

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
State Admin Rule Filing Id:		Time filed:	
	Agency No.	Rule No.	Section No.
Utah Admin. Code Ref (R no.):	R 156	-	1 - 501
Changed to Admin. Code Ref. (R no.):	R	-	-

1.	Agency:	Commerce/Division of Occupational and Professional Licensing		
	Room no.:			
	Building:	Heber M. Wells Building		
	Street address 1:	160 East 300 South		
	Street address 2:			
	City, state, zip:	Salt Lake City UT 84111-2316		
	Mailing address 1:	PO Box 146741		
	Mailing address 2:			
	City, state, zip:	Salt Lake City UT 84114-6741		
	Contact person(s):			
	Name:	Phone:	Fax:	E-mail:
	Noel Taxin	801-530-6621	801-530-6511	ntaxin@utah.gov

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

2.	Title of rule or section (catchline):	Unprofessional Conduct		
3.	Type of notice:	New ___; Amendment XX; Repeal ___; Repeal and Reenact ___		
4.	Purpose of the rule or reason for the change:	The Division and Osteopathic Physicians and Surgeon's Licensing Board, Physicians Licensing Board, Podiatric Physician Board and Physician Assistant Licensing Board are recommending the adoption of a new Federation of State Medical Board's model policy on the use of opioid analgesics in the treatment of chronic pain applicable to all prescribing practitioners. These guidelines in the model policy support Utah's initiative to reduce overdose deaths and increase safe prescribing.		
5.	This change is a response to comments from the Administrative Rules Review Committee.	No XXX; Yes ___		
6.	Summary of the rule or change:	Paragraph (7) is added to incorporate by reference the Federation of State Medical Board's Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain, dated July 2013.		
7.	Aggregate anticipated cost or savings to:			
	A) State budget:			
	Affected:	No ___; Yes XXX		

The Division will incur minimal costs of approximately \$50.00 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

B) Local government:

Affected: No XXX; Yes ___

The proposed amendments only apply to licensed prescribing practitioners in Utah. As a result, the proposed amendments do not apply to local governments.

C) Small businesses ("small business" means a business employing fewer than 50 persons):

Affected: No XXX; Yes ___

The proposed amendments only apply to licensed prescribing practitioners in Utah. Such licensees may work in a small business; however, the proposed amendments would not directly affect the business.

D) Persons other than small businesses, businesses, 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):

Affected: No ___; Yes XXX

The proposed amendments only apply to licensed prescribing practitioners in Utah. There may be a slight fiscal impact to licensees because of time needed to re-educate or update themselves on the new policy with respect to the use of opioid analgesics in the treatment of chronic pain; however any total costs cannot be estimated by the Division. It should also be noted that no costs are involved with obtaining a copy of the model policy since the document is available at no cost from the Federation of State Medical Board's website.

8. Compliance costs for affected persons:

The proposed amendments only apply to licensed prescribing practitioners in Utah. There may be a slight fiscal impact to licensees because of time needed to re-educate or update themselves on the new policy with respect to the use of opioid analgesics in the treatment of chronic pain; however any total costs cannot be estimated by the Division. It should also be noted that no costs are involved with obtaining a copy of the model policy since the document is available at no cost from the Federation of State Medical Board's website.

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

As explained in the rule analysis, this filing requires medical practitioners to understand and comply with a nationally-recognized model policy regarding the prescribing of opioid analgesics. No fiscal impact to businesses is anticipated.

B) Name and title of department head commenting on the fiscal impacts:

Francine A. Giani, Executive Director

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :

Subsection 58-1-106(1)(a)	Section 58-1-308
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Subsection 58-1-501(2)	
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11. 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 Division of Administrative Rules; *if none, leave blank*):

	First Incorporation	Second Incorporation
Official Title of Materials Incorporated (from title page)	Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain	
Publisher	Federation of State Medical Boards	
Date Issued		
Issue, or version	July 2013	
ISBN Number (optional)		
ISSN Number (optional)		
Cost of Incorporated Reference	none	

	Action: Adds, updates, or removes	Adds	
(If this rule incorporates more than two items by reference, please attach additional pages)			
12.	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. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)		
	A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):	01/14/2014	
	B) A public hearing (optional) will be held:		
	On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
13.	This rule change may become effective on (mm/dd/yyyy):		01/21/2013
	NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.		
14.	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")); may not include the name of the agency:		
	diversion programs	licensing	
	supervision	evidentiary restrictions	
15.	Attach an RTF document containing the text of this rule change (filename):		R156-1.pro
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 AUTHORIZATION			
Agency head or designee, and title:	Mark B. Steinagel, Director	Date (mm/dd/yyyy):	11/25/2013

R156. Commerce, Occupational and Professional Licensing.

R156-1. General Rule of the Division of Occupational and Professional Licensing.

R156-1-501. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) surrendering licensure to any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same occupation or profession while an investigation or inquiry into allegations of unprofessional or unlawful conduct is in progress or after a charging document has been filed against the applicant or licensee alleging unprofessional or unlawful conduct;

(2) practicing a regulated occupation or profession in, through, or with a limited liability company which has omitted the words "limited company," "limited liability company," or the abbreviation "L.C." or "L.L.C." in the commercial use of the name of the limited liability company;

(3) practicing a regulated occupation or profession in, through, or with a limited partnership which has omitted the words "limited partnership," "limited," or the abbreviation "L.P." or "Ltd." in the commercial use of the name of the limited partnership;

(4) practicing a regulated occupation or profession in, through, or with a professional corporation which has omitted the words "professional corporation" or the abbreviation "P.C." in the commercial use of the name of the professional corporation;

(5) using a DBA (doing business as name) which has not been properly registered with the Division of Corporations and with the Division of Occupational and Professional Licensing; or

(6) failing, as a prescribing practitioner, to follow the "Model Policy for the Use of Controlled Substances for the Treatment of Pain", 2004, established by the Federation of State Medical Boards, which is hereby adopted and incorporated by reference; and

(7) failing, as a prescribing practitioner, to follow the "Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain", July 2013, adopted by the Federation of State Medical Boards, which is incorporated by reference.

KEY: diversion programs, licensing, supervision, evidentiary restrictions

Date of Enactment or Last Substantive Amendment: [~~November 21, 2013~~]2014

Notice of Continuation: January 5, 2012

Authorizing, and Implemented or Interpreted Law: 58-1-106(1) (a); 58-1-308; 58-1-501(2)