

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. 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. 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.

(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.

(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.

(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.h
tml.

- (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