

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:

R590-272

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:

R590-272. Commission Compensation Reporting

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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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 the Enforcement Date section, and update the Severability section to use the department's current language. 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

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-23a-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*):

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

R590. Insurance, Administration.

R590-272. Commission Compensation Reporting.

R590-272-1. Authority.

This rule is promulgated by the commissioner pursuant to ~~[Subsections 31A-2-201(3) and 31A-23a-501(4)(f) that authorizes the commissioner to adopt a rule to educate producers, consultants, and affiliates of producers how to provide an annual accounting of commission compensation as a result of the sale or placement of a health benefit plan to a large customer]~~ Sections 31A-2-201 and 31A-23a-501.

R590-272-2. Purpose and Scope.

(1) The purpose of this rule is to create a format to provide an annual report of commission compensation from an insurer or a third-party administrator associated with the sale or placement of a health benefit plan to a large customer.

(2) This rule applies to ~~[all producers, consultants, and affiliates of producers]~~ a producer selling or placing a health benefit plan to a large customer ~~[described in Subsection 31A-23a-501(4)(f)(i)(A), (B), (C) or (D)].~~

R590-272-3. [Purpose] Definitions.

~~[The purpose of this rule is to create a format, other than an Internal Revenue Service Form 5500, to provide an annual reporting of commission compensation from an insurer or a third party administrator associated with the sale or placement of a health benefit plan to a large customer.]~~ Terms used in this rule are defined in Sections 31A-1-301 and 31A-23a-501.

R590-272-4. Annual Accounting of [All] Compensation for Sale or Placement of Insurance to a Large Customer.

(1) Any ~~[producer, consultant, or affiliate of a]~~ producer selling or placing a health benefit plan to a large customer ~~[described in Subsection 31A-23a-501(4)(f)(i)(A), (B), (C) or (D),]~~ shall provide the large customer an annual accounting of all commission compensation that has been received or shall be received from an insurer or third ~~[]~~-party administrator as the result of a sale or placement.

(2) The accounting shall be provided ~~[prior to]~~ before the last day of the seventh month after the plan year ends.

(3) A copy of this annual accounting ~~[must]~~ shall be kept on file from inception until three years after the completion of the contract ~~[, and must]~~ and shall be made available upon request of the commissioner.

(4) The annual accounting ~~[must]~~ shall include, at minimum, one of the following:

(a) a completed Department of the Treasury Internal Revenue Form 5500, Annual Return / Report of Employee Benefit Plan, and its relevant attachments for the applicable plan year; or

(b) the following:

(i) the plan sponsor;

(ii) the name of the plan;

- (iii) the name and address of the plan administrator;
- (iv) the name of the insurance company;
- (v) the effective date of the plan;
- (vi) the number of active participants at beginning of the plan year;
- (vii) the total commission compensation paid or due during the plan year, and shall include on separate reporting lines:
 - (A) commissions;
 - (B) overrides;
 - (C) bonuses;
 - (D) contingent bonuses[~~;~~ or

_____ (E) ~~contingent commissions~~ or commissions; and
[~~(F)~~](E) the name and address of each producer[~~;~~ consultant or affiliate] to whom [commissions are] a commission is paid or
due; and

(viii) signature lines for the plan administrator and the employer[~~;~~ or plan sponsor for each producer[~~;~~ consultant or affiliate]
declaration.

(5) Each item listed in Subsection R590-272-4(4)(b)(vii) shall be separately identified in the report.

(6) A sample form, The Large Customer Compensation Disclosure Form, is available [~~at the department and online at~~
insurance.utah.gov/consumer/legal-resources/rules/current-rules] on the department's website, https://insurance.utah.gov.

R590-272-5. [Enforcement Date.

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

R590-272-6. [Severability.

[~~If any provision or clause of this rule or its application to any person or situation is held invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.~~]If any provision of this rule, Rule R590-272, 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: agency compensation, agent compensation, insurance, producer compensation

Date of Last Change: 2023[~~June 15, 2016~~]

Authorizing, and Implemented or Interpreted Law: 31A-2-201(3); 31A-23a-501(4)

!-dar--