

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	-	82	-	
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:	
	Mark B. Steinagel	801-530-6292	801-530-6511	msteinagel@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):	Electronic Prescribing Act Rule
3.	Type of notice:	New XX; Amendment ; Repeal ___; Repeal and Reenact ___
4.	Purpose of the rule or reason for the change:	The Division needs to establish a rule which clarifies provisions in Title 58, Chapter 82, the Electronic Prescribing Act.
5.	This change is a response to comments from the Administrative Rules Review Committee.	No XXX; Yes ___
6.	Summary of the rule or change:	Section 101: Section establishes the title for the rule. Section 103: Section establishes the authority of the Division to enact the rule. Section 201: Section explains the security requirements to transmit and receive electronic prescriptions. Section 202: Section describes the practitioner's requirements to inform their patients of their rights, restrictions, and responsibilities. Section 203: Section explains that the Division may grant waivers.
7.	Aggregate anticipated cost or savings to:	
	A) State budget:	
	Affected:	No ___; Yes XXX
	The Division will incur minimal costs of approximately \$50 to print and distribute the new 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 new rule only applies to licensees who prescribe drugs in the normal course of their employment., licensed pharmacists who fill said prescriptions, and applicants in those license classifications. As a result, the proposed new rule does not apply to local governments.		
C) Small businesses ("small business" means a business employing fewer than 50 persons):		
Affected:	No ____; Yes XXX	
The proposed new rule only applies to licensees who prescribe drugs in the normal course of their employment., licensed pharmacists who fill said prescriptions, and applicants in those license classifications. Those who are affected have the right to request a waiver for financial hardship with the Division. Any costs associated with the implementation of the governing statute, Title 58, Chapter 82, would have been addressed when the statute was initially passed by the Legislature in 2009.		
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 new rule only applies to licensees who prescribe drugs in the normal course of their employment., licensed pharmacists who fill said prescriptions, and applicants in those license classifications. Those who are affected have the right to request a waiver for financial hardship with the Division. Any costs associated with the implementation of the governing statute, Title 58, Chapter 82, would have been addressed when the statute was initially passed by the Legislature in 2009.		
8.	Compliance costs for affected persons:	
The proposed new rule only applies to licensees who prescribe drugs in the normal course of their employment., licensed pharmacists who fill said prescriptions, and applicants in those license classifications. Those who are affected have the right to request a waiver for financial hardship with the Division. Any costs associated with the implementation of the governing statute, Title 58, Chapter 82, would have been addressed when the statute was initially passed by the Legislature in 2009.		
9.	A) Comments by the department head on the fiscal impact the rule may have on businesses:	
Many businesses have the software and other technology in place that is required to facilitate electronic prescribing. These businesses will not experience any fiscal impact from this rule filing. Businesses that do not have the necessary technology will incur costs if they choose to implement electronic prescribing. Those costs will vary and cannot be estimated. Any business that does not wish to incur such costs may obtain a waiver from the Division and continue to prescribe according to its current practice. Therefore, any fiscal impact will be incurred voluntarily, if at all. As stated in the rule analysis, the proposed filing codifies the existing case law that prohibits a respondent from relitigating a prior criminal case or disciplinary action before a licensing board. It is possible that affected businesses will experience reduced litigation expenses by complying with the rule and properly focusing their defense at the outset of an administrative disciplinary case.		
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 58-82-101
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; <i>if none, leave blank</i>):	
	First Incorporation	Second Incorporation
Official Title of Materials Incorporated (from title page)	Title 21 CFR (Code of Federal Regulations) Part 1311	
Publisher	United States Government/U.S. Food and Drug Administration	

	Date Issued		
	Issue, or version	April 1, 2012	
	ISBN Number (optional)		
	ISSN Number (optional)		
	Cost of Incorporated Reference		
	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):	03/04/2013	
	B) A public hearing (optional) will be held:		
	On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
	02/25/2013	11:00 am	160 East 300 South, Conference Room 474 (4th floor), Salt Lake City, Utah
13.	This rule change may become effective on (mm/dd/yyyy):	03/11/2013	
	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:		
	licensing	electronic prescribing	
15.	Attach an RTF document containing the text of this rule change (filename):	R156-82.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):	01/15/2013

R156. Commerce, Occupational and Professional Licensing.

R156-1. Electronic Prescribing Act Rule.

R156-1-101. Title.

This rule is known as the "Electronic Prescribing Act Rule."

R156-1-103. Authority - Purpose.

This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 82.

R156-82-201. Security.

(1) Practitioners and pharmacies who transmit and receive controlled substance prescriptions shall comply with 21 CFR 1311, dated April 1, 2012, which is adopted and incorporated by reference.

(2) Electronic prescribing for non-controlled substances shall be conducted in a secure manner, consistent with industry standards.

R156-82-202. Informing Patients.

(1) Practitioners shall fully inform their patients of their:

(a) rights;

(b) restrictions; and

(c) obligations pertaining to electronic prescribing.

R156-82-203. Waiver.

The Division may grant an exemption from the requirements in accordance with Subsection 58-82-201(6).

KEY: licensing, electronic prescribing

Date of Enactment or Last Substantive Amendment: 2013

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-82-101