

BEHAVIORAL HEALTH SERVICES AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill addresses behavioral health treatment and services.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Department of Health to:
 - award a grant to a local mental health authority to implement or expand an integrated behavioral health program;
 - develop a proposal to allow the state Medicaid program to reimburse a local mental health authority for behavioral health services in an integrated behavioral health care setting at an increased rate; and
 - apply for a waiver under the state Medicaid plan to implement the proposal;
- ▶ allows a certain medication-assistance treatment drug to be recycled under the Charitable Prescription Drug Recycling Act, subject to federal law;
- ▶ creates a sunset date;
- ▶ creates reporting requirements; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- ▶ to Department of Health -- Family Health and Preparedness, as a one-time appropriation:
 - from General Fund, One-time, \$200,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-17b-902, as last amended by Laws of Utah 2021, Chapter 397

33 **58-17b-905**, as last amended by Laws of Utah 2021, Chapter 397
34 **63I-1-226**, as last amended by Laws of Utah 2021, Chapters 13, 50, 64, 163, 182, 234,
35 and 417

36 ENACTS:

37 **26-1-43**, Utah Code Annotated 1953

38 **26-18-427**, Utah Code Annotated 1953

39

40 *Be it enacted by the Legislature of the state of Utah:*

41 Section 1. Section **26-1-43** is enacted to read:

42 **26-1-43. Integrated behavioral health care grant program.**

43 (1) As used in this section:

44 (a) "Integrated behavioral health care services" means coordinated physical and
45 behavioral health care services for one patient.

46 (b) "Local mental health authority" means a local mental health authority described in
47 Section 17-43-301.

48 (c) "Project" means a project described in Subsection (2).

49 (2) Before July 1, 2022, the department shall issue a request for proposals in
50 accordance with this section to award a grant to a local mental health authority for development
51 or expansion of a project to provide effective delivery of integrated behavioral health care
52 services.

53 (3) To be considered for a grant award under Subsection (2), a local mental health
54 authority shall submit an application to the department that:

55 (a) explains the benefits of integrated behavioral health care services to a patient who is
56 receiving mental health or substance use disorder treatment;

57 (b) describes the local mental health authority's operational plan for delivery of
58 integrated behavioral health care services under the proposed project and any data or
59 evidence-based practices supporting the likely success of the operational plan;

60 (c) includes:

61 (i) the number of patients to be served by the local mental health authority's proposed
62 project; and

63 (ii) the cost of the local mental health authority's proposed project; and

64 (d) provides details regarding:

65 (i) any plan to use funding sources in addition to the grant award under this section for
66 the local mental health authority's proposed project;

67 (ii) any existing or planned contracts or partnerships between the local mental health
68 authority and other individuals or entities to develop or implement the local mental health
69 authority's proposed project; and

70 (iii) the sustainability and reliability of the local mental health authority's proposed
71 project.

72 (4) In evaluating a local mental health authority's application under Subsection (3) to
73 determine the grant award under Subsection (2), the department shall consider:

74 (a) how the local mental health authority's proposed project will ensure effective
75 provision of integrated behavioral health care services;

76 (b) the cost of the local mental health authority's proposed project;

77 (c) the extent to which any existing or planned contracts or partnerships or additional
78 funding sources described in the local mental health authority's application are likely to benefit
79 the proposed project; and

80 (d) the sustainability and reliability of the local mental health authority's proposed
81 project.

82 (5) Before July 1, 2025, the department shall report to the Health and Human Services
83 Interim Committee regarding:

84 (a) any knowledge gained or obstacles encountered in providing integrated behavioral
85 health care services under each project;

86 (b) data gathered in relation to each project; and

87 (c) recommendations for expanding a project statewide.

88 Section 2. Section **26-18-427** is enacted to read:

89 **26-18-427. Medicaid waiver for increased integrated health care reimbursement.**

90 (1) As used in this section:

91 (a) "Local mental health authority" means a local mental health authority described in
92 Section 17-43-301.

93 (b) "Integrated health care setting" means a health care or behavioral health care setting
94 that provides integrated physical and behavioral health care services.

95 (2) The department shall develop a proposal to allow the state Medicaid program to
96 reimburse a local mental health authority for covered behavioral health care services provided
97 in an integrated health care setting at an increased capitation rate within the state Medicaid
98 program.

99 (3) Before December 31, 2022, the department shall apply for a Medicaid waiver or a
100 state plan amendment with CMS to implement the proposal described in Subsection (2).

101 (4) If the waiver or state plan amendment described in Subsection (3) is approved, the
102 department shall:

103 (a) implement the proposal described in Subsection (2); and

104 (b) while the waiver or state plan amendment is in effect, submit a report to the Health
105 and Human Services Interim Committee each year before November 30 detailing:

106 (i) the number of patients served under the waiver or state plan amendment;

107 (ii) the cost of the waiver or state plan amendment; and

108 (iii) any benefits of the waiver or state plan amendment.

109 Section 3. Section **58-17b-902** is amended to read:

110 **58-17b-902. Definitions.**

111 As used in this part:

112 (1) "Assisted living facility" means the same as that term is defined in Section 26-21-2.

113 (2) "Cancer drug" means a drug that controls or kills neoplastic cells and includes a
114 drug used in chemotherapy to destroy cancer cells.

115 (3) "Charitable clinic" means a charitable nonprofit corporation that:

116 (a) holds a valid exemption from federal income taxation issued under Section 501(a),
117 Internal Revenue Code;

118 (b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue
119 Code;

120 (c) provides, on an outpatient basis, for a period of less than 24 consecutive hours, to
121 an individual not residing or confined at a facility owned or operated by the charitable
122 nonprofit corporation:

123 (i) advice;

124 (ii) counseling;

125 (iii) diagnosis;

- 126 (iv) treatment;
- 127 (v) surgery; or
- 128 (vi) care or services relating to the preservation or maintenance of health; and
- 129 (d) has a licensed outpatient pharmacy.
- 130 (4) "Charitable pharmacy" means an eligible pharmacy that is operated by a charitable
- 131 clinic.
- 132 (5) "County health department" means the same as that term is defined in Section
- 133 26A-1-102.
- 134 (6) "Donated prescription drug" means a prescription drug that an eligible donor or
- 135 individual donates to an eligible pharmacy under the program.
- 136 (7) "Eligible donor" means a donor that donates a prescription drug from within the
- 137 state and is:
- 138 (a) a nursing care facility;
- 139 (b) an assisted living facility;
- 140 (c) a licensed intermediate care facility for people with an intellectual disability;
- 141 (d) a manufacturer;
- 142 (e) a pharmaceutical wholesale distributor;
- 143 (f) an eligible pharmacy; or
- 144 (g) a physician's office.
- 145 (8) "Eligible pharmacy" means a pharmacy that:
- 146 (a) is registered by the division as eligible to participate in the program; and
- 147 (b) (i) is licensed in the state as a Class A retail pharmacy; or
- 148 (ii) is operated by:
- 149 (A) a county;
- 150 (B) a county health department;
- 151 (C) a pharmacy under contract with a county health department;
- 152 (D) the Department of Health, created in Section 26-1-4;
- 153 (E) the Division of Substance Abuse and Mental Health, created in Section
- 154 62A-15-103; or
- 155 (F) a charitable clinic.
- 156 (9) (a) "Eligible prescription drug" means a prescription drug, described in Section

157 58-17b-904, that is not:

158 ~~[(a)]~~ (i) except as provided in Subsection (9)(b), a controlled substance; or

159 ~~[(b)]~~ (ii) a drug that can only be dispensed to a patient registered with the drug's
160 manufacturer in accordance with federal Food and Drug Administration requirements.

161 (b) "Eligible prescription drug" includes a medication-assisted treatment drug that may
162 be accepted, transferred, and dispensed under the program in accordance with federal law.

163 (10) "Licensed intermediate care facility for people with an intellectual disability"
164 means the same as that term is defined in Section 58-17b-503.

165 (11) "Medically indigent individual" means an individual who:

166 (a) (i) does not have health insurance; and

167 (ii) lacks reasonable means to purchase prescribed medications; or

168 (b) (i) has health insurance; and

169 (ii) lacks reasonable means to pay the insured's portion of the cost of the prescribed
170 medications.

171 (12) "Medication-assisted treatment drug" means buprenorphine prescribed to treat
172 substance use withdrawal symptoms or an opiate use disorder.

173 ~~[(12)]~~ (13) "Nursing care facility" means the same as that term is defined in Section
174 26-18-501.

175 ~~[(13)]~~ (14) "Physician's office" means a fixed medical facility that:

176 (a) is staffed by a physician, physician's assistant, nurse practitioner, or registered
177 nurse, licensed under Title 58, Occupations and Professions; and

178 (b) treats an individual who presents at, or is transported to, the facility.

179 ~~[(14)]~~ (15) "Program" means the Charitable Prescription Drug Recycling Program
180 created in Section 58-17b-903.

181 ~~[(15)]~~ (16) "Unit pack" means the same as that term is defined in Section 58-17b-503.

182 ~~[(16)]~~ (17) "Unlawful conduct" means the same as that term is defined in Sections
183 58-1-501 and 58-17b-501.

184 ~~[(17)]~~ (18) "Unprofessional conduct" means the same as that term is defined in
185 Sections 58-1-501 and 58-17b-502.

186 Section 4. Section **58-17b-905** is amended to read:

187 **58-17b-905. Participation in program -- Requirements -- Fees.**

188 (1) An eligible donor, an individual, or an eligible pharmacy may participate in the
189 program.

190 (2) An eligible pharmacy:

191 (a) shall comply with all applicable federal and state laws related to the storage,
192 disposal, and distribution of a prescription drug;

193 (b) shall comply with all applicable federal and state laws related to the acceptance and
194 transfer of a prescription drug, including 21 U.S.C. Chapter 9, Subchapter V, Part H,
195 Pharmaceutical Distribution Supply Chain;

196 (c) shall, before accepting or dispensing a prescription drug under the program, inspect
197 each prescription drug to determine whether the prescription drug is an eligible prescription
198 drug;

199 (d) may dispense an eligible prescription drug to a medically indigent individual who:

200 (i) is located in the state when the drug is dispensed; and

201 (ii) has a prescription issued by a practitioner;

202 (e) may charge a handling fee, adopted by the division under Section 63J-1-504; and

203 (f) may not accept, transfer, or dispense a prescription drug in violation of the federal
204 Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

205 Section 5. Section **63I-1-226** is amended to read:

206 **63I-1-226. Repeal dates, Title 26.**

207 (1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory
208 Committee, is repealed July 1, 2024.

209 (2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed
210 July 1, 2025.

211 (3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July
212 1, 2025.

213 (4) Section 26-1-40 is repealed July 1, 2022.

214 (5) Section 26-1-41 is repealed July 1, 2026.

215 (6) Section 26-7-10 is repealed July 1, 2025.

216 (7) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1,
217 2028.

218 (8) Section 26-7-14 is repealed December 31, 2027.

219 (9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
220 1, 2025.

221 (10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee,
222 is repealed July 1, 2026.

223 (11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed
224 July 1, 2025.

225 (12) Subsection 26-15c-104(3), relating to a limitation on the number of
226 microenterprise home kitchen permits that may be issued, is repealed on July 1, 2022.

227 (13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is
228 repealed July 1, 2028.

229 (14) Section 26-18-27 is repealed July 1, 2025.

230 (15) Section 26-1-43 is repealed December 31, 2022.

231 [~~(15)~~] (16) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed
232 July 1, 2027.

233 [~~(16)~~] (17) Subsection 26-18-418(2), the language that states "and the Behavioral
234 Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

235 [~~(17)~~] (18) Section 26-33a-117 is repealed on December 31, 2023.

236 [~~(18)~~] (19) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1,
237 2024.

238 [~~(19)~~] (20) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July
239 1, 2024.

240 [~~(20)~~] (21) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is
241 repealed July 1, 2024.

242 [~~(21)~~] (22) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July
243 1, 2024.

244 [~~(22)~~] (23) Section 26-39-201, which creates the Residential Child Care Licensing
245 Advisory Committee, is repealed July 1, 2024.

246 [~~(23)~~] (24) Section 26-40-104, which creates the Utah Children's Health Insurance
247 Program Advisory Council, is repealed July 1, 2025.

248 [~~(24)~~] (25) Section 26-50-202, which creates the Traumatic Brain Injury Advisory
249 Committee, is repealed July 1, 2025.

