

Health Facility Committee Meeting Minutes

MAY 8, 2024	9:00AM – 12:00PM	VIRTUAL/IN PERSON MEETING	GOOGLE MEETS
MEMBERS PRESENT	Chris Etherington, Douglas Banks, Jennifer Webb, Jeremy Bradshaw, Kris Carter.		
MEMBERS NOT PRESENT	Abe Lindman, Cory Robison, Debora Escalante, Seraphine Kapsandoy Jones & Steve Grant.		
STAFF PRESENT	Simon Bolivar, Kimberlee Jessop, Kristi Grimes, Janice Weinman, Greg Bateman, Dacie Golightly & Kami Christensen.		
SPECIAL GUESTS	Alianne Sipes, Cherie Crezee		
WELCOME	Chris Etherington		

Review and Approval of February 14, 2024 minutes. Douglas Banks motioned to approve the minutes, Jeremy Bradshaw seconded the motion.

OLD BUSINESS

UPDATE	LEGISLATION & RULE FILING UPDATES	JANICE WEINMAN
<p>Legislation has ended and there are several bills touching our rules in the office of Licensing and Background Checks. The bills will go into effect May 1st or June 1st. All rules now comply with Senate Bill 229 new penalty language for all licensing rules under our division: Any person who violates any part of this rule may be subject to the penalties enumerated in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations. All references of "department" were changed to "office" in R432-35-3 Definitions.</p>		

	RULES UPDATED FOR LEGISLATION	JANICE WEINMAN
<p>R432-31 - Life with Dignity Order. House Bill 200 made some terminology changes. This amendment changes the title of the rule and associated acronyms and forms from "Provider Order for Life-Sustaining Treatment (POLST)" to "Order for Life Sustaining Treatment (OLST)" as dictated by HB200. It additionally adds the reference to definitions in the new DLBC enforcement rule R380-600.</p> <p>R432-31-4 Facility and Procedures had the following change.</p> <p>(1) A health care facility licensee shall establish and implement policies and procedures that conform to <u>comply with</u> Section 75-2a-106.</p> <p><i>Committee members in attendance agree with this change. We do not have a quorum to vote.</i></p> <p>R432-270 – 9 Personnel (amendment adding additional training for Executive Directors and Administrators) went into effect February 2024.</p> <p>The facility administrator shall annually complete a minimum of four hours of core competency training that includes dementia and Alzheimer's specific training.</p> <p>(11) In addition to core competency training, the facility administrator shall:</p>		

(a) complete a minimum of six hours of approved continuing professional education (CPE) annually as follows:

(i) complete a minimum of five hours in person; and

(ii) complete a minimum of one additional hour either in person or online;

(b) ensure CPE courses under Subsection (11) are:

(i) approved by the Utah Assisted Living Association (UALA), Utah Health Care Association (UHCA), or Beehive Homes; or

(ii) require prior approval under Subsection (11)(b)(i) for courses offered by other entities or organizations; and

(c) calculate 50 minutes of CPE as one hour.

R432-270 Assisted Living Facilities

Here is a summary of the revisions to this rule. The actual rule changes will be posted below.

- Update the definition of a “unit” to eliminate confusion created by previous inclusion of the term “Individual” which was not the intent of the original rule.
- Changes posting requirements in Subsection (10)(7) to refer to the DLBC public record site to locate publicly available inspection reports. We had a requirement that Assisted Living facilities had to post inspection reports. We now have an electronic system that posts them publicly across our website therefore we no longer require the physical posting. Facilities can now post information showing where to access the most current inspections on our website.
- Adds Subsection (10)(7)(b) to prohibit tampering with a monitoring device in accordance with HB495 which is the vulnerable population bill.
- Addresses “mandatory placement in a shared room” to require transparent disclosure at admission for when placement in shared rooms is required by the facility in (10)(8)(a). This was in response to the subcommittee to make sure all the responsible parties are aware of the possibility of being in a shared room.
- Addresses secure unit in Subsection (16)(6) from HB 518 (construction bill) limiting the number of patients in a secure unit to 30. Also limits the amount of clients that can be served in a smoke compartment to 30.

Changes to Rule R432-270 (strike out = old, underlined = new)

R432-270-3. Compliance and Responsibility.

The licensee shall comply with each Section of Rule R432-270 and R432-6 regarding the construction of an assisted living facility.

R432-270-4. Definitions.

(1) [~~Section R432-1-3~~] Definitions listed in Rules R432-1, R432-6 and R380-600 additionally apply.[ies.]

(11) "Licensed health care professional" means a registered nurse, physician assistant, advanced practice registered nurse, or physician licensed by the Utah Department of Commerce who has education and experience to assess and evaluate the health care needs of the resident.

(1[±]2) "Monitoring device" means a video surveillance camera, microphone, or other device that captures audio, but does not include:

(a) a device that is specifically intended to intercept wire, electronic, or oral communication without notice to or the consent of a party to the communication; or

(b) a device that is connected to the internet or that is set up to send data via an electronic communication.

~~[(12) "Licensed health care professional" means a registered nurse, physician assistant, advanced practice registered nurse, or physician licensed by the Utah Department of Commerce who has education and experience to assess and evaluate the health care needs of the resident.]~~

(20) "Type I Assisted Living" means the same as "Assisted Living Facility Type I as defined in Rule R432-6.

(21) "Type II Assisted Living" means the same as "Assisted Living Facility Type II as defined in Rule R432-6.

(2[0]2) "Unit" means a[n individual living space, including living and sleeping space, bathroom, and optional kitchen area.]resident living unit as defined in Rule R432-6.

(2[±]3) "Vulnerable adult" is defined in Subsection 26B-6-201(30).

R432-270-5. Licensing.

(5) A type II assisted living facility licensee shall provide care in a home-like setting that provides an array of coordinated supportive personal and health care services available 24 hours a day to residents who need any of these services as required by [department]office rule.

(6)(a) Type I and II assisted living facility licensees shall provide each resident with ~~[a separate living unit]~~a choice of an individual resident living unit or shared resident living unit unless the resident and responsible person have been informed through the signed admission agreement regarding the facility policy on mandatory placement in a shared unit. [Two residents may share a unit upon written request of both residents.]

(b) The licensee shall ensure each resident living unit provides accommodation for each resident to conduct or receive assistance with ADLs privately and in a way that preserves their dignity.

(c) The licensee shall ensure each resident in a shared resident living unit has access to a bathroom and additional living space as defined in Rule R432-6.

R432-270-6. Licensee.

(1) The licensee shall:

(f) respond to requests for reports from the [department]office; ~~[and]~~

(g) appoint, in writing, a qualified administrator who shall assume full responsibility for the day-to-day operation and management of the facility, ~~[and]~~the licensee and administrator may be the same person ~~[.]; and~~

(h) inform the office when there is a change in administrator.

R432-270-7. Administrator Qualifications.

(1) The administrator shall:

(e) complete an ~~[department]~~office-approved national certification program within six months of hire for type II facilities.

R432-270-8. Administrator Duties.

(1) The administrator shall:

(n) complete, submit, and file records and reports required by the [department]office;

R432-270-9. Personnel.

(1) The licensee shall ensure that qualified direct-care personnel are on the premises 24 hours a day to meet residents' needs as determined by the residents' assessment and service plans. The licensee shall employ additional staff as necessary to perform:

(f) an ~~[department]~~office-approved core competency training.

(14) The licensee shall:

(b) use an ~~[department]~~office-approved form for the health inventory evaluation or their own form if it includes at least the employee's history of the following:

R432-270-10. Residents' Rights.

(5) The licensee shall ensure resident rights include the right to:

(g) share a resident living unit with a spouse if:

_____ (i) both spouses consent;~~and~~

_____ (ii) if both spouses are facility residents;

_____ (iii) the unit meets the construction requirements of Rule R432-6 for a shared, or semi-private resident living unit;

(7) The licensee shall post the link to the facility search section of the office website at <https://dibc.utah.gov/find-health-providers/> in a public area of the facility with an explanation that they may find compliance history and inspection results by searching for the facility's name on that link.~~[make the results of the current facility survey with any plans of correction available in a public area of the facility.]~~

R432-270-11. Admissions.

(3) If the ~~[department]~~office determines during inspection or interview that the facility knowingly and willfully admits or retains residents who do not meet ~~[license]~~admission criteria, ~~[then the department]~~the office may, for a time period specified, require that resident assessments be conducted by an individual who is independent from the facility.

(7) In accordance with Section 26B-2-236, a type I or type II assisted living licensee may not: ~~[Type I and type II assisted living licensees may not deny an individual admission to the facility for the sole reason that the individual or the individual's legal representative requests to install or operate a monitoring device in the individual's room in accordance with Title 26, Chapter 21, Part 304, Monitoring Device — Facility admission, patient discharge, and posted notice.]~~

_____ (a) deny an individual admission to the facility for the sole reason that the individual or the individual's legal representative requests to install or operate a monitoring device in the individual's room; and

_____ (b) permit any employee to deactivate, reposition or otherwise interfere with the operation of a monitoring device in an individual's room.

(8) The licensee shall ensure the prospective resident or the prospective resident's responsible person signs a written admission agreement before admission. The licensee shall maintain the admission agreement on file and shall specify at least the following:

_____ (a) room and board charges and charges for basic and optional services;

_____ (b) the facility's policy that outlines any reason for mandatory placement in a shared resident living unit;

_____ ~~[(b)]~~c provision for a 30-day notice before any change in established charges;

_____ ~~[(e)]~~d admission, retention, transfer, discharge, and eviction policies;

_____ ~~[(d)]~~e conditions when the agreement may be terminated;

_____ ~~[(e)]~~f the name of the responsible ~~[party]~~person;

_____ ~~[(f)]~~g notice that the ~~[department]~~office has the authority to examine resident records to determine compliance with licensing requirements; and

_____ ~~[(g)]~~h refund procedures that address the following:

R432-270-13. Resident Assessment.

(4) The licensee shall ensure the resident assessment form is approved and reviewed by the ~~[department]~~office to document the resident assessments.

R432-270-16. Secure Units.

(2) The licensee shall ensure that each resident admitted to a secure unit has an admission agreement that is signed by the resident or their legal representative that acknowledges understanding and consent to reside in a facility where egress is controlled.~~[indicates placement in the secure unit.]~~ The licensee shall ensure the secure admission agreement:

(6) The licensee shall ensure a secure unit is constructed in accordance with Section 15A-3-105 and no more than 30 residents may reside in an area enclosed for smoke and fire and with controlled egress.

R432-270-19. Medication Administration.

(4) If more than one resident resides in a resident living unit, the licensee shall ensure each person's ability is assessed to safely have medications in the resident living unit. If safety is a factor, the licensee shall ensure a resident stores their medication in a locked container in the resident living unit.

R432-270-20. Management of Resident Funds.

(5) The licensee shall purchase a surety bond or otherwise provide assurance satisfactory to the [department]office that resident personal funds deposited with the facility are secure.

R432-270-21. Records.

(1) The licensee shall ensure accurate and complete records are maintained. The licensee shall safely file and store records and ensure they remain easily accessible to staff and the [department]office.

(2)

R432-270-22. Food Services.

(3) The licensee shall ensure a different menu is planned and followed for each day of the week and that:

(d) any substitution to the menu that are actually served to a resident is recorded and retained for three months for review by the [department]office.

(6) The licensee shall ensure any inspection report by the local health department are maintained at the facility for review by the [department]office.

R432-270-26. Disaster and Emergency Preparedness.

(5) The licensee and the administrator shall review and update the plan as necessary to conform with local emergency plans. The licensee shall ensure the plan is available for review by the [department]office.

R432-270-29. Respite Services.

(1) Assisted living licensees may offer respite services and are not required to obtain any additional license from the [Utah Department of Health and Human Services.]office.

(7) The licensee shall ensure there are written policies and procedures approved by the [department]office before providing respite care. The licensee shall make policies and procedures available to staff regarding the respite care for residents that include:

R432-270-30. Adult Day Care Services.

(1) Type I and type II assisted living licensees may offer adult day care services and are not required to obtain a separate license from [Utah Department of Health and Human Services.]the office. If the licensee provides adult day care services, they shall submit policies and procedures for [department]office approval.

(4) The licensee shall ensure there is a written eligibility, admission, and discharge policy to include the following:

(b) notification of responsible [party]person;

(6) The licensee shall ensure that the director or designee develops a written resident agreement, with the resident, the responsible [party]person and the director or designee, that is completed and signed by each party and include the following:

(9) The licensee shall ensure that the director and responsible ~~[party]~~person reviews each injury report and ensures that each report is kept on file.

R432-270-31. Penalties.

~~[Any person who violates this rule may be subject to the penalties enumerated in Sections 26B-2-208 and 26B-2-216 and Section R432-3-8.]~~

Any person who violates any part of this rule may be subject to the penalties enumerated in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

The recommendation by those committee members who are present is to proceed forward and a vote will be taken at a future date when we have a quorum.

The Assisted Living subcommittee met twice to address the definition of unit in R432-270-5 (1)(6) and had three Goals

Clarify the language

Bring in the construction language

Look at dignity and privacy issues.

The subcommittee feel that the presented language as written meets their concerns.

R432-45 Certified Nurse Aid Registry Update

The purpose of this repeal and reenact is to update citations in response to recodification bills SB229 and SB46 in the 2024 legislative session. This rule is necessary for the state survey agency to carry out the requirements and responsibilities outlined in 42 USC 1396r Subsection (5) that specifies requirements for nursing facilities to ensure nurse aides are trained according to federal requirements. In addition, the Utah State Medicaid Plan requires that the department administers the Nurse Aide Training and Competency Evaluation Program (NATCEP) and Utah Nurse Aide Registry (UNAR) to certify and regulate Certified Nursing Aides (CNA) and approval of the required CNA training institutions.

Our agency is required to maintain a registry of all individuals that have completed NATCEP and have become certified. This information must be available to the public in some searchable form, which is known as UNAR. Many Assisted Living agencies utilize this. Nursing Home facilities are required to use it whenever they hire someone to make sure that individual doesn't have a finding of abuse, neglect, or misappropriation of resident property. If they do, they are not employable. Cherie Crezee group maintains the registry through a contract with our office and our office investigates if there are allegations of abuse, neglect, or misappropriation of resident property by a CNA. If those allegations are supported, we provide notice to the individual and they can request a hearing. If the allegations are upheld or the CAN does not request a hearing, then our office forwards the information to the registry to place the negative finding. Once that occurs, that individual is no longer certified and that finding of abuse, neglect or misappropriation of property must remain on the registry. There are certain reasons that will allow the finding to come off the registry. They are:

- The finding was made in error;
- The individual was found not guilty in a court of law; or
- The department learns of the individual's death.

Because there were so many changes to R432-35 we struck the whole thing and started over. You will find all the same content it's just rearranged in a way that flows better and makes more sense. There is one significant deletion in the rewrite which is the deletion of R432-45-6.

R432-45-6 Certified Nurse Aide Misconduct.

CNA misconduct that adversely affects the health, safety or welfare of the public may result in loss of nurse aide certification.

- (1) CNA misconduct related to client safety and integrity includes:
 - (a) leaving a nursing assistant assignment without properly notifying appropriate supervisory personnel;
 - (b) failing to report information regarding incompetent, unethical or illegal practice of any health care provider to proper authorities;
 - (c) failing to respect client rights and dignity regardless of social or economic status, personal attributes, or nature of health problems or disability; or
 - (d) failing to report actual or suspected incidents of client abuse.
- (2) Engaging in sexual misconduct related to the client or to the workplace includes:
 - (a) engaging in sexual relations if the patient is receiving care from an institution or entity that employs the CNA;
 - (b) engaging in sexual relations with a client for a period when a generally recognized caregiver and patient relationship exists; or
 - (c) engaging in sexual relations for an extended period with a patient has reasonable cause to believe a professional relationship exists between the patient or anyone certified under the provisions of this rule (Rule R432-45).
- (3) CNA misconduct related to administrative rules and state and federal law includes:
 - (a) knowingly aiding, abetting or assisting an individual to violate or circumvent any rule or regulation intended to guide the conduct of health care providers;
 - (b) violating the privacy rights and confidentiality of a client, unless disclosure of client information is required by law;
 - (c) discriminating against a client on the basis of age, race, religion, sex, sexual preference, national origin, or disability;
 - (d) abusing a client by intentionally causing physical harm or discomfort, or by striking a client, intimidating a client, threatening a client, or harassing a client;
 - (e) neglecting a client by allowing a client to be injured or remain in physical pain and discomfort;
 - (f) engaging in other unacceptable behavior or verbal abuse towards or in the presence of a client by using derogatory names or gestures or profane language;
 - (g) using the client relationship to exploit the client by gaining property or other items of value from the client either for personal gain or sale, beyond the compensation for services;
 - (h) possessing, obtaining, attempting to obtain, furnishing, or administering prescription or controlled drugs to any person, including oneself, except as directed by a health care professional authorized by law to prescribe drugs; or
 - (i) removing or attempting to remove drugs, supplies, property, or money from the workplace without authorization.
- (4) CNA misconduct related to communication includes:
 - (a) Inaccurate recordkeeping in client or agency records;

- (b) Incomplete recordkeeping regarding client care that includes failure to document care given or other information important to the client's care or documentation which is inconsistent with the care given;
- (c) falsifying a client or agency record that includes filling in someone else's omissions, signing someone else's name, recording care not given, or fabricating data and values;
- (d) altering a client or agency record that includes changing words, letters and numbers from the original document to mislead the reader of the record, and adding to the record after the original time and date without indicating a late entry;
- (e) destroying a client or agency record;
- (f) failing to maintain client records in a timely manner which accurately reflect management of client care, including failure to make a late entry within a reasonable time period; or
- (g) failing to communicate information regarding the client's status to the supervising nurse or other appropriate person in a timely manner.
- (5) CNA misconduct related to the client's family includes:
 - (a) failing to respect the rights of the client's family regardless of social or economic status, race, religion, or national origin;
 - (b) using the CNA client relationship to exploit the family for the CNA's personal gain or for any other reason;
 - (c) stealing money, property, services, or supplies from the family; or
 - (d) soliciting or borrowing money, materials, or property from the family.
- (6) CNA misconduct related to co-workers that includes violent, abusive, threatening, harassing, or intimidating behavior towards a co-worker, which either occurs in the presence of clients or otherwise relates to the delivery of safe care to clients.
- (7) CNA misconduct related to achieving and maintaining clinical competency includes:
 - (a) failing to competently perform the duties of a nursing assistant;
 - (b) performing acts beyond the authorized duties for which the individual is certified; or
 - (c) assuming duties and responsibilities of a nursing assistant without nursing assistant training or when competency has not been established or maintained.
- (8) CNA misconduct related to impaired functions includes:
 - (a) using drugs, alcohol or mind-altering substances to an extent or in a manner dangerous or injurious to the nursing assistant or other, or to an extent that such use impairs the ability to safely conduct the duties of a nursing assistant; or
 - (b) having a physical or mental condition that makes the nursing assistant unable to safely perform the duties of a nursing assistant.
- (9) CNA misconduct related to certificate violations includes:
 - (a) providing, selling, applying for, or attempting to procure a certificate by willful fraud or misrepresentation;
 - (b) functioning as a medication assistant without current certification as a medication assistant;
 - (c) altering a certificate of completion of training or nursing assistant certification;
 - (d) disclosing contents of the competency examination or soliciting, accepting or compiling information regarding the contents of the examination before, during or after its administration;
 - (e) allowing another person to use one's nursing assistant certificate for any purpose;
 - (f) using another's nursing assistant certificate for any purpose; or

(g) representing oneself as a CNA without current, valid CNA certification.

More details will be included in the interpretation manual for this rule. Including information regarding any abuse, neglect, or misappropriation of funds and how they will be handled based on facility type.

Doug recommends that changes to R432-45 be deferred for approval until a quorum is in place and that the updated rule be read through completely for clarity and approval by the committee. *Recommendation approved by all members present.*

R432-4 General Construction Rule

This rule is actively being worked on so all the other construction rules that point to it can be updated. The rule will only come back to the committee if the content changes.

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NEW BUSINESS

	NONCOMPLIANCE SANCTIONS	KRISTI GRIMES
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Click on this link to see 36 months of history for all licensed facilities. [Notice of Agency Actions](#)

Facility history past 36 months will require a GRAMA request. Alison Forsberg is our office contact. She can be reached at aaforsberg@utah.gov.

	CHANGES TO R432-35 BACKGROUND CHECKS	JANICE WEINMAN, KAMI CHRISTENSEN
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Changes to R432-35 include standardizing the title to background check from background screening; changes department references to office (and defines the Office of Background Processing), adds definitions and references to the Department of Licensing and Background Checks (DLBC) online direct access clearance system (DACs) and requires the retention of fingerprints for certification for direct patient access in the rap back system in accordance with HB495 of the 2024 legislative session. Changes expand the definition of volunteer, aligns cruelty to animals' statute across the office, aligns protective order violations and wording for endangering a person in a human services program.

strike out = old, underlined = new

R432-35 Background [~~Screening – Health Facilities~~] Check – Health Care Facility Licensing.

R432-35-3. Definitions.

- (3) "Certification for direct patient access" means an office [~~department~~] approved background [~~screening~~] clearance for an individual to have direct patient or resident access whose engaged employment has not lapsed for a period of 180 days.
- (6)(a)(i) an aged individual, as defined by [~~department~~] office rule; or
- (ii) a disabled individual, as defined by [~~department~~] office rule;

(7)(b)(xi) volunteer as defined by [department] office rule.

(15) "Office" means the Office of Background Processing in the Division of Licensing and Background Checks under the Department of Health and Human Services.

(1~~5~~6) "Patient" means an individual who receives health care services from one of the following covered providers:

(17) "Rap back system" means the system that enables authorized entities to receive ongoing status notification of any criminal history reported on individuals who are registered in the system.

~~[(16) "Resident" means an individual who receives health care services from one of the following covered providers:~~

~~(a) a nursing care facility;~~

~~(b) a small health care facility;~~

~~(c) an assisted living facility; or~~

~~(d) a hospice that provides living quarters as part of its services.]~~

(18) "Resident" means an individual who receives health care services from one of the following covered providers:

(a) a nursing care facility;

(b) a small health care facility;

(c) an assisted living facility; or

(d) a hospice that provides living quarters as part of its services.

(1~~7~~9) "Residential setting" means a place provided by a covered provider:

(~~18~~20) "Volunteer" means an individual who may have unsupervised direct patient access who is not directly compensated for providing services.

R432-35-4. Covered Provider – DACS Process.

(2)(a) signs a criminal background [screening] check authorization form that is available for review by the [department] office; and

(5) If the [department] office determines an individual is not eligible for direct patient access, based on information obtained through DACS and the sources listed in Section R432-35-8, the [department] office shall send a notice of agency action, as outlined in Rule R497[R432-30], to the covered provider and the individual explain the action and the individual's right of appeal.

(7) The [department] office may allow a covered individual to have direct patient access with conditions, during an appeal process, if the covered individual demonstrates to the

[department] office, the work arrangement does not pose a threat to the safety and health of patients or residents.

(8) The covered provider that provides services in a residential setting shall enter required information into DACS to initiate and obtain certification for direct patient access for each individual 12 years of age and older, who is not a resident, and resides in the residential setting. If the individual is not eligible for direct patient access and continues to reside in the setting, the [department] office may revoke an existing license or deny licensure for healthcare services in the residential setting.

(10) An individual or covered individual seeking licensure as a covered provider shall submit required information to the [department] office to initiate and obtain certification for direct patient access before the issuance of the provisional license. If the individual is not eligible for direct patient access, the [department] office may revoke an existing license or deny licensure as a health care facility.

R432-35-5. Covered Contractor – DACS Process.

(2)(a) signs a criminal background [screening] check authorization form that is available for review by the [department] office; and

(5) If the [department] office determines an individual is not eligible for direct patient access, based on information obtained through DACS and the sources listed in Section R432-35-8, the [department] office shall send a notice of agency action, as outlined in Rule R497[R432-30], to the covered contractor and the individual explaining the action and the individual's right of appeal.

(7) The [department] office may allow a covered individual direct patient access with conditions, during an appeal process, if the covered individual can demonstrate to the [department] office that the work arrangement does not pose a threat to the safety and health of patients or residents.

R432-35-6. Covered Employer – DACS Process.

(2) If the [department] office determines an individual is not eligible for direct patient access, based on information obtained through DACS or the sources in Section R432-35-8, the [department] office shall send a notice of agency action, as outlined in Rule R432-30, to the covered employer and the individual explaining the action and the individual's right of appeal.

R432-35-7. Volunteers.

(6) Individual volunteering services [~~for 20 hours per month or less.~~] as long as they are directly supervised by a covered individual.

R432-35-8. Sources for Background Review.

(1) For a finding of clearance, the office shall include a fingerprint-based criminal history background check in the databases described in Section 26B-2-120(3)(a) and inclusion of the individual's fingerprints in the rap back system.

(~~1~~)2) As required in Section 26B-2-240, the [~~department~~] office may review relevant information obtained from the following sources:

(~~2~~)3) If the [~~department~~] office determines an individual is not eligible for direct patient access, based upon the criminal background [~~screening~~] check, and the individual disagrees with the information provided by the Criminal Investigations and Technical Services Division or court record, the individual may challenge the information as provided by Section 53-10.-108.

(~~3~~)4) If the [~~department~~] office determines an individual is not eligible for direct patient access based upon the non-criminal background [~~screening~~] check and the individual disagrees with the information provided, the individual may challenge the information through the appropriate agency.

R432-35-9. Exclusion from Direct Patient Access.

(1) The [~~department~~] office shall review convictions or pending charges as follows:

(a)(i)(F) Sections ~~76-9-301 through 301.8, and 306 through 307~~ [~~Bestiality~~] Cruelty to Animals;

(K) Section 77-36-2.4 Violation of a Protective Order;

(~~K~~)L) Title 78B, Chapter 7, Protective Order and Civil Stalking Injunction; [~~or~~]

(M) Section 26B-2-113, Endangering persons in a human services program; or

(~~E~~)N) Section 26B-6-205, Failure to Report Suspected Abuse, Neglect, or Exploitation of a Vulnerable Adult;

(b) Except as listed in Subsection R432-35-9(1)(a), if an individual or covered individual has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement, for the following offenses, the [~~department~~] office may consider granting certification for direct patient access:

(iii)(E) Section ~~76-9-301 through 301.8, and 306 through 307~~ [~~Bestiality~~] Cruelty to Animals;

(J) Section 77-36-2.4, Violation of a protective order;

(~~J~~)K) Title 78B, Chapter 7, Protective Order and Civil Staling Injunctions; [~~and~~]

(L) Section 26B-2-113, Endangering Persons in a Human Services Program; and

([K]M) Section 26B-6-205, Failure to Report Suspected Abuse, Neglect, or Exploitation of a Vulnerable Adult;

(2) The [department] office shall review juvenile records as follows:

(a) As required by Subsection 26B-2-240(4)(a)(ii)(E), juvenile court records shall be reviewed if an individual or covered individual is:

(3) The [department] office may review non-criminal findings from the following sources to determine whether an individual or covered individual should be granted or retain certification for direct patient access:

(4) The [department] office may review relevant background information from sources listed in Section R432-35-8 to determine under what circumstance, if any, the covered individual may be granted to retain certification for direct patient access and the following factors may be considered:

(5) The [department] office shall rely on relevant information from sources identified in Section R432-35-8 as conclusive evidence and may deny direct patient access based on that information.

(6) A denied application may be re-submitted to the [department] office no sooner than 2 years from the date of separation or upon substantial change to the covered individual's circumstances.

R432-35-10. Covered Individuals with Arrests or Pending Criminal Charges.

(1) If the [department] office determines credible evidence exists that a covered individual has been arrested or charged with a felony or a misdemeanor that would be excluded under Subsection R432-35-8(1), the [department] office may take action to protect the health and safety of patients or residents in covered providers.

(2) The [department] office may allow a covered individual direct patient access with conditions, until the arrest or criminal charges are resolved, if the covered individual can demonstrate the work arrangement does not pose a threat to the safety and health of patients or residents.

(3) If the [department] office denies or revokes a license, or denies direct patient access based upon arrest or criminal charges, the [department] office shall send a notice of agency action, as outlined in Rule ~~[R432-30]497~~, to the covered provider and the covered individual notifying them of the right to appeal.

R432-35-10. Penalties.

~~[Any person who violates any provision of this rule may be subject to the penalties enumerated in Section 26B-2-208 and Rule R432-3.] Any person who violates any part of this rule may be subject to the penalties enumerated in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.~~

Doug recommends approval once we have a quorum. This process will continue until next meeting when the committee can vote.

	UPCOMING CHANGES FOR LEGISLATION	
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R432-150, R432-1 and 380-600 (which is a department rule) need to undergo changes and will be brought back to the committee in September for approval.

There is a new rule needed R432-501 to establish a new category of licensure “Freestanding Emergency department” in response to HB570. This rule will be based roughly on the critical access hospital rule and is intended to give access to rural areas. R432-501 will be ready in September for committee review and approval.

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OTHER BUSINESS		

Committee positions needing to be filled.

- Health Facilities Architect Representative – Doug’s recommendation was submitted to EDO for appointment.
- Physician, licensed to practice medicine – previously held by Dr. David Sundwall
- Registered Nurse, licensed to practice - previously held by Steven Grant
- Representative of Freestanding Ambulatory Surgical Facilities – Vacant
- Representative of Ambulatory Surgical Centers affiliated with a hospital - Abe is looking for a candidate he could recommend.

Simon has sent this information to the Department so they can start looking for candidates for these positions. Current committee members whose term have expired will stay on until their spot is filled.

Janice will set up a meeting with the legislature to get clarification regarding monitoring devices.

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2022-2023	UPCOMING MEETINGS	DHHS
	September 11, 2024 November 13, 2024 February 12, 2025 May 14, 2025 September 10, 2025 November 12, 2025	

