. - Section No.

Rule or Section Number:

R590-250

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:

R590-250. Professional Employer Organization License Procedure and Assurance Organization Designation

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

The rule is being repealed and reenacted in compliance with Executive Order 2021-12. During the review of this rule, the department discovered several 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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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, and update the Severability section to use the department's current language. The reenacted language also incorporates provisions of R590-246 that are more appropriate for this rule, and will allow R590-246 to be repealed.

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			
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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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*):

Official Title of Materials Incorporated (from title page)	
Publisher	

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: 01/03/2023

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

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

9. This rule change MAY become effective on: 01/10/2023

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.

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	11/15/2022
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R590. Insurance, Administration.

~~R590-250. PEO Assurance Organization Designation.~~

~~R590-250-1. Authority.~~

~~_____ This rule is promulgated pursuant to Subsection 31A-40-303(2) wherein the commissioner is given authority to designate by rule one or more assurance organizations for certifying the qualifications of a professional employer organization.~~

~~R590-250-2. Purpose and Scope.~~

~~_____ (1) The purpose of this rule is to establish a process by which an assurance organization can be designated for certifying the qualifications of a professional provider organization.~~

~~_____ (2) This rule applies to any assurance organization certifying the qualifications of a professional employer organization with operations in Utah.~~

~~R590-250-3. Designation Process.~~

~~_____ (1) An assurance organization desiring to be designated by the commissioner to certify professional employer organizations in Utah shall:~~

~~_____ (a) apply by letter requesting designation by the commissioner;~~

~~_____ (b) include in the letter or as an attachment to the letter:~~

~~_____ (i) an explanation of how the assurance organization will certify each of the qualification criteria listed in Section 31A-40-303(3); and~~

~~_____ (ii) evidence that the assurance organization is licensed by one or more states to certify the qualifications of a professional employer organization.~~

~~_____ (2) The commissioner will designate approved assurance organizations by rule.~~

~~R590-250-4. Enforcement Date.~~

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

~~R590-250-5. 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 affected.]~~

R590-250. Professional Employer Organization License Procedure and Assurance Organization Designation.

R590-250-1. Authority.

_____ This rule is promulgated by the commissioner pursuant to Sections 31A-2-201, 31A-40-103, 31A-40-302, and 31A-40-303.

R590-250-2. Purpose and Scope.

(1) The purpose of this rule is to:

- (a) define terms used in Title 31A, Chapter 40, Professional Employer Organization Licensing Act;
- (b) establish a licensing process; and
- (c) establish a process to designate an assurance organization to certify qualifications of a PEO.

(2) This rule applies to:

- (a) a PEO;
- (b) an unlicensed person doing the business of a PEO; and
- (c) an assurance organization certifying qualifications of a PEO.

R590-250-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and 31A-40-102. Additional terms are defined as follows:

(1) "Fully insured," as used in Title 31A, Chapter 40, Professional Employer Organization Licensing Act, and described in Section R590-250-4 means a health benefit plan where 100% of the liability is assumed by an insurer authorized to conduct business in Utah.

(2) "PEO" means a professional employer organization.

R590-250-4. Fully Insured Health Benefit Plan.

(1) A fully insured health benefit plan may include financial responsibility for claims assumed by the PEO if the insurer is responsible for 100% of the PEO's liability for non-payment by the PEO.

(2) A covered individual in a fully insured health benefit plan may make a claim for payment directly to the insurer.

(3) A fully insured health benefit plan may have co-pay or deductible requirements as required by contract.

R590-250-5. Initial and Renewal Licensing Process.

(1) A PEO shall complete and submit an initial or a renewal license application form together with supporting documents to the commissioner electronically.

(2) A PEO shall complete the appropriate PEO 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.

(3) PEO application forms are available on the department's website, <https://insurance.utah.gov>.

R590-250-6. Assurance Organization Designation Process.

The commissioner may designate an assurance organization that submits a request containing:

(1) an explanation of how the assurance organization will certify the qualification criteria under Subsection 31A-40-303(3); and

(2) evidence that the assurance organization is licensed by one or more states to certify the qualifications of a PEO.

R590-250-7. Severability.

If any provision of this rule, Rule R590-250, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule 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: insurance, assurance organization designation

Date of Enactment or Last Substantive Amendment: August 25, 2008

Notice of Continuation: August 3, 2018

Authorizing, and Implemented or Interpreted Law: 31A-40-303(3)