

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:

R590-282

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:

R590-282. Pharmacy Benefit Managers

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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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 Penalties and Enforcement Date sections, 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-46-202	Section 31A-46-301

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:	11/04/2022
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R590. Insurance, Administration.

R590-282. Pharmacy Benefit Managers.

R590-282-1. Authority.

This rule is promulgated [pursuant to:

- ~~_____ (1) Subsection 31A-2-201(3), which authorizes the commissioner to make rules to implement the provisions of Title 31A;~~
- ~~_____ (2) Subsection 31A-46-202(1)(a) which authorizes the commissioner to make a rule to establish the method and forms to submit an application, and;~~
- ~~_____ (3) Subsection 31A-46-301(3)(c)(ii), which authorizes the commissioner to make a rule for the manner in which a pharmacy benefit manager may submit corrections and information with supporting evidence and comments]by the commissioner pursuant to Sections 31A-2-201, 31A-46-202, and 31A-46-301.~~

R590-282-2. Purpose and Scope.

- (1) The purpose of this rule is to:
 - (a) define terms;
 - (b) provide licensing requirements; and
 - (c) establish the format for reporting data.
- (2) This rule applies to ~~[a]~~[a] pharmacy benefit manager[s] operating in Utah on or after July 1, 2019.

R590-282-3. Licensing.

- (1)(a) To obtain or renew a pharmacy benefit manager license, ~~[the]~~[an] applicant shall:
 - (i) submit the Utah Insurance Department Pharmacy Benefit Manager Application and the required attachments; and
 - (ii) pay the fees in accordance with Rule R590-102, Insurance Department Fee Payment Rule.
- (b) The Utah Insurance Department Pharmacy Benefit Manager Application is available on the Department's website~~[-at]~~, <https://insurance.utah.gov>.
- (2)(a) The licensing period begins on April 1 of each year and ends on March 31 of the following year.
- (b) A license for which a renewal license application ~~[is not received]~~[is not received] by the commissioner before April 1 ~~[will be]~~[is] considered ~~[to have]~~[to have] expired.
- (4) Any material changes ~~[in]~~[to] the information submitted in an application shall be reported to the commissioner no later than 30 days after the day on which the information changes.

R590-282-5. Reporting Requirements.

- (1)(a) Beginning on April 1, 2020, and each year thereafter, a pharmacy benefit manager shall submit the Utah Pharmacy Benefit Manager Report.

(b) The Utah Pharmacy Benefit Manager Report and its instructions are available on the Department's website, <https://insurance.utah.gov>.

(2)(a) At least 30 days prior to publishing any data derived from the Utah Pharmacy Benefit Manager Report, the commissioner ~~will~~ shall email to each pharmacy benefit manager submitting data under Subsection (1), a general description of the data to be published.

(b)(i) A pharmacy benefit manager may respond to the email by submitting the information specified in Subsection 31A-46-301(3)(c)(ii) to the Health Research folder of the Department's secure file upload website~~[-at]~~, <https://forms.uid.utah.gov/fileUploads/>.

(ii) ~~Any~~ A response must be received within 30 days of the date of the email described in Subsection (2)(a).

~~R590-282-6. Penalties.~~

~~———— A person found to be in violation of this rule shall be subject to penalties as provided under Sections 31A-2-308 and 31A-46-401.~~

~~R590-282-7. Enforcement Date.~~

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

~~R590-282-8. Severability.~~

~~[If any provision of this rule or its application to any person or situation is held to be 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 R590-282, 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, pharmacy benefit manager

Date of Last Change: May 27, 2022

Authorizing, and Implemented or Interpreted Law: 31A-2-201(3); 31A-46-301(3)(c)(ii); 31A-46-202(1)(a)