

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	-	37f	-	102
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:	
	Rich Oborn	801-530-6767	801-530-6511	roborn@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):
	Definitions
3.	Type of notice:
	New ___; Amendment XXX; Repeal ___; Repeal and Reenact ___
4.	Purpose of the rule or reason for the change:
	The Utah Board of Pharmacy and Division of Occupational and Professional determined a proposed rule amendment needed to be filed to clarify the term "positive identification".
5.	This change is a response to comments from the Administrative Rules Review Committee.
	No XXXX; Yes ___
6.	Summary of the rule or change:
	This proposed rule filing establishes a definition of a term used in Subsection 58-37f-203(2)(e). The Utah Board of Pharmacy requested that "positive identification" be defined because it is not clear how a pharmacist should positively identify a customer before releasing a controlled substance.
7.	Aggregate anticipated cost or savings to:
	A) State budget:
	Affected: No ___; Yes XXX
	The Division will incur minimal costs of approximately \$75.00 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 apply only to pharmacies. 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 ____; Yes XXX	
The proposed amendments apply only to pharmacies, which many qualify as a small business. Pharmacies will need to train their employees on how to positively identify a customer before releasing a controlled substance. This training may have cost impact on a pharmacy; however, the Division is unable to estimate the extent of the impact due to a wide range of circumstances for each pharmacy.		
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 XXX; Yes ____	
The proposed amendments apply only to pharmacies. As a result, the proposed amendments do not apply to other persons.		
8.	Compliance costs for affected persons:	
The proposed amendments apply only to pharmacies. As a result, the proposed amendments do not apply to affected persons.		
9.	A) Comments by the department head on the fiscal impact the rule may have on businesses:	
This filing defines the term "positive identification" as a guide for pharmacists, who are required to verify a customer's identity before dispensing a controlled substance. The definition is not anticipated to have a fiscal impact on businesses.		
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)	Subsection 58-37f-301(1)
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)		
Publisher		
Date Issued		
Issue, or version		
ISBN Number (optional)		
ISSN Number (optional)		
Cost of Incorporated Reference		
Action: Adds, updates, or removes		
(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):	02/17/2015
	B) A public hearing (optional) will be held:	
	On (mm/dd/yyyy):	At (hh:mm AM/PM):
	01/20/2015	8:30 AM
		At (place):
		160 East 300 South, Conference Room 210 (2nd floor), Salt Lake City, Utah
13.	This rule change may become effective on (mm/dd/yyyy):	02/24/2015
	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:	
	controlled substance database	licensing
15.	Attach an RTF document containing the text of this rule change (filename):	R156-37f.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): 12/22/2014

R156. Commerce, Occupational and Professional Licensing.

R156-37f. Controlled Substance Database Act Rule.

R156-37f-102. Definitions.

In addition to the definitions in Sections 58-17b-102, 58-37-2 and 58-37f-102, as used in this chapter:

(1) "ASAP" means the American Society for Automation in Pharmacy system.

(2) "DEA" means Drug Enforcement Administration.

(3) "NABP" means the National Association of Boards of Pharmacy.

(4) "NCPDP" means National Council for Prescription Drug Programs.

(5) "NDC" means National Drug Code.

(6) "Positive identification" means:

(a) one of the following photo identifications issued by a foreign or domestic government:

(i) driver's license;

(ii) non-driver identification card;

(iii) passport;

(iv) military identification; or

(v) concealed weapons permit; or

(b) if the individual does not have government-issued identification, alternative evidence of the individual's identity as deemed appropriate by the pharmacist, as long as the pharmacist documents in a prescription record a description of how the individual was positively identified.

([6]7) "Research facility" means a facility in which research takes place that has policies and procedures describing such research.

([7]8) "Rx" means a prescription.

KEY: controlled substance database, licensing

Date of Enactment or Last Substantive Amendment: [~~November 21, 2013~~]2015

Authorizing, and Implemented or Interpreted Law: 58-1-106(1) (a); 58-37f-301(1)