

Effective 5/3/2023

**Chapter 1
Department of Health and Human Services**

**Part 1
General Provisions**

26B-1-102 Definitions.

As used in this title:

- (1) "Department" means the Department of Health and Human Services created in Section 26B-1-201.
- (2) "Executive director" means the executive director of the department appointed under Section 26B-1-203.
- (3) "Local health department" means the same as that term is defined in Section 26A-1-102.
- (4) "Public health authority" means an agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, an Indian tribe, or a person acting under a grant of authority from or a contract with such an agency, that is responsible for public health matters as part of the agency or authority's official mandate.

Amended by Chapter 305, 2023 General Session

26B-1-103 Purpose of title -- Consolidation of functions into single state agency.

The purpose of this title is to consolidate into a single agency of state government all of the functions previously exercised by the Department of Health and the Department of Human Services to more efficiently and effectively carry out the responsibilities delegated to the department by state law.

Amended by Chapter 255, 2022 General Session

26B-1-104 Severability of code provisions.

If a provision of this title or Title 26, Utah Health Code, or the application of any such provision to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this title or Title 26, Utah Health Code, which can be given effect without the invalid provision or application, and to this end the provisions of this title or Title 26, Utah Health Code, are declared to be severable.

Renumbered and Amended by Chapter 255, 2022 General Session

26B-1-105 Individual rights protected.

Nothing in this title prohibits an individual from choosing the diet, therapy, or mode of treatment to be administered to an individual or an individual's family.

Renumbered and Amended by Chapter 255, 2022 General Session

**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

Part 3 Funds and Accounts

26B-1-301 Executive director -- Power to accept funds and gifts.

The executive director may accept and receive such other funds and gifts as may be made available from private and public groups for the purposes of promoting and protecting the public health or for the provision of health services to the people of the state and shall expend the same as appropriated by the Legislature.

Renumbered and Amended by Chapter 255, 2022 General Session

26B-1-302 National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account.

- (1) There is created in the General Fund a restricted account known as the "National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account."
- (2) The account shall be funded by:
 - (a) contributions deposited into the account in accordance with Section 41-1a-422;
 - (b) private contributions; and
 - (c) donations or grants from public or private entities.
- (3) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that:
 - (a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;
 - (b) are selected by the owners that, either on an individual or joint basis, own a controlling interest in a legal entity that is a franchised member of the internationally recognized national governing body for professional men's basketball in the United States;
 - (c) are headquartered within the state;
 - (d) create or support programs that focus on issues affecting women and children within the state, with an emphasis on health and education; and
 - (e) have a board of directors that disperses all funds of the organization.
- (4)
 - (a) An organization described in Subsection (3) may apply to the department to receive a distribution in accordance with Subsection (3).
 - (b) An organization that receives a distribution from the department in accordance with Subsection (3) shall expend the distribution only to:
 - (i) create or support programs that focus on issues affecting women and children, with an emphasis on health and education;
 - (ii) create or sponsor programs that will benefit residents within the state; and

- (iii) pay the costs of issuing or reordering National Professional Men's Basketball Team Support of Women and Children Issues support special group license plate decals.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under this Subsection (4).
- (5) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

Renumbered and Amended by Chapter 255, 2022 General Session

26B-1-304 Restricted account created to fund drug testing for law enforcement agencies.

- (1) There is created within the General Fund a restricted account known as the State Laboratory Drug Testing Account.
- (2) The account consists of a specified portion of fees generated under Subsection 53-3-106(5) from the reinstatement of certain licenses, which shall be deposited in this account.
- (3) The department shall use funds in this account solely for the costs of performing drug and alcohol analysis tests for state and local law enforcement agencies, and may not assess any charge or fee to the law enforcement agencies for whom the analysis tests are performed.

Renumbered and Amended by Chapter 255, 2022 General Session

Superseded 7/1/2024

26B-1-305 Department of Health and Human Services Transition Restricted Account.

- (1) There is created a restricted account within the General Fund known as the "Department of Health and Human Services Transition Restricted Account."
- (2) The restricted account shall consist of appropriations made by the Legislature.
- (3) Subject to appropriation, the transition agencies and the department may spend money from the restricted account to pay for expenses related to moving the transition agencies into the department, including staff and legal services.

Enacted by Chapter 255, 2022 General Session

Superseded 7/1/2024

26B-1-306 Emergency Medical Services System Account.

- (1) There is created within the General Fund a restricted account known as the "Emergency Medical Services System Account."
- (2) The account consists of:
 - (a) interest earned on the account;
 - (b) appropriations made by the Legislature; and
 - (c) contributions deposited into the account in accordance with Section 41-1a-230.7.
- (3) The department shall use:
 - (a) an amount equal to 25% of the money in the account for administrative costs related to Chapter 4, Part 1, Utah Emergency Medical Services System;
 - (b) an amount equal to 75% of the money in the account for grants awarded in accordance with Section 26B-4-107; and
 - (c) all money received from the revenue source in Subsection (2)(c) for grants awarded in accordance with Section 26B-4-107.

Renumbered and Amended by Chapter 305, 2023 General Session

Superseded 7/1/2024

26B-1-308 Rural Health Care Facilities Account -- Source of revenues -- Interest -- Distribution of revenues -- Expenditure of revenues -- Unexpended revenues lapse into the General Fund.

(1) As used in this section:

- (a) "Emergency medical services" is as defined in Section 26B-4-101.
- (b) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.
- (c) "Fiscal year" means a one-year period beginning on July 1 of each year.
- (d) "Freestanding urgent care center" is as defined in Section 59-12-801.
- (e) "Nursing care facility" is as defined in Section 26B-2-201.
- (f) "Rural city hospital" is as defined in Section 59-12-801.
- (g) "Rural county health care facility" is as defined in Section 59-12-801.
- (h) "Rural county hospital" is as defined in Section 59-12-801.
- (i) "Rural county nursing care facility" is as defined in Section 59-12-801.
- (j) "Rural emergency medical services" is as defined in Section 59-12-801.
- (k) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

(2) There is created a restricted account within the General Fund known as the "Rural Health Care Facilities Account."

(3)

- (a) The restricted account shall be funded by amounts appropriated by the Legislature.
- (b) Any interest earned on the restricted account shall be deposited into the General Fund.

(4) Subject to Subsections (5) and (6), the State Tax Commission shall for a fiscal year distribute money deposited into the restricted account to each:

- (a) county legislative body of a county that, on January 1, 2007, imposes a tax in accordance with Section 59-12-802 and has not repealed the tax; or
- (b) city legislative body of a city that, on January 1, 2007, imposes a tax in accordance with Section 59-12-804 and has not repealed the tax.

(5)

(a) Subject to Subsection (6), for purposes of the distribution required by Subsection (4), the State Tax Commission shall:

(i) estimate for each county and city described in Subsection (4) the amount by which the revenues collected from the taxes imposed under Sections 59-12-802 and 59-12-804 for fiscal year 2005-06 would have been reduced had:

- (A) the amendments made by Laws of Utah 2007, Chapter 288, Sections 25 and 26, to Sections 59-12-802 and 59-12-804 been in effect for fiscal year 2005-06; and
- (B) each county and city described in Subsection (4) imposed the tax under Sections 59-12-802 and 59-12-804 for the entire fiscal year 2005-06;

(ii)

- (A) for fiscal years ending before fiscal year 2018, calculate a percentage for each county and city described in Subsection (4) by dividing the amount estimated for each county and city in accordance with Subsection (5)(a)(i) by \$555,000; and
- (B) beginning in fiscal year 2018, calculate a percentage for each county and city described in Subsection (4) by dividing the amount estimated for each county and city in accordance with Subsection (5)(a)(i) by \$218,809.33;

(iii) distribute to each county and city described in Subsection (4) an amount equal to the product of:

- (A) the percentage calculated in accordance with Subsection (5)(a)(ii); and

- (B) the amount appropriated by the Legislature to the restricted account for the fiscal year.
- (b) The State Tax Commission shall make the estimations, calculations, and distributions required by Subsection (5)(a) on the basis of data collected by the State Tax Commission.
- (6) If a county legislative body repeals a tax imposed under Section 59-12-802 or a city legislative body repeals a tax imposed under Section 59-12-804:
- (a) the commission shall determine in accordance with Subsection (5) the distribution that, but for this Subsection (6), the county legislative body or city legislative body would receive; and
- (b) after making the determination required by Subsection (6)(a), the commission shall:
- (i) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is October 1:
- (A)
- (I) distribute to the county legislative body or city legislative body 25% of the distribution determined in accordance with Subsection (6)(a); and
- (II) deposit 75% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and
- (B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund;
- (ii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is January 1:
- (A)
- (I) distribute to the county legislative body or city legislative body 50% of the distribution determined in accordance with Subsection (6)(a); and
- (II) deposit 50% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and
- (B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund;
- (iii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is April 1:
- (A)
- (I) distribute to the county legislative body or city legislative body 75% of the distribution determined in accordance with Subsection (6)(a); and
- (II) deposit 25% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and
- (B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund; or
- (iv) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is July 1, beginning on that effective date and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund.
- (7)
- (a) Subject to Subsection (7)(b) and Section 59-12-802, a county legislative body shall distribute the money the county legislative body receives in accordance with Subsection (5) or (6):
- (i) for a county of the third or fourth class, to fund rural county health care facilities in that county; and
- (ii) for a county of the fifth or sixth class, to fund:

- (A) rural emergency medical services in that county;
 - (B) federally qualified health centers in that county;
 - (C) freestanding urgent care centers in that county;
 - (D) rural county health care facilities in that county;
 - (E) rural health clinics in that county; or
 - (F) a combination of Subsections (7)(a)(ii)(A) through (E).
- (b) A county legislative body shall distribute the money the county legislative body receives in accordance with Subsection (5) or (6) to a center, clinic, facility, or service described in Subsection (7)(a) as determined by the county legislative body.
- (c) A center, clinic, facility, or service that receives a distribution in accordance with this Subsection (7) shall expend that distribution for the same purposes for which money collected from a tax under Section 59-12-802 may be expended.
- (8)
- (a) Subject to Subsection (8)(b), a city legislative body shall distribute the money the city legislative body receives in accordance with Subsection (5) or (6) to fund rural city hospitals in that city.
- (b) A city legislative body shall distribute a percentage of the money the city legislative body receives in accordance with Subsection (5) or (6) to each rural city hospital described in Subsection (8)(a) equal to the same percentage that the city legislative body distributes to that rural city hospital in accordance with Section 59-12-805 for the calendar year ending on the December 31 immediately preceding the first day of the fiscal year for which the city legislative body receives the distribution in accordance with Subsection (5) or (6).
- (c) A rural city hospital that receives a distribution in accordance with this Subsection (8) shall expend that distribution for the same purposes for which money collected from a tax under Section 59-12-804 may be expended.
- (9) Any money remaining in the Rural Health Care Facilities Account at the end of a fiscal year after the State Tax Commission makes the distributions required by this section shall lapse into the General Fund.

Renumbered and Amended by Chapter 305, 2023 General Session

Effective 7/1/2024

26B-1-308 Rural Health Care Facilities Account -- Source of revenues -- Interest -- Distribution of revenues -- Expenditure of revenues -- Unexpended revenues lapse into the General Fund.

- (1) As used in this section:
- (a) "Emergency medical services" is as defined in Section 53-2d-101.
 - (b) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.
 - (c) "Fiscal year" means a one-year period beginning on July 1 of each year.
 - (d) "Freestanding urgent care center" is as defined in Section 59-12-801.
 - (e) "Nursing care facility" is as defined in Section 26B-2-201.
 - (f) "Rural city hospital" is as defined in Section 59-12-801.
 - (g) "Rural county health care facility" is as defined in Section 59-12-801.
 - (h) "Rural county hospital" is as defined in Section 59-12-801.
 - (i) "Rural county nursing care facility" is as defined in Section 59-12-801.
 - (j) "Rural emergency medical services" is as defined in Section 59-12-801.
 - (k) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

- (2) There is created a restricted account within the General Fund known as the "Rural Health Care Facilities Account."
- (3)
 - (a) The restricted account shall be funded by amounts appropriated by the Legislature.
 - (b) Any interest earned on the restricted account shall be deposited into the General Fund.
- (4) Subject to Subsections (5) and (6), the State Tax Commission shall for a fiscal year distribute money deposited into the restricted account to each:
 - (a) county legislative body of a county that, on January 1, 2007, imposes a tax in accordance with Section 59-12-802 and has not repealed the tax; or
 - (b) city legislative body of a city that, on January 1, 2007, imposes a tax in accordance with Section 59-12-804 and has not repealed the tax.
- (5)
 - (a) Subject to Subsection (6), for purposes of the distribution required by Subsection (4), the State Tax Commission shall:
 - (i) estimate for each county and city described in Subsection (4) the amount by which the revenues collected from the taxes imposed under Sections 59-12-802 and 59-12-804 for fiscal year 2005-06 would have been reduced had:
 - (A) the amendments made by Laws of Utah 2007, Chapter 288, Sections 25 and 26, to Sections 59-12-802 and 59-12-804 been in effect for fiscal year 2005-06; and
 - (B) each county and city described in Subsection (4) imposed the tax under Sections 59-12-802 and 59-12-804 for the entire fiscal year 2005-06;
 - (ii)
 - (A) for fiscal years ending before fiscal year 2018, calculate a percentage for each county and city described in Subsection (4) by dividing the amount estimated for each county and city in accordance with Subsection (5)(a)(i) by \$555,000; and
 - (B) beginning in fiscal year 2018, calculate a percentage for each county and city described in Subsection (4) by dividing the amount estimated for each county and city in accordance with Subsection (5)(a)(i) by \$218,809.33;
 - (iii) distribute to each county and city described in Subsection (4) an amount equal to the product of:
 - (A) the percentage calculated in accordance with Subsection (5)(a)(ii); and
 - (B) the amount appropriated by the Legislature to the restricted account for the fiscal year.
 - (b) The State Tax Commission shall make the estimations, calculations, and distributions required by Subsection (5)(a) on the basis of data collected by the State Tax Commission.
- (6) If a county legislative body repeals a tax imposed under Section 59-12-802 or a city legislative body repeals a tax imposed under Section 59-12-804:
 - (a) the commission shall determine in accordance with Subsection (5) the distribution that, but for this Subsection (6), the county legislative body or city legislative body would receive; and
 - (b) after making the determination required by Subsection (6)(a), the commission shall:
 - (i) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is October 1:
 - (A)
 - (I) distribute to the county legislative body or city legislative body 25% of the distribution determined in accordance with Subsection (6)(a); and
 - (II) deposit 75% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and

- (B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund;
 - (ii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is January 1:
 - (A)
 - (I) distribute to the county legislative body or city legislative body 50% of the distribution determined in accordance with Subsection (6)(a); and
 - (II) deposit 50% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and
 - (B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund;
 - (iii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is April 1:
 - (A)
 - (I) distribute to the county legislative body or city legislative body 75% of the distribution determined in accordance with Subsection (6)(a); and
 - (II) deposit 25% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and
 - (B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund; or
 - (iv) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is July 1, beginning on that effective date and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund.
- (7)
- (a) Subject to Subsection (7)(b) and Section 59-12-802, a county legislative body shall distribute the money the county legislative body receives in accordance with Subsection (5) or (6):
 - (i) for a county of the third or fourth class, to fund rural county health care facilities in that county; and
 - (ii) for a county of the fifth or sixth class, to fund:
 - (A) rural emergency medical services in that county;
 - (B) federally qualified health centers in that county;
 - (C) freestanding urgent care centers in that county;
 - (D) rural county health care facilities in that county;
 - (E) rural health clinics in that county; or
 - (F) a combination of Subsections (7)(a)(ii)(A) through (E).
 - (b) A county legislative body shall distribute the money the county legislative body receives in accordance with Subsection (5) or (6) to a center, clinic, facility, or service described in Subsection (7)(a) as determined by the county legislative body.
 - (c) A center, clinic, facility, or service that receives a distribution in accordance with this Subsection (7) shall expend that distribution for the same purposes for which money collected from a tax under Section 59-12-802 may be expended.
- (8)

- (a) Subject to Subsection (8)(b), a city legislative body shall distribute the money the city legislative body receives in accordance with Subsection (5) or (6) to fund rural city hospitals in that city.
 - (b) A city legislative body shall distribute a percentage of the money the city legislative body receives in accordance with Subsection (5) or (6) to each rural city hospital described in Subsection (8)(a) equal to the same percentage that the city legislative body distributes to that rural city hospital in accordance with Section 59-12-805 for the calendar year ending on the December 31 immediately preceding the first day of the fiscal year for which the city legislative body receives the distribution in accordance with Subsection (5) or (6).
 - (c) A rural city hospital that receives a distribution in accordance with this Subsection (8) shall expend that distribution for the same purposes for which money collected from a tax under Section 59-12-804 may be expended.
- (9) Any money remaining in the Rural Health Care Facilities Account at the end of a fiscal year after the State Tax Commission makes the distributions required by this section shall lapse into the General Fund.

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

26B-1-309 Medicaid Restricted Account.

- (1) There is created a restricted account in the General Fund known as the "Medicaid Restricted Account."
- (2)
- (a) Except as provided in Subsection (3), the following shall be deposited into the Medicaid Restricted Account:
 - (i) any general funds appropriated to the department for the state plan for medical assistance or for the Division of Health Care Financing that are not expended by the department in the fiscal year for which the general funds were appropriated and which are not otherwise designated as nonlapsing shall lapse into the Medicaid Restricted Account;
 - (ii) any unused state funds that are associated with the Medicaid program, as defined in Section 26B-3-101, from the Department of Workforce Services; and
 - (iii) any penalties imposed and collected under:
 - (A) Section 17B-2a-818.5;
 - (B) Section 19-1-206;
 - (C) Section 63A-5b-607;
 - (D) Section 63C-9-403;
 - (E) Section 72-6-107.5; or
 - (F) Section 79-2-404.
 - (b) The account shall earn interest and all interest earned shall be deposited into the account.
 - (c) The Legislature may appropriate money in the restricted account to fund programs that expand medical assistance coverage and private health insurance plans to low income persons who have not traditionally been served by Medicaid, including the Utah Children's Health Insurance Program created in Section 26B-3-902.
- (3)
- (a) For fiscal years 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13 the following funds are nonlapsing:

- (i) any general funds appropriated to the department for the state plan for medical assistance, or for the Division of Health Care Financing that are not expended by the department in the fiscal year in which the general funds were appropriated; and
 - (ii) funds described in Subsection (2)(a)(ii).
- (b) For fiscal years 2019-20, 2020-21, 2021-22, and 2022-23, the funds described in Subsections (2)(a)(ii) and (3)(a)(i) are nonlapsing.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-310 Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality -- Uniform fee.

- (1) There is created an enterprise fund known as the "Qualified Patient Enterprise Fund."
- (2) The fund created in this section is funded from:
- (a) money the department deposits into the fund under Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;
 - (b) appropriations the Legislature makes to the fund; and
 - (c) the interest described in Subsection (3).
- (3) Interest earned on the fund shall be deposited into the fund.
- (4) Money deposited into the fund may only be used by:
- (a) the department to accomplish the department's responsibilities described in Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and
 - (b) the Center for Medical Cannabis Research created in Section 53B-17-1402 to accomplish the Center for Medical Cannabis Research's responsibilities.
- (5) The department shall set fees authorized under Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.
- (6) The department may impose a uniform fee on each medical cannabis transaction in a medical cannabis pharmacy in an amount that, subject to Subsection (5), the department sets in accordance with Section 63J-1-504.

Amended by Chapter 273, 2023 General Session

Amended by Chapter 281, 2023 General Session

Amended by Chapter 305, 2023 General Session, (Coordination Clause)

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-311 Creation of Kurt Oscarson Children's Organ Transplant Account.

- (1)
- (a) There is created a restricted account within the General Fund known as the "Kurt Oscarson Children's Organ Transplant Account."
 - (b) Private contributions received under this section and Section 59-10-1308 shall be deposited into the restricted account to be used only for the programs and purposes described in Section 26B-1-411.
- (2) Money shall be appropriated from the restricted account to the Kurt Oscarson Children's Organ Transplant Coordinating Committee created in Section 26B-1-411, in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.
- (3) In addition to funds received under Section 59-10-1308, the Kurt Oscarson Children's Organ Transplant Coordinating Committee created in Section 26B-1-411 may accept transfers, grants,

gifts, bequests, or any money made available from any source to implement the programs and purposes described in Section 26B-1-411.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-312 Allyson Gamble Organ Donation Contribution Fund created.

- (1)
 - (a) There is created an expendable special revenue fund known as the Allyson Gamble Organ Donation Contribution Fund.
 - (b) The Allyson Gamble Organ Donation Contribution Fund shall consist of:
 - (i) private contributions;
 - (ii) donations or grants from public or private entities;
 - (iii) voluntary donations collected under Sections 41-1a-230.5 and 53-3-214.7; and
 - (iv) interest and earnings on fund money.
 - (c) The cost of administering the Allyson Gamble Organ Donation Contribution Fund shall be paid from money in the fund.
- (2) The department shall:
 - (a) administer the funds deposited in the Allyson Gamble Organ Donation Contribution Fund; and
 - (b) select qualified organizations and distribute the funds in the Allyson Gamble Organ Donation Contribution Fund in accordance with Subsection (3).
- (3)
 - (a) The funds in the Allyson Gamble Organ Donation Contribution Fund may be distributed to a selected organization that:
 - (i) promotes and supports organ donation;
 - (ii) assists in maintaining and operating a statewide organ donation registry; and
 - (iii) provides donor awareness education.
 - (b) An organization that meets the criteria of Subsections (3)(a)(i) through (iii) may apply to the department, in a manner prescribed by the department, to receive a portion of the money contained in the Allyson Gamble Organ Donation Contribution Fund.
- (4) The department may expend funds in the account to pay the costs of administering the fund and issuing or reordering the Donate Life support special group license plate and decals.

Amended by Chapter 33, 2023 General Session

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-313 Cancer Research Restricted Account.

- (1) As used in this section, "account" means the Cancer Research Restricted Account created by this section.
- (2) There is created in the General Fund a restricted account known as the "Cancer Research Restricted Account."
- (3) The account shall be funded by:
 - (a) contributions deposited into the account in accordance with Section 41-1a-422;
 - (b) private contributions;
 - (c) donations or grants from public or private entities; and
 - (d) interest and earnings on fund money.
- (4) The department shall distribute funds in the account to one or more charitable organizations that:
 - (a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

- (b) have been designated as an official cancer center of the state;
 - (c) is a National Cancer Institute designated cancer center; and
 - (d) have as part of its primary mission:
 - (i) cancer research programs in basic science, translational science, population science, and clinical research to understand cancer from its beginnings; and
 - (ii) the dissemination and use of knowledge developed by the research described in Subsection (4)(d)(i) for the creation and improvement of cancer detection, treatments, prevention, and outreach programs.
- (5)
- (a) An organization described in Subsection (4) may apply to the department to receive a distribution in accordance with Subsection (4).
 - (b) An organization that receives a distribution from the department in accordance with Subsection (4) shall expend the distribution only to conduct cancer research for the purpose of making improvements in cancer treatments, cures, detection, and prevention of cancer at the molecular and genetic levels.
 - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under Subsection (4).

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-315 Medicaid Expansion Fund.

- (1) There is created an expendable special revenue fund known as the "Medicaid Expansion Fund."
- (2) The fund consists of:
 - (a) assessments collected under Chapter 3, Part 5, Inpatient Hospital Assessment;
 - (b) intergovernmental transfers under Section 26B-3-508;
 - (c) savings attributable to the health coverage improvement program, as defined in Section 26B-3-501, as determined by the department;
 - (d) savings attributable to the enhancement waiver program, as defined in Section 26B-3-501, as determined by the department;
 - (e) savings attributable to the Medicaid waiver expansion, as defined in Section 26B-3-501, as determined by the department;
 - (f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection 26B-3-105(3) as determined by the department;
 - (g) revenues collected from the sales tax described in Subsection 59-12-103(11);
 - (h) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;
 - (i) interest earned on money in the fund; and
 - (j) additional amounts as appropriated by the Legislature.
- (3)
 - (a) The fund shall earn interest.
 - (b) All interest earned on fund money shall be deposited into the fund.
- (4)
 - (a) A state agency administering the provisions of Chapter 3, Part 5, Inpatient Hospital Assessment, may use money from the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:
 - (i) the health coverage improvement program as defined in Section 26B-3-501;

- (ii) the enhancement waiver program as defined in Section 26B-3-501;
 - (iii) a Medicaid waiver expansion as defined in Section 26B-3-501; and
 - (iv) the outpatient upper payment limit supplemental payments under Section 26B-3-511.
- (b) A state agency administering the provisions of Chapter 3, Part 5, Inpatient Hospital Assessment, may not use:
- (i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper payment limit supplemental payments; or
 - (ii) money in the fund for any purpose not described in Subsection (4)(a).

Renumbered and Amended by Chapter 305, 2023 General Session
Amended by Chapter 471, 2023 General Session

26B-1-316 Hospital Provider Assessment Expendable Revenue Fund.

- (1) There is created an expendable special revenue fund known as the "Hospital Provider Assessment Expendable Revenue Fund."
- (2) The fund shall consist of:
 - (a) the assessments collected by the department under Chapter 3, Part 7, Hospital Provider Assessment;
 - (b) any interest and penalties levied with the administration of Chapter 3, Part 7, Hospital Provider Assessment; and
 - (c) any other funds received as donations for the fund and appropriations from other sources.
- (3) Money in the fund shall be used:
 - (a) to support capitated rates consistent with Subsection 26B-3-705(1)(d) for accountable care organizations as defined in Section 26B-3-701;
 - (b) to implement the quality strategies described in Subsection 26B-3-707(2), except that the amount under this Subsection (3)(b) may not exceed \$211,300 in each fiscal year; and
 - (c) to reimburse money collected by the division from a hospital, as defined in Section 26B-3-701, through a mistake made under Chapter 3, Part 7, Hospital Provider Assessment.
- (4)
 - (a) Subject to Subsection (4)(b), for the fiscal year beginning July 1, 2019, and ending July 1, 2020, any fund balance in excess of the amount necessary to pay for the costs described in Subsection (3) shall be deposited into the General Fund.
 - (b) Subsection (4)(a) applies only to funds that were appropriated by the Legislature from the General Fund to the fund and the interest and penalties deposited into the fund under Subsection (2)(b).

Renumbered and Amended by Chapter 305, 2023 General Session
Amended by Chapter 495, 2023 General Session

26B-1-317 Ambulance Service Provider Assessment Expendable Revenue Fund.

- (1) There is created an expendable special revenue fund known as the "Ambulance Service Provider Assessment Expendable Revenue Fund."
- (2) The fund shall consist of:
 - (a) the assessments collected by the division under Chapter 3, Part 8, Ambulance Service Provider Assessment;
 - (b) the penalties collected by the division under Chapter 3, Part 8, Ambulance Service Provider Assessment;
 - (c) donations to the fund; and

- (d) appropriations by the Legislature.
- (3) Money in the fund shall be used:
 - (a) to support fee-for-service rates; and
 - (b) to reimburse money to an ambulance service provider, as defined in Section 26B-3-801, that is collected by the division from the ambulance service provider through a mistake made under Chapter 3, Part 8, Ambulance Service Provider Assessment.
- (4)
 - (a) Subject to Subsection (4)(b), for the fiscal year beginning July 1, 2019, and ending July 1, 2020, any fund balance in excess of the amount necessary to pay for the costs described in Subsection (3) shall be deposited into the General Fund.
 - (b) Subsection (4)(a) applies only to funds that were appropriated by the Legislature from the General Fund to the fund and the penalties deposited into the fund under Subsection (2)(b).

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-318 Brain Injury Fund.

- (1) There is created an expendable special revenue fund known as the " Brain Injury Fund."
- (2) The fund shall consist of:
 - (a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources; and
 - (b) additional amounts as appropriated by the Legislature.
- (3) The fund shall be administered by the executive director.
- (4) Fund money may be used to:
 - (a) educate the general public and professionals regarding understanding, treatment, and prevention of brain injury;
 - (b) provide access to evaluations and coordinate short-term care to assist an individual in identifying services or support needs, resources, and benefits for which the individual may be eligible;
 - (c) develop and support an information and referral system for persons with a brain injury and their families; and
 - (d) provide grants to persons or organizations to provide the services described in Subsections (4)(a), (b), and (c).
- (5) Not less than 50% of the fund shall be used each fiscal year to directly assist individuals who meet the qualifications described in Subsection (6).
- (6) An individual who receives services either paid for from the fund, or through an organization under contract with the fund, shall:
 - (a) be a resident of Utah;
 - (b) have been diagnosed by a qualified professional as having a brain injury which results in impairment of cognitive or physical function; and
 - (c) have a need that can be met within the requirements of this section.
- (7) The fund may not duplicate any services or support mechanisms being provided to an individual by any other government or private agency.
- (8) All actual and necessary operating expenses for the Brain Injury Advisory Committee created in Section 26B-1-417 and staff shall be paid by the fund.
- (9) The fund may not be used for medical treatment, long-term care, or acute care.

Renumbered and Amended by Chapter 305, 2023 General Session
Amended by Chapter 335, 2023 General Session

26B-1-319 Neuro-Rehabilitation Fund -- Creation -- Administration -- Uses.

- (1) As used in this section, a "qualified IRC 501(c)(3) charitable clinic" means a professional medical clinic that:
 - (a) provides rehabilitation services to individuals in the state:
 - (i) who have a spinal cord or brain injury that tends to be non-progressive or non-deteriorating; and
 - (ii) who require post-acute care;
 - (b) employs licensed therapy clinicians;
 - (c) has at least five years' experience operating a post-acute care rehabilitation clinic in the state; and
 - (d) has obtained tax-exempt status under Internal Revenue Code, 26 U.S.C. Sec. 501(c)(3).
- (2) There is created an expendable special revenue fund known as the "Neuro-Rehabilitation Fund."
- (3) The fund shall consist of:
 - (a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;
 - (b) a portion of the impound fee as designated in Section 41-6a-1406;
 - (c) the fees collected by the Motor Vehicle Division under Subsections 41-1a-1201(8) and 41-22-8(3); and
 - (d) amounts appropriated by the Legislature.
- (4) The fund shall be administered by the executive director, in consultation with the advisory committee created in Section 26B-1-418.
- (5) Fund money shall be used to:
 - (a) assist one or more qualified IRC 501(c)(3) charitable clinics to provide rehabilitation services to individuals who have a spinal cord or brain injury that tends to be non-progressive or non-deteriorating, including:
 - (i)
 - (A) physical, occupational, and speech therapy; and
 - (B) other services as determined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the advisory committee created in Section 26B-1-418; and
 - (ii) equipment for use in the qualified charitable clinic; and
 - (b) pay for operating expenses of the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee created in Section 26B-1-418, including the advisory committee's staff.

Amended by Chapter 33, 2023 General Session

Amended by Chapter 212, 2023 General Session

Renumbered and Amended by Chapter 305, 2023 General Session

Amended by Chapter 335, 2023 General Session

26B-1-320 Pediatric Neuro-Rehabilitation Fund -- Creation -- Administration -- Uses.

- (1) As used in this section, a "qualified IRC 501(c)(3) charitable clinic" means a professional medical clinic that:
 - (a) provides services for children in the state:
 - (i) with neurological conditions, including:
 - (A) cerebral palsy; and

- (B) spina bifida; and
 - (ii) who require post-acute care;
 - (b) employs licensed therapy clinicians;
 - (c) has at least five years experience operating a post-acute care rehabilitation clinic in the state; and
 - (d) has obtained tax-exempt status under Internal Revenue Code, 26 U.S.C. Sec. 501(c)(3).
- (2) There is created an expendable special revenue fund known as the "Pediatric Neuro-Rehabilitation Fund."
- (3) The fund shall consist of:
- (a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources; and
 - (b) amounts appropriated to the fund by the Legislature.
- (4) The fund shall be administered by the executive director of the department, in consultation with the advisory committee created in Section 26B-1-418.
- (5) Fund money shall be used to:
- (a) assist one or more qualified IRC 501(c)(3) charitable clinics to provide physical or occupational therapy to children with neurological conditions; and
 - (b) pay for operating expenses of the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee created by Section 26B-1-418, including the advisory committee's staff.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-322 Adult Autism Treatment Account.

- (1) There is created within the General Fund a restricted account known as the "Adult Autism Treatment Account."
- (2) The account consists of:
- (a) gifts, grants, donations, or any other conveyance of money that may be made to the account from private sources;
 - (b) interest earned on money in the account; and
 - (c) money appropriated to the account by the Legislature.
- (3) Money from the account shall be used only to:
- (a) fund grants awarded by the department under Section 26B-4-602; and
 - (b) pay the operating expenses of the Adult Autism Treatment Program Advisory Committee created in Section 26B-1-204, including the cost of advisory committee staff if approved by the executive director.
- (4) The state treasurer shall invest the money in the account in accordance with Title 51, Chapter 7, State Money Management Act.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-323 Out and About Homebound Transportation Assistance Fund -- Creation -- Administration -- Uses.

- (1)
- (a) There is created an expendable special revenue fund known as the "Out and About Homebound Transportation Assistance Fund."
 - (b) The Out and About Homebound Transportation Assistance Fund shall consist of:
 - (i) private contributions;

- (ii) donations or grants from public or private entities;
 - (iii) voluntary donations collected under Section 53-3-214.8; and
 - (iv) interest and earnings on account money.
- (c) The cost of administering the Out and About Homebound Transportation Assistance Fund shall be paid from money in the fund.
- (2) The Division of Aging and Adult Services in the department shall:
- (a) administer the funds contained in the Out and About Homebound Transportation Assistance Fund; and
 - (b) select qualified organizations and distribute the funds in the Out and About Homebound Transportation Assistance Fund in accordance with Subsection (3).
- (3)
- (a) The division may distribute the funds in the Out and About Homebound Transportation Assistance Fund to a selected organization that provides public transportation to aging persons, high risk adults, or people with disabilities.
 - (b) An organization that provides public transportation to aging persons, high risk adults, or people with disabilities may apply to the Division of Aging and Adult Services, in a manner prescribed by the division, to receive all or part of the money contained in the Out and About Homebound Transportation Assistance Fund.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-324 Statewide Behavioral Health Crisis Response Account -- Creation -- Administration -- Permitted uses -- Reporting.

- (1) There is created a restricted account within the General Fund known as the "Statewide Behavioral Health Crisis Response Account," consisting of:
- (a) money appropriated or otherwise made available by the Legislature; and
 - (b) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, or other persons.
- (2)
- (a) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division shall disburse funds in the account only for the purpose of support or implementation of services or enhancements of those services in order to rapidly, efficiently, and effectively deliver 988 services in the state.
 - (b) Funds distributed from the account to county local mental health and substance abuse authorities for the provision of crisis services are not subject to the 20% county match described in Sections 17-43-201 and 17-43-301.
 - (c) After consultation with the Behavioral Health Crisis Response Commission created in Section 63C-18-202, and local substance use authorities and local mental health authorities described in Sections 17-43-201 and 17-43-301, the division shall expend funds from the account on any of the following programs:
 - (i) the Statewide Mental Health Crisis Line, as defined in Section 26B-5-610, including coordination with 911 emergency service, as defined in Section 69-2-102, and coordination with local substance abuse authorities as described in Section 17-43-201, and local mental health authorities, described in Section 17-43-301;
 - (ii) mobile crisis outreach teams as defined in Section 26B-5-609, distributed in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (iii) behavioral health receiving centers as defined in Section 26B-5-114;

- (iv) stabilization services as described in Section 26B-1-102;
 - (v) mental health crisis services, as defined in Section 26B-5-101, provided by local substance abuse authorities as described in Section 17-43-201 and local mental health authorities described in Section 17-43-301 to provide prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis as defined in Section 26B-5-101;
 - (vi) crisis intervention training for first responders, as that term is defined in Section 78B-4-501;
 - (vii) crisis worker certification training for first responders, as that term is defined in Section 78B-4-501;
 - (viii) frontline support for the SafeUT Crisis Line; or
 - (ix) suicide prevention gatekeeper training for first responders, as that term is defined in Section 78B-4-501.
- (d) If the Legislature appropriates money to the account for a purpose described in Subsection (2)(c), the division shall use the appropriation for that purpose.
- (3) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division may expend funds in the account for administrative costs that the division incurs related to administering the account.
- (4) The division director shall submit and make available to the public a report before December of each year to the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202, the Social Services Appropriations Subcommittee, and the Legislative Management Committee that includes:
- (a) the amount of each disbursement from the account;
 - (b) the recipient of each disbursement, the goods and services received, and a description of the project funded by the disbursement;
 - (c) any conditions placed by the division on the disbursements from the account;
 - (d) the anticipated expenditures from the account for the next fiscal year;
 - (e) the amount of any unexpended funds carried forward;
 - (f) the number of Statewide Mental Health Crisis Line calls received;
 - (g) the progress towards accomplishing the goals of providing statewide mental health crisis service; and
 - (h) other relevant justification for ongoing support from the account.
- (5) Notwithstanding Subsection (2)(c), allocations made to local substance use authorities and local mental health authorities for behavioral health receiving centers or mobile crisis outreach teams before the end of fiscal year 2023 shall be maintained through fiscal year 2027, subject to appropriation.
- (6)
- (a) As used in this Subsection (6):
 - (i) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.
 - (ii) "Mental health service provider" means a behavioral health receiving center or mobile crisis outreach team.
 - (b) The department shall coordinate with each mental health service provider that receives state funds to determine which health benefit plans, if any, have not contracted or have refused to contract with the mental health service provider at usual and customary rates for the services provided by the mental health service provider.
 - (c) In each year that the department identifies a health benefit plan that meets the description in Subsection (6)(b), the department shall provide a report on the information gathered under Subsection (6)(b) to the Health and Human Services Interim Committee at or before the committee's October meeting.

Amended by Chapter 270, 2023 General Session
Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-325 Governor's Suicide Prevention Fund.

- (1) There is created an expendable special revenue fund known as the Governor's Suicide Prevention Fund.
- (2) The fund shall consist of donations, gifts, grants, and bequests of real property or personal property made to the fund.
- (3) A donor to the fund may designate a specific purpose for the use of the donor's donation, if the designated purpose is described in Subsection (4).
- (4)
 - (a) Subject to Subsection (3), money in the fund shall be used for the following activities:
 - (i) efforts to directly improve mental health crisis response;
 - (ii) efforts that directly reduce risk factors associated with suicide; and
 - (iii) efforts that directly enhance known protective factors associated with suicide reduction.
 - (b) Efforts described in Subsections (4)(a)(ii) and (iii) include the components of the state suicide prevention program described in Subsection 26B-5-611(3).
- (5) The Office of Substance Use and Mental Health shall establish a grant application and review process for the expenditure of money from the fund.
- (6) The grant application and review process shall describe:
 - (a) requirements to complete a grant application;
 - (b) requirements to receive funding;
 - (c) criteria for the approval of a grant application;
 - (d) standards for evaluating the effectiveness of a project proposed in a grant application; and
 - (e) support offered by the office to complete a grant application.
- (7) The Office of Substance Use and Mental Health shall:
 - (a) review a grant application for completeness;
 - (b) make a recommendation to the governor or the governor's designee regarding a grant application;
 - (c) send a grant application to the governor or the governor's designee for evaluation and approval or rejection;
 - (d) inform a grant applicant of the governor or the governor's designee's determination regarding the grant application; and
 - (e) direct the fund administrator to release funding for grant applications approved by the governor or the governor's designee.
- (8) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from money in the fund shall be deposited into the fund.
- (9) Money in the fund may not be used for the Office of the Governor's administrative expenses that are normally provided for by legislative appropriation.
- (10) The governor or the governor's designee may authorize the expenditure of fund money in accordance with this section.
- (11) The governor shall make an annual report to the Legislature regarding the status of the fund, including a report on the contributions received, expenditures made, and programs and services funded.

Amended by Chapter 33, 2023 General Session

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-326 Suicide Prevention and Education Fund.

- (1) There is created an expendable special revenue fund known as the Suicide Prevention and Education Fund.
- (2) The fund shall consist of funds transferred from the Concealed Weapons Account in accordance with Subsection 53-5-707(5)(d).
- (3) Money in the fund shall be used for suicide prevention efforts that include a focus on firearm safety as related to suicide prevention.
- (4) The Office of Substance Use and Mental Health shall establish a process by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the expenditure of money from the fund.
- (5) The Office of Substance Use and Mental Health shall make an annual report to the Legislature regarding the status of the fund, including a report detailing amounts received, expenditures made, and programs and services funded.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-327 Survivors of Suicide Loss Account.

- (1) As used in this section:
 - (a)
 - (i) "Cohabitant" means an individual who lives with another individual.
 - (ii) "Cohabitant" does not include a relative.
 - (b) "Relative" means father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.
- (2) Upon appropriation, the Office of Substance Use and Mental Health shall award grants from the appropriation to a person who provides, for no or minimal cost:
 - (a) clean-up of property affected or damaged by an individual's suicide, as reimbursement for the costs incurred for the clean-up; and
 - (b) bereavement services to a relative, legal guardian, or cohabitant of an individual who dies by suicide.
- (3) Before November 30 of each year, the Office of Substance Use and Mental Health shall report to the Health and Human Services Interim Committee regarding expenditures made in accordance with this section.

Renumbered and Amended by Chapter 305, 2023 General Session

Amended by Chapter 534, 2023 General Session

26B-1-328 Psychiatric and Psychotherapeutic Consultation Program Account -- Creation -- Administration -- Uses.

- (1) As used in this section:
 - (a) "Child care" means the child care services defined in Section 35A-3-102 for a child during early childhood.
 - (b) "Child care provider" means a person who provides child care or mental health support or interventions to a child during early childhood.
 - (c) "Child mental health care facility" means a facility that provides licensed mental health care programs and services to children and families and employs a child mental health therapist.

- (d) "Child mental health therapist" means a mental health therapist who:
 - (i) is knowledgeable and trained in early childhood mental health; and
 - (ii) provides mental health services to children during early childhood.
 - (e) "Division" means the Division of Integrated Healthcare within the department.
 - (f) "Early childhood" means the time during which a child is zero to six years old.
 - (g) "Early childhood psychotherapeutic telehealth consultation" means a consultation regarding a child's mental health care during the child's early childhood between a child care provider or a mental health therapist and a child mental health therapist that is focused on psychotherapeutic and psychosocial interventions and is completed through the use of electronic or telephonic communication.
 - (h) "Health care facility" means a facility that provides licensed health care programs and services and employs at least two psychiatrists, at least one of whom is a child psychiatrist.
 - (i) "Primary care provider" means:
 - (i) an individual who is licensed to practice as an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;
 - (ii) a physician as defined in Section 58-67-102; or
 - (iii) a physician assistant as defined in Section 58-70a-102.
 - (j) "Psychiatrist" means a physician who is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists.
 - (k) "Telehealth psychiatric consultation" means a consultation regarding a patient's mental health care, including diagnostic clarification, medication adjustment, or treatment planning, between a primary care provider and a psychiatrist that is completed through the use of electronic or telephonic communication.
- (2) Upon appropriation, the Office of Substance Use and Mental Health shall award grants from the appropriation to:
- (a) at least one health care facility to implement a program that provides a primary care provider access to a telehealth psychiatric consultation when the primary care provider is evaluating a patient for or providing a patient mental health treatment; and
 - (b) at least one child mental health care facility to implement a program that provides access to an early childhood psychotherapeutic telehealth consultation to:
 - (i) a mental health therapist as defined in Section 58-60-102 when the mental health therapist is evaluating a child for or providing a child mental health treatment; or
 - (ii) a child care provider when the child care provider is providing child care to a child.
- (3) The Office of Substance Use and Mental Health may award and distribute grant money to a health care facility or child mental health care facility only if the health care facility or child mental health care facility:
- (a) is located in the state; and
 - (b) submits an application in accordance with Subsection (4).
- (4) An application for a grant under this section shall include:
- (a) the number of psychiatrists employed by the health care facility or the number of child mental health therapists employed by the child mental health care facility;
 - (b) the health care facility's or child mental health care facility's plan to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (2);
 - (c) the estimated cost to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (2);

- (d) any plan to use one or more funding sources in addition to a grant under this section to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (2);
 - (e) the amount of grant money requested to fund the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (2); and
 - (f) any existing or planned contract or partnership between the health care facility and another person to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (2).
- (5) A health care facility or child mental health care facility that receives grant money under this section shall file a report with the division before October 1 of each year that details for the immediately preceding calendar year:
- (a) the type and effectiveness of each service provided in the telehealth psychiatric program or the early childhood psychotherapeutic telehealth consultation program;
 - (b) the utilization of the telehealth psychiatric program or the early childhood psychotherapeutic telehealth consultation program based on metrics or categories determined by the division;
 - (c) the total amount expended from the grant money; and
 - (d) the intended use for grant money that has not been expended.
- (6) Before November 30 of each year, the department shall report to the Health and Human Services Interim Committee regarding:
- (a) expenditures made in accordance with this section; and
 - (b) a summary of any report provided to the division under Subsection (5).

Renumbered and Amended by Chapter 305, 2023 General Session

Amended by Chapter 534, 2023 General Session

26B-1-329 Mental Health Services Donation Fund.

- (1) As used in this section:
- (a) "Mental health therapist" means the same as that term is defined in Section 58-60-102.
 - (b) "Mental health therapy" means treatment or prevention of a mental illness, including:
 - (i) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder consistent with standards generally recognized by mental health therapists;
 - (ii) establishing a diagnosis in accordance with established written standards generally recognized by mental health therapists;
 - (iii) prescribing a plan or medication for the prevention or treatment of a condition of a mental illness or an emotional disorder; and
 - (iv) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized by mental health therapists.
 - (c) "Qualified individual" means an individual who:
 - (i) is experiencing a mental health crisis; and
 - (ii) calls a local mental health crisis line as defined in Section 26B-5-610 or the statewide mental health crisis line as defined in Section 26B-5-610.
- (2) There is created an expendable special revenue fund known as the "Mental Health Services Donation Fund."
- (3)
- (a) The fund shall consist of:

- (i) gifts, grants, donations, or any other conveyance of money that may be made to the fund from public or private individuals or entities; and
- (ii) interest earned on money in the fund.
- (b) The Office of Substance Use and Mental Health shall administer the fund in accordance with this section.
- (4) The Office of Substance Use and Mental Health shall award fund money to an entity in the state that provides mental health and substance use treatment for the purpose of:
 - (a) providing through telehealth or in-person services, mental health therapy to qualified individuals;
 - (b) providing access to evaluations and coordination of short-term care to assist a qualified individual in identifying services or support needs, resources, or benefits for which the qualified individual may be eligible; and
 - (c) developing a system for a qualified individual and a qualified individual's family to access information and referrals for mental health therapy.
- (5) Fund money may only be used for the purposes described in Subsection (4).
- (6) The Office of Substance Use and Mental Health shall provide an annual report to the Behavioral Health Crisis Response Commission, created in Section 63C-18-202, regarding:
 - (a) the entity that is awarded a grant under Subsection (4);
 - (b) the number of qualified individuals served by the entity with fund money; and
 - (c) any costs or benefits as a result of the award of the grant.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-330 Utah State Developmental Center Miscellaneous Donation Fund -- Use.

- (1) There is created an expendable special revenue fund known as the "Utah State Developmental Center Miscellaneous Donation Fund."
- (2) The Utah State Developmental Center Board created in Section 26B-1-429 shall deposit donations made to the Utah State Developmental Center under Section 26B-1-202 into the expendable special revenue fund described in Subsection (1).
- (3) The state treasurer shall invest the money in the fund described in Subsection (1) according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, and the revenue received from the investment shall remain with the fund described in Subsection (1).
- (4)
 - (a) Except as provided in Subsection (5), the money or revenue in the fund described in Subsection (1) may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.
 - (b) Notwithstanding Section 26B-1-202, the Legislature may not appropriate money or revenue from the fund described in Subsection (1) to eliminate or otherwise reduce an operating deficit if the money or revenue appropriated from the fund is expended or committed to be expended for a purpose other than one listed in this section.
 - (c) The Legislature may not amend the purposes for which money or revenue in the fund described in Subsection (1) may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.
- (5)
 - (a) The Utah State Developmental Center Board shall approve expenditures of money and revenue in the fund described in Subsection (1).
 - (b) The Utah State Developmental Center Board may expend money and revenue in the fund described in Subsection (1) only:

- (i) as designated by the donor; or
- (ii) for the benefit of:
 - (A) residents of the Utah State Developmental Center, established in accordance with Chapter 6, Part 5, Utah State Developmental Center; or
 - (B) individuals with disabilities who receive services and support from the Utah State Developmental Center, as described in Subsection 26B-6-502(2)(b).
- (c) Money and revenue in the fund described in Subsection (1) may not be used for items normally paid for by operating revenues or for items related to personnel costs without specific legislative authorization.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-331 Utah State Developmental Center Long-Term Sustainability Fund -- Fund management.

- (1) As used in this section:
 - (a) "Board" means the Utah State Developmental Center Board created in Section 26B-1-429.
 - (b) "Division" means the Division of Integrated Healthcare within the department.
 - (c) "Sustainability fund" means the Utah State Developmental Center Long-Term Sustainability Fund created in Subsection (2).
 - (d) "Utah State Developmental Center" means the Utah State Developmental Center established in accordance with Chapter 6, Part 5, Utah State Developmental Center.
- (2) There is created a special revenue fund entitled the "Utah State Developmental Center Long-Term Sustainability Fund."
- (3)
 - (a) The sustainability fund consists of:
 - (i) revenue generated from the lease, except any lease existing on May 1, 1995, of land associated with the Utah State Developmental Center;
 - (ii) all proceeds from the sale or other disposition of real property, water rights, or water shares associated with the Utah State Developmental Center; and
 - (iii) all existing money in the Utah State Developmental Center Land Fund.
 - (b) The state treasurer shall invest sustainability fund money by following the procedures and requirements in Subsection (8).
- (4)
 - (a) The board shall ensure that money or revenue deposited into the sustainability fund is irrevocable and is expended only as provided in Subsection (5).
 - (b) The Legislature may not amend the purposes in Subsection (5) for which money or revenue in the fund may be expended or committed to be expended, except by the affirmative vote of two-thirds of all the members elected to each house.
- (5)
 - (a) Money may be expended from the sustainability fund to:
 - (i) fulfill the functions of the Utah State Developmental Center described in Sections 26B-6-502 and 26B-6-504; and
 - (ii) assist the division in the division's administration of services and supports described in Sections 26B-6-402 and 26B-6-403.
 - (b) Money from the sustainability fund may not be expended:
 - (i) for a purpose other than the purposes described in Subsection (5)(a); or
 - (ii) to reduce the amount of money that the Legislature appropriates from the General Fund for the purposes described in Subsection (5)(a).

- (6) Money may be expended from the sustainability fund only under the following conditions:
 - (a) if the balance of the sustainability fund is at least \$5,000,000 at the end of the fiscal year, the board may expend the earnings generated by the sustainability fund during the fiscal year for a purpose described in Subsection (5)(a);
 - (b) if the balance of the sustainability fund is at least \$50,000,000 at the end of the fiscal year, the Legislature may appropriate to the division up to 5% of the balance of the sustainability fund for a purpose described in Subsection (5)(a); and
 - (c) the board or the division may not expend any money from the sustainability fund, except as provided in Subsection (6)(a), without legislative appropriation.
- (7) The sustainability fund is revocable only by the affirmative vote of two-thirds of all the members elected to each house of the Legislature.
- (8)
 - (a) The state treasurer shall invest the assets of the sustainability fund with the primary goal of providing for the stability, income, and growth of the principal.
 - (b) Nothing in this Subsection (8) requires a specific outcome in investing.
 - (c) The state treasurer may deduct any administrative costs incurred in managing sustainability fund assets from earnings before depositing earnings into the sustainability fund.
 - (d)
 - (i) The state treasurer may employ professional asset managers to assist in the investment of assets of the sustainability fund.
 - (ii) The state treasurer may only provide compensation to asset managers from earnings generated by the sustainability fund's investments.
 - (e) The state treasurer shall invest and manage the sustainability fund assets as a prudent investor would under Section 67-19d-302.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-332 Nursing Care Facilities Provider Assessment Fund -- Creation -- Administration -- Uses.

- (1) There is created an expendable special revenue fund known as the "Nursing Care Facilities Provider Assessment Fund" consisting of:
 - (a) the assessments collected by the department under Chapter 3, Part 4, Nursing Care Facility Assessment;
 - (b) fines paid by nursing care facilities for excessive Medicare inpatient revenue under Section 26B-2-222;
 - (c) money appropriated or otherwise made available by the Legislature;
 - (d) any interest earned on the fund; and
 - (e) penalties levied with the administration of Chapter 3, Part 4, Nursing Care Facility Assessment.
- (2) Money in the fund shall only be used by the Medicaid program:
 - (a) to the extent authorized by federal law, to obtain federal financial participation in the Medicaid program;
 - (b) to provide the increased level of hospice reimbursement resulting from the nursing care facilities assessment imposed under Section 26B-3-403;
 - (c) for the Medicaid program to make quality incentive payments to nursing care facilities , subject to approval of a Medicaid state plan amendment to do so by the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services ;

- (d) to increase the rates paid before July 1, 2004, to nursing care facilities for providing services pursuant to the Medicaid program; and
 - (e) for administrative expenses, if the administrative expenses for the fiscal year do not exceed 3% of the money deposited into the fund during the fiscal year.
- (3) The department may not spend the money in the fund to replace existing state expenditures paid to nursing care facilities for providing services under the Medicaid program, except for increased costs due to hospice reimbursement under Subsection (2)(b).

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-334 Licensed Provider Assessment Fund -- Creation -- Deposits -- Uses.

- (1) There is created an expendable special revenue fund known as the "Licensed Provider Assessment Fund" consisting of:
- (a) the assessments collected under, and any interest and penalties levied with the administration of:
 - (i) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection Act;
 - (ii) Title 26B, Chapter 1, Part 4, Child Care Licensing; and
 - (iii) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;
 - (b) money appropriated or otherwise made available by the Legislature; and
 - (c) any interest earned on the fund.
- (2) Money in the fund may only be used by the department:
- (a) for upgrades to and maintenance of licensing databases and applications;
 - (b) for training for providers and staff;
 - (c) to assist individuals during a facility shutdown; or
 - (d) for administrative expenses, if the administrative expenses for the fiscal year do not exceed 3% of the money deposited into the fund during the fiscal year.

Enacted by Chapter 325, 2023 General Session

26B-1-335 Division of Services for People with Disabilities Restricted Account.

- (1) As used in this section, "account" means the Division of Services for People with Disabilities Restricted Account created in Subsection (2).
- (2) There is created in the General Fund an account known as the "Division of Services for People with Disabilities Restricted Account."
- (3) The account consists of:
- (a) carry forward funds from the division's budget; and
 - (b) unexpended balances lapsed to the account from the division's budget.
- (4) Subject to appropriation, the Department of Health and Human Services may expend funds from the account to serve individuals eligible for division services statewide.

Enacted by Chapter 325, 2023 General Session

Part 4
Boards, Commissions, Councils, and Advisory Committees

26B-1-401 Executive director -- Power to amend, modify, or rescind committee rules.

The executive director pursuant to the requirements of the Administrative Rulemaking Act may amend, modify, or rescind any rule of any committee created under Section 26B-1-204 if the rule creates a clear present hazard or clear potential hazard to the public health except that the executive director may not act until after discussion with the appropriate committee.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-402 Rare Disease Advisory Council Grant Program -- Creation -- Reporting.

- (1) As used in this section:
 - (a) "Council" means the Rare Disease Advisory Council described in Subsection (3).
 - (b) "Grantee" means the recipient of a grant under this section to operate the program.
 - (c) "Rare disease" means a disease that affects fewer than 200,000 individuals in the United States.
- (2)
 - (a) Within legislative appropriations, the department shall issue a request for proposals for a grant to administer the provisions of this section.
 - (b) The department may issue a grant under this section if the grantee agrees to:
 - (i) convene the council in accordance with Subsection (3);
 - (ii) provide staff and other administrative support to the council; and
 - (iii) in coordination with the department, report to the Legislature in accordance with Subsection (4).
- (3) The Rare Disease Advisory Council convened by the grantee shall:
 - (a) advise the Legislature and state agencies on providing services and care to individuals with a rare disease;
 - (b) make recommendations to the Legislature and state agencies on improving access to treatment and services provided to individuals with a rare disease;
 - (c) identify best practices to improve the care and treatment of individuals in the state with a rare disease;
 - (d) meet at least two times in each calendar year; and
 - (e) be composed of members identified by the department, including at least the following individuals:
 - (i) a representative from the department;
 - (ii) researchers and physicians who specialize in rare diseases, including at least one representative from the University of Utah;
 - (iii) two individuals who have a rare disease or are the parent or caregiver of an individual with a rare disease; and
 - (iv) two representatives from one or more rare disease patient organizations that operate in the state.
- (4) Before November 30, 2021, and before November 30 of every odd-numbered year thereafter, the department shall report to the Health and Human Services Interim Committee on:
 - (a) the activities of the grantee and the council; and
 - (b) recommendations and best practices regarding the ongoing needs of individuals in the state with a rare disease.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-403 Opioid and Overdose Fatality Review Committee.

- (1) As used in this section:

- (a) "Committee" means the Opioid and Overdose Fatality Review Committee created in this section.
- (b) "Opioid overdose death" means a death primarily caused by opioids or another substance that closely resembles an opioid.
- (2) The department shall establish the Opioid and Overdose Fatality Review Committee.
- (3)
 - (a) The committee shall consist of:
 - (i) the attorney general, or the attorney general's designee;
 - (ii) a state, county, or municipal law enforcement officer;
 - (iii) the manager of the department's Violence Injury Prevention Program, or the manager's designee;
 - (iv) an emergency medical services provider;
 - (v) a representative from the Office of the Medical Examiner;
 - (vi) a representative from the Office of Substance Use and Mental Health;
 - (vii) a representative from the Office of Vital Records;
 - (viii) a representative from the Office of Health Care Statistics;
 - (ix) a representative from the Division of Professional Licensing;
 - (x) a healthcare professional who specializes in the prevention, diagnosis, and treatment of substance use disorders;
 - (xi) a representative from a state or local jail or detention center;
 - (xii) a representative from the Department of Corrections;
 - (xiii) a representative from the Division of Juvenile Justice and Youth Services;
 - (xiv) a representative from the Department of Public Safety;
 - (xv) a representative from the Commission on Criminal and Juvenile Justice;
 - (xvi) a physician from a Utah-based medical center; and
 - (xvii) a physician from a nonprofit vertically integrated health care organization.
 - (b) The president of the Senate may appoint one member of the Senate, and the speaker of the House of Representatives may appoint one member of the House of Representatives, to serve on the committee.
- (4) The executive director shall appoint a committee coordinator.
- (5)
 - (a) The department shall give the committee access to all reports, records, and other documents that are relevant to the committee's responsibilities under Subsection (6) including reports, records, or documents that are private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.
 - (b) In accordance with Subsection 63G-2-206(6), the committee is subject to the same restrictions on disclosure of a report, record, or other document received under Subsection (5)
 - (a) as the department.
- (6) The committee shall:
 - (a) conduct a multidisciplinary review of available information regarding a decedent of an opioid overdose death, which shall include:
 - (i) consideration of the decedent's points of contact with health care systems, social services systems, criminal justice systems, and other systems; and
 - (ii) identification of specific factors that put the decedent at risk for opioid overdose;
 - (b) promote cooperation and coordination among government entities involved in opioid misuse, abuse, or overdose prevention;
 - (c) develop an understanding of the causes and incidence of opioid overdose deaths in the state;

- (d) make recommendations for changes to law or policy that may prevent opioid overdose deaths;
 - (e) inform public health and public safety entities of emerging trends in opioid overdose deaths;
 - (f) monitor overdose trends on non-opioid overdose deaths; and
 - (g) review non-opioid overdose deaths in the manner described in Subsection (6)(a), when the committee determines that there are a substantial number of overdose deaths in the state caused by the use of a non-opioid.
- (7) A committee may interview or request information from a staff member, a provider, or any other person who may have knowledge or expertise that is relevant to the review of an opioid overdose death.
- (8) A majority vote of committee members present constitutes the action of the committee.
- (9) The committee may meet up to eight times each year.
- (10) When an individual case is discussed in a committee meeting under Subsection (6)(a), (6)(g), or (7), the committee shall close the meeting in accordance with Sections 52-4-204 through 52-4-206.

Renumbered and Amended by Chapter 305, 2023 General Session

Superseded 7/1/2024

26B-1-404 State Emergency Medical Services Committee -- Membership -- Expenses.

- (1) The State Emergency Medical Services Committee created by Section 26B-1-204 shall be composed of the following 19 members appointed by the governor, at least six of whom shall reside in a county of the third, fourth, fifth, or sixth class:
- (a) five physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as follows:
 - (i) one surgeon who actively provides trauma care at a hospital;
 - (ii) one rural physician involved in emergency medical care;
 - (iii) two physicians who practice in the emergency department of a general acute hospital; and
 - (iv) one pediatrician who practices in the emergency department or critical care unit of a general acute hospital or a children's specialty hospital;
 - (b) two representatives from private ambulance providers as defined in Section 26B-4-101;
 - (c) one representative from an ambulance provider as defined in Section 26B-4-101 that is neither privately owned nor operated by a fire department;
 - (d) two chief officers from fire agencies operated by the following classes of licensed or designated emergency medical services providers, provided that no class of medical services providers may have more than one representative under this Subsection (1)(d):
 - (i) a municipality;
 - (ii) a county; and
 - (iii) a fire district;
 - (e) one director of a law enforcement agency that provides emergency medical services;
 - (f) one hospital administrator;
 - (g) one emergency care nurse;
 - (h) one paramedic in active field practice;
 - (i) one emergency medical technician in active field practice;
 - (j) one certified emergency medical dispatcher affiliated with an emergency medical dispatch center;
 - (k) one licensed mental health professional with experience as a first responder;
 - (l) one licensed behavioral emergency services technician; and

- (m) one consumer.
- (2)
 - (a) Except as provided in Subsection (2)(b), members shall be appointed to a four-year term beginning July 1.
 - (b) Notwithstanding Subsection (2)(a), the governor:
 - (i) shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years;
 - (ii) may not reappoint a member for more than two consecutive terms; and
 - (iii) shall:
 - (A) initially appoint the second member under Subsection (1)(b) from a different private provider than the private provider currently serving under Subsection (1)(b); and
 - (B) thereafter stagger each replacement of a member in Subsection (1)(b) so that the member positions under Subsection (1)(b) are not held by representatives of the same private provider.
 - (c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the governor for the unexpired term.
- (3)
 - (a)
 - (i) Each January, the committee shall organize and select one of the committee's members as chair and one member as vice chair.
 - (ii) The committee may organize standing or ad hoc subcommittees, which shall operate in accordance with guidelines established by the committee.
 - (b)
 - (i) The chair shall convene a minimum of four meetings per year.
 - (ii) The chair may call special meetings.
 - (iii) The chair shall call a meeting upon request of five or more members of the committee.
 - (c)
 - (i) Nine members of the committee constitute a quorum for the transaction of business.
 - (ii) The action of a majority of the members present is the action of the committee.
- (4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (5) Administrative services for the committee shall be provided by the department.
- (6) The committee shall adopt rules, with the concurrence of the department, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
 - (a) establish licensure, certification, and reciprocity requirements under Section 26B-4-116;
 - (b) establish designation requirements under Section 26B-4-117;
 - (c) promote the development of a statewide emergency medical services system under Section 26B-4-106;
 - (d) establish insurance requirements for ambulance providers;
 - (e) provide guidelines for requiring patient data under Section 26B-4-106;
 - (f) establish criteria for awarding grants under Section 26B-4-107;
 - (g) establish requirements for the coordination of emergency medical services and the medical supervision of emergency medical service providers under Section 26B-4-120;

- (h) select appropriate vendors to establish certification requirements for emergency medical dispatchers;
- (i) establish the minimum level of service for 911 ambulance services provided under Section 11-48-103; and
- (j) are necessary to carry out the responsibilities of the committee as specified in other sections of this part.

Renumbered and Amended by Chapter 305, 2023 General Session

Superseded 7/1/2024

26B-1-405 Air Ambulance Committee -- Membership -- Duties.

- (1) The Air Ambulance Committee created by Section 26B-1-204 shall be composed of the following members:
 - (a) the state emergency medical services medical director;
 - (b) one physician who:
 - (i) is licensed under:
 - (A) Title 58, Chapter 67, Utah Medical Practice Act;
 - (B) Title 58, Chapter 67b, Interstate Medical Licensure Compact; or
 - (C) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
 - (ii) actively provides trauma or emergency care at a Utah hospital; and
 - (iii) has experience and is actively involved in state and national air medical transport issues;
 - (c) one member from each level 1 and level 2 trauma center in the state of Utah, selected by the trauma center the member represents;
 - (d) one registered nurse who:
 - (i) is licensed under Title 58, Chapter 31b, Nurse Practice Act; and
 - (ii) currently works as a flight nurse for an air medical transport provider in the state;
 - (e) one paramedic who:
 - (i) is licensed under Chapter 4, Part 1, Utah Emergency Medical Services System; and
 - (ii) currently works for an air medical transport provider in the state; and
 - (f) two members, each from a different for-profit air medical transport company operating in the state.
- (2) The state emergency medical services medical director shall appoint the physician member under Subsection (1)(b), and the physician shall serve as the chair of the Air Ambulance Committee.
- (3) The chair of the Air Ambulance Committee shall:
 - (a) appoint the Air Ambulance Committee members under Subsections (1)(c) through (f);
 - (b) designate the member of the Air Ambulance Committee to serve as the vice chair of the committee; and
 - (c) set the agenda for Air Ambulance Committee meetings.
- (4)
 - (a) Except as provided in Subsection (4)(b), members shall be appointed to a two-year term.
 - (b) Notwithstanding Subsection (4)(a), the Air Ambulance Committee chair shall, at the time of appointment or reappointment, adjust the length of the terms of committee members to ensure that the terms of the committee members are staggered so that approximately half of the committee is reappointed every two years.
- (5)
 - (a) A majority of the members of the Air Ambulance Committee constitutes a quorum.
 - (b) The action of a majority of a quorum constitutes the action of the Air Ambulance Committee.

- (6) The Air Ambulance Committee shall, before November 30, 2019, and before November 30 of every odd-numbered year thereafter, provide recommendations to the Health and Human Services Interim Committee regarding the development of state standards and requirements related to:
 - (a) air medical transport provider licensure and accreditation;
 - (b) air medical transport medical personnel qualifications and training; and
 - (c) other standards and requirements to ensure patients receive appropriate and high-quality medical attention and care by air medical transport providers operating in the state of Utah.
- (7)
 - (a) The committee shall prepare an annual report, using any data available to the department and in consultation with the Insurance Department, that includes the following information for each air medical transport provider that operates in the state:
 - (i) which health insurers in the state the air medical transport provider contracts with;
 - (ii) if sufficient data is available to the committee, the average charge for air medical transport services for a patient who is uninsured or out of network; and
 - (iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer.
 - (b) When calculating the average charge under Subsection (7)(a)(ii), the committee shall distinguish between:
 - (i) a rotary wing provider and a fixed wing provider; and
 - (ii) any other differences between air medical transport service providers that may substantially affect the cost of the air medical transport service, as determined by the committee.
 - (c) The department shall:
 - (i) post the committee's findings under Subsection (7)(a) on the department's website; and
 - (ii) send the committee's findings under Subsection (7)(a) to each emergency medical service provider, health care facility, and other entity that has regular contact with patients in need of air medical transport provider services.
- (8) A member of the Air Ambulance Committee may not receive compensation, benefits, per diem, or travel expenses for the member's service on the committee.
- (9) The Office of the Attorney General shall provide staff support to the Air Ambulance Committee.
- (10) The Air Ambulance Committee shall report to the Health and Human Services Interim Committee before November 30, 2023, regarding the sunset of this section in accordance with Section 63I-2-226.

Renumbered and Amended by Chapter 305, 2023 General Session

Superseded 7/1/2024

26B-1-406 Trauma System Advisory Committee.

- (1) There is created within the department the Trauma System Advisory Committee.
- (2)
 - (a) The committee shall be comprised of individuals knowledgeable in adult or pediatric trauma care, including physicians, physician assistants, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and persons affiliated with professional health care associations.
 - (b) Representation on the committee shall be broad and balanced among the health care delivery systems in the state with no more than three representatives coming from any single delivery system.
- (3) The committee shall:

- (a) advise the department regarding trauma system needs throughout the state;
 - (b) assist the department in evaluating the quality and outcomes of the overall trauma system;
 - (c) review and comment on proposals and rules governing the statewide trauma system; and
 - (d) make recommendations for the development of statewide triage, treatment, transportation, and transfer guidelines.
- (4) The department shall:
- (a) determine, by rule, the term and causes for removal of committee members;
 - (b) establish committee procedures and administration policies consistent with this chapter and department rule; and
 - (c) provide administrative support to the committee.

Renumbered and Amended by Chapter 305, 2023 General Session

Superseded 7/1/2024

26B-1-407 Stroke registry advisory committee.

- (1) There is created within the department a stroke registry advisory committee.
- (2) The stroke registry advisory committee created in Subsection (1) shall:
 - (a) be composed of individuals knowledgeable in adult and pediatric stroke care, including physicians, physician assistants, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and persons affiliated with professional health care associations;
 - (b) advise the department regarding the development and implementation of the stroke registry created in Section 26B-7-225;
 - (c) assist the department in evaluating the quality and outcomes of the stroke registry created in Section 26B-7-225; and
 - (d) review and comment on proposals and rules governing the statewide stroke registry created in Section 26B-7-225.

Renumbered and Amended by Chapter 305, 2023 General Session

Superseded 7/1/2024

26B-1-408 Cardiac registry advisory committee.

- (1) There is created within the department a cardiac registry advisory committee.
- (2) The cardiac registry advisory committee created in Subsection (1) shall:
 - (a) be composed of individuals knowledgeable in adult and pediatric cardiac care, including physicians, physician assistants, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and persons affiliated with professional health care associations;
 - (b) advise the department regarding the development and implementation of the cardiac registry created in Section 26B-7-226;
 - (c) assist the department in evaluating the quality and outcomes of the cardiac registry created in Section 26B-7-226; and
 - (d) review and comment on proposals and rules governing the statewide cardiac registry created in Section 26B-7-226.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-409 Utah Digital Health Service Commission -- Creation -- Membership -- Duties.

- (1) As used in this section:
 - (a) "Commission" means the Utah Digital Health Service Commission created in this section.
 - (b) "Digital health service" means the electronic transfer, exchange, or management of related data for diagnosis, treatment, consultation, educational, public health, or other related purposes.
- (2) There is created within the department the Utah Digital Health Service Commission.
- (3) The governor shall appoint 13 members to the commission with the advice and consent of the Senate, as follows:
 - (a) a physician who is involved in digital health service;
 - (b) a representative of a health care system or a licensed health care facility as defined in Section 26B-2-201;
 - (c) a representative of rural Utah, which may be a person nominated by an advisory committee on rural health issues;
 - (d) a member of the public who is not involved with digital health service;
 - (e) a nurse who is involved in digital health service; and
 - (f) eight members who fall into one or more of the following categories:
 - (i) individuals who use digital health service in a public or private institution;
 - (ii) individuals who use digital health service in serving medically underserved populations;
 - (iii) nonphysician health care providers involved in digital health service;
 - (iv) information technology professionals involved in digital health service;
 - (v) representatives of the health insurance industry;
 - (vi) telehealth digital health service consumer advocates; and
 - (vii) individuals who use digital health service in serving mental or behavioral health populations.
- (4)
 - (a) The commission shall annually elect a chairperson from its membership. The chairperson shall report to the executive director of the department.
 - (b) The commission shall hold meetings at least once every three months. Meetings may be held from time to time on the call of the chair or a majority of the board members.
 - (c) Seven commission members are necessary to constitute a quorum at any meeting and, if a quorum exists, the action of a majority of members present shall be the action of the commission.
- (5)
 - (a) Except as provided in Subsection (5)(b), a commission member shall be appointed for a three-year term and eligible for two reappointments.
 - (b) Notwithstanding Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately 1/3 of the commission is appointed each year.
 - (c) A commission member shall continue in office until the expiration of the member's term and until a successor is appointed, which may not exceed 90 days after the formal expiration of the term.
 - (d) Notwithstanding Subsection (5)(c), a commission member who fails to attend 75% of the scheduled meetings in a calendar year shall be disqualified from serving.
 - (e) When a vacancy occurs in membership for any reason, the replacement shall be appointed for the unexpired term.
- (6) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;

- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7) The department shall provide informatics staff support to the commission.
- (8) The funding of the commission shall be a separate line item to the department in the annual appropriations act.
- (9) The commission shall:
 - (a) advise and make recommendations on digital health service issues to the department and other state entities;
 - (b) advise and make recommendations on digital health service related patient privacy and information security to the department;
 - (c) promote collaborative efforts to establish technical compatibility, uniform policies, privacy features, and information security to meet legal, financial, commercial, and other societal requirements;
 - (d) identify, address, and seek to resolve the legal, ethical, regulatory, financial, medical, and technological issues that may serve as barriers to digital health service;
 - (e) explore and encourage the development of digital health service systems as a means of reducing health care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations with access to or development of electronic medical records;
 - (f) seek public input on digital health service issues; and
 - (g) in consultation with the department, advise the governor and Legislature on:
 - (i) the role of digital health service in the state;
 - (ii) the policy issues related to digital health service;
 - (iii) the changing digital health service needs and resources in the state; and
 - (iv) state budgetary matters related to digital health service.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-410 Primary Care Grant Committee.

- (1) As used in this section:
 - (a) "Committee" means the Primary Care Grant Committee created in Subsection (2).
 - (b) "Program" means the Primary Care Grant Program described in Sections 26B-4-310 and 26B-4-313.
- (2) There is created the Primary Care Grant Committee.
- (3) The committee shall:
 - (a) review grant applications forwarded to the committee by the department under Subsection 26B-4-312(1);
 - (b) recommend, to the executive director, grant applications to award under Subsection 26B-4-310(1);
 - (c) evaluate:
 - (i) the need for primary health care as defined in Section 26B-4-325 in different areas of the state;
 - (ii) how the program is addressing those needs; and
 - (iii) the overall effectiveness and efficiency of the program;
 - (d) review annual reports from primary care grant recipients;
 - (e) meet as necessary to carry out its duties, or upon a call by the committee chair or by a majority of committee members; and

- (f) make rules, with the concurrence of the department, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that govern the committee, including the committee's grant selection criteria.
- (4) The committee shall consist of:
 - (a) as chair, the executive director or an individual designated by the executive director; and
 - (b) six members appointed by the governor to serve up to two consecutive, two-year terms of office, including:
 - (i) four licensed health care professionals; and
 - (ii) two community advocates who are familiar with a medically underserved population as defined in Section 26B-4-325 and with health care systems, where at least one is familiar with a rural medically underserved population.
- (5) The executive director may remove a committee member:
 - (a) if the member is unable or unwilling to carry out the member's assigned responsibilities; or
 - (b) for a rational reason.
- (6) A committee member may not receive compensation or benefits for the member's service, except a committee member who is not an employee of the department may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-411 Creation and membership of Kurt Oscarson Children's Organ Transplant Coordinating Committee -- Expenses -- Purposes.

- (1) There is created the Kurt Oscarson Children's Organ Transplant Coordinating Committee.
- (2) The committee shall have five members representing the following:
 - (a) the executive director or the executive director's designee;
 - (b) two representatives from public or private agencies and organizations concerned with providing support and financial assistance to the children and families of children who need organ transplants; and
 - (c) two individuals who have had organ transplants, have children who have had organ transplants, who work with families or children who have had or are awaiting organ transplants, or community leaders or volunteers who have demonstrated an interest in working with families or children in need of organ transplants.
- (3)
 - (a) The governor shall appoint the committee members and designate the chair from among the committee members.
 - (b)
 - (i) Except as required by Subsection (3)(b)(ii), each member shall serve a four-year term.
 - (ii) Notwithstanding the requirements of Subsection (3)(b)(i), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of the committee members are staggered so that approximately half of the committee is appointed every two years.
- (4) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and

- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (5) The department shall provide support staff for the committee.
- (6) The committee shall work to:
 - (a) provide financial assistance for initial medical expenses of children who need organ transplants;
 - (b) obtain the assistance of volunteer and public service organizations; and
 - (c) fund activities as the committee designates for the purpose of educating the public about the need for organ donors.
- (7)
 - (a) The committee is responsible for awarding financial assistance funded by the Kurt Oscarson Children's Organ Transplant Account created in Section 26B-1-311.
 - (b) The financial assistance awarded by the committee under Subsection (6)(a) shall be in the form of interest free loans. The committee may establish terms for repayment of the loans, including a waiver of the requirement to repay any awards if, in the committee's judgment, repayment of the loan would impose an undue financial burden on the recipient.
 - (c) In making financial awards under Subsection (6)(a), the committee shall consider:
 - (i) need;
 - (ii) coordination with or enhancement of existing services or financial assistance, including availability of insurance or other state aid;
 - (iii) the success rate of the particular organ transplant procedure needed by the child; and
 - (iv) the extent of the threat to the child's life without the organ transplant.
 - (d) The committee may only provide the assistance described in this section to children who have resided in Utah, or whose legal guardians have resided in Utah for at least six months prior to the date of assistance under this section.
- (8)
 - (a) The committee may expend up to 5% of the committee's annual appropriation for administrative costs associated with the allocation of funds from the Kurt Oscarson Children's Organ Transplant Account created in Section 26B-1-311.
 - (b) The administrative costs shall be used for the costs associated with staffing the committee and for State Tax Commission costs in implementing Section 59-10-1308.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-412 Health Facility Committee -- Members -- Terms -- Organization -- Meetings.

- (1) The definitions in Section 26B-2-201 apply to this section.
- (2)
 - (a) The Health Facility Committee shall consist of 12 members appointed by the governor in consultation with the executive director.
 - (b) The appointed members shall be knowledgeable about health care facilities and issues.
- (3) The membership of the committee is:
 - (a) one physician, licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, who is a graduate of a regularly chartered medical school;
 - (b) one hospital administrator;
 - (c) one hospital trustee;
 - (d) one representative of a freestanding ambulatory surgical facility;
 - (e) one representative of an ambulatory surgical facility that is affiliated with a hospital;
 - (f) one representative of the nursing care facility industry;

- (g) one registered nurse, licensed to practice under Title 58, Chapter 31b, Nurse Practice Act;
 - (h) one licensed architect or engineer with expertise in health care facilities;
 - (i) one representative of assisted living facilities licensed under Chapter 2, Part 2, Health Care Facility Licensing and Inspection;
 - (j) two consumers, one of whom has an interest in or expertise in geriatric care; and
 - (k) one representative from either a home health care provider or a hospice provider.
- (4)
- (a) Except as required by Subsection (4)(b), members shall be appointed for a term of four years.
 - (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.
 - (c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor, giving consideration to recommendations made by the committee, with the consent of the Senate.
 - (d)
 - (i) A member may not serve more than two consecutive full terms or 10 consecutive years, whichever is less.
 - (ii) Notwithstanding Subsection (4)(d)(i), a member may continue to serve as a member until the member is replaced.
 - (e) The committee shall annually elect from the committee's membership a chair and vice chair.
 - (f) The committee shall meet at least quarterly, or more frequently as determined by the chair or five members of the committee.
 - (g) Six members constitute a quorum.
 - (h) A vote of the majority of the members present constitutes action of the committee.
- (5) The committee shall:
- (a) with the concurrence of the department, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (i) for the licensing of health-care facilities; and
 - (ii) requiring the submission of architectural plans and specifications for any proposed new health-care facility or renovation to the department for review;
 - (b) approve the information for applications for licensure pursuant to Section 26B-2-207;
 - (c) advise the department as requested concerning the interpretation and enforcement of the rules established under Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and
 - (d) advise, consult, cooperate with, and provide technical assistance to other agencies of the state and federal government, and other states and affected groups or persons in carrying out the purposes of Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-413 Health Data Committee -- Purpose, powers, and duties of the committee -- Membership -- Terms -- Chair -- Compensation.

- (1) The definitions in Section 26B-8-501 apply to this section.

- (2)
- (a) There is created within the department the Health Data Committee.
 - (b) The purpose of the committee is to direct a statewide effort to collect, analyze, and distribute health care data to facilitate the promotion and accessibility of quality and cost-effective health care and also to facilitate interaction among those with concern for health care issues.
- (3) The committee shall:
- (a) with the concurrence of the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, develop and adopt by rule, following public hearing and comment, a health data plan that shall among its elements:
 - (i) identify the key health care issues, questions, and problems amenable to resolution or improvement through better data, more extensive or careful analysis, or improved dissemination of health data;
 - (ii) document existing health data activities in the state to collect, organize, or make available types of data pertinent to the needs identified in Subsection (3)(a)(i);
 - (iii) describe and prioritize the actions suitable for the committee to take in response to the needs identified in Subsection (3)(a)(i) in order to obtain or to facilitate the obtaining of needed data, and to encourage improvements in existing data collection, interpretation, and reporting activities, and indicate how those actions relate to the activities identified under Subsection (3)(a)(ii);
 - (iv) detail the types of data needed for the committee's work, the intended data suppliers, and the form in which such data are to be supplied, noting the consideration given to the potential alternative sources and forms of such data and to the estimated cost to the individual suppliers as well as to the department of acquiring these data in the proposed manner; the plan shall reasonably demonstrate that the committee has attempted to maximize cost-effectiveness in the data acquisition approaches selected;
 - (v) describe the types and methods of validation to be performed to assure data validity and reliability;
 - (vi) explain the intended uses of and expected benefits to be derived from the data specified in Subsection (3)(a)(iv), including the contemplated tabulation formats and analysis methods; the benefits described shall demonstrably relate to one or more of the following:
 - (A) promoting quality health care;
 - (B) managing health care costs; or
 - (C) improving access to health care services;
 - (vii) describe the expected processes for interpretation and analysis of the data flowing to the committee; noting specifically the types of expertise and participation to be sought in those processes; and
 - (viii) describe the types of reports to be made available by the committee and the intended audiences and uses;
 - (b) have the authority to collect, validate, analyze, and present health data in accordance with the plan while protecting individual privacy through the use of a control number as the health data identifier;
 - (c) evaluate existing identification coding methods and, if necessary, require by rule adopted in accordance with Subsection (4), that health data suppliers use a uniform system for identification of patients, health care facilities, and health care providers on health data they submit under this section and Chapter 8, Part 5, Utah Health Data Authority; and
 - (d) advise, consult, contract, and cooperate with any corporation, association, or other entity for the collection, analysis, processing, or reporting of health data identified by control number only in accordance with the plan.

- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee , with the concurrence of the department, may adopt rules to carry out the provisions of this section and Chapter 8, Part 5, Utah Health Data Authority.
- (5)
 - (a) Except for data collection, analysis, and validation functions described in this section, nothing in this section or in Chapter 8, Part 5, Utah Health Data Authority, shall be construed to authorize or permit the committee to perform regulatory functions which are delegated by law to other agencies of the state or federal governments or to perform quality assurance or medical record audit functions that health care facilities, health care providers, or third party payors are required to conduct to comply with federal or state law.
 - (b) The committee may not recommend or determine whether a health care provider, health care facility, third party payor, or self-funded employer is in compliance with federal or state laws including federal or state licensure, insurance, reimbursement, tax, malpractice, or quality assurance statutes or common law.
- (6)
 - (a) Nothing in this section or in Chapter 8, Part 5, Utah Health Data Authority, shall be construed to require a data supplier to supply health data identifying a patient by name or describing detail on a patient beyond that needed to achieve the approved purposes included in the plan.
- (7) No request for health data shall be made of health care providers and other data suppliers until a plan for the use of such health data has been adopted.
- (8)
 - (a) If a proposed request for health data imposes unreasonable costs on a data supplier, due consideration shall be given by the committee to altering the request.
 - (b) If the request is not altered, the committee shall pay the costs incurred by the data supplier associated with satisfying the request that are demonstrated by the data supplier to be unreasonable.
- (9) After a plan is adopted as provided in Section 26B-8-504, the committee may require any data supplier to submit fee schedules, maximum allowable costs, area prevailing costs, terms of contracts, discounts, fixed reimbursement arrangements, capitations, or other specific arrangements for reimbursement to a health care provider.
- (10)
 - (a) The committee may not publish any health data collected under Subsection (9) that would disclose specific terms of contracts, discounts, or fixed reimbursement arrangements, or other specific reimbursement arrangements between an individual provider and a specific payer.
 - (b) Nothing in Subsection (9) shall prevent the committee from requiring the submission of health data on the reimbursements actually made to health care providers from any source of payment, including consumers.
- (11) The committee shall be composed of 15 members.
- (12)
 - (a) One member shall be:
 - (i) the commissioner of the Utah Insurance Department; or
 - (ii) the commissioner's designee who shall have knowledge regarding the health care system and characteristics and use of health data.
 - (b)
 - (i) Fourteen members shall be appointed by the governor with the advice and consent of the Senate in accordance with Subsection (13) and in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

- (ii) No more than seven members of the committee appointed by the governor may be members of the same political party.
- (13) The members of the committee appointed under Subsection (12)(b) shall:
- (a) be knowledgeable regarding the health care system and the characteristics and use of health data;
 - (b) be selected so that the committee at all times includes individuals who provide care;
 - (c) include one person employed by or otherwise associated with a general acute hospital as defined in Section 26B-2-201, who is knowledgeable about the collection, analysis, and use of health care data;
 - (d) include two physicians, as defined in Section 58-67-102:
 - (i) who are licensed to practice in this state;
 - (ii) who actively practice medicine in this state;
 - (iii) who are trained in or have experience with the collection, analysis, and use of health care data; and
 - (iv) one of whom is selected by the Utah Medical Association;
 - (e) include three persons:
 - (i) who are:
 - (A) employed by or otherwise associated with a business that supplies health care insurance to the business's employees; and
 - (B) knowledgeable about the collection and use of health care data; and
 - (ii) at least one of whom represents an employer employing 50 or fewer employees;
 - (f) include three persons representing health insurers:
 - (i) at least one of whom is employed by or associated with a third-party payor that is not licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;
 - (ii) at least one of whom is employed by or associated with a third party that is licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans; and
 - (iii) who are trained in, or experienced with the collection, analysis, and use of health care data;
 - (g) include two consumer representatives:
 - (i) from organized consumer or employee associations; and
 - (ii) knowledgeable about the collection and use of health care data;
 - (h) include one person:
 - (i) representative of a neutral, non-biased entity that can demonstrate that the entity has the broad support of health care payers and health care providers; and
 - (ii) who is knowledgeable about the collection, analysis, and use of health care data; and
 - (i) include two persons representing public health who are trained in or experienced with the collection, use, and analysis of health care data.
- (14)
- (a) Except as required by Subsection (14)(b), as terms of current committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.
 - (b) Notwithstanding the requirements of Subsection (14)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.
 - (c) Members may serve after the members' terms expire until replaced.
- (15) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

- (16) Committee members shall annually elect a chair of the committee from among the committee's membership. The chair shall report to the executive director.
- (17)
 - (a) The committee shall meet at least once during each calendar quarter. Meeting dates shall be set by the chair upon 10 working days' notice to the other members, or upon written request by at least four committee members with at least 10 working days' notice to other committee members.
 - (b) Eight committee members constitute a quorum for the transaction of business. Action may not be taken except upon the affirmative vote of a majority of a quorum of the committee.
 - (c) All meetings of the committee shall be open to the public, except that the committee may hold a closed meeting if the requirements of Sections 52-4-204, 52-4-205, and 52-4-206 are met.
- (18) A member:
 - (a) may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107; and
 - (b) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-414 Child Care Provider Licensing Committee -- Duties.

- (1)
 - (a) The Child Care Center Licensing Committee shall be comprised of 12 members appointed by the governor with the advice and consent of the Senate in accordance with this Subsection (1).
 - (b) The governor shall appoint three members who:
 - (i) have at least five years of experience as an owner in or director of a for profit or not-for-profit center based child care as defined in Section 26B-2-401; and
 - (ii) hold an active license as a child care center from the department to provide center based child care as defined in Section 26B-2-401.
 - (c) The governor shall appoint two members who hold an active license as a residential child care provider and one member who is a certified residential child care provider.
 - (d)
 - (i) The governor shall appoint one member to represent each of the following:
 - (A) a parent with a child in a licensed center based child care facility;
 - (B) a parent with a child in a residential based child care facility;
 - (C) a child development expert from the state system of higher education;
 - (D) except as provided in Subsection (1)(f), a pediatrician licensed in the state;
 - (E) a health care provider; and
 - (F) an architect licensed in the state.
 - (ii) Except as provided in Subsection (1)(d)(i)(C), a member appointed under Subsection (1)(d)
 - (i) may not be an employee of the state or a political subdivision of the state.
 - (e) At least one member described in Subsection (1)(b) shall at the time of appointment reside in a county that is not a county of the first class.
 - (f) For the appointment described in Subsection (1)(d)(i)(D), the governor may appoint a health care professional who specializes in pediatric health if:

- (i) the health care professional is licensed under:
 - (A) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice nurse practitioner; or
 - (B) Title 58, Chapter 70a, Utah Physician Assistant Act; and
- (ii) before appointing a health care professional under this Subsection (1)(f), the governor:
 - (A) sends a notice to a professional physician organization in the state regarding the opening for the appointment described in Subsection (1)(d)(i)(D); and
 - (B) receives no applications from a pediatrician who is licensed in the state for the appointment described in Subsection (1)(d)(i)(D) within 90 days after the day on which the governor sends the notice described in Subsection (1)(f)(ii)(A).
- (2)
 - (a) Except as required by Subsection (2)(b), as terms of current members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.
 - (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the licensing committee is appointed every two years.
 - (c) Upon the expiration of the term of a member of the licensing committee, the member shall continue to hold office until a successor is appointed and qualified.
 - (d) A member may not serve more than two consecutive terms.
 - (e) Members of the licensing committee shall annually select one member to serve as chair who shall establish the agenda for licensing committee meetings.
- (3) When a vacancy occurs in the membership for any reason, the governor, with the advice and consent of the Senate, shall appoint a replacement for the unexpired term.
- (4)
 - (a) The licensing committee shall meet at least every two months.
 - (b) The director may call additional meetings:
 - (i) at the director's discretion;
 - (ii) upon the request of the chair; or
 - (iii) upon the written request of three or more members.
- (5) Seven members of the licensing committee constitute a quorum for the transaction of business.
- (6) A member appointed under Subsection (1)(b) may not vote on any action proposed by the licensing committee regarding residential child care.
- (7) A member appointed under Subsection (1)(c) may not vote on any action proposed by the licensing committee regarding center based child care.
- (8) A member of the licensing committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.
- (9) The licensing committee shall:
 - (a) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that govern center based child care and residential child care, as those terms are defined in Section 26B-2-401, as necessary to protect qualifying children's common needs for a safe and healthy environment, to provide for:
 - (i) adequate facilities and equipment; and
 - (ii) competent caregivers considering the age of the children and the type of program offered by the licensee

- (b) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out the purposes of Chapter 2, Part 4, Child Care Licensing, that govern center based child care and residential child care, as those terms are defined in Section 26B-2-401, in the following areas:
 - (i) requirements for applications, the application process, and compliance with other applicable statutes and rules;
 - (ii) documentation, policies, and procedures that providers shall have in place in order to be licensed, in accordance with this Subsection (9);
 - (iii) categories, classifications, and duration of initial and ongoing licenses;
 - (iv) changes of ownership or name, changes in licensure status, and changes in operational status;
 - (v) license expiration and renewal, contents, and posting requirements;
 - (vi) procedures for inspections, complaint resolution, disciplinary actions, and other procedural measures to encourage and ensure compliance with statute and rule; and
 - (vii) guidelines necessary to ensure consistency and appropriateness in the regulation and discipline of licensees;
 - (c) advise the department on the administration of a matter affecting center based child care or residential child care, as those terms are defined in Section 26B-2-401;
 - (d) advise and assist the department in conducting center based child care provider seminars and residential child care seminars; and
 - (e) perform other duties as provided in Section 26B-2-402.
- (10)
- (a) The licensing committee may not enforce the rules adopted under this section.
 - (b) the department shall enforce the rules adopted under this section in accordance with Section 26B-2-402.

Amended by Chapter 249, 2023 General Session

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-416 Utah Children's Health Insurance Program Advisory Council.

- (1)
 - (a) There is created a Utah Children's Health Insurance Program Advisory Council consisting of at least five and no more than eight members appointed by the executive director of the department.
 - (b) The term of each appointment shall be three years.
 - (c) The appointments shall be staggered at one-year intervals to ensure continuity of the advisory council.
- (2) The advisory council shall meet at least quarterly.
- (3) The membership of the advisory council shall include at least one representative from each of the following groups:
 - (a) child health care providers;
 - (b) ethnic populations other than American Indians;
 - (c) American Indians;
 - (d) health and accident and health insurance providers; and
 - (e) the general public.
- (4) The advisory council shall advise the department on:
 - (a) benefits design;
 - (b) eligibility criteria;

- (c) outreach;
 - (d) evaluation; and
 - (e) special strategies for under-served populations.
- (5) A member of the advisory council may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-417 Brain Injury Advisory Committee -- Membership -- Time limit.

- (1) On or after July 1 of each year, the executive director may create a Brain Injury Advisory Committee of not more than nine members.
- (2) The committee shall be composed of members of the community who are familiar with brain injury, its causes, diagnosis, treatment, rehabilitation, and support services, including:
- (a) persons with a brain injury;
 - (b) family members of a person with a brain injury;
 - (c) representatives of an association which advocates for persons with brain injuries;
 - (d) specialists in a profession that works with brain injury patients; and
 - (e) department representatives.
- (3) The department shall provide staff support to the committee.
- (4)
- (a) If a vacancy occurs in the committee membership for any reason, a replacement may be appointed for the unexpired term.
 - (b) The committee shall elect a chairperson from the membership.
 - (c) A majority of the committee constitutes a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the committee.
 - (d) The committee may adopt bylaws governing the committee's activities.
 - (e) A committee member may be removed by the executive director:
 - (i) if the member is unable or unwilling to carry out the member's assigned responsibilities; or
 - (ii) for good cause.
- (5) The committee shall comply with the procedures and requirements of:
- (a) Title 52, Chapter 4, Open and Public Meetings Act; and
 - (b) Title 63G, Chapter 2, Government Records Access and Management Act.
- (6) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7) Not later than November 30 of each year the committee shall provide a written report summarizing the activities of the committee to the executive director.
- (8) The committee shall cease to exist on December 31 of each year, unless the executive director determines it necessary to continue.

Renumbered and Amended by Chapter 305, 2023 General Session
Amended by Chapter 335, 2023 General Session

26B-1-418 Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee -- Creation -- Membership -- Terms -- Duties.

- (1) There is created a Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee.
- (2) The advisory committee shall be composed of 11 members as follows:
 - (a) the executive director, or the executive director's designee;
 - (b) two survivors, or family members of a survivor, of a brain injury appointed by the governor;
 - (c) two survivors, or family members of a survivor, of a spinal cord injury appointed by the governor;
 - (d) one brain injury or spinal cord injury professional appointed by the governor who, at the time of appointment and throughout the professional's term on the committee, does not receive a financial benefit from the fund;
 - (e) two parents of a child with a non-progressive neurological condition appointed by the governor;
 - (f)
 - (i) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act, with experience treating brain and spinal cord injuries, appointed by the governor; or
 - (ii) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act, with experience treating brain and spinal cord injuries, appointed by the governor;
 - (g) a member of the House of Representatives appointed by the speaker of the House of Representatives; and
 - (h) a member of the Senate appointed by the president of the Senate.
- (3)
 - (a) The term of advisory committee members shall be four years. If a vacancy occurs in the committee membership for any reason, a replacement shall be appointed for the unexpired term in the same manner as the original appointment.
 - (b) The committee shall elect a chairperson from the membership.
 - (c) A majority of the committee constitutes a quorum at any meeting, and, if a quorum is present at an open meeting, the action of the majority of members shall be the action of the advisory committee.
 - (d) The terms of the advisory committee shall be staggered so that members appointed under Subsections (2)(b), (d), and (f) shall serve an initial two-year term and members appointed under Subsections (2)(c), (e), and (g) shall serve four-year terms. Thereafter, members appointed to the advisory committee shall serve four-year terms.
- (4) The advisory committee shall comply with the procedures and requirements of:
 - (a) Title 52, Chapter 4, Open and Public Meetings Act;
 - (b) Title 63G, Chapter 2, Government Records Access and Management Act; and
 - (c) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (5)
 - (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses as allowed in:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules adopted by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
 - (b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

- (6) The advisory committee shall:
 - (a) adopt rules and procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish priorities and criteria for the advisory committee to follow in recommending distribution of money from the Neuro-Rehabilitation Fund created in Section 26B-1-319 and the Pediatric Neuro-Rehabilitation Fund created in Section 26B-1-320 to assist qualified IRC 501(c)(3) charitable clinics, as defined in Sections 26B-1-319 and 26B-1-320;
 - (b) identify, evaluate, and review the quality of care available to:
 - (i) individuals with spinal cord and brain injuries through qualified IRC 501(c)(3) charitable clinics, as defined in Section 26B-1-319; or
 - (ii) children with non-progressive neurological conditions through qualified IRC 501(c)(3) charitable clinics, as defined in Section 26B-1-320; and
 - (c) explore, evaluate, and review other possible funding sources and make a recommendation to the Legislature regarding sources that would provide adequate funding for the advisory committee to accomplish its responsibilities under this section.
- (7) Operating expenses for the advisory committee, including the committee's staff, shall be paid for only with money from:
 - (a) the Neuro-Rehabilitation Fund created in Section 26B-1-319;
 - (b) the Pediatric Neuro-Rehabilitation Fund created in Section 26B-1-320; or
 - (c) both funds.

Renumbered and Amended by Chapter 305, 2023 General Session

Amended by Chapter 335, 2023 General Session

26B-1-419 Utah Health Care Workforce Financial Assistance Program Advisory Committee -- Membership -- Compensation -- Duties.

- (1) There is created the Utah Health Care Workforce Financial Assistance Program Advisory Committee consisting of the following 13 members appointed by the executive director, eight of whom shall be residents of rural communities:
 - (a) one rural representative of Utah Hospitals and Health Systems, nominated by the association;
 - (b) two rural representatives of the Utah Medical Association, nominated by the association;
 - (c) one representative of the Utah Academy of Physician Assistants, nominated by the association;
 - (d) one representative of the Association for Utah Community Health, nominated by the association;
 - (e) one representative of the Utah Dental Association, nominated by the association;
 - (f) one representative of mental health therapists, selected from nominees submitted by mental health therapist professional associations;
 - (g) one representative of the Association of Local Health Officers, nominated by the association;
 - (h) one representative of a low-income advocacy group, nominated by a Utah health and human services coalition that represents underserved populations as defined in Section 26B-4-702;
 - (i) one nursing program faculty member, nominated by the Statewide Deans and Directors Committee;
 - (j) one administrator of a long-term care facility, nominated by the Utah Health Care Association;
 - (k) one nursing administrator, nominated by the Utah Nurses Association; and
 - (l) one geriatric professional as defined in Section 26B-4-702 who is:

- (i) determined by the department to have adequate advanced training in geriatrics to prepare the person to provide specialized geriatric care within the scope of the person's profession; and
 - (ii) nominated by a professional association for the profession of which the person is a member.
- (2)
- (a) An appointment to the committee shall be for a four-year term unless the member is appointed to complete an unexpired term.
 - (b) The executive director may also adjust the length of term at the time of appointment or reappointment so that approximately one-half of the committee is appointed every two years.
 - (c) The executive director shall annually appoint a committee chair from among the members of the committee.
- (3) The committee shall meet at the call of the chair, at least three members of the committee, or the executive director, but no less frequently than once each calendar year.
- (4)
- (a) A majority of the members of the committee constitutes a quorum.
 - (b) The action of a majority of a quorum constitutes the action of the committee.
- (5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (6) The committee shall:
- (a) make recommendations to the department for the development and modification of rules to administer the Utah Health Care Workforce Financial Assistance Program; and
 - (b) advise the department on the development of a needs assessment tool for identifying underserved areas as defined in Section 26B-4-702.
- (7) As funding permits, the department shall provide staff and other administrative support to the committee.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-420 Cannabis Research Review Board.

- (1) As used in this section:
- (a) "Cannabinoid product" means the same as that term is defined in Section 58-37-3.6.
 - (b) "Cannabis" means the same as that term is defined in Section 58-37-3.6.
- (2)
- (a) There is created the Cannabis Research Review Board within the department.
 - (b) The department shall appoint, in consultation with a professional association based in the state that represents physicians, seven members to the Cannabis Research Review Board as follows:
 - (i) three individuals who are medical research professionals; and
 - (ii) four physicians:
 - (A) who are qualified medical providers as defined in Section 26B-4-201; and
 - (B) at least two who have at least 100 patients with a medical cannabis patient card at the time of appointment.
- (3) The department shall ensure that at least one of the board members appointed under Subsection (2)(b) is a member of the Controlled Substances Advisory Committee created in Section 58-38a-201.

- (4)
 - (a) Four of the board members appointed under Subsection (2)(b) shall serve an initial term of two years and three of the board members appointed under Subsection (2)(b) shall serve an initial term of four years.
 - (b) Successor board members shall each serve a term of four years.
 - (c) A board member appointed to fill a vacancy on the board shall serve the remainder of the term of the board member whose departure created the vacancy.
- (5) The department may remove a board member without cause.
- (6) The board shall:
 - (a) nominate a board member to serve as chairperson of the board by a majority vote of the board members; and
 - (b) meet as often as necessary to accomplish the duties assigned to the board under this chapter.
- (7) Each board member, including the chair, has one vote.
- (8)
 - (a) A majority of board members constitutes a quorum.
 - (b) A vote of a majority of the quorum at any board meeting is necessary to take action on behalf of the board.
- (9) A board member may not receive compensation for the member's service on the board, but may, in accordance with rules adopted by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, receive:
 - (a) per diem at the rate established under Section 63A-3-106; and
 - (b) travel expenses at the rate established under Section 63A-3-107.
- (10) If a board member appointed under Subsection (2)(b) does not meet the qualifications of Subsection (2)(b) before July 1, 2022:
 - (a) the board member's seat is vacant; and
 - (b) the department shall fill the vacancy in accordance with this section.
- (11) The board shall review any available scientific research related to the human use of cannabis, a cannabinoid product, or an expanded cannabinoid product that:
 - (a) was conducted under a study approved by an institutional review board that is registered for human subject research by the United States Department of Health and Human Services;
 - (b) was conducted or approved by the federal government; or
 - (c)
 - (i) was conducted in another country; and
 - (ii) demonstrates, as determined by the board, a sufficient level of scientific reliability and significance to merit the board's review.
- (12) Based on the research described in Subsection (11), the board shall evaluate the safety and efficacy of cannabis, cannabinoid products, and expanded cannabinoid products, including:
 - (a) medical conditions that respond to cannabis, cannabinoid products, and expanded cannabinoid products;
 - (b) cannabis and cannabinoid dosage amounts and medical dosage forms;
 - (c) interaction of cannabis, cannabinoid products, and expanded cannabinoid products, as defined in Section 58-37-3.6, with other treatments; and
 - (d) contraindications, adverse reactions, and potential side effects from use of cannabis, cannabinoid products, and expanded cannabinoid products.
- (13) Based on the board's evaluation under Subsection (12), the board shall develop guidelines for treatment with cannabis, a cannabinoid product, and an expanded cannabinoid product that include:

- (a) a list of medical conditions, if any, that the board determines are appropriate for treatment with cannabis, a cannabis product, a cannabinoid product, or an expanded cannabinoid product;
 - (b) a list of contraindications, side effects, and adverse reactions that are associated with use of cannabis, cannabinoid products, or expanded cannabinoid products;
 - (c) a list of potential drug-drug interactions between medications that the United States Food and Drug Administration has approved and cannabis, cannabinoid products, and expanded cannabinoid products; and
 - (d) any other guideline the board determines appropriate.
- (14) The board shall submit the guidelines described in Subsection (13) to the director of the Division of Professional Licensing.
- (15) Guidelines that the board develops under this section may not limit the availability of cannabis, cannabinoid products, or expanded cannabinoid products permitted under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, or Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.
- (16) The board shall provide a report to the Health and Human Services Interim Committee regarding the board's work before October 1 of each year.
- (17) Based on the board's evaluation under Subsection (12), the board may provide recommendations to the Medical Cannabis Policy Advisory Board created in Section 26B-1-435 regarding restrictions for a substance found in a medical cannabis product that:
- (a) is likely harmful to human health; or
 - (b) is associated with a substance that is likely harmful to human health.

Amended by Chapter 281, 2023 General Session

Amended by Chapter 305, 2023 General Session, (Coordination Clause)

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-421 Compassionate Use Board.

- (1) The definitions in Section 26B-4-201 apply to this section.
- (2)
- (a) The department shall establish a Compassionate Use Board consisting of:
 - (i) seven qualified medical providers that the executive director appoints and the Senate confirms:
 - (A) who are knowledgeable about the medicinal use of cannabis;
 - (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
 - (C) who are board certified by the American Board of Medical Specialties or an American Osteopathic Association Specialty Certifying Board in the specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, family medicine, or gastroenterology; and
 - (ii) as a nonvoting member and the chair of the Compassionate Use Board, the executive director or the director's designee.
 - (b) In appointing the seven qualified medical providers described in Subsection (2)(a), the executive director shall ensure that at least two have a board certification in pediatrics.
- (3)
- (a) Of the members of the Compassionate Use Board that the executive director first appoints:
 - (i) three shall serve an initial term of two years; and
 - (ii) the remaining members shall serve an initial term of four years.

- (b) After an initial term described in Subsection (3)(a) expires:
 - (i) each term is four years; and
 - (ii) each board member is eligible for reappointment.
- (c) A member of the Compassionate Use Board may serve until a successor is appointed.
- (d) Four members constitute a quorum of the Compassionate Use Board.
- (4) A member of the Compassionate Use Board may receive:
 - (a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and
 - (b) travel expenses in accordance with Section 63A-3-107 and rules made by the Division of Finance in accordance with Section 63A-3-107.
- (5) The Compassionate Use Board shall:
 - (a) review and recommend for department approval a petition to the board regarding an individual described in Subsection 26B-4-213(2)(a), a minor described in Subsection 26B-4-213(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use, for the standard or a reduced period of validity, if:
 - (i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's qualified medical provider is actively treating the individual for an intractable condition that:
 - (A) substantially impairs the individual's quality of life; and
 - (B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;
 - (ii) the qualified medical provider:
 - (A) recommends that the individual or minor be allowed to use medical cannabis; and
 - (B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and
 - (iii) the Compassionate Use Board determines that:
 - (A) the recommendation of the individual's qualified medical provider is justified; and
 - (B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;
 - (b) when a qualified medical provider recommends that an individual described in Subsection 26B-4-213(2)(a)(i)(B) or a minor described in Subsection 26B-4-213(2)(c) be allowed to use a medical cannabis device or medical cannabis product to vaporize a medical cannabis treatment, review and approve or deny the use of the medical cannabis device or medical cannabis product;
 - (c) unless no petitions are pending:
 - (i) meet to receive or review compassionate use petitions at least quarterly; and
 - (ii) if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;
 - (d) except as provided in Subsection (6), complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition;
 - (e) consult with the department regarding the criteria described in Subsection (6); and
 - (f) report, before November 1 of each year, to the Health and Human Services Interim Committee:
 - (i) the number of compassionate use recommendations the board issued during the past year; and
 - (ii) the types of conditions for which the board recommended compassionate use.

- (6) The department shall make rules, in consultation with the Compassionate Use Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process and criteria for a petition to the board to automatically qualify for expedited final review and approval or denial by the department in cases where, in the determination of the department and the board:
 - (a) time is of the essence;
 - (b) engaging the full review process would be unreasonable in light of the petitioner's physical condition; and
 - (c) sufficient factors are present regarding the petitioner's safety.
- (7)
 - (a)
 - (i) The department shall review:
 - (A) any compassionate use for which the Compassionate Use Board recommends approval under Subsection (5)(d) to determine whether the board properly exercised the board's discretion under this section; and
 - (B) any expedited petitions the department receives under the process described in Subsection (6).
 - (ii) If the department determines that the Compassionate Use Board properly exercised the board's discretion in recommending approval under Subsection (5)(d) or that the expedited petition merits approval based on the criteria established in accordance with Subsection (6), the department shall:
 - (A) issue the relevant medical cannabis card; and
 - (B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the qualified medical provider described in Subsection (5)(a).
 - (b)
 - (i) If the Compassionate Use Board recommends denial under Subsection (5)(d), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.
 - (ii) If the department determines that the Compassionate Use Board's recommendation for denial under Subsection (5)(d) was arbitrary or capricious:
 - (A) the department shall notify the Compassionate Use Board of the department's determination; and
 - (B) the board shall reconsider the Compassionate Use Board's refusal to recommend approval under this section.
 - (c) In reviewing the Compassionate Use Board's recommendation for approval or denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.
- (8) Any individually identifiable health information contained in a petition that the Compassionate Use Board or department receives under this section is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.
- (9) The Compassionate Use Board shall annually report the board's activity to the Cannabis Research Review Board and the advisory board.

Amended by Chapter 273, 2023 General Session
Renumbered and Amended by Chapter 305, 2023 General Session
Amended by Chapter 317, 2023 General Session

26B-1-422 Early Childhood Utah Advisory Council -- Creation -- Compensation -- Duties.

- (1) As used in this section:
 - (a) "Early childhood" refers to a child in the state who is eight years old or younger; and
 - (b) "State superintendent" means the state superintendent of public instruction appointed under Section 53E-3-301.
- (2) There is created the Early Childhood Utah Advisory Council.
- (3)
 - (a) The department shall:
 - (i) make rules establishing the membership, duties, and procedures of the council in accordance with the requirements of:
 - (A) this section;
 - (B) the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b; and
 - (C) Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (ii) provide necessary administrative and staff support to the council.
 - (b) A member of the council may not receive compensation or benefits for the member's service.
- (4) The duties of the council include:
 - (a) improving and coordinating the quality of programs and services for children in accordance with the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b;
 - (b) supporting Utah parents and families by providing comprehensive and accurate information regarding the availability of voluntary services for children in early childhood from state agencies and other private and public entities;
 - (c) facilitating improved coordination between state agencies and community partners that provide services to children in early childhood;
 - (d) sharing and analyzing information regarding early childhood issues in the state;
 - (e) providing recommendations to the department, the Department of Workforce Services, and the State Board of Education regarding a comprehensive delivery system of services for children in early childhood that addresses the following four areas:
 - (i) family support and safety;
 - (ii) health and development;
 - (iii) early learning; and
 - (iv) economic development; and
 - (f) identifying opportunities for and barriers to the alignment of standards, rules, policies, and procedures across programs and agencies that support children in early childhood.
- (5) To fulfill the duties described in Subsection (4), the council shall:
 - (a) directly engage with parents, families, community members, and public and private service providers to identify and address:
 - (i) the quality, effectiveness, and availability of existing services for children in early childhood and the coordination of those services;
 - (ii) gaps and barriers to entry in the provision of services for children in early childhood; and
 - (iii) community-based solutions in improving the quality, effectiveness, and availability of services for children in early childhood;
 - (b) seek regular and ongoing feedback from a wide range of entities and individuals that use or provide services for children in early childhood, including entities and individuals that use, represent, or provide services for any of the following:
 - (i) children in early childhood who live in urban, suburban, or rural areas of the state;
 - (ii) children in early childhood with varying socioeconomic backgrounds;
 - (iii) children in early childhood with varying ethnic or racial heritages;
 - (iv) children in early childhood from various geographic areas of the state; and

- (v) children in early childhood with special needs;
 - (c) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that provide services to children in early childhood;
 - (d) study and evaluate the effectiveness of policies, procedures, and programs implemented by other states and nongovernmental entities that address the needs of children in early childhood;
 - (e) identify policies, procedures, and programs that are impeding efforts to help children in early childhood in the state and recommend changes to those policies, procedures, and programs;
 - (f) identify policies, procedures, and programs related to children in early childhood in the state that are inefficient or duplicative and recommend changes to those policies, procedures, and programs;
 - (g) recommend policy, procedure, and program changes to address the needs of children in early childhood;
 - (h) develop methods for using interagency information to inform comprehensive policy and budget decisions relating to early childhood services; and
 - (i) develop strategies and monitor efforts concerning:
 - (i) increasing school readiness;
 - (ii) improving access to early child care and early education programs; and
 - (iii) improving family and community engagement in early childhood education and development.
- (6) In fulfilling the council's duties, the council may request and receive, from any state or local governmental agency or institution, information relating to early childhood, including reports, audits, projections, and statistics.
- (7)
- (a) On or before August 1 of each year, the council shall provide an annual report to the executive director, the executive director of the Department of Workforce Services, and the state superintendent.
 - (b) The annual report shall include:
 - (i) a statewide assessment concerning the availability of high-quality pre-kindergarten services for children from low-income households;
 - (ii) a statewide strategic report addressing the activities mandated by the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b, including:
 - (A) identifying opportunities for and barriers to collaboration and coordination among federally-funded and state-funded child health and development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering such programs;
 - (B) evaluating the overall participation of children in existing federal, state, and local child care programs and early childhood health, development, family support, and education programs;
 - (C) recommending statewide professional development and career advancement plans for early childhood educators and service providers in the state, including an analysis of the capacity and effectiveness of programs at two- and four-year public and private institutions of higher education that support the development of early childhood educators; and
 - (D) recommending improvements to the state's early learning standards and high-quality comprehensive early learning standards; and
 - (iii) the recommendations described in Subsection (4)(e).
- (8) In addition to the annual report described in Subsection (7)(a), on or before August 1, 2024, and at least every five years thereafter, the council shall provide to the executive director,

the executive director of the Department of Workforce Services, and the state superintendent a statewide needs assessment concerning the quality and availability of early childhood education, health, and development programs and services for children in early childhood.

Amended by Chapter 269, 2023 General Session

Renumbered and Amended by Chapter 305, 2023 General Session

Amended by Chapter 305, 2023 General Session, (Coordination Clause)

26B-1-422.1 Reports.

- (1)
 - (a) On or before August 1 of each year, the council shall provide an annual report to the executive director, the executive director of the Department of Workforce Services, and the state superintendent.
 - (b) The annual report shall include:
 - (i) a statewide assessment concerning the availability of high-quality pre-kindergarten services for children from low-income households;
 - (ii) a statewide strategic report addressing the activities mandated by the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b, including:
 - (A) identifying opportunities for and barriers to collaboration and coordination among federally-funded and state-funded child health and development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering such programs;
 - (B) evaluating the overall participation of children in existing federal, state, and local child care programs and early childhood health, development, family support, and education programs;
 - (C) recommending statewide professional development and career advancement plans for early childhood educators and service providers in the state, including an analysis of the capacity and effectiveness of programs at two- and four-year public and private institutions of higher education that support the development of early childhood educators; and
 - (D) recommending improvements to the state's early learning standards and high-quality comprehensive early learning standards; and
 - (iii) the recommendations described in Subsection 26B-1-422(4)(e).
 - (2) In addition to the annual report described in Subsection (1)(a), on or before August 1, 2024, and at least every five years thereafter, the council shall provide to the executive director, the executive director of the Department of Workforce Services, and the state superintendent, a statewide needs assessment concerning the quality and availability of early childhood education, health, and development programs and services for children in early childhood.

Enacted by Chapter 269, 2023 General Session

Amended by Chapter 305, 2023 General Session, (Coordination Clause)

26B-1-423 Rural Physician Loan Repayment Program Advisory Committee -- Membership -- Compensation -- Duties.

- (1) There is created the Rural Physician Loan Repayment Program Advisory Committee consisting of the following eight members appointed by the executive director:
 - (a) two legislators whose districts include a rural county as defined in Section 26B-4-701;

- (b) five administrators of a hospital located in a rural county as defined in Section 26B-4-701, nominated by an association representing Utah hospitals, no more than two of whom are employed by hospitals affiliated by ownership; and
 - (c) a physician currently practicing in a rural county as defined in Section 26B-4-701.
- (2)
- (a) An appointment to the committee shall be for a four-year term unless the member is appointed to complete an unexpired term.
 - (b) The executive director shall adjust the length of term at the time of appointment or reappointment so that approximately one-half of the committee is appointed every two years.
 - (c) The executive director shall annually appoint a committee chair from among the members of the committee.
- (3)
- (a) The committee shall meet at the call of:
 - (i) the chair;
 - (ii) at least three members of the committee; or
 - (iii) the executive director.
 - (b) The committee shall meet at least once each calendar year.
- (4)
- (a) A majority of the members of the committee constitutes a quorum.
 - (b) The action of a majority of a quorum constitutes the action of the committee.
- (5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (6) The committee shall make recommendations to the department for the development and modification of rules to administer the Rural Physician Loan Repayment Program created in Section 26B-4-703.
- (7) As funding permits, the department shall provide staff and other administrative support to the committee.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-424 Adult Autism Treatment Program Advisory Committee -- Membership -- Procedures -- Compensation -- Duties -- Expenses.

- (1) As used in this section, "autism spectrum disorder" means the same as that term is defined in Section 31A-22-642.
- (2) The Adult Autism Treatment Advisory Committee created in Section 26B-1-204 shall consist of six members appointed by the governor to two-year terms as follows:
 - (a) one individual who:
 - (i) has a doctorate degree in psychology;
 - (ii) is a licensed behavior analyst practicing in the state; and
 - (iii) has treated adults with an autism spectrum disorder for at least three years;
 - (b) one individual who is:
 - (i) employed by the department; and
 - (ii) has professional experience with the treatment of autism spectrum disorder;
 - (c) three individuals who have firsthand experience with autism spectrum disorders and the effects, diagnosis, treatment, and rehabilitation of autism spectrum disorders, including:

- (i) family members of an adult with an autism spectrum disorder;
- (ii) representatives of an association that advocates for adults with an autism spectrum disorder; and
- (iii) specialists or professionals who work with adults with an autism spectrum disorder; and
- (d) one individual who is:
 - (i) a health insurance professional;
 - (ii) holds a Doctor of Medicine or Doctor of Philosophy degree, with professional experience relating to the treatment of autism spectrum disorder; and
 - (iii) has a knowledge of autism benefits and therapy that are typically covered by the health insurance industry.
- (3)
 - (a) Notwithstanding Subsection (2), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure the terms of members are staggered so that approximately half of the advisory committee is appointed every year.
 - (b) If a vacancy occurs in the membership of the advisory committee, the governor may appoint a replacement for the unexpired term.
 - (c) The advisory committee shall annually elect a chair from its membership.
 - (d) A majority of the advisory committee constitutes a quorum at any meeting and, if a quorum exists, the action of the majority of members present is the action of the advisory committee.
- (4) The advisory committee shall meet as necessary to:
 - (a) advise the department regarding implementation of the Adult Autism Treatment Program created in Section 26B-4-602;
 - (b) make recommendations to the department and the Legislature for improving the Adult Autism Treatment Program; and
 - (c) before October 1 each year, provide a written report of the advisory committee's activities and recommendations to:
 - (i) the executive director;
 - (ii) the Health and Human Services Interim Committee; and
 - (iii) the Social Services Appropriations Subcommittee.
- (5) The advisory committee shall comply with the procedures and requirements of:
 - (a) Title 52, Chapter 4, Open and Public Meetings Act; and
 - (b) Title 63G, Chapter 2, Government Records Access and Management Act.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7)
 - (a) The department shall staff the advisory committee.
 - (b) Expenses of the advisory committee, including the cost of advisory committee staff if approved by the executive director, may be paid only with funds from the Adult Autism Treatment Account created in Section 26B-1-322.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-425 Utah Health Workforce Advisory Council -- Creation and membership.

- (1) There is created within the department the Utah Health Workforce Advisory Council.
- (2) The council shall be comprised of at least 14 but not more than 19 members.

- (3) The following are members of the council:
 - (a) the executive director or that individual's designee;
 - (b) the executive director of the Department of Workforce Services or that individual's designee;
 - (c) the commissioner of higher education of the Utah System of Higher Education or that individual's designee;
 - (d) the state superintendent of the State Board of Education or that individual's designee;
 - (e) the executive director of the Department of Commerce or that individual's designee;
 - (f) the director of the Division of Multicultural Affairs or that individual's designee;
 - (g) the director of the Utah Substance Use and Mental Health Advisory Council or that individual's designee;
 - (h) the chair of the Utah Indian Health Advisory Board; and
 - (i) the chair of the Utah Medical Education Council created in Section 26B-4-706.
- (4) The executive director shall appoint at least five but not more than ten additional members that represent diverse perspectives regarding Utah's health workforce as defined in Section 26B-4-701.
- (5)
 - (a) A member appointed by the executive director under Subsection (4) shall serve a four-year term.
 - (b) Notwithstanding Subsection (5)(a) for the initial appointments of members described in Subsection (4) the executive director shall appoint at least three but not more than five members to a two-year appointment to ensure that approximately half of the members appointed by the executive director rotate every two years.
- (6) The executive director or the executive director's designee shall chair the council.
- (7)
 - (a) As used in this Subsection (7), "health workforce" means the same as that term is defined in Section 26B-4-706.
 - (b) The council shall:
 - (i) meet at least once each quarter;
 - (ii) study and provide recommendations to an entity described in Subsection (8) regarding:
 - (A) health workforce supply;
 - (B) health workforce employment trends and demand;
 - (C) options for training and educating the health workforce;
 - (D) the implementation or improvement of strategies that entities in the state are using or may use to address health workforce needs including shortages, recruitment, retention, and other Utah health workforce priorities as determined by the council;
 - (iii) provide guidance to an entity described in Subsection (8) regarding health workforce related matters;
 - (iv) review and comment on legislation relevant to Utah's health workforce; and
 - (v) advise the Utah Board of Higher Education and the Legislature on the status and needs of the health workforce who are in training.
- (8) The council shall provide information described in Subsections (7)(b)(ii) and (iii) to:
 - (a) the Legislature;
 - (b) the department;
 - (c) the Department of Workforce Services;
 - (d) the Department of Commerce;
 - (e) the Utah Medical Education Council; and
 - (f) any other entity the council deems appropriate upon the entity's request.
- (9)

- (a) The Utah Medical Education Council created in Section 26B-4-706 is a subcommittee of the council.
 - (b) The council may establish subcommittees to support the work of the council.
 - (c) A member of the council shall chair a subcommittee created by the council.
 - (d) Except for the Utah Medical Education Council, the chair of the subcommittee may appoint any individual to the subcommittee.
- (10) For any report created by the council that pertains to any duty described in Subsection (7), the council shall:
- (a) provide the report to:
 - (i) the department; and
 - (ii) any appropriate legislative committee; and
 - (b) post the report on the council's website.
- (11) The executive director shall:
- (a) ensure the council has adequate staff to support the council and any subcommittee created by the council; and
 - (b) provide any available information upon the council's request if:
 - (i) that information is necessary for the council to fulfill a duty described in Subsection (7); and
 - (ii) the department has access to the information.
- (12) A member of the council or a subcommittee created by the council may not receive compensation or benefits for the member's service but may receive per diem and travel expenses as allowed in:
- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 139, 2023 General Session

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-426 Board of Aging and Adult Services -- Members, appointment, terms, vacancies, chairperson, compensation, meetings, quorum.

- (1) The Board of Aging and Adult Services created in Section 26B-1-204 shall have seven members who are appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.
- (2)
- (a) Except as required by Subsection (2)(b), each member shall be appointed for a term of four years, and is eligible for one reappointment.
 - (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
 - (c) Board members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 90 days after the formal expiration of a term.
 - (d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (3)
- (a) No more than four members of the board may be from the same political party.

- (b) The board shall have diversity of gender, ethnicity, and culture; and members shall be chosen on the basis of their active interest, experience, and demonstrated ability to deal with issues related to the Board of Aging and Adult Services .
- (4)
 - (a) The board shall annually elect a chairperson from the board's membership.
 - (b) The board shall hold meetings at least once every three months.
 - (c) Within budgetary constraints, meetings may be held from time to time on the call of the chairperson or of the majority of the members of the board.
 - (d) Four members of the board are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.
- (5) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (6)
 - (a) The board shall adopt bylaws governing its activities.
 - (b) The bylaws described in Subsection (6)(a) shall include procedures for removal of a board member who is unable or unwilling to fulfill the requirements of the board member's appointment.
- (7) The board has program policymaking authority for the division over which the board presides.
- (8) A member of the board shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-427 Alcohol Abuse Tracking Committee --Tracking effects of abuse of alcoholic products.

- (1) There is created a committee within the department known as the Alcohol Abuse Tracking Committee that consists of:
 - (a) the executive director or the executive director's designee;
 - (b) the commissioner of the Department of Public Safety or the commissioner's designee;
 - (c) the director of the Department of Alcoholic Beverage Services or that director's designee;
 - (d) the executive director of the Department of Workforce Services or that executive director's designee;
 - (e) the chair of the Utah Substance Use and Mental Health Advisory Council or the chair's designee;
 - (f) the state court administrator or the state court administrator's designee; and
 - (g) the director of the Division of Technology Services or that director's designee.
- (2) The executive director or the executive director's designee shall chair the committee.
- (3)
 - (a) Four members of the committee constitute a quorum.
 - (b) A vote of the majority of the committee members present when a quorum is present is an action of the committee.
- (4) The committee shall meet at the call of the chair, except that the chair shall call a meeting at least twice a year:
 - (a) with one meeting held each year to develop the report required under Subsection (7); and
 - (b) with one meeting held to review and finalize the report before the report is issued.

- (5) The committee may adopt additional procedures or requirements for:
 - (a) voting, when there is a tie of the committee members;
 - (b) how meetings are to be called; and
 - (c) the frequency of meetings.
- (6) The committee shall establish a process to collect for each calendar year the following information:
 - (a) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to underage drinking of alcohol;
 - (b) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to driving under the influence of alcohol;
 - (c) the number of violations statewide of Title 32B, Alcoholic Beverage Control Act, related to over-serving or over-consumption of an alcoholic product;
 - (d) the cost of social services provided by the state related to abuse of alcohol, including services provided by the Division of Child and Family Services;
 - (e) the location where the alcoholic products that result in the violations or costs described in Subsections (6)(a) through (d) are obtained; and
 - (f) any information the committee determines can be collected and relates to the abuse of alcoholic products.
- (7) The committee shall report the information collected under Subsection (6) annually to the governor and the Legislature by no later than the July 1 immediately following the calendar year for which the information is collected.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-428 Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee and Program -- Creation -- Membership -- Duties.

- (1) As used in this section:
 - (a) "Committee" means the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee created in Section 26B-1-204.
 - (b) "Program" means the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in this section.
- (2)
 - (a) There is created within the department the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program.
 - (b) In consultation with the committee, the department shall:
 - (i) establish guidelines for the use of funds appropriated to the program;
 - (ii) ensure that guidelines developed under Subsection (2)(b)(i) are evidence-based and appropriate for the population targeted by the program; and
 - (iii) subject to appropriations from the Legislature, fund statewide initiatives to prevent use of electronic cigarettes, nicotine products, marijuana, and other drugs by youth.
- (3)
 - (a) The committee shall advise the department on:
 - (i) preventing use of electronic cigarettes, marijuana, and other drugs by youth in the state;
 - (ii) developing the guidelines described in Subsection (2)(b)(i); and
 - (iii) implementing the provisions of the program.
 - (b) The executive director shall:

- (i) appoint members of the committee; and
 - (ii) consult with the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301 when making the appointments under Subsection (3)(b)(i).
- (c) The committee shall include, at a minimum:
- (i) the executive director of a local health department as defined in Section 26A-1-102, or the local health department executive director's designee;
 - (ii) one designee from the department;
 - (iii) one representative from the Department of Public Safety;
 - (iv) one representative from the behavioral health community; and
 - (v) one representative from the education community.
- (d) A member of the committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:
- (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- (e) The department shall provide staff support to the committee.
- (4) On or before October 31 of each year, the department shall report to:
- (a) the Health and Human Services Interim Committee regarding:
 - (i) the use of funds appropriated to the program;
 - (ii) the impact and results of the program, including the effectiveness of each program funded under Subsection (2)(b)(iii), during the previous fiscal year;
 - (iii) a summary of the impacts and results on reducing youth use of electronic cigarettes and nicotine products by entities represented by members of the committee, including those entities who receive funding through the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account created in Section 59-14-807; and
 - (iv) any recommendations for legislation; and
 - (b) the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301, regarding:
 - (i) the effectiveness of each program funded under Subsection (2)(b)(iii) in preventing youth use of electronic cigarettes, nicotine products, marijuana, and other drugs; and
 - (ii) any collaborative efforts and partnerships established by the program with public and private entities to prevent youth use of electronic cigarettes, marijuana, and other drugs.

Amended by Chapter 300, 2023 General Session

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-429 Utah State Developmental Center Board -- Creation -- Membership -- Duties -- Powers.

- (1) There is created the Utah State Developmental Center Board within the department.
- (2) The board is composed of nine members as follows:
 - (a) the director of the Division of Services for People with Disabilities or the director's designee;
 - (b) the superintendent of the developmental center or the superintendent's designee;
 - (c) the executive director or the executive director's designee;
 - (d) a resident of the Utah State Developmental Center selected by the superintendent; and
 - (e) five members appointed by the governor with the advice and consent of the Senate as follows:
 - (i) three members of the general public; and

- (ii) two members who are parents or guardians of individuals who receive services at the Utah State Developmental Center.
- (3) In making appointments to the board, the governor shall ensure that:
 - (a) no more than three members have immediate family residing at the Utah State Developmental Center; and
 - (b) members represent a variety of geographic areas and economic interests of the state.
- (4)
 - (a) The governor shall appoint each member described in Subsection (2)(e) for a term of four years.
 - (b) An appointed member may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.
 - (c) Notwithstanding the requirements of Subsections (4)(a) and (b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed members are staggered so that approximately half of the appointed members are appointed every two years.
 - (d) Appointed members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 120 days after the formal expiration of a term.
 - (e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (5)
 - (a) The director shall serve as the chair.
 - (b) The board shall appoint a member to serve as vice chair.
 - (c) The board shall hold meetings quarterly or as needed.
 - (d) Five members are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.
 - (e) The chair shall be a non-voting member except that the chair may vote to break a tie vote between the voting members.
- (6) An appointed member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7)
 - (a) The board shall adopt bylaws governing the board's activities.
 - (b) Bylaws shall include procedures for removal of a member who is unable or unwilling to fulfill the requirements of the member's appointment.
- (8) The board shall:
 - (a) act for the benefit of the Utah State Developmental Center and the Division of Services for People with Disabilities;
 - (b) advise and assist the Division of Services for People with Disabilities with the division's functions, operations, and duties related to the Utah State Developmental Center, described in Sections 26B-6-402, 26B-6-403, 26B-6-502, 26B-6-504, and 26B-6-506;
 - (c) administer the Utah State Developmental Center Miscellaneous Donation Fund, as described in Section 26B-1-330;
 - (d) administer the Utah State Developmental Center Long-Term Sustainability Fund, as described in Section 26B-1-331;

- (e) approve the sale, lease, or other disposition of real property or water rights associated with the Utah State Developmental Center, as described in Subsection 26B-6-507(2); and
- (f) within 21 days after the day on which the board receives the notice required under Subsection 10-2-419(3) (b), provide a written opinion regarding the proposed boundary adjustment to:
 - (i) the director of the Division of Facilities and Construction Management; and
 - (ii) the Legislative Management Committee.

Renumbered and Amended by Chapter 305, 2023 General Session
Amended by Chapter 435, 2023 General Session

26B-1-430 Coordinating Council for Persons with Disabilities -- Policy regarding services to individuals with disabilities -- Creation -- Membership -- Expenses.

- (1) As used in this section, "state agencies" means:
 - (a) the Division of Services for People with Disabilities;
 - (b) the Office of Substance Use and Mental Health;
 - (c) the Division of Integrated Healthcare;
 - (d) family health services programs established under Chapter 4, Health Care - Delivery and Access, operated by the department;
 - (e) the Utah State Office of Rehabilitation created in Section 35A-1-202; and
 - (f) special education programs operated by the State Board of Education or an LEA under Title 53E, Chapter 7, Part 2, Special Education Program.
- (2) It is the policy of this state that all agencies that provide services to persons with disabilities:
 - (a) coordinate and ensure that services and supports are provided in a cost-effective manner. It is the intent of the Legislature that services and supports provided under this chapter be coordinated to meet the individual needs of persons with disabilities; and
 - (b) whenever possible, regard an individual's personal choices concerning services and supports that are best suited to the individual's needs and that promote the individual's independence, productivity, and integration in community life.
- (3) There is created the Coordinating Council for Persons with Disabilities.
- (4) The council shall consist of:
 - (a) the director of the Division of Services for People with Disabilities within the department, or the director's designee;
 - (b) the director of family health services programs, appointed under Section 26B-7-120, or the director's designee;
 - (c) the director of the Utah State Office of Rehabilitation created in Section 35A-1-202, or the director's designee;
 - (d) the state director of special education, or the director's designee;
 - (e) the director of the Division of Integrated Healthcare within the department, or the director's designee;
 - (f) the director of the Office of Substance Use and Mental Health within the department, or the director's designee;
 - (g) the superintendent of Schools for the Deaf and the Blind, or the superintendent's designee; and
 - (h) a person with a disability, a family member of a person with a disability, or an advocate for persons with disabilities, appointed by the members listed in Subsections (4)(a) through (g).
- (5)
 - (a) The council shall annually elect a chair from its membership.
 - (b) Five members of the council are a quorum.

- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7) The council has authority, after local or individual efforts have failed, to:
 - (a) coordinate the appropriate transition of persons with disabilities who receive services and support from one state agency to receive services and support from another state agency;
 - (b) coordinate policies governing the provision of services and support for persons with disabilities by state agencies; and
 - (c) consider issues regarding eligibility for services and support and, where possible, develop uniform eligibility standards for state agencies.
- (8) The council may receive appropriations from the Legislature to purchase services and supports for persons with disabilities as the council deems appropriate.
- (9)
 - (a) Within appropriations authorized by the Legislature, the following individuals or the individuals' representatives shall cooperatively develop a single coordinated education program, treatment services, and individual and family supports for students entitled to a free appropriate education under Title 53E, Chapter 7, Part 2, Special Education Program, who also require services from the department or the Utah State Office of Rehabilitation:
 - (i) the state director of special education;
 - (ii) the director of the Utah State Office of Rehabilitation created in Section 35A-1-202;
 - (iii) the executive director of the department;
 - (iv) the director of family health services within the department; and
 - (v) the affected LEA, as defined in Section 53E-1-102.
 - (b) Distribution of costs for services and supports described in Subsection (9)(a) shall be determined through a process established by the department and the State Board of Education.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-432 Newborn Hearing Screening Committee.

- (1) There is established the Newborn Hearing Screening Committee.
- (2) The committee shall advise the department on:
 - (a) the validity and cost of newborn infant hearing loss testing procedures; and
 - (b) rules promulgated by the department to implement this Section 26B-4-319.
- (3) The committee shall be composed of at least 11 members appointed by the executive director, including:
 - (a) one representative of the health insurance industry;
 - (b) one pediatrician;
 - (c) one family practitioner;
 - (d) one ear, nose, and throat specialist nominated by the Utah Medical Association;
 - (e) two audiologists nominated by the Utah Speech-Language Hearing Association;
 - (f) one representative of hospital neonatal nurseries;
 - (g) one representative of the Early Intervention Baby Watch Program administered by the department;
 - (h) one public health nurse;
 - (i) one consumer; and

- (j) the executive director or the executive director's designee.
- (4)
 - (a) Of the initial members of the committee, the executive director shall appoint as nearly as possible half to two-year terms and half to four-year terms.
 - (b) After the initial appointments described in Subsection (4)(a), appointments shall be for four-year terms except:
 - (i) for those members who have been appointed to complete an unexpired term; and
 - (ii) as necessary to ensure that as nearly as possible the terms of half the appointments expire every two years.
- (5) A majority of the members constitutes a quorum, and a vote of the majority of the members present constitutes an action of the committee.
- (6) The committee shall appoint a chair from the committee's membership.
- (7) The committee shall meet at least quarterly.
- (8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (9) The department shall provide staff for the committee.

Enacted by Chapter 305, 2023 General Session

26B-1-434 Correctional Postnatal and Early Childhood Advisory Board -- Duties -- Rulemaking.

- (1) As used in this part:
 - (a) "Advisory board" means the Correctional Postnatal and Early Childhood Advisory Board.
 - (b) "Incarcerated mother" means the same as that term is defined in Section 64-13-46.5.
- (2) The advisory board shall consist of the following members:
 - (a) two individuals from the Department of Corrections, appointed by the executive director of the Department of Corrections;
 - (b) one individual appointed by the Board of Pardons and Parole; and
 - (c) six individuals appointed by the executive director of the department, including:
 - (i) two individuals from the department with experience in child care licensing;
 - (ii) two pediatric healthcare providers;
 - (iii) one individual with expertise in early childhood development; and
 - (iv) one individual with experience advocating for incarcerated women.
- (3)
 - (a) Except as provided in Subsection (3)(b), a member of the advisory board shall be appointed for a four-year term.
 - (b) A member that is appointed to complete an unexpired term may complete the unexpired term and serve a subsequent four-year term.
 - (c) Appointments and reappointments may be staggered so that one-fourth of the advisory board changes each year.
 - (d) The advisory board shall annually elect a chair and co-chair of the board from among the members of the board to serve a two-year term.
- (4) The advisory board shall meet at least bi-annually, or more frequently as determined by the executive director, the chair, or three or more members of the advisory board.

- (5) A majority of the board constitutes a quorum and a vote of the majority of the members present constitutes an action of the advisory board.
- (6) A member of the advisory board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.
- (7) The advisory board shall:
 - (a) review research regarding childhood development and best practices for infants placed in a nursery located within a secure correctional environment;
 - (b) as part of the advisory board's review of research under Subsection (7)(a), study the benefits of having a nursery for infants and incarcerated mothers located within a secure correctional environment and the benefits of placing an infant or incarcerated mother in a diversion program removed from a secure correctional environment;
 - (c) study the costs of implementing a diversion program for infants and incarcerated mothers removed from a secure correctional environment;
 - (d) create a provisional plan for implementing a diversion program for infants and incarcerated mothers removed from a secure correctional environment; and
 - (e) advise and make recommendations to the department regarding rules and policies for any nursery established by the Department of Corrections to provide space for incarcerated mothers and infants.
- (8) The advisory board, upon request from the Department of Corrections, may:
 - (a) after considering the specific circumstances of an infant and the infant's incarcerated mother, extend the age that qualifies the infant for a nursery under Subsection 64-13-46.5(2) up to 24 months old if:
 - (i) the extension is in the best interest of the infant; and
 - (ii) without the extension the infant would be separated from the incarcerated mother while the incarcerated mother remains in the correctional facility; or
 - (b) allow an incarcerated mother who has committed a violent felony to be provided space in a nursery if it is in the best interest of the incarcerated mother's infant.
- (9) On or before November 30, 2024, the advisory board shall provide a report of the advisory board's research and study under Subsections (7)(a) through (d), including any proposed legislation, to:
 - (a) the Law Enforcement and Criminal Justice Interim Committee; and
 - (b) the Executive Offices and Criminal Justice Appropriations Subcommittee.
- (10) The department shall:
 - (a) after receiving recommendations from the advisory board under Subsection (7)(e), adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for certification of a nursery established in a secure correctional environment that address:
 - (i) the safety of the nursery for infants and incarcerated mothers;
 - (ii) the childhood development needs of the infants in the nursery;
 - (iii) the specific medical needs of the infants and incarcerated mothers in the nursery;
 - (iv) the appropriate needs of the incarcerated mothers in the nursery; and
 - (v) any other requirements recommended by the advisory board that the department deems necessary for the nursery; and
 - (b) certify that any nursery established by the Department of Corrections is in compliance with the rules established under this section before the nursery begins operations.

- (11) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding corrective action, including closure of a nursery established by the Department of Corrections, if the Department of Corrections fails to comply with the rules established under this section.

Enacted by Chapter 420, 2023 General Session

26B-1-435 Medical Cannabis Policy Advisory Board creation - Membership.

- (1) There is created within the department the Medical Cannabis Policy Advisory Board.
- (2)
 - (a) The advisory board shall consist of the following members:
 - (i) appointed by the executive director:
 - (A) a qualified medical provider who has at least 100 patients who have a medical cannabis patient card at the time of appointment;
 - (B) a medical research professional;
 - (C) a mental health specialist;
 - (D) an individual who represents an organization that advocates for medical cannabis patients;
 - (E) an individual who holds a medical cannabis patient card; and
 - (F) a member of the general public who does not hold a medical cannabis card; and
 - (ii) appointed by the commissioner of the Department of Agriculture and Food:
 - (A) an individual who owns or operates a licensed cannabis cultivation facility;
 - (B) an individual who owns or operates a licensed medical cannabis pharmacy; and
 - (C) a law enforcement officer.
 - (b) The commissioner of the Department of Agriculture and Food shall ensure that at least one individual appointed under Subsection (2)(a)(ii)(A) or (B) also owns or operates a licensed cannabis processing facility.
- (3)
 - (a) Subject to Subsection (3)(b), a member of the advisory board shall serve for a four year term.
 - (b) When appointing the initial membership of the advisory board, the executive director and the commissioner of the Department of Agriculture and Food shall coordinate to appoint four advisory board members to serve a term of two years to ensure that approximately half of the board is appointed every two years.
- (4)
 - (a) If an advisory board member is no longer able to serve as a member, a new member shall be appointed in the same manner as the original appointment.
 - (b) A member appointed in accordance with Subsection (4)(a) shall serve for the remainder of the unexpired term of the original appointment.
- (5)
 - (a) A majority of the advisory board members constitutes a quorum.
 - (b) The action of a majority of a quorum constitutes an action of the advisory board.
 - (c) The advisory board shall annually designate one of the advisory board's members to serve as chair for a one-year period.
- (6) An advisory board member may not receive compensation or benefits for the member's service on the advisory board but may receive per diem and reimbursement for travel expenses incurred as an advisory board member in accordance with:
 - (a) Sections 63A-3-106 and 63A-3-107; and
 - (b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

- (7) The department shall:
 - (a) provide staff support for the advisory board; and
 - (b) assist the advisory board in conducting meetings.

Enacted by Chapter 273, 2023 General Session

26B-1-435.1 Medical Cannabis Policy Advisory Board duties.

- (1) The advisory board may recommend:
 - (a) to the department or the Department of Agriculture and Food changes to current or proposed medical cannabis rules or statutes;
 - (b) to the appropriate legislative committee whether the advisory board supports a change to medical cannabis statutes.
- (2) The advisory board shall:
 - (a) review any draft rule that is authorized under this chapter or Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;
 - (b) consult with the Department of Agriculture and Food regarding the issuance of an additional:
 - (i) cultivation facility license under Section 4-41a-205; or
 - (ii) pharmacy license under Section 4-41a-1005;
 - (c) consult with the department regarding cannabis patient education;
 - (d) consult regarding the reasonableness of any fees set by the department or the Utah Department of Agriculture and Food that pertain to the medical cannabis program; and
 - (e) consult regarding any issue pertaining to medical cannabis when asked by the department or the Utah Department of Agriculture and Food.

Enacted by Chapter 273, 2023 General Session

**Part 5
Fatality Review**

26B-1-501 Definitions.

As used in this part:

- (1) "Abuse" means the same as that term is defined in Section 80-1-102.
- (2) "Child" means the same as that term is defined in Section 80-1-102.
- (3) "Committee" means a fatality review committee that is formed under Section 26B-1-503 or 26B-1-504.
- (4) "Dependency" means the same as that term is defined in Section 80-1-102.
- (5) "Formal review" means a review of a death or a near fatality that is ordered under Subsection 26B-1-502(6).
- (6) "Near fatality" means alleged abuse or neglect that, as certified by a physician, places a child in serious or critical condition.
- (7) "Qualified individual" means an individual who:
 - (a) at the time that the individual dies, is a resident of a facility or program that is owned or operated by the department or a division of the department;
 - (b)
 - (i) is in the custody of the department or a division of the department; and
 - (ii) is placed in a residential placement by the department or a division of the department;

- (c) at the time that the individual dies, has an open case for the receipt of child welfare services, including:
 - (i) an investigation for abuse, neglect, or dependency;
 - (ii) foster care;
 - (iii) in-home services; or
 - (iv) substitute care;
- (d) had an open case for the receipt of child welfare services within one year before the day on which the individual dies;
- (e) was the subject of an accepted referral received by Adult Protective Services within one year before the day on which the individual dies, if:
 - (i) the department or a division of the department is aware of the death; and
 - (ii) the death is reported as a homicide, suicide, or an undetermined cause;
- (f) received services from, or under the direction of, the Division of Services for People with Disabilities within one year before the day on which the individual dies, unless the individual:
 - (i) lived in the individual's home at the time of death; and
 - (ii) the director of the Division of Continuous Quality and Improvement determines that the death was not in any way related to services that were provided by, or under the direction of, the department or a division of the department;
- (g) dies within 60 days after the day on which the individual is discharged from the Utah State Hospital, if the department is aware of the death;
- (h) is a child who:
 - (i) suffers a near fatality; and
 - (ii) is the subject of an open case for the receipt of child welfare services within one year before the day on which the child suffered the near fatality, including:
 - (A) an investigation for abuse, neglect, or dependency;
 - (B) foster care;
 - (C) in-home services; or
 - (D) substitute care; or
 - (i) is designated as a qualified individual by the executive director.
- (8) "Neglect" means the same as that term is defined in Section 80-1-102.
- (9) "Substitute care" means the same as that term is defined in Section 80-1-102.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-502 Initial review.

- (1) Within seven days after the day on which the department knows that a qualified individual has died or is an individual described in Subsection 26B-1-501(7)(h), a person designated by the department shall:
 - (a)
 - (i) for a death, complete a deceased client report form, created by the department; or
 - (ii) for an individual described in Subsection 26B-1-501(7)(h), complete a near fatality client report form, created by the department; and
 - (b) forward the completed client report form to the director of the office or division that has jurisdiction over the region or facility.
- (2) The director of the office or division described in Subsection (1) shall, upon receipt of a near fatality client report form or a deceased client report form, immediately provide a copy of the form to:
 - (a) the executive director; and

- (b) the fatality review coordinator or the fatality review coordinator's designee.
- (3) Within 10 days after the day on which the fatality review coordinator or the fatality review coordinator's designee receives a copy of the near fatality client report form or the deceased client report form, the fatality review coordinator or the fatality review coordinator's designee shall request a copy of all relevant department case records regarding the individual who is the subject of the client report form.
- (4) Each person who receives a request for a record described in Subsection (3) shall provide a copy of the record to the fatality review coordinator or the fatality review coordinator's designee, by a secure method, within seven days after the day on which the request is made.
- (5) Within 30 days after the day on which the fatality review coordinator or the fatality review coordinator's designee receives the case records requested under Subsection (3), the fatality review coordinator, or the fatality review coordinator's designee, shall:
 - (a) review the client report form, the case files, and other relevant information received by the fatality review coordinator; and
 - (b) make a recommendation to the director of the Division of Continuous Quality and Improvement regarding whether a formal review of the death or near fatality should be conducted.
- (6)
 - (a) In accordance with Subsection (6)(b), within seven days after the day on which the fatality review coordinator or the fatality review coordinator's designee makes the recommendation described in Subsection (5)(b), the director of the Division of Continuous Quality and Improvement or the director's designee shall determine whether to order that a review of the death or near fatality be conducted.
 - (b) The director of the Division of Continuous Quality and Improvement or the director's designee shall order that a formal review of the death or near fatality be conducted if:
 - (i) at the time of the near fatality or the death, the qualified individual is:
 - (A) an individual described in Subsection 26B-1-501(6)(a) or (b), unless:
 - (I) the near fatality or the death is due to a natural cause; or
 - (II) the director of the Division of Continuous Quality and Improvement or the director's designee determines that the near fatality or the death was not in any way related to services that were provided by, or under the direction of, the department or a division of the department; or
 - (B) a child in foster care or substitute care, unless the near fatality or the death is due to:
 - (I) a natural cause; or
 - (II) an accident;
 - (ii) it appears, based on the information provided to the director of the Division of Continuous Quality and Improvement or the director's designee, that:
 - (A) a provision of law, rule, policy, or procedure relating to the qualified individual or the individual's family may not have been complied with;
 - (B) the near fatality or the fatality was not responded to properly;
 - (C) a law, rule, policy, or procedure may need to be changed; or
 - (D) additional training is needed;
 - (iii)
 - (A) the death is caused by suicide; or
 - (B) the near fatality is caused by attempted suicide; or
 - (iv) the director of the Division of Continuous Quality and Improvement or the director's designee determines that another reason exists to order that a review of the near fatality or the death be conducted.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-503 Fatality review committee for a qualified individual who was not a resident of the Utah State Hospital or the Utah State Developmental Center.

- (1) Except for a fatality review committee described in Section 26B-1-504, the fatality review coordinator shall organize a fatality review committee for each formal review.
- (2) Except as provided in Subsection (5), a committee described in Subsection (1):
 - (a) shall include the following members:
 - (i) the department's fatality review coordinator, who shall designate a member of the committee to serve as chair of the committee;
 - (ii) a member of the board, if there is a board, of the relevant division or office;
 - (iii) the attorney general or the attorney general's designee;
 - (iv)
 - (A) a member of the management staff of the relevant division or office; or
 - (B) a person who is a supervisor, or a higher level position, from a region that did not have jurisdiction over the qualified individual; and
 - (v) a member of the department's risk management services; and
 - (b) may include the following members:
 - (i) a health care professional;
 - (ii) a law enforcement officer; or
 - (iii) a representative of the Office of Public Guardian.
- (3) If a death that is subject to formal review involves a qualified individual described in Subsection 26B-1-501(7)(c), (d), or (h), the committee may also include:
 - (a) a health care professional;
 - (b) a law enforcement officer;
 - (c) the director of the Office of Guardian ad Litem;
 - (d) an employee of the division who may be able to provide information or expertise that would be helpful to the formal review; or
 - (e) a professional whose knowledge or expertise may significantly contribute to the formal review.
- (4) A committee described in Subsection (1) may also include a person whose knowledge or expertise may significantly contribute to the formal review.
- (5) A committee described in this section may not include an individual who was involved in, or who supervises a person who was involved in, the near fatality or the death.
- (6) Each member of a committee described in this section who is not an employee of the department shall sign a form, created by the department, indicating that the member agrees to:
 - (a) keep all information relating to the formal review confidential; and
 - (b) not release any information relating to a formal review, unless required or permitted by law to release the information.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-504 Fatality review committees for a resident of the Utah State Hospital or the Utah State Developmental Center.

- (1) If a qualified individual who is the subject of a formal review was a resident of the Utah State Hospital or the Utah State Developmental Center, the fatality review coordinator of that facility shall organize a fatality review committee to review the near fatality or the death.

- (2) Except as provided in Subsection (4), a committee described in Subsection (1) shall include the following members:
 - (a) the fatality review coordinator for the facility, who shall serve as chair of the committee;
 - (b) a member of the management staff of the facility;
 - (c) a supervisor of a unit other than the one in which the qualified individual resided;
 - (d) a physician;
 - (e) a representative from the administration of the division that oversees the facility;
 - (f) the department's fatality review coordinator;
 - (g) a member of the department's risk management services; and
 - (h) a citizen who is not an employee of the department.
- (3) A committee described in Subsection (1) may also include a person whose knowledge or expertise may significantly contribute to the formal review.
- (4) A committee described in this section may not include an individual who:
 - (a) was involved in, or who supervises a person who was involved in, the near fatality or the death; or
 - (b) has a conflict with the fatality review.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-505 Fatality review committee proceedings.

- (1) A majority vote of committee members present constitutes the action of the committee.
- (2) The department shall give the committee access to all reports, records, and other documents that are relevant to the near fatality or the death under investigation, including:
 - (a) narrative reports;
 - (b) case files;
 - (c) autopsy reports; and
 - (d) police reports, unless the report is protected from disclosure under Subsection 63G-2-305(10) or (11).
- (3) The Utah State Hospital and the Utah State Developmental Center shall provide protected health information to the committee if requested by a fatality review coordinator.
- (4) A committee shall convene its first meeting within 14 days after the day on which a formal review is ordered, unless this time is extended, for good cause, by the director of the Division of Continuous Quality and Improvement.
- (5) A committee may interview a staff member, a provider, or any other person who may have knowledge or expertise that is relevant to the formal review.
- (6) A committee shall render an advisory opinion regarding:
 - (a) whether the provisions of law, rule, policy, and procedure relating to the qualified individual and the individual's family were complied with;
 - (b) whether the near fatality or the death was responded to properly;
 - (c) whether to recommend that a law, rule, policy, or procedure be changed; and
 - (d) whether additional training is needed.

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-506 Fatality review committee report -- Response to report.

- (1) Within 20 days after the day on which the committee proceedings described in Section 26B-1-505 end, the committee shall submit:
 - (a) a written report to the executive director that includes:

- (i) the advisory opinions made under Subsection 26B-1-505(6); and
 - (ii) any recommendations regarding action that should be taken in relation to an employee of the department or a person who contracts with the department;
 - (b) a copy of the report described in Subsection (1)(a) to:
 - (i) the director, or the director's designee, of the office or division to which the near fatality or the death relates; and
 - (ii) the regional director, or the regional director's designee, of the region to which the near fatality or the death relates; and
 - (c) a copy of the report described in Subsection (1)(a), with only identifying information redacted, to the Office of Legislative Research and General Counsel.
- (2) Within 20 days after the day on which the director described in Subsection (1)(b)(i) receives a copy of the report described in Subsection (1)(a), the director shall provide a written response to the director of the Division of Continuous Quality and Improvement and a copy of the response, with only identifying information redacted, to the Office of Legislative Research and General Counsel, if the report:
- (a) indicates that a law, rule, policy, or procedure was not complied with;
 - (b) indicates that the near fatality or the death was not responded to properly;
 - (c) recommends that a law, rule, policy, or procedure be changed; or
 - (d) indicates that additional training is needed.
- (3) The response described in Subsection (2) shall include a plan of action to implement any recommended improvements within the office or division.
- (4) Within 30 days after the day on which the executive director receives the response described in Subsection (2), the executive director, or the executive director's designee shall:
- (a) review the plan of action described in Subsection (3);
 - (b) make any written response that the executive director or the executive director's designee determines is necessary;
 - (c) provide a copy of the written response described in Subsection (4)(b), with only identifying information redacted, to the Office of Legislative Research and General Counsel; and
 - (d) provide an unredacted copy of the response described in Subsection (4)(b) to the director of the Division of Continuous Quality and Improvement.
- (5) A report described in Subsection (1) and each response described in this section is a protected record.
- (6)
- (a) As used in this Subsection (6), "fatality review document" means any document created in connection with, or as a result of, a formal review of a near fatality or a death, or a decision whether to conduct a formal review of a near fatality or a death, including:
 - (i) a report described in Subsection (1);
 - (ii) a response described in this section;
 - (iii) a recommendation regarding whether a formal review should be conducted;
 - (iv) a decision to conduct a formal review;
 - (v) notes of a person who participates in a formal review;
 - (vi) notes of a person who reviews a formal review report;
 - (vii) minutes of a formal review;
 - (viii) minutes of a meeting where a formal review report is reviewed; and
 - (ix) minutes of, documents received in relation to, and documents generated in relation to, the portion of a meeting of the Health and Human Services Interim Committee or the Child Welfare Legislative Oversight Panel that a formal review report or a document described in this Subsection (6)(a) is reviewed or discussed.

- (b) A fatality review document is not subject to discovery, subpoena, or similar compulsory process in any civil, judicial, or administrative proceeding, nor shall any individual or organization with lawful access to the data be compelled to testify with regard to a report described in Subsection (1) or a response described in this section.
- (c) The following are not admissible as evidence in a civil, judicial, or administrative proceeding:
 - (i) a fatality review document; and
 - (ii) an executive summary described in Subsection 26B-1-507(4).

Renumbered and Amended by Chapter 305, 2023 General Session

26B-1-507 Reporting to, and review by, legislative committees.

- (1) The Office of Legislative Research and General Counsel shall provide a copy of the report described in Subsection 26B-1-506(1)(c), and the responses described in Subsections 26B-1-506(2) and (4)(c) to the chairs of:
 - (a) the Health and Human Services Interim Committee; or
 - (b) if the qualified individual who is the subject of the report is an individual described in Subsection 26B-1-501(7)(c), (d), or (h), the Child Welfare Legislative Oversight Panel.
- (2)
 - (a) The Health and Human Services Interim Committee may, in a closed meeting, review a report described in Subsection 26B-1-506(1)(b).
 - (b) The Child Welfare Legislative Oversight Panel shall, in a closed meeting, review a report described in Subsection (1)(b).
- (3)
 - (a) The Health and Human Services Interim Committee and the Child Welfare Legislative Oversight Panel may not interfere with, or make recommendations regarding, the resolution of a particular case.
 - (b) The purpose of a review described in Subsection (2) is to assist a committee or panel described in Subsection (2) in determining whether to recommend a change in the law.
 - (c) Any recommendation, described in Subsection (3)(b), by a committee or panel for a change in the law shall be made in an open meeting.
- (4)
 - (a) On or before September 1 of each year, the department shall provide an executive summary of all formal review reports for the preceding state fiscal year to the Office of Legislative Research and General Counsel.
 - (b) The Office of Legislative Research and General Counsel shall forward a copy of the executive summary described in Subsection (4)(a) to:
 - (i) the Health and Human Services Interim Committee; and
 - (ii) the Child Welfare Legislative Oversight Panel.
- (5) The executive summary described in Subsection (4):
 - (a) may not include any names or identifying information;
 - (b) shall include:
 - (i) all recommendations regarding changes to the law that were made during the preceding fiscal year under Subsection 26B-1-505(6);
 - (ii) all changes made, or in the process of being made, to a law, rule, policy, or procedure in response to a formal review that occurred during the preceding fiscal year;
 - (iii) a description of the training that has been completed in response to a formal review that occurred during the preceding fiscal year;
 - (iv) statistics for the preceding fiscal year regarding:

- (A) the number of qualified individuals and the type of deaths and near fatalities that are known to the department;
 - (B) the number of formal reviews conducted;
 - (C) the categories described in Subsection 26B-1-501(7) of qualified individuals;
 - (D) the gender, age, race, and other significant categories of qualified individuals; and
 - (E) the number of fatalities of qualified individuals known to the department that are identified as suicides; and
- (v) action taken by the Division of Licensing and Background Checks and the Bureau of Internal Review and Audits in response to the near fatality or the death of a qualified individual; and
- (c) is a public document.
- (6) The Division of Child and Family Services shall, to the extent required by the federal Child Abuse Prevention and Treatment Act of 1988, Pub. L. No. 93-247, as amended, allow public disclosure of the findings or information relating to a case of child abuse or neglect that results in a child fatality or a near fatality.

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