

**Effective 5/3/2023**

**Part 2**  
**Department of Health and Human Services**

**26B-1-201 Department of Health and Human Services -- Creation -- Duties.**

- (1) There is created within state government the Department of Health and Human Services, which has all of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in this title and previously vested in the Department of Health and the Department of Human Services.
- (2) Subject to the limitation and grants of authority in state law, the department shall serve as the health, health planning, medical assistance, and social services authority of the state, and for administration of federally assisted state programs or plans is designated as the sole state agency for:
  - (a) social service block grants;
  - (b) alcohol, drug, and mental health programs, including block grants;
  - (c) child welfare;
  - (d) state programs supported under the Older Americans Act, 42 U.S.C. Sec. 3001, et seq.;
  - (e) public health;
  - (f) health planning;
  - (g) maternal and child health;
  - (h) services for individuals with a disability; and
  - (i) medical assistance.
- (3) A state plan or program administered by the department:
  - (a) shall be developed in the appropriate divisions or offices of the department in accordance with applicable requirements of state and federal law; and
  - (b) may be amended by the executive director to achieve coordination, efficiency, or economy.
- (4) In addition to Subsection (1), from July 1, 2022, through June 30, 2023, the Department of Health and Human Services shall exercise the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities of the Department of Health and the Department of Human Services under:
  - (a) Title 26, Utah Health Code; and
  - (b) Title 62A, Utah Human Services Code.

Amended by Chapter 255, 2022 General Session

**26B-1-202 Department authority and duties.**

The department may, subject to applicable restrictions in state law and in addition to all other authority and responsibility granted to the department by law:

- (1) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law, as the department may consider necessary or desirable for providing health and social services to the people of this state;
- (2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;
- (3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

- (4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;
- (5) establish eligibility standards for the department's programs, not inconsistent with state or federal law or regulations;
- (6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;
- (7) set and collect fees for the department's services;
- (8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;
- (9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;
- (10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;
- (11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;
- (12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;
- (13) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;
- (14) provide training and educational opportunities for the department's staff;
- (15) collect child support payments and any other money due to the department;
- (16) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;
- (17) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the Division of Child and Family Services or the Division of Juvenile Justice Services is given custody of a minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is ordered to prepare an attainment plan for a minor found not competent to proceed under Section 80-6-403, including:
  - (a) designation of interagency teams for each juvenile court district in the state;
  - (b) delineation of assessment criteria and procedures;
  - (c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and
  - (d) provisions for submittal of the plan and periodic progress reports to the court;
- (18) carry out the responsibilities assigned to the department by statute;
- (19) examine and audit the expenditures of any public funds provided to a local substance abuse authority, a local mental health authority, a local area agency on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to a local authority, an area agency, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with

- state or federal law, policy, or contract provisions, the department may take steps necessary to ensure continuity of services. For purposes of this Subsection (19) "public funds" means the same as that term is defined in Section 62A-15-102;
- (20) in accordance with Subsection 26B-2-104(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;
- (21) within legislative appropriations, promote and develop a system of care and stabilization services:
- (a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and
  - (b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:
    - (i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;
    - (ii) centralize department operations, including procurement and contracting;
    - (iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;
    - (iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;
    - (v) create performance-based measures for the provision of services; and
    - (vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions;
- (22) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:
- (a) under this title;
  - (b) by the department; or
  - (c) by an agency or division within the department;
- (23) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;
- (24) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;
- (25) to the extent authorized under state law or required by federal law, promote and protect the health and wellness of the people within the state;
- (26) establish, maintain, and enforce rules authorized under state law or required by federal law to promote and protect the public health or to prevent disease and illness;
- (27) investigate the causes of epidemic, infectious, communicable, and other diseases affecting the public health;
- (28) provide for the detection and reporting of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;
- (29) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;
- (30) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and

- wellness of the population and specific activities which may promote and protect the health and wellness of the population;
- (31) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;
  - (32) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;
  - (33) establish laboratory services necessary to support public health programs and medical services in the state;
  - (34) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;
  - (35) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;
  - (36) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations and Assistance Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;
  - (37) investigate the causes of maternal and infant mortality;
  - (38) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol, and provide the Commissioner of Public Safety with monthly statistics reflecting the results of these examinations, with necessary safeguards so that information derived from the examinations is not used for a purpose other than the compilation of these statistics;
  - (39) establish qualifications for individuals permitted to draw blood under Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals the department finds qualified, which permits may be terminated or revoked by the department;
  - (40) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;
  - (41) conduct health planning for the state;
  - (42) monitor the costs of health care in the state and foster price competition in the health care delivery system;
  - (43) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals the providers serve;
  - (44) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process;
  - (45) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia;
  - (46) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required by the agency or under this title, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code;
  - (47) oversee public education vision screening as described in Section 53G-9-404; and

(48) issue code blue alerts in accordance with Title 35A, Chapter 16, Part 7, Code Blue Alert.

Amended by Chapter 302, 2023 General Session

**26B-1-203 Executive director -- Appointment -- Compensation -- Qualifications -- Deputy directors required -- Responsibilities.**

- (1)
  - (a) The chief administrative officer of the department is the executive director, who shall be appointed by the governor with the advice and consent of the Senate.
  - (b) The executive director may be removed at the will of the governor.
  - (c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.
- (2) The executive director shall be experienced in administration, management, and coordination of complex organizations.
- (3) If the executive director is not a physician, the executive director or a deputy director shall:
  - (a) be informed and experienced in public health;
  - (b) have successfully completed at least a master's degree of public health or public administration from an accredited school of public health or from an accredited program of public health or public administration; and
  - (c)
    - (i) have at least five years of professional full-time experience, of which at least two years have been in public health in a senior level administrative capacity; or
    - (ii) have at least five years of professional full-time experience in public health programs, of which at least three years have been in a senior level administrative capacity.
- (4) The executive director shall appoint a deputy director of the department who:
  - (a) shall have successfully completed at least one year's graduate work in an accredited school of public health or an accredited program of public health;
  - (b) shall have at least five years of professional full-time experience in public health programs; and
  - (c) is a physician licensed to practice medicine in the state with experience in public health.
- (5) The executive director is responsible for:
  - (a) administration and supervision of the department;
  - (b) coordination of policies and program activities conducted through the boards, divisions, and offices of the department;
  - (c) approval of the proposed budget of each board, division, and office within the department; and
  - (d) other duties as the Legislature or governor shall assign to the executive director.
- (6) The executive director may appoint deputy or assistant directors to assist the executive director in carrying out the department's responsibilities.

Renumbered and Amended by Chapter 255, 2022 General Session

***Superseded 7/1/2024***

**26B-1-204 Creation of boards, divisions, and offices -- Power to organize department.**

- (1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law for:
  - (a) the administration and government of the department;
  - (b) the conduct of the department's employees; and

- (c) the custody, use, and preservation of the records, papers, books, documents, and property of the department.
- (2) The following policymaking boards, councils, and committees are created within the Department of Health and Human Services:
  - (a) Board of Aging and Adult Services;
  - (b) Utah State Developmental Center Board;
  - (c) Health Facility Committee;
  - (d) State Emergency Medical Services Committee;
  - (e) Air Ambulance Committee;
  - (f) Health Data Committee;
  - (g) Utah Health Care Workforce Financial Assistance Program Advisory Committee;
  - (h) Child Care Provider Licensing Committee;
  - (i) Primary Care Grant Committee;
  - (j) Adult Autism Treatment Program Advisory Committee;
  - (k) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and
  - (l) any boards, councils, or committees that are created by statute in this title.
- (3) The following divisions are created within the Department of Health and Human Services:
  - (a) relating to operations:
    - (i) the Division of Finance and Administration;
    - (ii) the Division of Licensing and Background Checks;
    - (iii) the Division of Customer Experience;
    - (iv) the Division of Data, Systems, and Evaluation; and
    - (v) the Division of Continuous Quality Improvement;
  - (b) relating to healthcare administration:
    - (i) the Division of Integrated Healthcare, which shall include responsibility for:
      - (A) the state's medical assistance programs; and
      - (B) behavioral health programs described in Chapter 5, Health Care - Substance Use and Mental Health;
    - (ii) the Division of Aging and Adult Services; and
    - (iii) the Division of Services for People with Disabilities; and
  - (c) relating to community health and well-being:
    - (i) the Division of Child and Family Services;
    - (ii) the Division of Family Health;
    - (iii) the Division of Population Health;
    - (iv) the Division of Juvenile Justice and Youth Services; and
    - (v) the Office of Recovery Services.
- (4) The executive director may establish offices and bureaus to facilitate management of the department as required by, and in accordance with this title.
- (5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in this title.

Amended by Chapter 249, 2023 General Session

Amended by Chapter 305, 2023 General Session

***Effective 7/1/2024***

**26B-1-204 Creation of boards, divisions, and offices -- Power to organize department.**

- (1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law for:
  - (a) the administration and government of the department;
  - (b) the conduct of the department's employees; and
  - (c) the custody, use, and preservation of the records, papers, books, documents, and property of the department.
- (2) The following policymaking boards, councils, and committees are created within the Department of Health and Human Services:
  - (a) Board of Aging and Adult Services;
  - (b) Utah State Developmental Center Board;
  - (c) Health Facility Committee;
  - (d) Health Data Committee;
  - (e) Utah Health Care Workforce Financial Assistance Program Advisory Committee;
  - (f) Child Care Provider Licensing Committee;
  - (g) Primary Care Grant Committee;
  - (h) Adult Autism Treatment Program Advisory Committee;
  - (i) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and
  - (j) any boards, councils, or committees that are created by statute in this title.
- (3) The following divisions are created within the Department of Health and Human Services:
  - (a) relating to operations:
    - (i) the Division of Finance and Administration;
    - (ii) the Division of Licensing and Background Checks;
    - (iii) the Division of Customer Experience;
    - (iv) the Division of Data, Systems, and Evaluation; and
    - (v) the Division of Continuous Quality Improvement;
  - (b) relating to healthcare administration:
    - (i) the Division of Integrated Healthcare, which shall include responsibility for:
      - (A) the state's medical assistance programs; and
      - (B) behavioral health programs described in Chapter 5, Health Care - Substance Use and Mental Health;
    - (ii) the Division of Aging and Adult Services; and
    - (iii) the Division of Services for People with Disabilities; and
  - (c) relating to community health and well-being:
    - (i) the Division of Child and Family Services;
    - (ii) the Division of Family Health;
    - (iii) the Division of Population Health;
    - (iv) the Division of Juvenile Justice and Youth Services; and
    - (v) the Office of Recovery Services.
- (4) The executive director may establish offices and bureaus to facilitate management of the department as required by, and in accordance with this title.
- (5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in this title.

Amended by Chapter 249, 2023 General Session  
Amended by Chapter 305, 2023 General Session  
Amended by Chapter 310, 2023 General Session

**26B-1-205 Division directors -- Appointment -- Compensation -- Qualifications.**

- (1)
  - (a) The executive director of the department has administrative jurisdiction over each division and office director.
  - (b) The executive director may make changes in personnel and service functions in the divisions and offices under the executive director's administrative jurisdiction, and authorize designees to perform appropriate responsibilities, to effectuate greater efficiency and economy in the operations of the department.
  - (c) The executive director may establish offices and bureaus to perform functions such as budgeting, planning, data processing, and personnel administration, to facilitate management of the department.
- (2) The chief officer of each division and office enumerated in Section 26B-1-204 shall be a director who shall serve as the executive and administrative head of the division or office.
- (3) The executive director shall appoint each division director with the concurrence of the division's board, if the division has a board.
- (4) The director of any division may be removed from that position at the will of the executive director after consultation with that division's board, if the division has a board.
- (5) Directors of divisions and offices shall receive compensation as provided by Title 63A, Chapter 17, Utah State Personnel Management Act.
- (6) The director of each division and office shall be experienced in administration and possess such additional qualifications as determined by the executive director, and as provided by law.

Renumbered and Amended by Chapter 255, 2022 General Session

**26B-1-206 Limitation on establishment of advisory bodies.**

- (1) A department division or board:
  - (a) may not establish permanent, ongoing advisory groups unless otherwise specifically created in federal or state statute; and
  - (b) shall comply with the provisions of this section.
- (2)
  - (a) A division or board may establish subject-limited and time-limited ad hoc advisory groups to provide input necessary to carry out the division's or board's assigned responsibilities.
  - (b) When establishing such an advisory group, the board shall establish in writing a specific charge and time limit.
- (3) The department shall consolidate an advisory group or committee with another committee or advisory group as appropriate to create greater efficiencies and budgetary savings for the department.
- (4) A member of any ad hoc advisory group shall receive no compensation or benefits for their service.
- (5) The provision of staffing and support to any ad hoc advisory group is contingent on availability of human and financial resources.

Renumbered and Amended by Chapter 255, 2022 General Session

**26B-1-207 Policymaking responsibilities -- Regulations for local health departments prescribed by department -- Local standards not more stringent than federal or state standards -- Consultation with local health departments -- Committee to evaluate health policies and to review federal grants.**



- (1) In establishing public health policy, the department shall consult with the local health departments established under Title 26A, Chapter 1, Local Health Departments.
- (2)
  - (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may prescribe by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, reasonable requirements not inconsistent with law for a local health department as defined in Section 26A-1-102.
  - (b) Except where specifically allowed by federal law or state statute, a local health department, as defined in Section 26A-1-102, may not establish standards or regulations that are more stringent than those established by federal law, state statute, or administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
  - (c) Nothing in this Subsection (2), limits the ability of a local health department to make standards and regulations in accordance with Subsection 26A-1-121(1)(a) for:
    - (i) emergency rules made in accordance with Section 63G-3-304; or
    - (ii) items not regulated under federal law, state statute, or state administrative rule.
- (3)
  - (a) As used in this Subsection (3):
    - (i) "Committee" means the committee established under Subsection (3)(b).
    - (ii) "Exempt application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(iii).
    - (iii) "Expedited application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(iv).
    - (iv) "Federal grant" means a grant from the federal government that could provide funds for local health departments to help them fulfill their duties and responsibilities.
    - (v) "Reviewable application" means an application for a federal grant that is not an exempt application.
  - (b) The department shall establish a committee consisting of:
    - (i) the executive director, or the executive director's designee;
    - (ii) two representatives of the department, appointed by the executive director; and
    - (iii) three representatives of local health departments, appointed by all local health departments.
  - (c) The committee shall:
    - (i) evaluate the allocation of public health resources between the department and local health departments, including whether funds allocated by contract were allocated in accordance with the formula described in Section 26A-1-116;
    - (ii) evaluate policies and rules that affect local health departments in accordance with Subsection (3)(g);
    - (iii) consider department policy and rule changes proposed by the department or local health departments;
    - (iv) establish criteria by which an application for a federal grant may be judged to determine whether it should be exempt from the requirements under Subsection (3)(d); and
    - (v) establish criteria by which an application for a federal grant may be judged to determine whether committee review under Subsection (3)(d)(i) should be delayed until after the application is submitted because the application is required to be submitted under a timetable that makes committee review before it is submitted impracticable if the submission deadline is to be met.
  - (d)
    - (i) The committee shall review the goals and budget for each reviewable application:
      - (A) before the application is submitted, except for an expedited application; and

- (B) for an expedited application, after the application is submitted but before funds from the federal grant for which the application was submitted are disbursed or encumbered.
- (ii) Funds from a federal grant under a reviewable application may not be disbursed or encumbered before the goals and budget for the federal grant are established by:
  - (A) a two-thirds vote of the committee, following the committee review under Subsection (3)(d)(i); or
  - (B) if two-thirds of the committee cannot agree on the goals and budget, the chair of the health advisory council, after consultation with the committee in a manner that the committee determines.
- (e) An exempt application is exempt from the requirements of Subsection (3)(d).
- (f) The department may use money from a federal grant to pay administrative costs incurred in implementing this Subsection (3).
- (g) When evaluating a policy or rule that affects a local health department, the committee shall determine:
  - (i) whether the department has the authority to promulgate the policy or rule;
  - (ii) an estimate of the cost a local health department will bear to comply with the policy or rule;
  - (iii) whether there is any funding provided to a local health department to implement the policy or rule; and
  - (iv) whether the policy or rule is still needed.
- (h) Before November 1 of each year, the department shall provide a report to the Administrative Rules Review and General Oversight Committee regarding the determinations made under Subsection (3)(g).

Amended by Chapter 272, 2023 General Session

**26B-1-208 Participation in federal programs -- Federal grants -- Authority of executive director.**

- (1) The executive director may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs.
- (2) Wherever state law authorizes a board, director, division, or office of the department to accept any grant, fund, or service which is to be advanced or contributed in whole or in part by the federal government, that acceptance shall be subject to the approval or disapproval of the executive director.
- (3) All applications for federal grants or other federal financial assistance for the support of any department program is subject to the approval of the executive director.
- (4) If any executive or legislative provision of the federal government so requires, as a condition to participation by this state in any fund, property, or service, the executive director, with the governor's approval, shall expend whatever funds are necessary out of the money provided by the Legislature for use and disbursement by that department.

Renumbered and Amended by Chapter 255, 2022 General Session

**26B-1-209 Fee schedule adopted by department.**

- (1) The department may adopt a schedule of fees that may be assessed for services rendered by the department, provided that the fees are:
  - (a) reasonable and fair; and
  - (b) submitted to the Legislature as part of the department's annual appropriations request.

- (2) When the department submits a fee schedule to the Legislature, the Legislature, in accordance with Section 63J-1-504, may:
  - (a) approve the fee;
  - (b) increase or decrease and approve the fee; or
  - (c) reject any fee submitted to it.
- (3) Fees approved by the Legislature under this section shall be paid into the state treasury.

Renumbered and Amended by Chapter 255, 2022 General Session

**26B-1-210 Department budget -- Reports from divisions.**

- (1) The department shall prepare and submit to the governor, for inclusion in the governor's budget to be submitted to the Legislature, a budget of the department's financial requirements needed to carry out the department's responsibilities, as provided by law during the fiscal year following the Legislature's next Annual General Session.
- (2) The executive director shall require a report from each of the divisions and offices of the department, to aid in preparation of the departmental budget.

Renumbered and Amended by Chapter 255, 2022 General Session

**26B-1-211 Background checks for employees -- Access to abuse and neglect information to screen employees and volunteers.**

- (1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201.
- (2) Beginning July 1, 2018, the department may require a fingerprint-based local, regional, and national criminal history background check and ongoing monitoring of:
  - (a) all staff, contracted employees, and volunteers who:
    - (i) have access to protected health information or personal identifying information;
    - (ii) have direct access to patients, children, or vulnerable adults as defined in Section 26B-2-101;
    - (iii) work in areas of privacy and data security;
    - (iv) handle financial information, including receipt of funds, reviewing invoices, making payments, and other types of financial information; and
    - (v) perform audit functions, whether internal or external, on behalf of the department; and
  - (b) job applicants who have been offered a position with the department and the job requirements include those described in Subsection (2)(a).
- (3) Beginning July 1, 2022, for the purposes described in Subsection (2), the department may also access:
  - (a) the department's Management Information System created in Section 80-2-1001;
  - (b) the department's Licensing Information System created in Section 80-2-1002;
  - (c) the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210; and
  - (d) juvenile court records under Subsection 80-3-404(4).
- (4) Each individual in a position listed in Subsection (2) shall provide a completed fingerprint card to the department upon request.
- (5) The department shall require that an individual required to submit to a background check under Subsection (4) provide a signed waiver on a form provided by the department that meets the requirements of Subsection 53-10-108(4).

- (6) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the department shall submit to the bureau:
  - (a) the applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and
  - (b) a request for all information received as a result of the local, regional, and nationwide background check.
- (7) The department is responsible for the payment of all fees required by Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.
- (8) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
  - (a) determine how the department will assess the employment status of an individual upon receipt of background information;
  - (b) determine when an individual would be disqualified from holding a position based on:
    - (i) the type of crimes and the severity of those crimes; or
    - (ii) one or more substantiated or supported findings of abuse, neglect, or exploitation; and
  - (c) identify the appropriate privacy risk mitigation strategy to be used in accordance with Subsection 53-10-108(13)(b).

Renumbered and Amended by Chapter 255, 2022 General Session

**26B-1-212 Confidential records.**

- (1) A record classified as confidential under this title shall remain confidential, and be released according to the provisions of this title, notwithstanding Section 63G-2-310.
- (2) In addition to a person granted access to a private record described in Subsection 63G-2-302(1)(b), a school, school district, local health department, and the department may share an immunization record as defined in Section 53G-9-301 or any other record relating to a vaccination or immunization as necessary to ensure compliance with Title 53G, Chapter 8, Part 3, Physical Restraint of Students, and to prevent, investigate, and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health.

Renumbered and Amended by Chapter 255, 2022 General Session

**26B-1-213 Department and committee rules and proceedings.**

- (1)
  - (a) Except in areas subject to concurrence between the department and a committee created under this title, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code, the department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.
  - (b) If the adoption of rules under a provision of this title is subject to concurrence between the department and a committee created under this title and no concurrence can be reached, the department has final authority to adopt, amend, or rescind rules necessary to carry out the provisions of this title.
  - (c) When the provisions of this title require concurrence between the department and a committee created under this title:
    - (i) the department shall report to and update the committee on a regular basis related to matters requiring concurrence; and

- (ii) the committee shall review the report submitted by the department under this Subsection (1) (c) and shall:
  - (A) concur with the report; or
  - (B) provide a reason for not concurring with the report and provide an alternative recommendation to the department.
- (2) Rules shall have the force and effect of law and may deal with matters which materially affect the security of health or the preservation and improvement of public health in the state, and any matters as to which jurisdiction is conferred upon the department by this title.
- (3) Every rule adopted by the department, or by the concurrence of the department and a committee established under Section 26B-1-204, is subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and is effective at the time and in the manner provided in that act.
- (4) If, at the next general session of the Legislature following the filing of a rule with the legislative research director, the Legislature passes a bill disapproving such rule, the rule shall be null and void.
- (5) The department, or the department in concurrence with a committee created under Section 26B-1-204, may not adopt a rule identical to a rule disapproved under Subsection (4) of this section before the beginning of the next general session of the Legislature following the general session at which the rule was disapproved.
- (6) The department and all committees, boards, divisions, and offices created under this title, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code, shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in any adjudicative proceedings.
- (7)
  - (a) The department may hold hearings, administer oaths, subpoena witnesses, and take testimony in matters relating to the exercise and performance of the powers and duties vested in or imposed upon the department.
  - (b) The department may, at the department's sole discretion, contract with any other agency or department of the state to conduct hearings in the name of the department.

Renumbered and Amended by Chapter 255, 2022 General Session

**26B-1-214 Executive director -- Enforcement powers.**

Subject to the restrictions in this title and to the extent permitted by state law, the executive director is empowered to issue orders to enforce state laws and rules established by the department except where the enforcement power is given to a committee created under Section 26B-1-204.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-215 Actions on behalf of department -- Party in interest.**

- (1) The executive director, each of the department's boards, divisions, offices, and the director of each division or office, shall, in the exercise of any power, duty, or function under any statute of this state, is considered to be acting on behalf of the department.
- (2) The department, through the executive director or through any of the department's boards, divisions, offices, or directors, shall be considered the party in interest in all actions at law or in equity, where the department or any constituent, board, division, office, or official thereof is authorized by any statute of the state to be a party to any legal action.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-216 Powers and duties of the department -- Quality and design.**

The department shall:

- (1) monitor and evaluate the quality of services provided by the department including:
  - (a) in accordance with Part 5, Fatality Review, monitoring, reviewing, and making recommendations relating to a fatality review;
  - (b) overseeing the duties of the child protection ombudsman appointed under Section 80-2-1104; and
  - (c) conducting internal evaluations of the quality of services provided by the department and service providers contracted with the department;
- (2) conduct investigations described in Section 80-2-703; and
- (3) develop an integrated human services system and implement a system of care by:
  - (a) designing and implementing a comprehensive continuum of services for individuals who receive services from the department or a service provider contracted with the department;
  - (b) establishing and maintaining department contracts with public and private service providers;
  - (c) establishing standards for the use of service providers who contract with the department;
  - (d) coordinating a service provider network to be used within the department to ensure individuals receive the appropriate type of services;
  - (e) centralizing the department's administrative operations; and
  - (f) integrating, analyzing, and applying department-wide data and research to monitor the quality, effectiveness, and outcomes of services provided by the department.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-217 Content and form of certificates and reports.**

- (1) Certificates, certifications, forms, reports, other documents and records, and the form of communication between persons required by this title shall be prepared in the form prescribed by department rule.
- (2) Certificates, certifications, forms, reports, or other documents and records, and communications between persons required by this title may be signed, filed, verified, registered, and stored by photographic, electronic, or other means as prescribed by department rule.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-218 Intergenerational poverty mitigation reporting.**

- (1) As used in this section:
  - (a) "Cycle of poverty" means the same as that term is defined in Section 35A-9-102.
  - (b) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.
- (2) On or before October 1 of each year, the department shall provide an annual report to the Department of Workforce Services for inclusion in the intergenerational poverty report described in Section 35A-9-202.
- (3) The report shall:
  - (a) describe policies, procedures, and programs that the department has implemented or modified to help break the cycle of poverty and end welfare dependency for children in the state affected by intergenerational poverty; and

- (b) contain recommendations to the Legislature on how to address issues relating to breaking the cycle of poverty and ending welfare dependency for children in the state affected by intergenerational poverty.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-219 Requirements for issuing, recommending, or facilitating rationing criteria.**

(1) As used in this section:

(a) "Health care resource" means:

- (i) health care as defined in Section 78B-3-403;
- (ii) a prescription drug as defined in Section 58-17b-102;
- (iii) a prescription device as defined in Section 58-17b-102;
- (iv) a nonprescription drug as defined in Section 58-17b-102; or
- (v) any supply or treatment that is intended for use in the course of providing health care as defined in Section 78B-3-403.

(b)

- (i) "Rationing criteria" means any requirement, guideline, process, or recommendation regarding:
  - (A) the distribution of a scarce health care resource; or
  - (B) qualifications or criteria for a person to receive a scarce health care resource.
- (ii) "Rationing criteria" includes crisis standards of care with respect to any health care resource.

(c) "Scarce health care resource" means a health care resource:

- (i) for which the need for the health care resource in the state or region significantly exceeds the available supply of that health care resource in that state or region;
- (ii) that, based on the circumstances described in Subsection (1)(c)(i), is distributed or provided using written requirements, guidelines, processes, or recommendations as a factor in the decision to distribute or provide the health care resource; and
- (iii) that the federal government has allocated to the state to distribute.

(2)

- (a) On or before July 1, 2022, the department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure that the department will follow to adopt, modify, require, facilitate, or recommend rationing criteria.
- (b) Beginning July 1, 2022, the department may not adopt, modify, require, facilitate, or recommend rationing criteria unless the department follows the procedure established by the department under Subsection (2)(a).

(3) The procedures developed by the department under Subsection (2) shall include, at a minimum:

- (a) a requirement that the department notify the following individuals in writing before rationing criteria are issued, are recommended, or take effect:
  - (i) the Administrative Rules Review and General Oversight Committee created in Section 63G-3-501;
  - (ii) the governor or the governor's designee;
  - (iii) the president of the Senate or the president's designee;
  - (iv) the speaker of the House of Representatives or the speaker's designee;
  - (v) the executive director or the executive director's designee; and
  - (vi) if rationing criteria affect hospitals in the state, a representative of an association representing hospitals throughout the state, as designated by the executive director; and

- (b) procedures for an emergency circumstance which shall include, at a minimum:
  - (i) a description of the circumstances under which emergency procedures described in this Subsection (3)(b) may be used; and
  - (ii) a requirement that the department notify the individuals described in Subsections (3)(a)(i) through (vi) as soon as practicable, but no later than 48 hours after the rationing criteria take effect.
- (4)
  - (a) Within 30 days after March 22, 2022, the department shall send to the Administrative Rules Review and General Oversight Committee all rationing criteria that:
    - (i) were adopted, modified, required, facilitated, or recommended by the department prior to March 22, 2022; and
    - (ii) on March 22, 2022, were in effect and in use to distribute or qualify a person to receive scarce health care resources.
  - (b) During the 2022 interim, the Administrative Rules Review and General Oversight Committee shall, under Subsection 63G-3-501(3)(d)(i), review each of the rationing criteria submitted by the department under Subsection (4)(a).
- (5) The requirements described in this section and rules made under this section shall apply regardless of whether rationing criteria:
  - (a) have the force and effect of law, or is solely advisory, informative, or descriptive;
  - (b) are carried out or implemented directly or indirectly by the department or by other individuals or entities; or
  - (c) are developed solely by the department or in collaboration with other individuals or entities.
- (6) This section:
  - (a) may not be suspended under Section 53-2a-209 or any other provision of state law relating to a state of emergency;
  - (b) does not limit a private entity from developing or implementing rationing criteria; and
  - (c) does not require the department to adopt, modify, require, facilitate, or recommend rationing criteria that the department does not determine to be necessary or appropriate.
- (7) Subsection (2) does not apply to rationing criteria that are adopted, modified, required, facilitated, or recommended by the department:
  - (a) through the regular, non-emergency rulemaking procedure described in Section 63G-3-301;
  - (b) if the modification is solely to correct a technical error in rationing criteria such as correcting obvious errors and inconsistencies including those involving punctuation, capitalization, cross references, numbering, and wording;
  - (c) to the extent that compliance with this section would result in a direct violation of federal law;
  - (d) that are necessary for administration of the Medicaid program;
  - (e) if state law explicitly authorizes the department to engage in rulemaking to establish rationing criteria; or
  - (f) if rationing criteria are authorized directly through a general appropriation bill that is validly enacted.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-220 Legal advice and representation for department.**

- (1) The attorney general shall be the legal adviser for the department and the executive director and shall defend them in all actions and proceedings brought against either of them. The county attorney of the county in which a cause of action arises or a public offense occurs shall bring any civil action requested by the executive director to abate a condition which exists in



violation of the public health laws or standards, orders, and rules of the department as provided in Section 26B-1-224.

- (2) The district attorney or county attorney having criminal jurisdiction shall prosecute for the violation of the public health laws or standards, orders, and rules of the department as provided in Section 26B-1-224.
- (3) If the county attorney or district attorney fails to act, the executive director may bring any such action and shall be represented by the attorney general or, with the approval of the attorney general, by special counsel.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-221 Administrative review of actions of department or director.**

Any person aggrieved by any action or inaction of the department or its executive director may request an adjudicative proceeding by following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-222 Violation of public health laws or orders unlawful.**

It shall be unlawful for any person, association, or corporation, and the officers thereof:

- (1) to willfully violate, disobey, or disregard the provisions of the public health laws or the terms of any lawful notice, order, standard, rule, or regulation issued thereunder;
- (2) to fail to remove or abate from private property under the person's control at the person's own expense, within 48 hours, or such other reasonable time as the health authorities shall determine, after being ordered to do so by the health authorities, any nuisance, source of filth, cause of sickness, dead animal, health hazard, or sanitation violation within the jurisdiction and control of the department, whether the person, association, or corporation shall be the owner, tenant, or occupant of such property; provided, however, when any such condition is due to an act of God, it shall be removed at public expense;
- (3) to pay, give, present, or otherwise convey to any officer or employee of the department any gift, remuneration or other consideration, directly or indirectly, which such officer or employee is forbidden to receive by the provisions of Sections 26B-1-220 and 26B-1-228; or
- (4) to fail to make or file reports required by law or rule of the department relating to the existence of disease or other facts and statistics relating to the public health.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-223 Unlawful acts by department officers and employees.**

It shall be unlawful for any officer or employee of the department:

- (1) to accept any gift, remuneration, or other consideration, directly or indirectly, for an incorrect or improper performance of the duties imposed upon the officer or employee by or in behalf of the department or by the provisions of Sections 26B-1-220 and 26B-1-228; or
- (2) to perform any work, labor, or services other than the duties assigned to the officer or employee on behalf of the department during the hours such officer or employee is regularly employed by the department, or to perform the officer or employee's duties as an officer or employee of the department under any condition or arrangement that involves a violation of this or any other law of the state.

Renumbered and Amended by Chapter 305, 2023 General Session

***Superseded 7/1/2024***

**26B-1-224 Criminal and civil penalties and liability for violations.**

- (1)
- (a) Any person, association, corporation, or an officer of a person, an association, or a corporation, who violates any provision of Section 26B-1-222 or 26B-1-223, or lawful orders of the department or a local health department in a criminal proceeding is guilty of a class B misdemeanor for the first violation, and for any subsequent similar violation within two years, is guilty of a class A misdemeanor, except this section does not establish the criminal penalty for a violation of Section 26B-8-134 or Section 26B-4-128.
  - (b) Conviction in a criminal proceeding does not preclude the department or a local health department from assessment of any civil penalty, administrative civil money penalty or to deny, revoke, condition, or refuse to renew a permit, license, or certificate or to seek other injunctive or equitable remedies.
- (2)
- (a) Subject to Subsections (2)(c) and (d), any association, corporation, or an officer of an association or a corporation, who violates any provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department:
    - (i) may be assessed, in a judicial civil proceeding, a penalty not to exceed the sum of \$5,000 per violation; or
    - (ii) may be assessed, in an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act, or similar procedures adopted by local or county government, a penalty not to exceed the sum of \$5,000 per violation.
  - (b) Subject to Subsections (2)(c) and (d), an individual who violates any provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department:
    - (i) may be assessed, in a judicial civil proceeding, a penalty not to exceed the sum of \$150 per violation; or
    - (ii) may be assessed, in an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act, or similar procedures adopted by local or county government, a penalty not to exceed the sum of \$150 per violation.
  - (c)
    - (i) Except as provided in Subsection (2)(c)(ii), a penalty described in Subsection (2)(a) or (b) may only be assessed against the same individual, association, or corporation one time in a calendar week.
    - (ii) Notwithstanding Subsection (2)(c)(i), an individual, an association, a corporation, or an officer of an association or a corporation, who willfully disregards or recklessly violates a provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department, may be assessed a penalty as described in Subsection (2)(a) for each day of violation if it is determined that the violation is likely to result in a serious threat to public health.
  - (d) Upon reasonable cause shown in judicial civil proceeding or an administrative action, a penalty imposed under this Subsection (2) may be waived or reduced.
- (3) Assessment of any civil penalty or administrative penalty does not preclude the department or a local health department from seeking criminal penalties or to deny, revoke, impose conditions on, or refuse to renew a permit, license, or certificate or to seek other injunctive or equitable remedies.

- (4) In addition to any penalties imposed under Subsection (1), a person, association, corporation, or an officer of a person, an association, or a corporation, is liable for any expense incurred by the department in removing or abating any health or sanitation violations, including any nuisance, source of filth, cause of sickness, or dead animal.

Renumbered and Amended by Chapter 305, 2023 General Session

**Effective 7/1/2024**

**26B-1-224 Criminal and civil penalties and liability for violations.**

- (1)
- (a) Any person, association, corporation, or an officer of a person, an association, or a corporation, who violates any provision of Section 26B-1-222 or 26B-1-223, or lawful orders of the department or a local health department in a criminal proceeding is guilty of a class B misdemeanor for the first violation, and for any subsequent similar violation within two years, is guilty of a class A misdemeanor, except this section does not establish the criminal penalty for a violation of Section 26B-8-134.
  - (b) Conviction in a criminal proceeding does not preclude the department or a local health department from assessment of any civil penalty, administrative civil money penalty or to deny, revoke, condition, or refuse to renew a permit, license, or certificate or to seek other injunctive or equitable remedies.
- (2)
- (a) Subject to Subsections (2)(c) and (d), any association, corporation, or an officer of an association or a corporation, who violates any provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department:
    - (i) may be assessed, in a judicial civil proceeding, a penalty not to exceed the sum of \$5,000 per violation; or
    - (ii) may be assessed, in an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act, or similar procedures adopted by local or county government, a penalty not to exceed the sum of \$5,000 per violation.
  - (b) Subject to Subsections (2)(c) and (d), an individual who violates any provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department:
    - (i) may be assessed, in a judicial civil proceeding, a penalty not to exceed the sum of \$150 per violation; or
    - (ii) may be assessed, in an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act, or similar procedures adopted by local or county government, a penalty not to exceed the sum of \$150 per violation.
  - (c)
    - (i) Except as provided in Subsection (2)(c)(ii), a penalty described in Subsection (2)(a) or (b) may only be assessed against the same individual, association, or corporation one time in a calendar week.
    - (ii) Notwithstanding Subsection (2)(c)(i), an individual, an association, a corporation, or an officer of an association or a corporation, who willfully disregards or recklessly violates a provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department, may be assessed a penalty as described in Subsection (2)(a) for each day of violation if it is determined that the violation is likely to result in a serious threat to public health.

- (d) Upon reasonable cause shown in judicial civil proceeding or an administrative action, a penalty imposed under this Subsection (2) may be waived or reduced.
- (3) Assessment of any civil penalty or administrative penalty does not preclude the department or a local health department from seeking criminal penalties or to deny, revoke, impose conditions on, or refuse to renew a permit, license, or certificate or to seek other injunctive or equitable remedies.
- (4) In addition to any penalties imposed under Subsection (1), a person, association, corporation, or an officer of a person, an association, or a corporation, is liable for any expense incurred by the department in removing or abating any health or sanitation violations, including any nuisance, source of filth, cause of sickness, or dead animal.

Renumbered and Amended by Chapter 305, 2023 General Session  
Amended by Chapter 310, 2023 General Session

**26B-1-225 Application of enforcement procedures and penalties.**

Enforcement procedures and penalties provided in Sections 26B-1-222 through 26B-1-224 do not apply to other chapters in this title which provide for specific enforcement procedures and penalties.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-226 Representatives of department authorized to enter regulated premises.**

- (1) Authorized representatives of the department upon presentation of appropriate identification shall be authorized to enter upon the premises of properties regulated under this title to perform routine inspections to ensure compliance with rules adopted by the department.
- (2) This section does not authorize the department to inspect private dwellings.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-227 Authority of department as to functions transferred from other agencies.**

- (1)
  - (a) If functions transferred from other agencies are vested by this code in the department, the department shall be the successor in every way, with respect to such functions, except as otherwise provided by this code.
  - (b) Every act done in the exercise of such functions by the department shall have the same force and effect as if done by the agency in which the functions were previously vested.
- (2) Whenever any such agency is referred to or designated by law, contract, or other document, the reference or designation shall apply to the department.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-228 Religious exemptions from code -- Regulation of state-licensed healing system practice unaffected by code.**

- (1)
  - (a) Except as provided in Subsection (1)(b), nothing in this code shall be construed to compel any person to submit to any medical or dental examination or treatment under the authority of this code when such person, or the parent or guardian of any such person objects to such

examination or treatment on religious grounds, or to permit any discrimination against such person on account of such objection.

- (b) An exemption from medical or dental examination, described in Subsection (1)(a), may not be granted if the executive director has reasonable cause to suspect a substantial menace to the health of other persons exposed to contact with the unexamined person.
- (2) Nothing in this code shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents in any home or institution conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denomination, provided the statutes and regulations on sanitation are complied with.
- (3) Nothing in this code shall be construed or used to amend any statute now in force pertaining to the scope of practice of any state-licensed healing system.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-229 Authority to provide data on treatment and condition of persons to designated agencies -- Immunity from liability -- Information considered privileged communication -- Information held in confidence -- Penalties for violation.**

- (1) As used in this section:
  - (a) "Health care facility" means the same as that term is defined in Section 26B-2-201.
  - (b) "Health care provider" means the same as that term is defined in Section 78B-3-403.
- (2) Any person, health facility, or other organization may, without incurring liability, provide the following information to the persons and entities described in Subsection (3):
  - (a) information as determined by the state registrar of vital records appointed under Chapter 8, Part 1, Vital Statistics;
  - (b) interviews;
  - (c) reports;
  - (d) statements;
  - (e) memoranda;
  - (f) familial information; and
  - (g) other data relating to the condition and treatment of any person.
- (3) The information described in Subsection (2) may be provided to:
  - (a) the department and local health departments;
  - (b) the Division of Integrated Healthcare within the department;
  - (c) scientific and health care research organizations affiliated with institutions of higher education;
  - (d) the Utah Medical Association or any of its allied medical societies;
  - (e) peer review committees;
  - (f) professional review organizations;
  - (g) professional societies and associations; and
  - (h) any health facility's in-house staff committee for the uses described in Subsection (4).
- (4) The information described in Subsection (2) may be provided for the following purposes:
  - (a) study and advancing medical research, with the purpose of reducing the incidence of disease, morbidity, or mortality; or
  - (b) the evaluation and improvement of hospital and health care rendered by hospitals, health facilities, or health care providers.
- (5) Any person may, without incurring liability, provide information, interviews, reports, statements, memoranda, or other information relating to the ethical conduct of any health care provider

- to peer review committees, professional societies and associations, or any in-hospital staff committee to be used for purposes of intraprofessional society or association discipline.
- (6) No liability may arise against any person or organization as a result of:
- (a) providing information or material authorized in this section;
  - (b) releasing or publishing findings and conclusions of groups referred to in this section to advance health research and health education; or
  - (c) releasing or publishing a summary of these studies in accordance with this section.
- (7)
- (a) The information described in Subsection (2) that is provided to the entities described in Subsection (3):
    - (i) shall be used and disclosed by the entities described in Subsection (3) in accordance with this section; and
    - (ii) is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.
  - (b) The Office of Substance Use and Mental Health, scientific and health care research organizations affiliated with institutions of higher education, the Utah Medical Association or any of the Utah Medical Association's allied medical societies, peer review committees, professional review organizations, professional societies and associations, or any health facility's in-house staff committee may only use or publish the information or material received or gathered under this section for the purpose of study and advancing medical research or medical education in the interest of reducing the incidence of disease, morbidity, or mortality, except that a summary of studies conducted in accordance with this section may be released by those groups for general publication.
- (8) All information, interviews, reports, statements, memoranda, or other data furnished by reason of this section, and any findings or conclusions resulting from those studies are privileged communications and are not subject to discovery, use, or receipt in evidence in any legal proceeding of any kind or character.
- (9)
- (a) All information described in Subsection (2) that is provided to a person or organization described in Subsection (3) shall be held in strict confidence by that person or organization, and any use, release, or publication resulting therefrom shall be made only for the purposes described in Subsections (4) and (7) and shall preclude identification of any individual or individuals studied.
  - (b) Notwithstanding Subsection (9)(a), the department's use and disclosure of information is not governed by this section.
- (10)
- (a) Any use, release, or publication, negligent or otherwise, contrary to the provisions of this section is a class B misdemeanor.
  - (b) Subsection (10)(a) does not relieve the person or organization responsible for such use, release, or publication from civil liability.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-231 Office of American Indian-Alaska Native Health and Family Services -- Creation -- Director -- Purpose -- Duties.**

- (1)
- (a) "Director" means the director of the office appointed under Subsection (3).
  - (b) "Office" means the Office of American Indian-Alaska Native Health and Family Services created in Subsection (2).

- (2) There is created within the department the Office of American Indian-Alaska Native Health and Family Services.
- (3) The executive director shall appoint a director of the office who:
  - (a) has a bachelor's degree from an accredited university or college;
  - (b) is experienced in administration; and
  - (c) is knowledgeable about the areas of American Indian-Alaska Native practices.
- (4)
  - (a) The director is the administrative head of the office and shall serve under the supervision of the executive director.
  - (b) The executive director may hire staff as necessary to carry out the duties of the office described in Subsection (5)(b).
- (5)
  - (a) The purpose of the office is to oversee and coordinate department services for Utah's American Indian-Alaska Native populations.
  - (b) The office shall:
    - (i) oversee and coordinate department services for Utah's American Indian-Alaska Native populations;
    - (ii) conduct regular and meaningful consultation with Indian tribes when there is a proposed department action that has an impact on an Indian tribe as a sovereign entity;
    - (iii) monitor agreements between the department and Utah's American Indian-Alaska Native populations; and
    - (iv) oversee the health liaison appointed under Section 26B-1-232 and ICWA liaison appointed under Section 26B-1-233.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-232 American Indian-Alaska Native Health Liaison -- Appointment -- Duties.**

- (1)
  - (a) "Director" means the director of the Office of American Indian-Alaska Native Health and Family Services appointed under Section 26B-1-231.
  - (b) "Health care" means care, treatment, service, or a procedure to improve, maintain, diagnose, or otherwise affect an individual's physical or mental condition.
  - (c) "Health liaison" means the American Indian-Alaska Native Health Liaison appointed under Subsection (2).
- (2)
  - (a) The executive director shall appoint an individual as the American Indian-Alaska Native Health Liaison.
  - (b) The health liaison shall serve under the supervision of the director.
- (3) The health liaison shall:
  - (a) promote and coordinate collaborative efforts between the department and Utah's American Indian-Alaska Native population to improve the availability and accessibility of quality health care impacting Utah's American Indian-Alaska Native populations on and off reservations;
  - (b) interact with the following to improve health disparities for Utah's American Indian-Alaska Native populations:
    - (i) tribal health programs;
    - (ii) local health departments;
    - (iii) state agencies and officials; and
    - (iv) providers of health care in the private sector;

- (c) facilitate education, training, and technical assistance regarding public health and medical assistance programs to Utah's American Indian-Alaska Native populations; and
  - (d) staff an advisory board by which Utah's tribes may consult with state and local agencies for the development and improvement of public health programs designed to address improved health care for Utah's American Indian-Alaska Native populations on and off the reservation.
- (4) The health liaison shall annually report the liaison's activities and accomplishments to the Native American Legislative Liaison Committee created in Section 36-22-1.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-233 Indian Child Welfare Act Liaison -- Appointment -- Qualifications -- Duties.**

- (1) As used in this section:
- (a) "Director" means the director of the Office of American Indian-Alaska Native Health and Family Services appointed under Section 26B-1-231.
  - (b) "ICWA liaison" means the Indian Child Welfare Act Liaison appointed under Subsection (2).
- (2)
- (a) The executive director shall appoint an individual as the Indian Child Welfare Act Liaison who:
    - (i) has a bachelor's degree from an accredited university or college; and
    - (ii) is knowledgeable about the areas of child and family services and Indian tribal child rearing practices.
  - (b) The ICWA liaison shall serve under the supervision of the director.
- (3) The ICWA liaison shall:
- (a) act as a liaison between the department and Utah's American Indian populations regarding child and family services;
  - (b) provide training to department employees regarding the requirements and implementation of the Indian Child Welfare Act, 25 U.S.C. Secs. 1901-1963;
  - (c) develop and facilitate education and technical assistance programs for Utah's American Indian populations regarding available child and family services;
  - (d) promote and coordinate collaborative efforts between the department and Utah's American Indian population to improve the availability and accessibility of quality child and family services for Utah's American Indian populations; and
  - (e) interact with the following to improve delivery and accessibility of child and family services for Utah's American Indian populations:
    - (i) state agencies and officials; and
    - (ii) providers of child and family services in the public and private sector.
- (4) The ICWA liaison shall annually report the liaison's activities and accomplishments to the Native American Legislative Liaison Committee created in Section 36-22-1.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-234 Handling of child sexual abuse material.**

- (1) As used in this section:
- (a) "Child sexual abuse material" means the same as that term is defined in Section 76-5b-103.
  - (b) "Secure" means to prevent and prohibit access, electronic upload, transmission, or transfer of an image.
- (2) The department or a division within the department may not retain child sexual abuse material longer than is necessary to comply with the requirements of this section.



- (3) When the department or a division within the department obtains child sexual abuse material as a result of an employee unlawfully viewing child sexual abuse material, the department or division shall consult with and follow the guidance of the Division of Human Resource Management regarding personnel action and local law enforcement regarding retention of the child sexual abuse material.
- (4) When the department or a division within the department obtains child sexual abuse material as a result of a report or an investigation, the department or division shall immediately secure the child sexual abuse material, or the electronic device if the child sexual abuse material is digital, and contact the law enforcement office that has jurisdiction over the area where the division's case is located.

Amended by Chapter 231, 2023 General Session

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-235 Request for proposal required for non-state supplied services.**

- (1) As used in this section:
  - (a) "AED" means the same as that term is defined in Section 26B-4-325.
  - (b) "Office" means the Office of Emergency Medical Services and Preparedness within the department.
  - (c) "Sudden cardiac arrest" means the same as that term is defined in Section 26B-4-325.
- (2) Funds provided to the department through Sections 51-9-201 and 59-14-204 to be used to provide services, shall be awarded to non-governmental entities based on a competitive process consistent with Title 63G, Chapter 6a, Utah Procurement Code.
- (3) Beginning July 1, 2010, and not more than every five years thereafter, the department shall issue requests for proposals for new or renewing contracts to award funding for programs under Subsection (1).

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-236 Experimental animals -- Authorization -- Minimum period of impoundment -- Requirements -- Fees -- Records -- Revocation -- Rulemaking and investigation.**

- (1) As used in this section, "institution" means any school or college of agriculture, veterinary medicine, medicine, pharmacy, or dentistry or other educational, hospital, or scientific establishment properly concerned with the investigation of or instruction concerning the structure or functions of living organisms, the cause, prevention, control, or cure of diseases or abnormal condition of human beings or animals.
- (2)
  - (a) Institutions may apply to the department for authorization to obtain animals from establishments maintained for the impounding, care, and disposal of animals seized by lawful authority.
  - (b) If, after an investigation under Subsection (2)(a), the department finds that the institution meets the requirements of this section and the department's rules and that the public interest will be served thereby, the department may authorize the institution to obtain animals under this section.
- (3) Subject to Subsection (4), the governing body of the county or municipality in which an establishment is located may make available to an authorized institution as many impounded animals in that establishment as the institution may request.

- (4) A governing body described in Subsection (3) may not make an impounded animal available to an institution, unless:
  - (a) the animal has been legally impounded for the longer of:
    - (i) at least five days; or
    - (ii) the minimum period provided for by local ordinance;
  - (b) the animal has not been claimed or redeemed by:
    - (i) the animal's owner; or
    - (ii) any other person entitled to claim or redeem the animal; and
  - (c) the establishment has made a reasonable effort to:
    - (i) find the rightful owner of the animal, including checking if the animal has a tag or microchip; and
    - (ii) if the owner is not found, make the animal available to others during the impound period.
- (5) Owners of animals who voluntarily provide their animals to an establishment may, by signature, determine whether or not the animal may be provided to an institution or used for research or educational purposes.
- (6) The authorized institution shall provide, at the authorized institution's own expense, for the transportation of such animals from the establishment to the institution and shall use them only in the conduct of scientific and educational activities and for no other purpose.
- (7)
  - (a) The institution shall reimburse the establishment for animals received.
  - (b) The fee described in Subsection (7)(a) shall be, at a minimum, \$15 for cats and \$20 for dogs.
  - (c) The fee described in Subsection (7)(a) shall be increased as determined by the department, based on fluctuations or changes in the Consumer Price Index.
- (8) Each institution shall keep a public record of all animals received and disposed of.
- (9) The department, upon 15 days written notice and an opportunity to be heard, may revoke an institution's authorization if the institution has violated any provision of this section, or has failed to comply with the conditions required by the department with respect to the issuance of authorization.
- (10) In carrying out the provisions of this section, the department may adopt rules for:
  - (a) controlling the humane use of animals;
  - (b) diagnosis and treatment of human and animal diseases;
  - (c) advancement of veterinary, dental, medical, and biological sciences; and
  - (d) testing, improvement, and standardization of laboratory specimens, biologic projects, pharmaceuticals, and drugs.
- (11) The department may inspect or investigate any institution that applies for or is authorized to obtain animals.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-237 Utah Office of Internal Audit.**

The Utah Office of Internal Audit:

- (1) may not be placed within the division;
- (2) shall be placed directly under, and report directly to, the executive director of the Department of Health; and
- (3) shall have full access to all records of the division.

Renumbered and Amended by Chapter 305, 2023 General Session

**26B-1-239 Systematic medical evidence review of hormonal transgender treatments.**

- (1) As used in this section, "hormonal transgender treatment" means the same as that term is defined in Section 58-1-603.
- (2) The department, in consultation with the Division of Professional Licensing created in Section 58-1-103, the Physicians Licensing Board created in Section 58-67-201, the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201, the University of Utah, and a non-profit hospital system with multiple hospitals in Utah and experience in specialty pediatric care, shall conduct a systematic medical evidence review regarding the provision of hormonal transgender treatments to minors.
- (3) The purpose of the systematic medical evidence review is to provide the Legislature with recommendations to consider when deciding whether to lift the moratorium described in Section 58-1-603.1.
- (4) The systematic medical evidence review shall:
  - (a) analyze hormonal transgender treatments that are prescribed to a minor with gender dysphoria, including:
    - (i) analyzing any effects and side effects of the treatment; and
    - (ii) whether each treatment has been approved by the federal Food and Drug Administration to treat gender dysphoria;
  - (b) review the scientific literature regarding hormonal transgender treatments in minors, including short-term and long-term impacts, literature from other countries, and rates of desistence and time to desistence where applicable;
  - (c) review the quality of evidence cited in any scientific literature including to analyze and report on the quality of the data based on techniques such as peer review, selection bias, self-selection bias, randomization, sample size, and other applicable best research practices;
  - (d) include high quality clinical research assessing the short-term and long-term benefits and harms of hormonal transgender treatments prescribed to minors with gender dysphoria and the short-term and long-term benefits and harms of interrupting the natural puberty and development processes of the child;
  - (e) specify the conditions under which the department recommends that a treatment not be permitted;
  - (f) recommend what information a minor and the minor's parent should understand before consenting to a hormonal transgender treatment;
  - (g) recommend the best practices a health care provider should follow to provide the information described in Subsection (4)(f);
  - (h) describe the assumptions and value determinations used to reach a recommendation; and
  - (i) include any other information the department, in consultation with the entities described in Subsection (2), determines would assist the Legislature in enacting legislation related to the provision of hormonal transgender treatment to minors.
- (5) Upon the completion of the systematic medical evidence review, the department shall provide the systematic medical evidence review to the Health and Human Services Interim Committee.

Enacted by Chapter 2, 2023 General Session

**26B-1-240 License by endorsement.**

- (1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession regulated under this title.
- (2) Subject to Subsections (4) through (7), the department shall issue a license to an applicant who has been licensed in another state, district, or territory of the United States if:

- (a) the department determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the license sought in this state;
  - (b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and
  - (c) the applicant's license is in good standing in the other state, district, or territory.
- (3) Subject to Subsections (4) through (7), the department may issue a license to an applicant who:
- (a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:
    - (i)
      - (A) the department determines that the applicant's education, experience, and skills demonstrate competency in the profession for which licensure is sought in this state; and
      - (B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or
    - (ii) the department determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the license sought in this state; or
  - (b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:
    - (i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and
    - (ii) the department determines that the education or experience was substantially similar to the education or experience requirements for the license sought in this state.
- (4) The department may refuse to issue a license to an applicant under this section if:
- (a) the department determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or
  - (b) the applicant has a previous or pending disciplinary action related to the applicant's other license.
- (5) Before the department issues a license to an applicant under this section, the applicant shall:
- (a) pay a fee determined by the department under Section 63J-1-504; and
  - (b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.
- (6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.
- (7) This section is subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.

Enacted by Chapter 222, 2023 General Session

**26B-1-241 Tardive dyskinesia.**

With respect to tardive dyskinesia, the department shall report on the following to the Health and Human Services Interim Committee before November 1, 2023:

- (1) resources available to help health care providers, including mental health providers, accurately diagnose and appropriately treat tardive dyskinesia;
- (2) resources available to help an individual with tardive dyskinesia, and the individual's caregivers, respond to the functional and social challenges posed by the condition;
- (3) options for improving screening, diagnosis, and treatment of tardive dyskinesia, including actions the department may take on behalf of:
  - (a) residents of the state generally;

- (b) Medicaid program enrollees; and
- (c) individuals receiving services under a local mental health authority, as defined in Section 26B-5-101; and
- (4) the potential costs and benefits of implementing the options reported under Subsection (3).

Enacted by Chapter 295, 2023 General Session

**26B-1-242 Prohibition on requiring immunity passports or vaccination -- Exceptions.**

- (1) As used in this section:
  - (a) "Governmental entity" means the same as that term is defined in Section 63D-2-102.
  - (b) "Immunity passport" means a document, digital record, or software application indicating that an individual is immune to a disease, whether through vaccination or infection and recovery.
  - (c) "Regulated entity" means an employer, as defined in Section 34A-6-103, that is subject to a regulation by the Centers for Medicare and Medicaid Services regarding a vaccine, unless the employer is:
    - (i) the state or a political subdivision of the state; and
    - (ii) not a health care facility as defined in Section 26B-2-201.
  - (d) "Vaccination status" means an indication of whether an individual has received one or more doses of a vaccine.
- (2) A governmental entity may not:
  - (a) refuse, withhold from, or deny to an individual any local or state service, good, facility, advantage, privilege, license, educational opportunity, health care access, or employment opportunity based on the individual's vaccination status, including whether the individual has an immunity passport; or
  - (b) require any individual, directly or indirectly, to receive a vaccine.
- (3) Subsection (2) does not apply to:
  - (a) a vaccination requirement by an institution of higher education, if the vaccination requirement is implemented in accordance with Section 53B-2-113;
  - (b) a vaccination requirement by a school if the vaccination requirement is implemented in accordance with Title 53G, Chapter 9, Part 3, Immunization Requirements;
  - (c) a child care program as defined in Section 26B-2-401 if the vaccination requirement is implemented in accordance with applicable provisions of state and federal law;
  - (d) a regulated entity if compliance with Subsection (2) would result in a violation of binding, mandatory regulations or requirements that affect the regulated entity's funding issued by the Centers for Medicare and Medicaid Services or the United States Centers for Disease Control and Prevention;
  - (e) a contract for goods or services entered into before May 3, 2023, if:
    - (i) application of this section would result in a substantial impairment of the contract; and
    - (ii) the contract is not between an employer and the employer's employee;
  - (f) a federal contractor;
  - (g) a governmental entity vaccination requirement of an employee who, as determined by the governmental entity:
    - (i) has, as part of the employee's duties, direct exposure to human blood, human fecal matter, or other potentially infectious materials that may expose the employee to hepatitis or tuberculosis; or
    - (ii) is acting in a public health or medical setting that requires the employee to receive vaccinations to perform the employee's assigned duties and responsibilities; or
  - (h) a governmental entity that:

- (i) establishes a nexus between a vaccination requirement and the employee's assigned duties and responsibilities; or
  - (ii) identifies an external requirement for vaccination that is not imposed by the governmental entity and is related to the employee's duties and responsibilities.
- (4) Nothing in this section prohibits a governmental entity from recommending that an employee receive a vaccine.

Enacted by Chapter 275, 2023 General Session