

**Effective 5/3/2023**

**Chapter 5**  
**Health Care - Substance Use and Mental Health**

**Part 1**  
**General Provisions**

**26B-5-101 Chapter definitions.**

As used in this chapter:

- (1) "Criminal risk factors" means a person's characteristics and behaviors that:
  - (a) affect the person's risk of engaging in criminal behavior; and
  - (b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.
- (2) "Director" means the director appointed under Section 26B-5-103.
- (3) "Division" means the Division of Integrated Healthcare created in Section 26B-1-202.
- (4) "Local mental health authority" means a county legislative body.
- (5) "Local substance abuse authority" means a county legislative body.
- (6) "Mental health crisis" means:
  - (a) a mental health condition that manifests in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:
    - (i) serious danger to the individual's health or well-being; or
    - (ii) a danger to the health or well-being of others; or
  - (b) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or intervention.
- (7) "Mental health crisis response training" means community-based training that educates laypersons and professionals on the warning signs of a mental health crisis and how to respond.
- (8) "Mental health crisis services" means an array of services provided to an individual who experiences a mental health crisis, which may include:
  - (a) direct mental health services;
  - (b) on-site intervention provided by a mobile crisis outreach team;
  - (c) the provision of safety and care plans;
  - (d) prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis;
  - (e) referrals to other community resources;
  - (f) local mental health crisis lines; and
  - (g) the statewide mental health crisis line.
- (9) "Mental health therapist" means the same as that term is defined in Section 58-60-102.
- (10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.
- (11) "Office" means the Office of Substance Use and Mental Health created in Section 26B-5-102.
- (12)
  - (a) "Public funds" means federal money received from the department, and state money appropriated by the Legislature to the department, a county governing body, or a local

substance abuse authority, or a local mental health authority for the purposes of providing substance abuse or mental health programs or services.

- (b) "Public funds" include federal and state money that has been transferred by a local substance abuse authority or a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority. The money maintains the nature of "public funds" while in the possession of the private entity that has an annual or otherwise ongoing contract with a local substance abuse authority or a local mental health authority to provide comprehensive substance use or mental health programs or services for the local substance abuse authority or local mental health authority.
- (c) Public funds received for the provision of services under substance use or mental health service plans may not be used for any other purpose except those authorized in the contract between the local mental health or substance abuse authority and provider for the provision of plan services.
- (13) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.
- (14) "Stabilization services" means in-home services provided to a child with, or who is at risk for, complex emotional and behavioral needs, including teaching the child's parent or guardian skills to improve family functioning.
- (15) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.
- (16) "System of care" means a broad, flexible array of services and supports that:
  - (a) serve a child with or who is at risk for complex emotional and behavioral needs;
  - (b) are community based;
  - (c) are informed about trauma;
  - (d) build meaningful partnerships with families and children;
  - (e) integrate service planning, service coordination, and management across state and local entities;
  - (f) include individualized case planning;
  - (g) provide management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and
  - (h) are guided by the type and variety of services needed by a child with or who is at risk for complex emotional and behavioral needs and by the child's family.

Amended by Chapter 308, 2023 General Session

**26B-5-102 Division of Integrated Healthcare -- Office of Substance Use and Mental Health -- Creation -- Responsibilities.**

- (1)
  - (a) The Division of Integrated Healthcare shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.
  - (b) The division is the substance abuse authority and the mental health authority for this state.
  - (c) There is created the Office of Substance Use and Mental Health within the division.

- (d) The office shall exercise the responsibilities, powers, rights, duties, and responsibilities assigned to the office by the executive director.
- (2) The division shall:
  - (a)
    - (i) educate the general public regarding the nature and consequences of substance use by promoting school and community-based prevention programs;
    - (ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance use;
    - (iii) promote or establish programs for the prevention of substance use within the community setting through community-based prevention programs;
    - (iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance use disorder, by identifying and disseminating information about effective practices and programs;
    - (v) promote integrated programs that address an individual's substance use, mental health, and physical health;
    - (vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with a substance use disorder or mental illness;
    - (vii) evaluate the effectiveness of programs described in this Subsection (2);
    - (viii) consider the impact of the programs described in this Subsection (2) on:
      - (A) emergency department utilization;
      - (B) jail and prison populations;
      - (C) the homeless population; and
      - (D) the child welfare system; and
    - (ix) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;
  - (b)
    - (i) collect and disseminate information pertaining to mental health;
    - (ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;
    - (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and
    - (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 26B-5-313;
  - (c)
    - (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;
    - (ii) provide consultation and other assistance to public and private agencies and groups working on substance use and mental health issues;
    - (iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

- (iv) promote or conduct research on substance use and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;
- (v) receive, distribute, and provide direction over public funds for substance use and mental health services;
- (vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;
- (vii) examine expenditures of local, state, and federal funds;
- (viii) monitor the expenditure of public funds by:
  - (A) local substance abuse authorities;
  - (B) local mental health authorities; and
  - (C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;
- (ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;
- (x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;
- (xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:
  - (A) a statewide comprehensive continuum of substance use services;
  - (B) a statewide comprehensive continuum of mental health services;
  - (C) services result in improved overall health and functioning;
  - (D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance use or mental illness conditions or both, and who are involved in the criminal justice system;
  - (E) compliance, where appropriate, with the certification requirements in Subsection (2)(j); and
  - (F) appropriate expenditure of public funds;
- (xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance use programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;
- (xiii) monitor and ensure compliance with division rules and contract requirements; and
- (xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;
- (d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;
- (e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;
- (f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:
  - (i) a review and determination regarding whether:

- (A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and
- (B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and
- (ii) items determined by the division to be necessary and appropriate;
- (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;
- (h)
  - (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:
    - (A) a substance use disorder;
    - (B) a mental health disorder; or
    - (C) a substance use disorder and a mental health disorder;
  - (ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;
  - (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
    - (A) establish training and certification requirements for a peer support specialist;
    - (B) specify the types of services a peer support specialist is qualified to provide;
    - (C) specify the type of supervision under which a peer support specialist is required to operate; and
    - (D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and
  - (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
    - (A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and
    - (B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;
- (i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:
  - (i) pretrial services and the resources needed to reduce recidivism;
  - (ii) county jail and county behavioral health early-assessment resources needed for an individual convicted of a class A or class B misdemeanor; and
  - (iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;
- (j) establish performance goals and outcome measurements for a mental health or substance use treatment program that is licensed under Chapter 2, Part 1, Human Services Programs and Facilities, and contracts with the department, including goals and measurements related to employment and reducing recidivism of individuals receiving mental health or substance use treatment who are involved with the criminal justice system;
- (k) annually, on or before November 30, submit a written report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee, that includes:
  - (i) a description of the performance goals and outcome measurements described in Subsection (2)(j); and

- (ii) information on the effectiveness of the goals and measurements in ensuring appropriate and adequate mental health or substance use treatment is provided in a treatment program described in Subsection (2)(j);
- (l) collaborate with the Administrative Office of the Courts, the Department of Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to collect data on recidivism in accordance with the metrics and requirements described in Section 63M-7-102;
- (m) at the division's discretion, use the data described in Subsection (2)(l) to make decisions regarding the use of funds allocated to the division to provide treatment;
- (n) annually, on or before August 31, submit the data collected under Subsection (2)(l) and any recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice to be included in the report described in Subsection 63M-7-204(1)(x);
- (o) publish the following on the division's website:
  - (i) the performance goals and outcome measurements described in Subsection (2)(j); and
  - (ii) a description of the services provided and the contact information for the mental health and substance use treatment programs described in Subsection (2)(j) and residential, vocational and life skills programs, as defined in Section 13-53-102; and
- (p) consult and coordinate with the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance use during pregnancy and by parents of a newborn child that includes:
  - (i) providing education and resources to health care providers and individuals in the state regarding prevention of substance use during pregnancy;
  - (ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance use disorder; and
  - (iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance use treatment services to a facility that has the capacity to provide the treatment services.
- (3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:
  - (a) coordinating with local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:
    - (i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:
      - (A) information on safe handling, storage, and use of firearms in a home environment;
      - (B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;
      - (C) information about suicide prevention awareness; and
      - (D) information about the availability of firearm safety packets;
    - (ii) procure cable-style gun locks for distribution under this section;
    - (iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and
    - (iv) create a suicide prevention education course that:
      - (A) provides information for distribution regarding firearm safety education;
      - (B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and
      - (C) provides information regarding crisis intervention resources;

- (b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:
    - (i) health care providers, including emergency rooms;
    - (ii) mobile crisis outreach teams;
    - (iii) mental health practitioners;
    - (iv) other public health suicide prevention organizations;
    - (v) entities that teach firearm safety courses;
    - (vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and
    - (vii) firearm dealers to be distributed in accordance with Section 76-10-526;
  - (c) creating and administering a rebate program that includes a rebate that offers between \$10 and \$200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;
  - (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:
    - (i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;
    - (ii) procuring the cable-style gun locks for distribution; and
    - (iii) administering the rebate program; and
  - (e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education course at or before the November meeting each year.
- (4)
- (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.
  - (b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance use or mental health programs or services fails to comply with state and federal law or policy.
- (5)
- (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.
  - (b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.
- (6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.
- (7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.
- (8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:
- (a) use of public funds;

- (b) oversight of public funds; and
  - (c) governance of substance use disorder and mental health programs and services.
- (9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.
- (10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:
- (a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or
  - (b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.
- (11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:
- (a) provide coordination between a local education agency and local mental health authority;
  - (b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and
  - (c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Amended by Chapter 177, 2023 General Session

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-103 Director -- Qualifications.**

- (1) The executive director shall appoint a director within the division to carry out all or part of the duties and responsibilities described in this part.
- (2) The director appointed under Subsection (1) shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in matters concerning substance use and mental health.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-104 Authority and responsibilities of division.**

The division shall set policy for its operation and for programs funded with state and federal money under Sections 17-43-201, 17-43-301, 17-43-304, and 26B-5-108. The division shall:

- (1) in establishing rules, seek input from local substance abuse authorities, local mental health authorities, consumers, providers, advocates, division staff, and other interested parties as determined by the division;
- (2) establish, by rule, minimum standards for local substance abuse authorities and local mental health authorities;
- (3) establish, by rule, procedures for developing policies that ensure that local substance abuse authorities and local mental health authorities are given opportunity to comment and provide input on any new policy of the division or proposed changes in existing rules of the division;
- (4) provide a mechanism for review of its existing policy, and for consideration of policy changes that are proposed by local substance abuse authorities or local mental health authorities;
- (5) develop program policies, standards, rules, and fee schedules for the division; and
- (6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules approving the form and content of substance abuse treatment, educational series, screening, and assessment that are described in Section 41-6a-501.



Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-105 Employment first emphasis on the provision of services.**

- (1) As used in this section, "recipient" means an individual who is:
  - (a) undergoing treatment for a substance use problem; or
  - (b) suffers from a mental illness.
- (2) When providing services to a recipient, the division shall, within funds appropriated by the Legislature and in accordance with the requirements of federal and state law and memorandums of understanding between the division and other state entities that provide services to a recipient, give priority to providing services that assist an eligible recipient in obtaining and retaining meaningful and gainful employment that enables the recipient to earn sufficient income to:
  - (a) purchase goods and services;
  - (b) establish self-sufficiency; and
  - (c) exercise economic control of the recipient's life.
- (3) The division shall develop a written plan to implement the policy described in Subsection (2) that includes:
  - (a) assessing the strengths and needs of a recipient;
  - (b) customizing strength-based approaches to obtaining employment;
  - (c) expecting, encouraging, providing, and rewarding:
    - (i) integrated employment in the workplace at competitive wages and benefits; and
    - (ii) self-employment;
  - (d) developing partnerships with potential employers;
  - (e) maximizing appropriate employment training opportunities;
  - (f) coordinating services with other government agencies and community resources;
  - (g) to the extent possible, eliminating practices and policies that interfere with the policy described in Subsection (2); and
  - (h) arranging sub-minimum wage work or volunteer work for an eligible recipient when employment at market rates cannot be obtained.
- (4) The division shall, on an annual basis:
  - (a) set goals to implement the policy described in Subsection (2) and the plan described in Subsection (3);
  - (b) determine whether the goals for the previous year have been met; and
  - (c) modify the plan described in Subsection (3) as needed.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-106 Authority to assess fees.**

The division may, with the approval of the Legislature and the executive director, establish fee schedules and assess fees for services rendered by the division.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-107 Formula for allocation of funds to local substance abuse authorities and local mental health authorities.**

- (1)

- (a) The division shall establish, by rule, formulas for allocating funds to local substance abuse authorities and local mental health authorities through contracts, to provide substance use prevention and treatment services in accordance with the provisions of this chapter and Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, and mental health services in accordance with the provisions of this chapter and Title 17, Chapter 43, Part 3, Local Mental Health Authorities.
  - (b) The formulas shall provide for allocation of funds based on need. Determination of need shall be based on population unless the division establishes, by valid and accepted data, that other defined factors are relevant and reliable indicators of need.
  - (c) The formulas shall include a differential to compensate for additional costs of providing services in rural areas.
- (2) The formulas established under Subsection (1) apply to all state and federal funds appropriated by the Legislature to the division for local substance abuse authorities and local mental health authorities, but does not apply to:
- (a) funds that local substance abuse authorities and local mental health authorities receive from sources other than the division;
  - (b) funds that local substance abuse authorities and local mental health authorities receive from the division to operate specific programs within their jurisdictions which are available to all residents of the state;
  - (c) funds that local substance abuse authorities and local mental health authorities receive from the division to meet needs that exist only within their local areas; and
  - (d) funds that local substance abuse authorities and local mental health authorities receive from the division for research projects.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-108 Contracts for substance use and mental health services -- Provisions -- Responsibilities.**

- (1) If the division contracts with a local substance abuse authority or a local mental health authority to provide substance use or mental health programs and services in accordance with the provisions of this chapter and Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, or Title 17, Chapter 43, Part 3, Local Mental Health Authorities, it shall ensure that those contracts include at least the following provisions:
- (a) that an independent auditor shall conduct any audit of the local substance abuse authority or its contract provider's programs or services and any audit of the local mental health authority or its contract provider's programs or services, pursuant to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;
  - (b) in addition to the requirements described in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, the division:
    - (i) shall prescribe guidelines and procedures, in accordance with those formulated by the state auditor pursuant to Section 67-3-1, for auditing the compensation and expenses of officers, directors, and specified employees of the private contract provider, to assure the state that no personal benefit is gained from travel or other expenses; and
    - (ii) may prescribe specific items to be addressed by that audit, depending upon the particular needs or concerns relating to the local substance abuse authority, local mental health authority, or contract provider at issue;

- (c) the local substance abuse authority or its contract provider and the local mental health authority and its contract provider shall invite and include all funding partners in its auditor's pre- and exit conferences;
  - (d) each member of the local substance abuse authority and each member of the local mental health authority shall annually certify that he has received and reviewed the independent audit and has participated in a formal interview with the provider's executive officers;
  - (e) requested information and outcome data will be provided to the division in the manner and within the time lines defined by the division; and
  - (f) all audit reports by state or county persons or entities concerning the local substance abuse authority or its contract provider, or the local mental health authority or its contract provider shall be provided to the executive director of the department, the local substance abuse authority or local mental health authority, and members of the contract provider's governing board.
- (2) Each contract between the division and a local substance abuse authority or a local mental health authority shall authorize the division to withhold funds, otherwise allocated under Section 26B-5-107, to cover the costs of audits, attorney fees, and other expenditures associated with reviewing the expenditure of public funds by a local substance abuse authority or its contract provider or a local mental health authority or its contract provider, if there has been an audit finding or judicial determination that public funds have been misused by the local substance abuse authority or its contract provider or the local mental health authority or its contract provider.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-109 Local plan program funding.**

- (1) To facilitate the distribution of newly appropriated funds beginning from fiscal year 2018 for prevention, treatment, and recovery support services that reduce recidivism or reduce the per capita number of incarcerated offenders with a substance use disorder or a mental health disorder, the division shall:
- (a) form an application review and fund distribution committee that includes:
    - (i) one representative of the Utah Sheriffs' Association;
    - (ii) one representative of the Statewide Association of Prosecutors of Utah;
    - (iii) two representatives from the division; and
    - (iv) two representatives from the Utah Association of Counties; and
  - (b) require the application review and fund distribution committee to:
    - (i) establish a competitive application process for funding of a local plan, as described in Sections 17-43-201(5)(b) and 17-43-301(6)(a)(ii);
    - (ii) establish criteria in accordance with Subsection (1) for the evaluation of an application;
    - (iii) ensure that the committee members' affiliate groups approve of the application process and criteria;
    - (iv) evaluate applications; and
    - (v) distribute funds to programs implemented by counties, local mental health authorities, or local substance abuse authorities.
- (2) Demonstration of matching county funds is not a requirement to receive funds, but the application review committee may take into consideration the existence of matching funds when determining which programs to fund.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-110 Suicide Prevention Education Program -- Definitions -- Grant requirements.**

- (1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.
- (2) There is created a Suicide Prevention Education Program to fund suicide prevention education opportunities for federally licensed firearms dealers who operate a retail establishment open to the public and the dealers' employees.
- (3) The division, in conjunction with the bureau, shall provide a grant to an employer described in Subsection (2) in accordance with the criteria provided in Subsection 26B-5-611(8)(b).
- (4) An employer may apply for a grant of up to \$2,500 under the program.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-111 Mental health crisis response training.**

- (1) The division shall award grants to communities to conduct mental health crisis response training.
- (2) For the application and award of the grants described in Subsection (1), the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that determine:
  - (a) the requirements and process for a community to apply for a grant; and
  - (b) the substantive mental health crisis response programs that qualify for the award of a grant.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-112 Mobile crisis outreach team expansion.**

- (1) In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202, the division shall award grants for the development of:
  - (a) five mobile crisis outreach teams:
    - (i) in counties of the second, third, fourth, fifth, or sixth class; or
    - (ii) in counties of the first class, if no more than two mobile crisis outreach teams are operating or have been awarded a grant to operate in the county; and
  - (b) at least three mobile crisis outreach teams in counties of the third, fourth, fifth, or sixth class.
- (2) A mobile crisis outreach team awarded a grant under Subsection (1) shall provide mental health crisis services 24 hours per day, 7 days per week, and every day of the year.
- (3) The division shall prioritize the award of a grant described in Subsection (1) to entities, based on:
  - (a) the number of individuals the proposed mobile crisis outreach team will serve; and
  - (b) the percentage of matching funds the entity will provide to develop the proposed mobile crisis outreach team.
- (4) An entity does not need to have resources already in place to be awarded a grant described in Subsection (1).
- (5) In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (1).

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-112.5 Mobile Crisis Outreach Team Grant Program.**

- (1) As used in this section, "commission" means the Behavioral Health Crisis Response Commission established in Section 63C-18-202.
- (2) The commission shall provide recommendations and the division shall award grants for the development of up to five mobile crisis outreach teams.
- (3) A mobile crisis outreach team that is awarded a grant under Subsection (2) shall provide mental health crisis services 24 hours per day, seven days per week, and every day of the year.
- (4) The division shall prioritize the award of a grant described in Subsection (2) to entities based on:
  - (a) the outstanding need for crisis outreach services within the area the proposed mobile crisis outreach team will serve; and
  - (b) the capacity for implementation of the proposed mobile crisis outreach team in accordance with the division's established standards and requirements for mobile crisis outreach teams.
- (5)
  - (a) In consultation with the commission, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (2).
  - (b)
    - (i) The rules created under Subsection (5)(a) shall implement a funding structure for a mobile crisis outreach team developed using a grant awarded under this section.
    - (ii) The funding structure described in Subsection (5)(b)(i) shall provide for tiers and phases of shared funding coverage between the state and counties.

Enacted by Chapter 270, 2023 General Session

**26B-5-113 Medicaid reimbursement for school-based health services -- Report to Legislature.**

- (1) As used in this section, "individualized education program" or "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- (2) The division shall coordinate with the State Board of Education, the Department of Health, and stakeholders to address and develop recommendations related to:
  - (a) the expansion of Medicaid reimbursement for school-based health services, including how to expand Medicaid-eligible school-based services beyond the services for students with IEPs; and
  - (b) other areas concerning Medicaid reimbursement for school-based health services, including the time threshold for medically necessary IEP services.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-114 Behavioral Health Receiving Center Grant Program.**

- (1) As used in this section:
  - (a) "Behavioral health receiving center" means a 23-hour nonsecure program or facility that is responsible for, and provides mental health crisis services to, an individual experiencing a mental health crisis.
  - (b) "Commission" means the Behavioral Health Crisis Response Commission established in Section 63C-18-202.

- (c) "Project" means a behavioral health receiving center project described in Subsection (2) or (3) (a).
- (2) Before July 1, 2020, the division shall issue a request for proposals in accordance with this section to award a grant to one or more counties of the first or second class, as classified in Section 17-50-501, to develop and implement a behavioral health receiving center.
- (3)
  - (a) Before July 1, 2023, the division shall issue a request for proposals in accordance with this section to award a grant to one county of the third class, as classified in Section 17-50- 501, to develop and implement a behavioral health receiving center.
  - (b) Subject to appropriations by the Legislature, the division shall award grants under this Subsection (3) before December 31, 2023.
  - (c) The commission shall provide recommendations to the division regarding the development and implementation of a behavioral health receiving center.
- (4) The purpose of a project is to:
  - (a) increase access to mental health crisis services for individuals in the state who are experiencing a mental health crisis; and
  - (b) reduce the number of individuals in the state who are incarcerated or in a hospital emergency room while experiencing a mental health crisis.
- (5) An application for a grant under this section shall:
  - (a) identify the population to which the behavioral health receiving center will provide mental health crisis services;
  - (b) identify the type of mental health crisis services the behavioral health receiving center will provide;
  - (c) explain how the population described in Subsection (5)(a) will benefit from the provision of mental health crisis services;
  - (d) provide details regarding:
    - (i) how the proposed project plans to provide mental health crisis services;
    - (ii) how the proposed project will ensure that consideration is given to the capacity of the behavioral health receiving center;
    - (iii) how the proposed project will ensure timely and effective provision of mental health crisis services;
    - (iv) the cost of the proposed project;
    - (v) any existing or planned contracts or partnerships between the applicant and other individuals or entities to develop and implement the proposed project;
    - (vi) any plan to use funding sources in addition to a grant under this section for the proposed project;
    - (vii) the sustainability of the proposed project; and
    - (viii) the methods the proposed project will use to:
      - (A) protect the privacy of each individual who receives mental health crisis services from the behavioral health receiving center;
      - (B) collect nonidentifying data relating to the proposed project; and
      - (C) provide transparency on the costs and operation of the proposed project; and
  - (e) provide other information requested by the division to ensure that the proposed project satisfies the criteria described in Subsection (7).
- (6) A recipient of a grant under this section shall enroll as a Medicaid provider and meet minimum standards of care for behavioral health receiving centers established by the division.
- (7) In evaluating an application for the grant, the division shall consider:
  - (a) the extent to which the proposed project will fulfill the purposes described in Subsection (4);

- (b) the extent to which the population described in Subsection (5)(a) is likely to benefit from the proposed project;
  - (c) the cost of the proposed project;
  - (d) the extent to which any existing or planned contracts or partnerships between the applicant and other individuals or entities to develop and implement the project, or additional funding sources available to the applicant for the proposed project, are likely to benefit the proposed project; and
  - (e) the viability and innovation of the proposed project.
- (8) Before June 30, 2023, the division shall report to the Health and Human Services Interim Committee regarding:
- (a) data gathered in relation to each project described in Subsection (2);
  - (b) knowledge gained relating to the provision of mental health crisis services in a behavioral health receiving center;
  - (c) recommendations for the future use of mental health crisis services in behavioral health receiving centers;
  - (d) obstacles encountered in the provision of mental health crisis services in a behavioral health receiving center; and
  - (e) recommendations for appropriate Medicaid reimbursement for rural behavioral health receiving centers.
- (9)
- (a) In consultation with the commission, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of a grant under this section.
  - (b)
    - (i) The rules created under Subsection (9)(a) shall:
      - (A) implement a funding structure for a behavioral health receiving center developed using a grant awarded under this section;
      - (B) include implementation standards and minimum program requirements for a behavioral health receiving center developed using a grant awarded under this section, including minimum guidelines and standards of care, and minimum staffing requirements; and
      - (C) require a behavioral health receiving center developed using a grant awarded under this section to operate 24 hours per day, seven days per week, and every day of the year.
    - (ii) The funding structure described in Subsection (9)(b)(i)(A) shall provide for tiers and phases of shared funding coverage between the state and counties.
- (10) Before June 30, 2024, the division shall report to the Health and Human Services Interim Committee regarding:
- (a) grants awarded under Subsection (3)(a); and
  - (b) the details of each project described in Subsection (3)(a).
- (11) Before June 30, 2026, the division shall provide a report to the Health and Human Services Interim Committee that includes:
- (a) data gathered in relation to each project described in Subsection (3)(a); and
  - (b) an update on the items described in Subsections (8)(b) through (d).

Amended by Chapter 270, 2023 General Session  
Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-115 Safety Net Initiative.**

- (1) As used in this section, "individuals in underserved communities" means individuals living in culturally isolated communities in the state who may lack access to public assistance and other government services.
- (2) There is created within the division the Safety Net Initiative to:
  - (a) implement strategies to increase awareness and reduce risk factors in order to improve the safety and well-being of individuals in underserved communities;
  - (b) coordinate with government agencies, nonprofit organizations, and interested individuals to provide open communication with individuals in underserved communities; and
  - (c) coordinate efforts to give individuals in underserved communities needed access to public assistance and other government services.
- (3) The division may employ or contract with individuals, entities, and support staff as necessary to administer the duties required by this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-116 Suicide technical assistance program.**

- (1) As used in this section, "technical assistance" means training for the prevention of suicide.
- (2)
  - (a) Before July 1, 2021, and each subsequent July 1, the division shall solicit applications from health care organizations to receive technical assistance provided by the division.
  - (b) The division shall approve at least one but not more than six applications each year.
  - (c) The division shall determine which applicants receive the technical assistance before December 31 of each year.
- (3) An application for technical assistance under this section shall:
  - (a) identify the population to whom the health care organization will provide suicide prevention services;
  - (b) identify how the health care organization plans to implement the skills and knowledge gained from the technical assistance;
  - (c) identify the health care organization's current resources used for the prevention of suicide;
  - (d) explain how the population described in Subsection (3)(a) will benefit from the health care organization receiving technical assistance;
  - (e) provide details regarding:
    - (i) how the health care organization will provide timely and effective suicide prevention services;
    - (ii) any existing or planned contracts or partnerships between the health care organization and other persons that are related to suicide prevention;
    - (iii) the methods the health care organization will use to:
      - (A) protect the privacy of each individual to whom the health care organization provides suicide prevention services; and
      - (B) collect non-identifying data; and
  - (f) provide other information requested by the division for the division to evaluate the application.
- (4) In evaluating an application for technical assistance, the division shall consider:
  - (a) the extent to which providing technical assistance to the health care organization will fulfill the purpose of preventing suicides in the state;
  - (b) the extent to which the population described in Subsection (3)(a) is likely to benefit from the health care organization receiving the technical assistance;
  - (c) the cost of providing the technical assistance to the health care organization; and
  - (d) the extent to which any of the following are likely to benefit the health care organization's ability to assist in preventing suicides in the state:



- (i) existing or planned contracts or partnerships between the applicant and other persons to develop and implement other initiatives; or
  - (ii) additional funding sources available to the applicant for suicide prevention services.
- (5) Before June 30, 2022, and each subsequent June 30, the division shall submit a written report to the Health and Human Services Interim Committee regarding each health care organization the division provided technical assistance to in the preceding year under this section.
- (6) Before June 30, 2024, the division shall submit a written report to the Health and Human Services Interim Committee regarding:
- (a) data gathered in relation to providing technical assistance to a health care organization;
  - (b) knowledge gained relating to providing technical assistance;
  - (c) recommendations for the future regarding how the state can better prevent suicides; and
  - (d) obstacles encountered when providing technical assistance.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-117 Early childhood mental health support grant program.**

- (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) "Early childhood" means the time during which a child is zero to six years old.
  - (d) "Project" means a project to provide education and training to child care providers regarding evidence-based best practices for delivery of mental health support and interventions during early childhood.
- (2) On or before July 1, 2021, the division shall issue a request for proposals in accordance with this section to award a grant to a public or nonprofit entity to implement a project.
- (3) The purpose of a project is to facilitate education about early childhood mental health support and interventions.
- (4) An application for a grant under this section shall provide details regarding:
- (a) the education and training regarding early childhood mental health support and interventions that the proposed project will provide to child care providers;
  - (b) how the proposed project plans to provide the education and training to child care providers;
  - (c) the number of child care providers served by the proposed project;
  - (d) how the proposed project will ensure the education and training is effectively provided to child care providers;
  - (e) the cost of the proposed project; and
  - (f) the sustainability of the proposed project.
- (5) In evaluating a project proposal for a grant under this section, the division shall consider:
- (a) the extent to which the proposed project will fulfill the purpose described in Subsection (3);
  - (b) the extent to which child care providers that will be served by the proposed project are likely to benefit from the proposed project;
  - (c) the cost of the proposed project; and
  - (d) the viability of the proposed project.
- (6) Before June 30, 2024, the division shall report to the Health and Human Services Interim Committee regarding:
- (a) any knowledge gained from providing the education and training regarding early childhood mental health support to child care providers;

- (b) data gathered in relation to each project;
- (c) recommendations for the future use of the education and training provided to child care providers; and
- (d) obstacles encountered in providing the education and training to child care providers.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-118 Collaborative care grant program.**

(1) As used in this section:

- (a) "Applicant" means a small primary health care practice that applies for a grant under this section.
- (b) "Care manager" means an individual who plans, directs, and coordinates health care services for a patient.
- (c) "Collaborative care model" means a formal collaborative arrangement between a primary care physician, a mental health professional, and a care manager, to provide integrated physical and behavioral health services.
- (d) "Mental health professional" means an individual licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, or Title 58, Chapter 61, Psychologist Licensing Act, or a psychiatrist.
- (e) "Physician" means an individual licensed to practice as a physician or osteopath under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
- (f) "Primary care physician" means a physician that provides health services related to family medicine, internal medicine, pediatrics, obstetrics, gynecology, or geriatrics.
- (g) "Program" means a program described in Subsection (2)(a).
- (h) "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.
- (i) "Small primary health care practice" means a medical practice of primary health care physicians that:
  - (i) includes 10 or fewer primary care physicians; or
  - (ii) is primarily based in a county of the third through sixth class, as classified in Section 17-50-501.

(2)

- (a) Before July 1, 2022, the division shall solicit applications from small primary health care practices for a grant to support or implement a program to provide integrated physical and behavioral health services under a collaborative care model.
- (b) A grant under this section may be used to:
  - (i) hire and train staff to administer a program;
  - (ii) identify and formalize contractual relationships with mental health professionals and case managers to implement a program; or
  - (iii) purchase or upgrade software and other resources necessary to support or implement a program.
- (c) The division shall approve at least one but not more than six applications each year.
- (d) The division shall determine which applicants receive a grant under this section before December 31, 2022.

(3) An application for a grant under this section shall:

- (a) identify the population to whom the applicant will provide services under a program;

- (b) identify the small primary health care practice's current resources that are used to provide integrated physical and behavioral health services;
  - (c) explain how the population described in Subsection (3)(a) will benefit from the program;
  - (d) provide details regarding:
    - (i) how the applicant will provide timely and effective services under the program;
    - (ii) any existing or planned contracts or partnerships between the applicant and other persons that are related to a collaborative care model;
    - (iii) the methods the applicant will use to:
      - (A) protect the privacy of each individual to whom the applicant provides services under the program; and
      - (B) collect non-identifying data; and
  - (e) provide other information requested by the division for the division to evaluate the application.
- (4) In evaluating an application for a grant under this section, the division shall consider:
- (a) the extent to which providing the grant to the applicant will fulfill the purpose of providing increased integrated physical and behavioral health services; and
  - (b) the extent to which the population described in Subsection (3)(a) is likely to benefit from the applicant receiving the grant.
- (5) Before July 1, 2023, the division shall submit a written report to the Health and Human Services Interim Committee regarding each applicant the division provided a grant to in the preceding year under this section.
- (6) Before July 1, 2024, the division shall submit a written report to the Health and Human Services Interim Committee regarding:
- (a) data gathered and knowledge gained in relation to providing grants to an applicant; and
  - (b) recommendations for how the state can better implement integrated physical and behavioral health services.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-119 Forms.**

The division shall furnish the clerks of the court with forms, blanks, warrants, and certificates, to enable judges, with regularity and facility, to comply with the provisions of this chapter.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-120 Virtual crisis outreach team grant program.**

- (1) As used in this section:
- (a) "Certified peer support specialist" means the same as that term is defined in Section 26B-5-610.
  - (b) "Commission" means the Behavioral Health Crisis Response Commission established in Section 63C-18-202.
  - (c) "Committee" means the Health and Human Services Interim Committee.
  - (d) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-609.
  - (e) "Virtual crisis outreach program" means a program that provides the following real-time services 24 hours per day, seven days per week, and every day of the year:
    - (i) crisis support, by a qualified mental or behavioral health professional, to law enforcement officers; and
    - (ii) peer support services, by a certified peer support specialist, to individuals experiencing behavioral health crises.

- (2) In consultation with the commission and in accordance with the requirements of this section, the division shall award a grant for the development of a virtual crisis outreach program that primarily serves counties of the third, fourth, fifth, or sixth class.
- (3) The division shall prioritize the award of the grant described in Subsection (2) based on the extent to which providing the grant to the applicant will increase the provision of crisis support and peer support services in areas:
  - (a) with frequent mental or behavioral health provider shortages; and
  - (b) where only one mobile crisis outreach team is available to serve multiple counties of the third, fourth, fifth, or sixth class.
- (4) When not providing crisis support or peer support services to law enforcement or individuals in a county of the third, fourth, fifth, or sixth class, the virtual crisis outreach program developed using a grant under this section shall provide support services as needed to mobile crisis outreach teams in counties of the first or second class.
- (5) In consultation with the commission, the division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grant described in Subsection (2).
- (6) Before June 30, 2024, the division shall submit a written report to the committee regarding the virtual crisis outreach program developed using the grant awarded under this section.
- (7) Before June 30, 2026, the division shall submit a written report to the committee regarding:
  - (a) data gathered in relation to the rural virtual crisis outreach team developed using the grant awarded under this section;
  - (b) knowledge gained relating to the provision of virtual crisis outreach services;
  - (c) recommendations for the future use of virtual crisis outreach services; and
  - (d) obstacles encountered in the provision of virtual crisis outreach services.

Enacted by Chapter 270, 2023 General Session

## **Part 2**

### **Substance Use Disorder Intervention, Prevention, and Education**

#### **26B-5-201 Definitions.**

As used in this part:

- (1) "Juvenile substance use offender" means any minor who has committed a drug or alcohol related offense under the jurisdiction of the juvenile court in accordance with Section 78A-6-103.
- (2) "Local substance abuse authority" means a county legislative body designated to provide substance abuse services in accordance with Section 17-43-201.
- (3) "Minor" means the same as that term is defined in Section 80-1-102.
- (4) "Teen substance use school" means any school established by the local substance abuse authority, in cooperation with the Board of Juvenile Court Judges, that provides an educational, interpersonal, skill-building experience for juvenile substance abuse offenders and their parents or legal guardians.

Renumbered and Amended by Chapter 308, 2023 General Session

#### **26B-5-202 Teen substance use schools -- Establishment.**

The division or a local substance abuse authority, in cooperation with the Board of Juvenile Court Judges, may establish teen substance use schools in the districts of the juvenile court.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-203 Court order to attend substance use school -- Assessments.**

- (1) In addition to any other disposition ordered by the juvenile court under Section 80-6-701, the court may order:
  - (a) a minor and the minor's parent or legal guardian to attend a teen substance use school; and
  - (b) payment of an assessment in addition to any other fine imposed.
- (2) All assessments collected shall be forwarded to the county treasurer of the county where the minor resides, to be used exclusively for the operation of a teen substance use program.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-204 Commitment of minor to secure drug or alcohol facility or program -- Procedures -- Review.**

- (1) As used in this section:
  - (a) "Approved treatment facility or program" means a public or private secure, inpatient facility or program that is licensed or operated by the department to provide drug or alcohol treatment or rehabilitation.
  - (b) "Drug or alcohol addiction" means that the person has a physical or psychological dependence on drugs or alcohol in a manner not prescribed by a physician.
- (2) The parent or legal guardian of a minor under 18 years old may submit that child, without the child's consent, to an approved treatment facility or program for treatment or rehabilitation of drug or alcohol addiction, upon application to a facility or program, and after a careful diagnostic inquiry is made by a neutral and detached fact finder, in accordance with the requirements of this section.
- (3) The neutral fact finder who conducts the inquiry:
  - (a) shall be either a physician, psychologist, marriage and family therapist, psychiatric and mental health nurse specialist, or social worker licensed to practice in this state, who is trained and practicing in the area of substance use; and
  - (b) may not profit, financially or otherwise, from the commitment of the child and may not be employed by the proposed facility or program.
- (4) The review by a neutral fact finder may be conducted on the premises of the proposed treatment facility or program.
- (5) The inquiry conducted by the neutral fact finder shall include a private interview with the child, and an evaluation of the child's background and need for treatment.
- (6) The child may be committed to the approved treatment facility or program if it is determined by the neutral fact finder that:
  - (a) the child is addicted to drugs or alcohol and because of that addiction poses a serious risk of harm to himself or others;
  - (b) the proposed treatment or rehabilitation is in the child's best interest; and
  - (c) there is no less restrictive alternative that would be equally as effective, from a clinical standpoint, as the proposed treatment facility or program.
- (7) Any approved treatment facility or program that receives a child under this section shall conduct a periodic review, at intervals not to exceed 30 days, to determine whether the criteria described in Subsection (6) continue to exist.

- (8) A minor committed under this section shall be released from the facility or program upon the request of his parent or legal guardian.
- (9) Commitment of a minor under this section terminates when the minor reaches the age of 18 years old.
- (10) Nothing in this section requires a program or facility to accept any person for treatment or rehabilitation.
- (11) The parent or legal guardian who requests commitment of a minor under this section is responsible to pay any fee associated with the review required by this section and any necessary charges for commitment, treatment, or rehabilitation for a minor committed under this section.
- (12) The child shall be released from commitment unless the report of the neutral fact finder is submitted to the juvenile court within 72 hours of commitment and approved by the court.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-205 Alcohol training and education seminar.**

- (1) As used in this section:
  - (a) "Instructor" means a person that directly provides the instruction during an alcohol training and education seminar for a seminar provider.
  - (b) "Licensee" means a person who is:
    - (i)
      - (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act; and
      - (B) engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee; or
    - (ii) a business that is:
      - (A) a new or renewing licensee licensed by a city, town, or county; and
      - (B) engaged in the retail sale of beer for consumption off the premises of the licensee.
  - (c) "Licensee staff" means a retail manager, retail staff, an off-premise retail manager, or off-premise retail staff.
  - (d) "Off-premise beer retailer" is as defined in Section 32B-1-102.
  - (e) "Off-premise retail manager" means the same as that term is defined in Section 32B-1-701.
  - (f) "Off-premise retail staff" means the same as that term is defined in Section 32B-1-701.
  - (g) "Retail manager" means the same as that term is defined in Section 32B-1-701.
  - (h) "Retail staff" means the same as that term is defined in Section 32B-1-701.
  - (i) "Seminar provider" means a person other than the division who provides an alcohol training and education seminar meeting the requirements of this section.
- (2)
  - (a) This section applies to licensee staff.
  - (b) An individual who does not have a valid record that the individual has completed an alcohol training and education seminar shall:
    - (i) complete an alcohol training and education seminar before the day on which the individual begins work as licensee staff of a licensee; and
    - (ii) pay a fee to the seminar provider that is equal to or greater than the amount established under Subsection (4)(h).
  - (c) An individual shall have a valid record that the individual completed an alcohol training and education seminar within the time period provided in this Subsection (2) to act as licensee staff.

- (d) A record that licensee staff has completed an alcohol training and education seminar is valid for three years after the day on which the record is issued.
- (e) To be considered as having completed an alcohol training and education seminar, an individual shall:
  - (i) attend the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar in the physical presence of an instructor of the seminar provider; or
  - (ii) complete the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar through an online course or testing program that meets the requirements described in Subsection (2)(f).
- (f)
  - (i) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish one or more requirements for an online course or testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of the online course or testing program.
  - (ii) In developing the requirements by rule the division shall consider whether to require:
    - (A) authentication that the an individual accurately identifies the individual as taking the online course or test;
    - (B) measures to ensure that an individual taking the online course or test is focused on training material throughout the entire training period;
    - (C) measures to track the actual time an individual taking the online course or test is actively engaged online;
    - (D) a seminar provider to provide technical support, such as requiring a telephone number, email, or other method of communication that allows an individual taking the online course or test to receive assistance if the individual is unable to participate online because of technical difficulties;
    - (E) a test to meet quality standards, including randomization of test questions and maximum time limits to take a test;
    - (F) a seminar provider to have a system to reduce fraud as to who completes an online course or test, such as requiring a distinct online certificate with information printed on the certificate that identifies the person taking the online course or test, or requiring measures to inhibit duplication of a certificate;
    - (G) measures for the division to audit online courses or tests;
    - (H) measures to allow an individual taking an online course or test to provide an evaluation of the online course or test;
    - (I) a seminar provider to track the Internet protocol address or similar electronic location of an individual who takes an online course or test;
    - (J) an individual who takes an online course or test to use an e-signature; or
    - (K) a seminar provider to invalidate a certificate if the seminar provider learns that the certificate does not accurately reflect the individual who took the online course or test.
- (3)
  - (a) A licensee may not permit an individual who is not in compliance with Subsection (2) to:
    - (i) serve or supervise the serving of an alcoholic product to a customer for consumption on the premises of the licensee;
    - (ii) engage in any activity that would constitute managing operations at the premises of a licensee that engages in the retail sale of an alcoholic product for consumption on the premises of the licensee;

- (iii) directly supervise the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or
- (iv) sell beer to a customer for consumption off the premises of an off-premise beer retailer.
- (b) A licensee that violates Subsection (3)(a) is subject to Section 32B-1-702.
- (4) The division shall:
  - (a)
    - (i) provide alcohol training and education seminars; or
    - (ii) certify one or more seminar providers;
  - (b) establish the curriculum for an alcohol training and education seminar that includes the following subjects:
    - (i)
      - (A) alcohol as a drug; and
      - (B) alcohol's effect on the body and behavior;
    - (ii) recognizing the problem drinker or signs of intoxication;
    - (iii) an overview of state alcohol laws related to responsible beverage sale or service, as determined in consultation with the Department of Alcoholic Beverage Services;
    - (iv) dealing with the problem customer, including ways to terminate sale or service; and
    - (v) for those supervising or engaging in the retail sale of an alcoholic product for consumption on the premises of a licensee, alternative means of transportation to get the customer safely home;
  - (c) recertify each seminar provider every three years;
  - (d) monitor compliance with the curriculum described in Subsection (4)(b);
  - (e) maintain for at least five years a record of every person who has completed an alcohol training and education seminar;
  - (f) provide the information described in Subsection (4)(e) on request to:
    - (i) the Department of Alcoholic Beverage Services;
    - (ii) law enforcement; or
    - (iii) a person licensed by the state or a local government to sell an alcoholic product;
  - (g) provide the Department of Alcoholic Beverage Services on request a list of any seminar provider certified by the division; and
  - (h) establish a fee amount for each person attending an alcohol training and education seminar that is sufficient to offset the division's cost of administering this section.
- (5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
  - (a) establish criteria for certifying and recertifying a seminar provider; and
  - (b) establish guidelines for the manner in which an instructor provides an alcohol education and training seminar.
- (6) A seminar provider shall:
  - (a) obtain recertification by the division every three years;
  - (b) ensure that an instructor used by the seminar provider:
    - (i) follows the curriculum established under this section; and
    - (ii) conducts an alcohol training and education seminar in accordance with the guidelines established by rule;
  - (c) ensure that any information provided by the seminar provider or instructor of a seminar provider is consistent with:
    - (i) the curriculum established under this section; and
    - (ii) this section;



- (d) provide the division with the names of all persons who complete an alcohol training and education seminar provided by the seminar provider;
  - (e)
    - (i) collect a fee for each person attending an alcohol training and education seminar in accordance with Subsection (2); and
    - (ii) forward to the division the portion of the fee that is equal to the amount described in Subsection (4)(h); and
  - (f) issue a record to an individual that completes an alcohol training and education seminar provided by the seminar provider.
- (7)
- (a) If after a hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division finds that a seminar provider violates this section or that an instructor of the seminar provider violates this section, the division may:
    - (i) suspend the certification of the seminar provider for a period not to exceed 90 days after the day on which the suspension begins;
    - (ii) revoke the certification of the seminar provider;
    - (iii) require the seminar provider to take corrective action regarding an instructor; or
    - (iv) prohibit the seminar provider from using an instructor until such time that the seminar provider establishes to the satisfaction of the division that the instructor is in compliance with Subsection (6)(b).
  - (b) The division may certify a seminar provider whose certification is revoked:
    - (i) no sooner than 90 days after the day on which the certification is revoked; and
    - (ii) if the seminar provider establishes to the satisfaction of the division that the seminar provider will comply with this section.

Renumbered and Amended by Chapter 308, 2023 General Session  
Amended by Chapter 371, 2023 General Session

**26B-5-207 DUI -- Legislative policy -- Rehabilitation treatment and evaluation -- Use of victim impact panels.**

The Legislature finds that drivers impaired by alcohol or drugs constitute a major problem in this state and that the problem demands a comprehensive detection, intervention, education, and treatment program including emergency services, outpatient treatment, detoxification, residential care, inpatient care, medical and psychological care, social service care, vocational rehabilitation, and career counseling through public and private agencies. It is the policy of this state to provide those programs at the expense of persons convicted of driving while under the influence of intoxicating liquor or drugs. It is also the policy of this state to utilize victim impact panels to assist persons convicted of driving under the influence of intoxicating liquor or drugs to gain a full understanding of the severity of their offense.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-208 Penalty for DUI conviction -- Amounts.**

- (1) Courts of record and not of record may at sentencing assess against the defendant, in addition to any fine, an amount that will fully compensate agencies that treat the defendant for their costs in each case where a defendant is convicted of violating:
  - (a) Section 41-6a-502 or 41-6a-517;

- (b) a criminal prohibition resulting from a plea bargain after an original charge of violating Section 41-6a-502; or
  - (c) an ordinance that complies with the requirements of Subsection 41-6a-510(1).
- (2) The fee assessed shall be collected by the court or an entity appointed by the court.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-209 Assessments for DUI -- Use of money for rehabilitation programs, including victim impact panels -- Rulemaking power granted.**

- (1)
- (a) Assessments imposed under Section 26B-5-208 may, pursuant to court order:
    - (i) be collected by the clerk of the court in which the person was convicted; or
    - (ii) be paid directly to the licensed alcohol or drug treatment program.
  - (b) Assessments collected by the court under Subsection (1)(a)(i) shall be forwarded to a special nonlapsing account created by the county treasurer of the county in which the fee is collected.
- (2) Assessments under Subsection (1) shall be used exclusively for the operation of licensed alcohol or drug rehabilitation programs and education, assessment, supervision, and other activities related to and supporting the rehabilitation of persons convicted of driving while under the influence of intoxicating liquor or drugs. A requirement of the rehabilitation program shall be participation with a victim impact panel or program providing a forum for victims of alcohol or drug related offenses and defendants to share experiences on the impact of alcohol or drug related incidents in their lives. The division shall establish guidelines to implement victim impact panels where, in the judgment of the licensed alcohol or drug program, appropriate victims are available, and shall establish guidelines for other programs where such victims are not available.
- (3) None of the assessments shall be maintained for administrative costs by the division.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-210 Policy -- Alternatives to incarceration.**

It is the policy of this state to provide adequate and appropriate health and social services as alternatives to incarceration for public intoxication.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-211 Administration of opioid litigation proceeds -- Requirements for governmental entities receiving opioid funds -- Reporting.**

- (1) As used in this section:
- (a) "Office" means the Office of Substance Use and Mental Health within the department.
  - (b) "Opioid funds" means money received by the state or a political subdivision of the state as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids.
  - (c) "Restricted account" means the Opioid Litigation Proceeds Restricted Account created in Section 51-9-801.
- (2) Opioid funds may not be used to:
- (a) reimburse expenditures that were incurred before the opioid funds were received by the governmental entity; or

- (b) supplant or take the place of any funds that would otherwise have been expended for that purpose.
- (3) The office shall serve as the reporting entity to receive, compile, and submit any reports related to opioid funds that are required by law, contract, or other agreement.
- (4) The requirement described in Subsection (5) applies to:
  - (a) a recipient of opioid funds from the restricted account, in any year that opioid funds are received; and
  - (b) a political subdivision that received opioid funds.
- (5) A person described in Subsection (4) shall provide an annual report to the office, in a form and by a date established by the office, that includes:
  - (a) an accounting of all opioid funds that were received by the person in the year;
  - (b) the number of individuals served through programs funded by the opioid funds, including the individuals' age, gender, and other demographic factors reported in a de-identified manner;
  - (c) the measures that were used to determine whether the program funded by the opioid funds achieved the intended outcomes; and
  - (d) if applicable, any information required to be submitted to the reporting entity under applicable law, contract, or other agreement.
- (6) Beginning October 1, 2023, and on or before October 1 of each year thereafter, the office shall provide a written report that includes:
  - (a) the opening and closing balance of the restricted account for the previous fiscal year;
  - (b) the name of and amount received by each recipient of funds from the restricted account;
  - (c) a description of the intended use of each award, including the specific program, service, or resource funded, population served, and measures that the recipient used or will use to assess the impact of the award;
  - (d) a description of any finding or concern as to whether all opioid funds disbursed from the restricted account violated the prohibitions in Subsection (2) and, if applicable, complied with the requirements of a settlement agreement; and
  - (e) the performance indicators and progress toward improving outcomes and reducing mortality and other harms related to substance use disorders.
- (7) The office shall provide the information that is received, compiled, and submitted under this section:
  - (a) to the Health and Human Services Interim Committee;
  - (b) to the Social Services Appropriations Subcommittee;
  - (c) if required under the terms of a settlement agreement under which opioid funds are received, to the administrator of the settlement agreement in accordance with the terms of the settlement agreement; and
  - (d) in a publicly accessible location on the department's website.
- (8) The office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

Enacted by Chapter 319, 2023 General Session

### **Part 3**

## **Utah State Hospital and Other Mental Health Facilities**

### **26B-5-301 Definitions.**

As used in this part, Part 4, Commitment of Persons Under Age 18, and Part 5, Essential Treatment and Intervention:

- (1) "Adult" means an individual 18 years old or older.
- (2) "Approved treatment facility or program" means a mental health or substance use treatment provider that meets the goals and measurements described in Subsection 26B-5-102(2)(j).
- (3) "Assisted outpatient treatment" means involuntary outpatient mental health treatment ordered under Section 26B-5-351.
- (4) "Attending physician" means a physician licensed to practice medicine in this state who has primary responsibility for the care and treatment of the declarant.
- (5) "Attorney-in-fact" means an adult properly appointed under this part to make mental health treatment decisions for a declarant under a declaration for mental health treatment.
- (6) "Commitment to the custody of a local mental health authority" means that an adult is committed to the custody of the local mental health authority that governs the mental health catchment area where the adult resides or is found.
- (7) "Community mental health center" means an entity that provides treatment and services to a resident of a designated geographical area, that operates by or under contract with a local mental health authority, and that complies with state standards for community mental health centers.
- (8) "Designated examiner" means:
  - (a) a licensed physician, preferably a psychiatrist, who is designated by the division as specially qualified by training or experience in the diagnosis of mental or related illness; or
  - (b) a licensed mental health professional designated by the division as specially qualified by training and who has at least five years' continual experience in the treatment of mental illness.
- (9) "Designee" means a physician who has responsibility for medical functions including admission and discharge, an employee of a local mental health authority, or an employee of a person that has contracted with a local mental health authority to provide mental health services under Section 17-43-304.
- (10) "Essential treatment" and "essential treatment and intervention" mean court-ordered treatment at a local substance abuse authority or an approved treatment facility or program for the treatment of an adult's substance use disorder.
- (11) "Harmful sexual conduct" means the following conduct upon an individual without the individual's consent, including the nonconsensual circumstances described in Subsections 76-5-406(2)(a) through (l):
  - (a) sexual intercourse;
  - (b) penetration, however slight, of the genital or anal opening of the individual;
  - (c) any sexual act involving the genitals or anus of the actor or the individual and the mouth or anus of either individual, regardless of the gender of either participant; or
  - (d) any sexual act causing substantial emotional injury or bodily pain.
- (12) "Informed waiver" means the patient was informed of a right and, after being informed of that right and the patient's right to waive the right, expressly communicated his or her intention to waive that right.
- (13) "Incapable" means that, in the opinion of the court in a guardianship proceeding under Title 75, Utah Uniform Probate Code, or in the opinion of two physicians, a person's ability to receive and evaluate information effectively or communicate decisions is impaired to such an extent that the person currently lacks the capacity to make mental health treatment decisions.
- (14) "Institution" means a hospital or a health facility licensed under Section 26B-2-206.

- (15) "Local substance abuse authority" means the same as that term is defined in Section 26B-5-101 and described in Section 17-43-201.
- (16) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract with the division, a local mental health authority, a person that contracts with a local mental health authority, or a person that provides acute inpatient psychiatric services to a patient.
- (17) "Mental health officer" means an individual who is designated by a local mental health authority as qualified by training and experience in the recognition and identification of mental illness, to:
  - (a) apply for and provide certification for a temporary commitment; or
  - (b) assist in the arrangement of transportation to a designated mental health facility.
- (18) "Mental illness" means:
  - (a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or
  - (b) the same as that term is defined in:
    - (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or
    - (ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.
- (19) "Mental health treatment" means convulsive treatment, treatment with psychoactive medication, or admission to and retention in a facility for a period not to exceed 17 days.
- (20) "Patient" means an individual who is:
  - (a) under commitment to the custody or to the treatment services of a local mental health authority; or
  - (b) undergoing essential treatment and intervention.
- (21) "Physician" means an individual who is:
  - (a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or
  - (b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
- (22) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
- (23) "State hospital" means the Utah State Hospital established in Section 26B-5-302.
- (24) "Substantial danger" means that due to mental illness, an individual is at serious risk of:
  - (a) suicide;
  - (b) serious bodily self-injury;
  - (c) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter;
  - (d) causing or attempting to cause serious bodily injury to another individual;
  - (e) engaging in harmful sexual conduct; or
  - (f) if not treated, suffering severe and abnormal mental, emotional, or physical distress that:
    - (i) is associated with significant impairment of judgment, reason, or behavior; and
    - (ii) causes a substantial deterioration of the individual's previous ability to function independently.
- (25) "Treatment" means psychotherapy, medication, including the administration of psychotropic medication, or other medical treatments that are generally accepted medical or psychosocial interventions for the purpose of restoring the patient to an optimal level of functioning in the least restrictive environment.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-302 Utah State Hospital.**

The Utah State Hospital is established and located in Provo, in Utah county.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-303 Administration of state hospital -- Division -- Authority.**

- (1) The division shall administer the state hospital as part of the state's comprehensive mental health program and, to the fullest extent possible, shall, as the state hospital's administrator, coordinate with local mental health authority programs.
- (2) The division has the same powers, duties, rights, and responsibilities as, and shall perform the same functions that by law are conferred or required to be discharged or performed by, the state hospital.
- (3) Supervision and administration of security responsibilities for the state hospital is vested in the division. The executive director shall designate, as special function officers, individuals with peace officer authority to perform special security functions for the state hospital.
- (4) A director of a mental health facility that houses an involuntary patient or a patient committed by judicial order may establish secure areas, as provided in Section 76-8-311.1, within the mental health facility for the patient.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-304 Appointment of superintendent -- Qualifications -- Powers and responsibilities.**

- (1) The director, with the consent of the executive director, shall appoint a superintendent of the state hospital, who shall hold office at the will of the director.
- (2) The superintendent shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in matters concerning mental health.
- (3) The superintendent has general responsibility for the buildings, grounds, and property of the state hospital.
- (4) The superintendent shall appoint, with the approval of the director, as many employees as necessary for the efficient and economical care and management of the state hospital, and shall fix the employees' compensation and administer personnel functions according to the standards of the Division of Human Resource Management.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-305 Clinical director -- Appointment -- Conditions and procedure -- Duties.**

- (1) Whenever the superintendent is not qualified to be the clinical director of the state hospital under this section, the superintendent shall, with the approval of the director of the division, appoint a clinical director who is licensed to practice medicine and surgery in this state, and who has had at least three years' training in a psychiatric residency program approved by the American Board of Psychiatry and Neurology, Inc., and who is eligible for certification by that board.
- (2) The salary of the clinical director of the state hospital shall be fixed by the standards of the Division of Finance, to be paid in the same manner as the salaries of other employees.

- (3) The clinical director shall perform such duties as directed by the superintendent and prescribed by the rules of the board, and shall prescribe and direct the treatment of patients and adopt sanitary measures for their welfare.
- (4) If the superintendent is qualified to be the clinical director, the superintendent may assume the duties of the clinical director.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-306 Objectives of state hospital and other facilities -- Persons who may be admitted to state hospital.**

- (1) The objectives of the state hospital and other mental health facilities shall be to care for all persons within this state who are subject to the provisions of this chapter; and to furnish them with the proper attendance, medical treatment, seclusion, rest, restraint, amusement, occupation, and support that is conducive to their physical and mental well-being.
- (2) Only the following persons may be admitted to the state hospital:
  - (a) persons 18 years old and older who meet the criteria necessary for commitment under this part and who have severe mental disorders for whom no appropriate, less restrictive treatment alternative is available;
  - (b) persons under 18 years old who meet the criteria necessary for commitment under Part 4, Commitment of Persons under Age 18, and for whom no less restrictive alternative is available;
  - (c) persons adjudicated and found to be guilty with a mental condition under Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition;
  - (d) persons adjudicated and found to be not guilty by reason of insanity who are under a subsequent commitment order because they have a mental illness and are a danger to themselves or others, under Section 77-16a-302;
  - (e) persons found incompetent to proceed under Section 77-15-6;
  - (f) persons who require an examination under Title 77, Utah Code of Criminal Procedure; and
  - (g) persons in the custody of the Department of Corrections, admitted in accordance with Section 26B-5-372, giving priority to those persons with severe mental disorders.

Amended by Chapter 184, 2023 General Session

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-307 Additional powers of director -- Reports and records of division.**

- (1) In addition to specific authority granted by other provisions of this part, the director has authority to prescribe the form of applications, records, reports, and medical certificates provided for under this part, and the information required to be contained therein, and to adopt rules that are not inconsistent with the provisions of this part that the director finds to be reasonably necessary for the proper and efficient commitment of persons with a mental illness.
- (2) The division shall require reports relating to the admission, examination, diagnosis, release, or discharge of any patient and investigate complaints made by any patient or by any person on behalf of a patient.
- (3) A local mental health authority shall keep a record of the names and current status of all persons involuntarily committed to it under this chapter.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-308 Standards for care and treatment.**

Every patient is entitled to humane care and treatment and to medical care and treatment in accordance with the prevailing standards accepted in medical practice, psychiatric nursing practice, social work practice, and the practice of clinical psychology.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-309 Mechanical restraints and medication -- Clinical record.**

- (1) Mechanical restraints may not be applied to a patient unless it is determined by the director or his designee to be required by the needs of the patient. Every use of a mechanical restraint and the reasons therefor shall be made a part of the patient's clinical record, under the signature of the director or his designee, and shall be reviewed regularly.
- (2) In no event shall medication be prescribed for a patient unless it is determined by a physician to be required by the patient's medical needs. Every use of a medication and the reasons therefor shall be made a part of the patient's clinical record.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-310 Restrictions and limitations -- Civil rights and privileges.**

- (1) Subject to the general rules of the division, and except to the extent that the director or his designee determines that it is necessary for the welfare of the patient to impose restrictions, every patient is entitled to:
  - (a) communicate, by sealed mail or otherwise, with persons, including official agencies, inside or outside the facility;
  - (b) receive visitors; and
  - (c) exercise all civil rights, including the right to dispose of property, execute instruments, make purchases, enter contractual relationships, and vote, unless the patient has been adjudicated to be incompetent and has not been restored to legal capacity.
- (2) When any right of a patient is limited or denied, the nature, extent, and reason for that limitation or denial shall be entered in the patient's treatment record. Any continuing denial or limitation shall be reviewed every 30 days and shall also be entered in that treatment record. Notice of that continuing denial in excess of 30 days shall be sent to the division, the appropriate local mental health authority, the appropriate local substance abuse authority, or an approved treatment facility or program, whichever is most applicable to the patient.
- (3) Notwithstanding any limitations authorized under this section on the right of communication, each patient is entitled to communicate by sealed mail with the appropriate local mental health authority, the appropriate local substance abuse authority, an approved treatment facility or program, the division, the patient's attorney, and the court, if any, that ordered the patient's commitment or essential treatment. In no case may the patient be denied a visit with the legal counsel or clergy of the patient's choice.
- (4) Local mental health authorities, local substance abuse authorities, and approved treatment facilities or programs shall provide reasonable means and arrangements for informing involuntary patients of their right to release as provided in this chapter, and for assisting them in making and presenting requests for release.
- (5) Mental health facilities, local substance abuse authorities, and approved treatment facilities or programs shall post a statement, created by the division, describing a patient's rights under Utah law.



- (6) Notwithstanding Section 53B-17-303, an individual committed under this chapter has the right to determine the final disposition of that individual's body after death.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-311 Habeas corpus.**

Any individual detained pursuant to this part is entitled to the writ of habeas corpus upon proper petition by themselves or a friend, to the court in the county in which the individual is detained.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-312 Confidentiality of information and records -- Exceptions -- Penalty.**

- (1) All certificates, applications, records, and reports made for the purpose of this part, including those made on judicial proceedings for involuntary commitment, that directly or indirectly identify a patient or former patient or an individual whose commitment has been sought under this part, shall be kept confidential and may not be disclosed by any person except insofar as:
- (a) the individual identified or his legal guardian, if any, or, if a minor, his parent or legal guardian shall consent;
  - (b) disclosure may be necessary to carry out the provisions of:
    - (i) this part; or
    - (ii) Section 53-10-208.1; or
  - (c) a court may direct, upon its determination that disclosure is necessary for the conduct of proceedings before it, and that failure to make the disclosure would be contrary to the public interest.
- (2) A person who knowingly or intentionally discloses any information not authorized by this section is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-313 Declaration for mental health treatment.**

- (1) An adult who is not incapable may make a declaration of preferences or instructions regarding the adult's mental health treatment. The declaration may include, but is not limited to, consent to or refusal of specified mental health treatment.
- (2) A declaration for mental health treatment shall designate a capable adult to act as attorney-in-fact to make decisions about mental health treatment for the declarant. An alternative attorney-in-fact may also be designated to act as attorney-in-fact if the original designee is unable or unwilling to act at any time. An attorney-in-fact who has accepted the appointment in writing may make decisions about mental health treatment on behalf of the declarant only when the declarant is incapable. The decisions shall be consistent with any instructions or desires the declarant has expressed in the declaration.
- (3) A declaration is effective only if it is signed by the declarant and two capable adult witnesses. The witnesses shall attest that the declarant is known to them, signed the declaration in their presence, appears to be of sound mind and is not under duress, fraud, or undue influence. Persons specified in Subsection 26B-5-314(6) may not act as witnesses.
- (4) A declaration becomes operative when it is delivered to the declarant's physician or other mental health treatment provider and remains valid until it expires or is revoked by the declarant. The physician or provider is authorized to act in accordance with an operative declaration when the declarant has been found to be incapable. The physician or provider shall

continue to obtain the declarant's informed consent to all mental health treatment decisions if the declarant is capable of providing informed consent or refusal.

- (5)
- (a) An attorney-in-fact does not have authority to make mental health treatment decisions unless the declarant is incapable.
  - (b) An attorney-in-fact is not, solely as a result of acting in that capacity, personally liable for the cost of treatment provided to the declarant.
  - (c) Except to the extent that a right is limited by a declaration or by any federal law, an attorney-in-fact has the same right as the declarant to receive information regarding the proposed mental health treatment and to receive, review, and consent to disclosure of medical records relating to that treatment. This right of access does not waive any evidentiary privilege.
  - (d) In exercising authority under the declaration, the attorney-in-fact shall act consistently with the instructions and desires of the declarant, as expressed in the declaration. If the declarant's desires are unknown, the attorney-in-fact shall act in what the attorney-in-fact, in good faith, believes to be the best interest of the declarant.
  - (e) An attorney-in-fact is not subject to criminal prosecution, civil liability, or professional disciplinary action for any action taken in good faith pursuant to a declaration for mental health treatment.
- (6)
- (a) A declaration for mental health treatment remains effective for a period of three years or until revoked by the declarant. If a declaration for mental health treatment has been invoked and is in effect at the expiration of three years after its execution, the declaration remains effective until the declarant is no longer incapable.
  - (b) The authority of a named attorney-in-fact and any alternative attorney-in-fact continues in effect as long as the declaration appointing the attorney-in-fact is in effect or until the attorney-in-fact has withdrawn.
- (7) A person may not be required to execute or to refrain from executing a declaration as a criterion for insurance, as a condition for receiving mental or physical health services, or as a condition of discharge from a facility.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-314 Physician and provider responsibilities -- Provision of services contrary to declaration -- Revocation.**

- (1) Upon being presented with a declaration, a physician shall make the declaration a part of the declarant's medical record. When acting under authority of a declaration, a physician shall comply with it to the fullest extent possible, consistent with reasonable medical practice, the availability of treatments requested, and applicable law. If the physician or other provider is unwilling at any time to comply with the declaration, the physician or provider shall promptly notify the declarant and the attorney-in-fact, and document the notification in the declarant's medical record.
- (2) A physician or provider may subject a declarant to intrusive treatment in a manner contrary to the declarant's wishes, as expressed in a declaration for mental health treatment if:
  - (a) the declarant has been committed to the custody of a local mental health authority in accordance with this part; or
  - (b) in cases of emergency endangering life or health.
- (3) A declaration does not limit any authority provided in this part, to take a person into custody, or admit or retain a person in the custody of a local mental health authority.

- (4) A declaration may be revoked in whole or in part by the declarant at any time so long as the declarant is not incapable. That revocation is effective when the declarant communicates the revocation to the attending physician or other provider. The attending physician or other provider shall note the revocation as part of the declarant's medical record.
- (5) A physician who administers or does not administer mental health treatment according to and in good faith reliance upon the validity of a declaration is not subject to criminal prosecution, civil liability, or professional disciplinary action resulting from a subsequent finding that a declaration is invalid.
- (6) None of the following persons may serve as an attorney-in-fact or as witnesses to the signing of a declaration:
  - (a) the declarant's attending physician or mental health treatment provider, or an employee of that physician or provider;
  - (b) an employee of the division; or
  - (c) an employee of a local mental health authority or any organization that contracts with a local mental health authority.
- (7) An attorney-in-fact may withdraw by giving notice to the declarant. If a declarant is incapable, the attorney-in-fact may withdraw by giving notice to the attending physician or provider. The attending physician shall note the withdrawal as part of the declarant's medical record.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-315 Declaration for mental health treatment -- Form.**

A declaration for mental health treatment shall be in substantially the following form:

**DECLARATION FOR MENTAL HEALTH TREATMENT**

I, \_\_\_\_\_, being an adult of sound mind, willfully and voluntarily make this declaration for mental health treatment, to be followed if it is determined by a court or by two physicians that my ability to receive and evaluate information effectively or to communicate my decisions is impaired to such an extent that I lack the capacity to refuse or consent to mental health treatment. "Mental health treatment" means convulsive treatment, treatment with psychoactive medication, and admission to and retention in a mental health facility for a period up to 17 days.

I understand that I may become incapable of giving or withholding informed consent for mental health treatment due to the symptoms of a diagnosed mental disorder. These symptoms may include:

\_\_\_\_\_

**PSYCHOACTIVE MEDICATIONS**

If I become incapable of giving or withholding informed consent for mental health treatment, my wishes regarding psychoactive medications are as follows:

\_\_\_\_\_ I consent to the administration of the following medications:

\_\_\_\_\_ in the dosages:

\_\_\_\_\_ considered appropriate by my attending physician.

\_\_\_\_\_ approved by \_\_\_\_\_

\_\_\_\_\_ as I hereby direct: \_\_\_\_\_

\_\_\_\_\_ I do not consent to the administration of the following medications:

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**CONVULSIVE TREATMENT**

If I become incapable of giving or withholding informed consent for mental health treatment, my wishes regarding convulsive treatment are as follows:

\_\_\_\_\_ I consent to the administration of convulsive treatment of the following type:  
\_\_\_\_\_, the number of treatments to be:  
\_\_\_\_\_ determined by my attending physician.

\_\_\_\_\_ approved by \_\_\_\_\_  
\_\_\_\_\_ as follows: \_\_\_\_\_

\_\_\_\_\_ I do not consent to the administration of convulsive treatment.

My reasons for consenting to or refusing convulsive treatment are as follows;

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**ADMISSION TO AND RETENTION IN A MENTAL HEALTH FACILITY**

If I become incapable of giving or withholding informed consent for mental health treatment, my wishes regarding admission to and retention in a mental health facility are as follows:

\_\_\_\_\_ I consent to being admitted to the following mental health facilities:

I may be retained in the facility for a period of time:

\_\_\_\_\_ determined by my attending physician.

\_\_\_\_\_ approved by \_\_\_\_\_

\_\_\_\_\_ no longer than \_\_\_\_\_

This directive cannot, by law, provide consent to retain me in a facility for more than 17 days.

**ADDITIONAL REFERENCES OR INSTRUCTIONS**

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**ATTORNEY-IN-FACT**

I hereby appoint:

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

TELEPHONE # \_\_\_\_\_

to act as my attorney-in-fact to make decisions regarding my mental health treatment if I become incapable of giving or withholding informed consent for that treatment.

If the person named above refuses or is unable to act on my behalf, or if I revoke that person's authority to act as my attorney-in-fact, I authorize the following person to act as my alternative attorney-in-fact:

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

TELEPHONE # \_\_\_\_\_

My attorney-in-fact is authorized to make decisions which are consistent with the wishes I have expressed in this declaration. If my wishes are not expressed, my attorney-in-fact is to act in good faith according to what he or she believes to be in my best interest.

(Signature of Declarant/Date) \_\_\_\_\_

**AFFIRMATION OF WITNESSES**

We affirm that the declarant is personally known to us, that the declarant signed or acknowledged the declarant's signature on this declaration for mental health treatment in our presence, that the declarant appears to be of sound mind and does not appear to be under duress, fraud, or undue influence. Neither of us is the person appointed as attorney-in-fact by this document, the attending physician, an employee of the attending physician, an employee of the Office of Substance Abuse and Mental Health within the Department of Health and Human Services, an employee of a local mental health authority, or an employee of any organization that contracts with a local mental health authority.

Witnessed By:

\_\_\_\_\_  
 (Signature of Witness/Date) (Printed Name of Witness)

\_\_\_\_\_  
 (Signature of Witness/Date) (Printed Name of Witness)

**ACCEPTANCE OF APPOINTMENT AS ATTORNEY-IN-FACT**

I accept this appointment and agree to serve as attorney-in-fact to make decisions about mental health treatment for the declarant. I understand that I have a duty to act consistently with the desires of the declarant as expressed in the declaration. I understand that this document gives me authority to make decisions about mental health treatment only while the declarant is incapable as determined by a court or two physicians. I understand that the declarant may revoke this appointment, or the declaration, in whole or in part, at any time and in any manner, when the declarant is not incapable.

\_\_\_\_\_  
 (Signature of Attorney-in-fact/Date) (Printed name)

\_\_\_\_\_  
 (Signature of Alternate Attorney-in-fact/Date) (Printed name)

**NOTICE TO PERSON MAKING A  
 DECLARATION FOR MENTAL HEALTH TREATMENT**

This is an important legal document. It is a declaration that allows, or disallows, mental health treatment. Before signing this document, you should know that:

- (1) this document allows you to make decisions in advance about three types of mental health treatment: psychoactive medication, convulsive therapy, and short-term (up to 17 days) admission to a mental health facility;
- (2) the instructions that you include in this declaration will be followed only if a court or two physicians believe that you are incapable of otherwise making treatment decisions. Otherwise, you will be considered capable to give or withhold consent for treatment;
- (3) you may also appoint a person as your attorney-in-fact to make these treatment decisions for you if you become incapable. The person you appoint has a duty to act consistently with your desires as stated in this document or, if not stated, to make decisions in accordance with what that person believes, in good faith, to be in your best interest. For the appointment to be effective, the person you appoint must accept the appointment in writing. The person also has the right to withdraw from acting as your attorney-in-fact at any time;
- (4) this document will continue in effect for a period of three years unless you become incapable of participating in mental health treatment decisions. If this occurs, the directive will continue in effect until you are no longer incapable;
- (5) you have the right to revoke this document in whole or in part, or the appointment of an attorney-in-fact, at any time you have not been determined to be incapable. **YOU MAY NOT REVOKE THE DECLARATION OR APPOINTMENT WHEN YOU ARE CONSIDERED**

- INCAPABLE BY A COURT OR TWO PHYSICIANS. A revocation is effective when it is communicated to your attending physician or other provider; and
- (6) if there is anything in this document that you do not understand, you should ask an attorney to explain it to you. This declaration is not valid unless it is signed by two qualified witnesses who are personally known to you and who are present when you sign or acknowledge your signature.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-316 Responsibility for cost of care.**

- (1) The division shall estimate and determine, as nearly as possible, the actual expense per annum of caring for and maintaining a patient in the state hospital, and that amount or portion of that amount shall be assessed to and paid by the applicant, patient, spouse, parents, child or children who are of sufficient financial ability to do so, or by the guardian of the patient who has funds of the patient that may be used for that purpose.
- (2) In addition to the expenses described in Subsection (1), parents are responsible for the support of their child while the child is in the care of the state hospital pursuant to Title 78B, Chapter 12, Utah Child Support Act, and Title 26B, Chapter 9, Recovery Services and Administration of Child Support.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-317 Expenses of voluntary patients.**

The expense for the care and treatment of voluntary patients shall be assessed to and paid in the same manner and to the same extent as is provided for involuntary patients under the provisions of Section 26B-5-316.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-318 Liability of estate of person with a mental illness.**

The provisions made in this part for the support of persons with a mental illness at public expense do not release the estates of those persons from liability for their care and treatment, and the division is authorized and empowered to collect from the estates of those persons any sums paid by the state in their behalf.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-319 Receipt of gift and personal property related to the transfer of persons from other institutions.**

- (1) The division may take and hold by gift, devise, or bequest real and personal property required for the use of the state hospital. With the approval of the governor the division may convert that property that is not suitable for the state hospital's use into money or property that is suitable for the state hospital's use.
- (2) The state hospital is authorized to receive from any other institution within the department an individual committed to that institution, when a careful evaluation of the treatment needs of the individual and of the treatment programs available at the state hospital indicates that the transfer would be in the interest of that individual.
- (3)

- (a) For the purposes of this Subsection (3), "contributions" means gifts, grants, devises, and donations.
- (b) Notwithstanding the provisions of Subsection 26B-1-202(10), the state hospital is authorized to receive contributions and deposit the contributions into an interest-bearing restricted special revenue fund. The state treasurer may invest the fund, and all interest will remain in the fund.
- (c)
  - (i) Single expenditures from the fund in amounts of \$5,000 or less shall be approved by the superintendent.
  - (ii) Single expenditures exceeding \$5,000 must be preapproved by the superintendent and the division director.
  - (iii) Expenditures described in this Subsection (3) shall be used for the benefit of patients at the state hospital.
- (d) Money and interest in the fund 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 308, 2023 General Session

**26B-5-320 Trespass -- Disturbance -- Penalty.**

Any person who, without permission, enters any of the buildings or enclosures appropriated to the use of patients, or makes any attempt to do so, or enters anywhere upon the premises belonging to or used by the division, a local mental health authority, or the state hospital and commits, or attempts to commit, any trespass or depredation thereon, or any person who, either from within or without the enclosures, willfully annoys or disturbs the peace or quiet of the premises or of any patient therein, is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-321 Abduction of patient -- Penalty.**

Any person who abducts a patient who is in the custody of a local mental health authority, or induces any patient to elope or escape from that custody, or attempts to do so, or aids or assists therein, is guilty of a class B misdemeanor, in addition to liability for damages, or subject to other criminal charges.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-322 Criminal's escape -- Penalty.**

Any person committed to the state hospital under the provisions of Title 77, Chapter 15, Inquiry into Sanity of Defendant, or Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, who escapes or leaves the state hospital without proper legal authority is guilty of a class A misdemeanor.

Amended by Chapter 184, 2023 General Session

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-323 Violations of this part -- Penalty.**

Any person who willfully and knowingly violates any provision of this part, except where another penalty is provided by law, is guilty of a class C misdemeanor.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-324 Local mental health authority -- Supervision and treatment of persons with a mental illness.**

- (1) Each local mental health authority has responsibility for supervision and treatment of persons with a mental illness who have been committed to its custody under the provisions of this part, whether residing in the state hospital or elsewhere.
- (2) The division, in administering and supervising the security responsibilities of the state hospital under its authority provided by Section 26B-5-303, shall enforce Sections 26B-5-320 through 26B-5-323 and Section 26B-5-342 to the extent they pertain to the state hospital.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-325 Responsibility for education of school-aged children at the hospital -- Responsibility for noninstructional services.**

- (1) The State Board of Education is responsible for the education of school-aged children committed to the division.
- (2) In order to fulfill its responsibility under Subsection (1), the board may contract with local school districts or other appropriate agencies to provide educational and related administrative services.
- (3) Medical, residential, and other noninstructional services at the state hospital are the responsibility of the division.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-326 Allocation of state hospital beds -- Formula.**

- (1) As used in this section:
  - (a) "Adult beds" means the total number of patient beds located in the adult general psychiatric unit and the geriatric unit at the state hospital, as determined by the superintendent of the state hospital.
  - (b) "Mental health catchment area" means a county or group of counties governed by a local mental health authority.
- (2)
  - (a) The division shall establish by rule a formula to separately allocate to local mental health authorities adult beds for persons who meet the requirements of Subsection 26B-5-306(2)
    - (a). Beginning on May 10, 2011, and ending on June 30, 2011, 152 beds shall be allocated to local mental health authorities under this section.
  - (b) The number of beds shall be reviewed and adjusted as necessary:
    - (i) on July 1, 2011, to restore the number of beds allocated to 212 beds as funding permits; and
    - (ii) on July 1, 2011, and every three years after July 1, 2011, according to the state's population.
  - (c) All population figures utilized shall reflect the most recent available population estimates from the Utah Population Committee.
- (3) The formula established under Subsection (2) shall provide for allocation of beds based on:
  - (a) the percentage of the state's adult population located within a mental health catchment area; and



- (b) a differential to compensate for the additional demand for hospital beds in mental health catchment areas that are located in urban areas.
- (4) A local mental health authority may sell or loan its allocation of beds to another local mental health authority.
- (5) The division shall allocate adult beds at the state hospital to local mental health authorities for their use in accordance with the formula established under this section. If a local mental health authority is unable to access a bed allocated to it under the formula established under Subsection (2), the division shall provide that local mental health authority with funding equal to the reasonable, average daily cost of an acute care bed purchased by the local mental health authority.
- (6) The board shall periodically review and make changes in the formula established under Subsection (2) as necessary to accurately reflect changes in population.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-327 Allocation of pediatric state hospital beds -- Formula.**

- (1) As used in this section:
  - (a) "Mental health catchment area" means a county or group of counties governed by a local mental health authority.
  - (b) "Pediatric beds" means the total number of patient beds located in the children's unit and the youth units at the state hospital, as determined by the superintendent of the state hospital.
- (2) On July 1, 1996, 72 pediatric beds shall be allocated to local mental health authorities under this section. The division shall review and adjust the number of pediatric beds as necessary every three years according to the state's population of persons under 18 years old. All population figures utilized shall reflect the most recent available population estimates from the Governor's Office of Planning and Budget.
- (3) The allocation of beds shall be based on the percentage of the state's population of persons under 18 years old located within a mental health catchment area. Each community mental health center shall be allocated at least one bed.
- (4) A local mental health authority may sell or loan its allocation of beds to another local mental health authority.
- (5) The division shall allocate 72 pediatric beds at the state hospital to local mental health authorities for their use in accordance with the formula established under this section. If a local mental health authority is unable to access a bed allocated to it under that formula, the division shall provide that local mental health authority with funding equal to the reasonable, average daily cost of an acute care bed purchased by the local mental health authority.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-330 Involuntary commitment -- Procedures.**

- (1) An adult may not be involuntarily committed to the custody of a local mental health authority except under the following provisions:
  - (a) emergency procedures for temporary commitment upon medical or designated examiner certification, as provided in Subsection 26B-5-331(1)(a);
  - (b) emergency procedures for temporary commitment without endorsement of medical or designated examiner certification, as provided in Subsection 26B-5-331(1)(b); or
  - (c) commitment on court order, as provided in Section 26B-5-332.

- (2) A person under 18 years old may be committed to the physical custody of a local mental health authority only in accordance with the provisions of Part 4, Commitment of Persons Under Age 18.

Renumbered and Amended by Chapter 308, 2023 General Session

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

**26B-5-331 Temporary commitment -- Requirements and procedures -- Rights.**

- (1) An adult shall be temporarily, involuntarily committed to a local mental health authority upon:
- (a) a written application that:
    - (i) is completed by a responsible individual who has reason to know, stating a belief that the adult, due to mental illness, is likely to pose substantial danger to self or others if not restrained and stating the personal knowledge of the adult's condition or circumstances that lead to the individual's belief; and
    - (ii) includes a certification by a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner stating that the physician, physician assistant, nurse practitioner, or designated examiner has examined the adult within a three-day period immediately preceding the certification, and that the physician, physician assistant, nurse practitioner, or designated examiner is of the opinion that, due to mental illness, the adult poses a substantial danger to self or others; or
  - (b) a peace officer or a mental health officer:
    - (i) observing an adult's conduct that gives the peace officer or mental health officer probable cause to believe that:
      - (A) the adult has a mental illness; and
      - (B) because of the adult's mental illness and conduct, the adult poses a substantial danger to self or others; and
    - (ii) completing a temporary commitment application that:
      - (A) is on a form prescribed by the division;
      - (B) states the peace officer's or mental health officer's belief that the adult poses a substantial danger to self or others;
      - (C) states the specific nature of the danger;
      - (D) provides a summary of the observations upon which the statement of danger is based; and
      - (E) provides a statement of the facts that called the adult to the peace officer's or mental health officer's attention.
- (2) If at any time a patient committed under this section no longer meets the commitment criteria described in Subsection (1), the local mental health authority or the local mental health authority's designee shall document the change and release the patient.
- (3)
- (a) A patient committed under this section may be held for a maximum of 24 hours after commitment, excluding Saturdays, Sundays, and legal holidays, unless:
    - (i) as described in Section 26B-5-332, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection 26B-5-332(4);
    - (ii) the patient makes a voluntary application for admission; or
    - (iii) before expiration of the 24 hour period, a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner examines the patient and certifies in writing that:

- (A) the patient, due to mental illness, poses a substantial danger to self or others;
  - (B) additional time is necessary for evaluation and treatment of the patient's mental illness;  
and
  - (C) there is no appropriate less-restrictive alternative to commitment to evaluate and treat the patient's mental illness.
- (b) A patient described in Subsection (3)(a)(iii) may be held for a maximum of 48 hours after the 24 hour period described in Subsection (3)(a) expires, excluding Saturdays, Sundays, and legal holidays.
  - (c) Subsection (3)(a)(iii) applies to an adult patient.
- (4) Upon a written application described in Subsection (1)(a) or the observation and belief described in Subsection (1)(b)(i), the adult shall be:
    - (a) taken into a peace officer's protective custody, by reasonable means, if necessary for public safety; and
    - (b) transported for temporary commitment to a facility designated by the local mental health authority, by means of:
      - (i) an ambulance, if the adult meets any of the criteria described in Section 26B-4-119;
      - (ii) an ambulance, if a peace officer is not necessary for public safety, and transportation arrangements are made by a physician, physician assistant, nurse practitioner, designated examiner, or mental health officer;
      - (iii) the city, town, or municipal law enforcement authority with jurisdiction over the location where the adult is present, if the adult is not transported by ambulance;
      - (iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law enforcement authority described in Subsection (4)(b)(iii) and the adult is not transported by ambulance; or
      - (v) nonemergency secured behavioral health transport as that term is defined in Section 26B-4-101.
  - (5) Notwithstanding Subsection (4):
    - (a) an individual shall be transported by ambulance to an appropriate medical facility for treatment if the individual requires physical medical attention;
    - (b) if an officer has probable cause to believe, based on the officer's experience and de-escalation training that taking an individual into protective custody or transporting an individual for temporary commitment would increase the risk of substantial danger to the individual or others, a peace officer may exercise discretion to not take the individual into custody or transport the individual, as permitted by policies and procedures established by the officer's law enforcement agency and any applicable federal or state statute, or case law; and
    - (c) if an officer exercises discretion under Subsection (4)(b) to not take an individual into protective custody or transport an individual, the officer shall document in the officer's report the details and circumstances that led to the officer's decision.
  - (6)
    - (a) The local mental health authority shall inform an adult patient committed under this section of the reason for commitment.
    - (b) An adult patient committed under this section has the right to:
      - (i) within three hours after arrival at the local mental health authority, make a telephone call, at the expense of the local mental health authority, to an individual of the patient's choice; and
      - (ii) see and communicate with an attorney.
  - (7)
    - (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section.
    - (b) This section does not create a special duty of care.

Renumbered and Amended by Chapter 308, 2023 General Session

**Effective 7/1/2024**

**26B-5-331 Temporary commitment -- Requirements and procedures -- Rights.**

- (1) An adult shall be temporarily, involuntarily committed to a local mental health authority upon:
  - (a) a written application that:
    - (i) is completed by a responsible individual who has reason to know, stating a belief that the adult, due to mental illness, is likely to pose substantial danger to self or others if not restrained and stating the personal knowledge of the adult's condition or circumstances that lead to the individual's belief; and
    - (ii) includes a certification by a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner stating that the physician, physician assistant, nurse practitioner, or designated examiner has examined the adult within a three-day period immediately preceding the certification, and that the physician, physician assistant, nurse practitioner, or designated examiner is of the opinion that, due to mental illness, the adult poses a substantial danger to self or others; or
  - (b) a peace officer or a mental health officer:
    - (i) observing an adult's conduct that gives the peace officer or mental health officer probable cause to believe that:
      - (A) the adult has a mental illness; and
      - (B) because of the adult's mental illness and conduct, the adult poses a substantial danger to self or others; and
    - (ii) completing a temporary commitment application that:
      - (A) is on a form prescribed by the division;
      - (B) states the peace officer's or mental health officer's belief that the adult poses a substantial danger to self or others;
      - (C) states the specific nature of the danger;
      - (D) provides a summary of the observations upon which the statement of danger is based; and
      - (E) provides a statement of the facts that called the adult to the peace officer's or mental health officer's attention.
- (2) If at any time a patient committed under this section no longer meets the commitment criteria described in Subsection (1), the local mental health authority or the local mental health authority's designee shall document the change and release the patient.
- (3)
  - (a) A patient committed under this section may be held for a maximum of 24 hours after commitment, excluding Saturdays, Sundays, and legal holidays, unless:
    - (i) as described in Section 26B-5-332, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection 26B-5-332(4);
    - (ii) the patient makes a voluntary application for admission; or
    - (iii) before expiration of the 24 hour period, a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner examines the patient and certifies in writing that:
      - (A) the patient, due to mental illness, poses a substantial danger to self or others;
      - (B) additional time is necessary for evaluation and treatment of the patient's mental illness; and

- (C) there is no appropriate less-restrictive alternative to commitment to evaluate and treat the patient's mental illness.
- (b) A patient described in Subsection (3)(a)(iii) may be held for a maximum of 48 hours after the 24 hour period described in Subsection (3)(a) expires, excluding Saturdays, Sundays, and legal holidays.
- (c) Subsection (3)(a)(iii) applies to an adult patient.
- (4) Upon a written application described in Subsection (1)(a) or the observation and belief described in Subsection (1)(b)(i), the adult shall be:
  - (a) taken into a peace officer's protective custody, by reasonable means, if necessary for public safety; and
  - (b) transported for temporary commitment to a facility designated by the local mental health authority, by means of:
    - (i) an ambulance, if the adult meets any of the criteria described in Section 26B-4-119;
    - (ii) an ambulance, if a peace officer is not necessary for public safety, and transportation arrangements are made by a physician, physician assistant, nurse practitioner, designated examiner, or mental health officer;
    - (iii) the city, town, or municipal law enforcement authority with jurisdiction over the location where the adult is present, if the adult is not transported by ambulance;
    - (iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law enforcement authority described in Subsection (4)(b)(iii) and the adult is not transported by ambulance; or
    - (v) nonemergency secured behavioral health transport as that term is defined in Section 53-2d-101.
- (5) Notwithstanding Subsection (4):
  - (a) an individual shall be transported by ambulance to an appropriate medical facility for treatment if the individual requires physical medical attention;
  - (b) if an officer has probable cause to believe, based on the officer's experience and de-escalation training that taking an individual into protective custody or transporting an individual for temporary commitment would increase the risk of substantial danger to the individual or others, a peace officer may exercise discretion to not take the individual into custody or transport the individual, as permitted by policies and procedures established by the officer's law enforcement agency and any applicable federal or state statute, or case law; and
  - (c) if an officer exercises discretion under Subsection (4)(b) to not take an individual into protective custody or transport an individual, the officer shall document in the officer's report the details and circumstances that led to the officer's decision.
- (6)
  - (a) The local mental health authority shall inform an adult patient committed under this section of the reason for commitment.
  - (b) An adult patient committed under this section has the right to:
    - (i) within three hours after arrival at the local mental health authority, make a telephone call, at the expense of the local mental health authority, to an individual of the patient's choice; and
    - (ii) see and communicate with an attorney.
- (7)
  - (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section.
  - (b) This section does not create a special duty of care.

Renumbered and Amended by Chapter 308, 2023 General Session  
Amended by Chapter 310, 2023 General Session

**26B-5-332 Involuntary commitment under court order -- Examination -- Hearing -- Power of court -- Findings required -- Costs.**

- (1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need to be involuntarily committed may initiate an involuntary commitment court proceeding by filing, in the court in the county where the proposed patient resides or is found, a written application that includes:
  - (a) unless the court finds that the information is not reasonably available, the proposed patient's:
    - (i) name;
    - (ii) date of birth; and
    - (iii) social security number;
  - (b)
    - (i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a mental illness and should be involuntarily committed; or
    - (ii) a written statement by the applicant that:
      - (A) the proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;
      - (B) is sworn to under oath; and
      - (C) states the facts upon which the application is based; and
  - (c) a statement whether the proposed patient has previously been under an assisted outpatient treatment order, if known by the applicant.
- (2) Before issuing a judicial order, the court:
  - (a) shall require the applicant to consult with the appropriate local mental health authority at or before the hearing; and
  - (b) may direct a mental health professional from the local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report the existing facts to the court.
- (3) The court may issue an order, directed to a mental health officer or peace officer, to immediately place a proposed patient in the custody of a local mental health authority or in a temporary emergency facility, as described in Section 26B-5-334, to be detained for the purpose of examination if:
  - (a) the court finds from the application, any other statements under oath, or any reports from a mental health professional that there is a reasonable basis to believe that the proposed patient has a mental illness that poses a danger to self or others and requires involuntary commitment pending examination and hearing; or
  - (b) the proposed patient refuses to submit to an interview with a mental health professional as directed by the court or to go to a treatment facility voluntarily.
- (4)
  - (a) The court shall provide notice of commencement of proceedings for involuntary commitment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, to a proposed patient before, or upon, placement of the proposed patient in the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority whose status is being changed from voluntary to involuntary, upon the filing of an application for that purpose with the court.
  - (b) The place of detention shall maintain a copy of the order of detention.

- (5)
  - (a) The court shall provide notice of commencement of proceedings for involuntary commitment as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or the local mental health authority's designee, and any other persons whom the proposed patient or the court designates.
  - (b) Except as provided in Subsection (5)(c), the notice under Subsection (5)(a) shall advise the persons that a hearing may be held within the time provided by law.
  - (c) If the proposed patient refuses to permit release of information necessary for provisions of notice under this subsection, the court shall determine the extent of notice.
- (6) Proceedings for commitment of an individual under 18 years old to a local mental health authority may be commenced in accordance with Part 4, Commitment of Persons Under Age 18.
- (7)
  - (a) The court may, in the court's discretion, transfer the case to any other district court within this state, if the transfer will not be adverse to the interest of the proposed patient.
  - (b) If a case is transferred under Subsection (7)(a), the parties to the case may be transferred and the local mental health authority may be substituted in accordance with Utah Rules of Civil Procedure, Rule 25.
- (8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or the local mental health authority's designee under court order for detention or examination, the court shall appoint two designated examiners:
  - (a) who did not sign the civil commitment application nor the civil commitment certification under Subsection (1);
  - (b) one of whom is a licensed physician; and
  - (c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.
- (9) The court shall schedule a hearing to be held within 10 calendar days after the day on which the designated examiners are appointed.
- (10)
  - (a) The designated examiners shall:
    - (i) conduct the examinations separately;
    - (ii) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place, including through telehealth, that is not likely to have a harmful effect on the proposed patient's health;
    - (iii) inform the proposed patient, if not represented by an attorney:
      - (A) that the proposed patient does not have to say anything;
      - (B) of the nature and reasons for the examination;
      - (C) that the examination was ordered by the court;
      - (D) that any information volunteered could form part of the basis for the proposed patient's involuntary commitment;
      - (E) that findings resulting from the examination will be made available to the court; and
      - (F) that the designated examiner may, under court order, obtain the proposed patient's mental health records; and
    - (iv) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as

described in Section 26B-5-360, or has acceptable programs available to the proposed patient without court proceedings.

- (b) If a designated examiner reports orally under Subsection (10)(a), the designated examiner shall immediately send a written report to the clerk of the court.
- (11) If a designated examiner is unable to complete an examination on the first attempt because the proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.
- (12) If the local mental health authority, the local mental health authority's designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to a commitment hearing no longer exist, the local mental health authority, the local mental health authority's designee, or the medical examiner shall immediately report the determination to the court.
- (13) The court may terminate the proceedings and dismiss the application at any time, including before the hearing, if the designated examiners or the local mental health authority or the local mental health authority's designee informs the court that the proposed patient:
  - (a) does not meet the criteria in Subsection (16);
  - (b) has agreed to voluntary commitment, as described in Section 26B-5-360;
  - (c) has acceptable options for treatment programs that are available without court proceedings;or
  - (d) meets the criteria for assisted outpatient treatment described in Section 26B-5-351.
- (14)
  - (a) Before the hearing, the court shall provide the proposed patient an opportunity to be represented by counsel, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing.
  - (b) In the case of an indigent proposed patient, the county in which the proposed patient resides or is found shall make payment of reasonable attorney fees for counsel, as determined by the court.
- (15)
  - (a)
    - (i) The court shall afford the proposed patient, the applicant, and any other person to whom notice is required to be given an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses.
    - (ii) The court may, in the court's discretion, receive the testimony of any other person.
    - (iii) The court may allow a waiver of the proposed patient's right to appear for good cause, which cause shall be set forth in the record, or an informed waiver by the patient, which shall be included in the record.
  - (b) The court is authorized to exclude any person not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each designated examiner to be given out of the presence of any other designated examiners.
  - (c) The court shall conduct the hearing in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient, while preserving the due process rights of the proposed patient.
  - (d) The court shall consider any relevant historical and material information that is offered, subject to the rules of evidence, including reliable hearsay under Utah Rules of Evidence, Rule 1102.
- (e)



- (i) A local mental health authority or the local mental health authority's designee or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:
    - (A) the detention order;
    - (B) admission notes;
    - (C) the diagnosis;
    - (D) any doctors' orders;
    - (E) progress notes;
    - (F) nursing notes;
    - (G) medication records pertaining to the current commitment; and
    - (H) whether the proposed patient has previously been civilly committed or under an order for assisted outpatient treatment.
  - (ii) The information described in Subsection (15)(e)(i) shall also be supplied to the proposed patient's counsel at the time of the hearing, and at any time prior to the hearing upon request.
- (16)
- (a) The court shall order commitment of an adult proposed patient to a local mental health authority if, upon completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that:
    - (i) the proposed patient has a mental illness;
    - (ii) because of the proposed patient's mental illness the proposed patient poses a substantial danger to self or others;
    - (iii) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment;
    - (iv) there is no appropriate less-restrictive alternative to a court order of commitment; and
    - (v) the local mental health authority can provide the proposed patient with treatment that is adequate and appropriate to the proposed patient's conditions and needs.
  - (b)
    - (i) If, at the hearing, the court determines that the proposed patient has a mental illness but does not meet the other criteria described in Subsection (16)(a), the court may consider whether the proposed patient meets the criteria for assisted outpatient treatment under Section 26B-5-351.
    - (ii) The court may order the proposed patient to receive assisted outpatient treatment in accordance with Section 26B-5-351 if, at the hearing, the court finds the proposed patient meets the criteria for assisted outpatient treatment under Section 26B-5-351.
    - (iii) If the court determines that neither the criteria for commitment under Subsection (16)(a) nor the criteria for assisted outpatient treatment under Section 26B-5-351 are met, the court shall dismiss the proceedings after the hearing.
- (17)
- (a)
    - (i) The order of commitment shall designate the period for which the patient shall be treated.
    - (ii) If the patient is not under an order of commitment at the time of the hearing, the patient's treatment period may not exceed six months without a review hearing.
    - (iii) Upon a review hearing, to be commenced before the expiration of the previous order of commitment, an order for commitment may be for an indeterminate period, if the court finds by clear and convincing evidence that the criteria described in Subsection (16) will last for an indeterminate period.

(b)

- (i) The court shall maintain a current list of all patients under the court's order of commitment and review the list to determine those patients who have been under an order of commitment for the court designated period.
- (ii) At least two weeks before the expiration of the designated period of any order of commitment still in effect, the court that entered the original order of commitment shall inform the appropriate local mental health authority or the local mental health authority's designee of the expiration.
- (iii) Upon receipt of the information described in Subsection (17)(b)(ii), the local mental health authority or the local mental health authority's designee shall immediately reexamine the reasons upon which the order of commitment was based.
- (iv) If, after reexamination under Subsection (17)(b)(iii), the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment no longer exist, the local mental health authority or the local mental health authority's designee shall discharge the patient from involuntary commitment and immediately report the discharge to the court.
- (v) If, after reexamination under Subsection (17)(b)(iii), the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment continue to exist, the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(c)

- (i) The local mental health authority or the local mental health authority's designee responsible for the care of a patient under an order of commitment for an indeterminate period shall, at six-month intervals, reexamine the reasons upon which the order of indeterminate commitment was based.
- (ii) If the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment no longer exist, the local mental health authority or the local mental health authority's designee shall discharge the patient from the local mental health authority's or the local mental health authority designee's custody and immediately report the discharge to the court.
- (iii) If the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment continue to exist, the local mental health authority or the local mental health authority's designee shall send a written report of the findings to the court.
- (iv) A patient and the patient's counsel of record shall be notified in writing that the involuntary commitment will be continued under Subsection (17)(c)(iii), the reasons for the decision to continue, and that the patient has the right to a review hearing by making a request to the court.
- (v) Upon receiving a request under Subsection (17)(c)(iv), the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(18)

- (a) Any patient committed as a result of an original hearing or a patient's legally designated representative who is aggrieved by the findings, conclusions, and order of the court entered in the original hearing has the right to a new hearing upon a petition filed with the court within 30 days after the day on which the court order is entered.
- (b) The petition shall allege error or mistake in the findings, in which case the court shall appoint three impartial designated examiners previously unrelated to the case to conduct an additional examination of the patient.

- (c) Except as provided in Subsection (18)(b), the court shall, in all other respects, conduct the new hearing in the manner otherwise permitted.
- (19) The county in which the proposed patient resides or is found shall pay the costs of all proceedings under this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-333 Circumstances under which conditions justifying initial involuntary commitment shall be considered to continue to exist.**

- (1) When an individual is involuntarily committed to the custody of a local mental health authority under Subsection 26B-5-332(16), the conditions justifying commitment under that Subsection shall be considered to continue to exist for purposes of continued treatment under Subsection 26B-5-332(17) or conditional release under Section 26B-5-337 if the court finds that:
  - (a) the patient is still mentally ill;
  - (b) there is no appropriate less restrictive alternative to a court order of involuntary commitment; and
  - (c) absent an order of involuntary commitment, the patient will likely pose a substantial danger to self or others.
- (2) When an individual has been ordered to assisted outpatient treatment under Subsection 26B-5-351(14), the individual may be involuntarily committed to the custody of a local mental health authority under Subsection 26B-5-332(16) for purposes of continued treatment under Subsection 26B-5-332(17) or conditional release under Section 26B-5-337, if the court finds that:
  - (a) the patient is still mentally ill;
  - (b) there is no appropriate less-restrictive alternative to a court order of involuntary commitment; and
  - (c) based upon the patient's conduct and statements during the preceding six months, or the patient's failure to comply with treatment recommendations during the preceding six months, the court finds that absent an order of involuntary commitment, the patient is likely to pose a substantial danger to self or others.
- (3) A patient whose treatment is continued or who is conditionally released under the terms of this section shall be maintained in the least restrictive environment available that can provide the patient with treatment that is adequate and appropriate.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-334 Detention pending placement in custody.**

Pending commitment to a local mental health authority, a patient taken into custody or ordered to be committed pursuant to this part may be detained in the patient's home, a licensed foster home, or any other suitable facility under reasonable conditions prescribed by the local mental health authority. Except in an extreme emergency, the patient may not be detained in a nonmedical facility used for the detention of individuals charged with or convicted of criminal offenses. The local mental health authority shall take reasonable measures, including provision of medical care, as may be necessary to assure proper care of an individual temporarily detained pursuant to this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-335 Notice of commitment.**

Whenever a patient has been temporarily, involuntarily committed to a local mental health authority under Section 26B-5-331 on the application of an individual other than the patient's legal guardian, spouse, or next of kin, the local mental health authority or a designee of the local mental health authority shall immediately notify the patient's legal guardian, spouse, or next of kin, if known.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-336 Periodic review -- Discharge.**

Each local mental health authority or its designee shall, as frequently as practicable, examine or cause to be examined every person who has been committed to it. Whenever the local mental health authority or its designee determines that the conditions justifying involuntary commitment no longer exist, it shall discharge the patient. If the patient has been committed through judicial proceedings, a report describing that determination shall be sent to the clerk of the court where the proceedings were held.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-337 Release of patient to receive other treatment -- Placement in more restrictive environment -- Procedures.**

- (1) A local mental health authority or a designee of a local mental health authority may conditionally release an improved patient to less restrictive treatment when:
  - (a) the authority specifies the less restrictive treatment; and
  - (b) the patient agrees in writing to the less restrictive treatment.
- (2)
  - (a) Whenever a local mental health authority or a designee of a local mental health authority determines that the conditions justifying commitment no longer exist, the local mental health authority or the designee shall discharge the patient.
  - (b) If the discharged patient has been committed through judicial proceedings, the local mental health authority or the designee shall prepare a report describing the determination and shall send the report to the clerk of the court where the proceedings were held.
- (3)
  - (a) A local mental health authority or a designee of a local mental health authority is authorized to issue an order for the immediate placement of a current patient into a more restrictive environment, if:
    - (i) the local mental health authority or a designee of a local mental health authority has reason to believe that the patient's current environment is aggravating the patient's mental illness;  
or
    - (ii) the patient has failed to comply with the specified treatment plan to which the patient agreed in writing.
  - (b) An order for a more restrictive environment shall:
    - (i) state the reasons for the order;
    - (ii) authorize any peace officer to take the patient into physical custody and transport the patient to a facility designated by the local mental health authority;
    - (iii) inform the patient of the right to a hearing, the right to appointed counsel, and the other procedures described in Subsection 26B-5-332(14); and

- (iv) prior to or upon admission to the more restrictive environment, or upon imposition of additional or different requirements as conditions for continued conditional release from inpatient care, copies of the order shall be delivered to:
  - (A) the patient;
  - (B) the person in whose care the patient is placed;
  - (C) the patient's counsel of record; and
  - (D) the court that entered the original order of commitment.
- (c) If the patient was in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the patient or the patient's representative may request a hearing within 30 days of the change. Upon receiving the request, the court shall immediately appoint two designated examiners and proceed pursuant to Section 26B-5-332, with the exception of Subsection 26B-5-332(16), unless, by the time set for the hearing, the patient is returned to the less restrictive environment or the patient withdraws the request for a hearing, in writing.
- (d) The court shall:
  - (i) make findings regarding whether the conditions described in Subsections (3)(a) and (b) were met and whether the patient is in the least restrictive environment that is appropriate for the patient's needs; and
  - (ii) designate, by order, the environment for the patient's care and the period for which the patient shall be treated, which may not extend beyond expiration of the original order of commitment.
- (4) Nothing contained in this section prevents a local mental health authority or its designee, pursuant to Section 26B-5-336, from discharging a patient from commitment or from placing a patient in an environment that is less restrictive than that ordered by the court.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-338 Reexamination of court order for commitment -- Procedures -- Costs.**

- (1) Any patient committed pursuant to Section 26B-5-332 is entitled to a reexamination of the order for commitment on the patient's own petition, or on that of the legal guardian, parent, spouse, relative, or friend, to the court of the county in which the patient resides or is detained.
- (2) Upon receipt of the petition, the court shall conduct or cause to be conducted by a mental health commissioner proceedings in accordance with Section 26B-5-332, except that those proceedings shall not be required to be conducted if the petition is filed sooner than six months after the issuance of the order of commitment or the filing of a previous petition under this section, provided that the court may hold a hearing within a shorter period of time if good cause appears. The costs of proceedings for such judicial determination shall be paid by the county in which the patient resided or was found prior to commitment, upon certification, by the clerk of the court in the county where the proceedings are held, to the county legislative body that those proceedings were held and the costs incurred.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-339 Designated examiners.**

- (1) A designated examiner shall consider a proposed patient's mental health history when evaluating a proposed patient.
- (2) A designated examiner may request a court order to obtain a proposed patient's mental health records if a proposed patient refuses to share this information with the designated examiner.

- (3) A designated examiner, when evaluating a proposed patient for civil commitment, shall consider whether:
  - (a) a proposed patient has been under a court order for assisted outpatient treatment;
  - (b) the proposed patient complied with the terms of the assisted outpatient treatment order, if any; and
  - (c) whether assisted outpatient treatment is sufficient to meet the proposed patient's needs.
- (4) A designated examiner shall be allowed a reasonable fee by the county legislative body of the county in which the proposed patient resides or is found, unless the designated examiner is otherwise paid.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-340 Mental health commissioners.**

The court may appoint a mental health commissioner to assist in conducting commitment proceedings in accordance with Section 78A-5-107.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-341 Release from commitment.**

- (1)
  - (a) Subject to Subsection (1)(b), a local mental health authority or the mental health authority's designee shall release from commitment any individual who, in the opinion of the local mental health authority or the mental health authority's designee, has recovered or no longer meets the criteria specified in Section 26B-5-332.
  - (b) A local mental health authority's inability to locate a committed individual may not be the basis for the individual's release, unless the court orders the release of the individual after a hearing.
- (2) A local mental health authority or the mental health authority's designee may release from commitment any patient whose commitment is determined to be no longer advisable except as provided by Section 26B-5-405, but an effort shall be made to assure that any further supportive services required to meet the patient's needs upon release will be provided.
- (3) When a patient has been committed to a local mental health authority by judicial process, the local mental health authority shall follow the procedures described in Sections 26B-5-336 and 26B-5-337.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-342 Attempt to commit person contrary to requirements -- Penalty.**

Any person who attempts to place another person in the custody of a local mental health authority contrary to the provisions of this part is guilty of a class B misdemeanor, in addition to liability in an action for damages, or subject to other criminal charges.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-350 Assisted outpatient treatment services.**

- (1) The local mental health authority or the local mental health authority's designee shall provide assisted outpatient treatment, which shall include:
  - (a) case management; and

- (b) an individualized treatment plan, created with input from the proposed patient when possible.
- (2) A court order for assisted outpatient treatment does not create independent authority to forcibly medicate a patient.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-351 Assisted outpatient treatment proceedings.**

- (1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need for assisted outpatient treatment may file, in the court in the county where the proposed patient resides or is found, a written application that includes:
  - (a) unless the court finds that the information is not reasonably available, the proposed patient's:
    - (i) name;
    - (ii) date of birth; and
    - (iii) social security number; and
  - (b)
    - (i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a mental illness and should be involuntarily committed; or
    - (ii) a written statement by the applicant that:
      - (A) the proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;
      - (B) is sworn to under oath; and
      - (C) states the facts upon which the application is based.
- (2)
  - (a) Subject to Subsection (2)(b), before issuing a judicial order, the court may require the applicant to consult with the appropriate local mental health authority, and the court may direct a mental health professional from that local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report them to the court.
  - (b) The consultation described in Subsection (2)(a):
    - (i) may take place at or before the hearing; and
    - (ii) is required if the local mental health authority appears at the hearing.
- (3) If the proposed patient refuses to submit to an interview described in Subsection (2)(a) or an examination described in Subsection (8), the court may issue an order, directed to a mental health officer or peace officer, to immediately place the proposed patient into the custody of a local mental health authority or in a temporary emergency facility, as provided in Section 26B-5-334, to be detained for the purpose of examination.
- (4) Notice of commencement of proceedings for assisted outpatient treatment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, shall:
  - (a) be provided by the court to a proposed patient before, or upon, placement into the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority;
  - (b) be maintained at the proposed patient's place of detention, if any;
  - (c) be provided by the court as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental

health authority or its designee, and any other person whom the proposed patient or the court shall designate; and

- (d) advise that a hearing may be held within the time provided by law.
- (5) The court may, in its discretion, transfer the case to any other court within this state, provided that the transfer will not be adverse to the interest of the proposed patient.
- (6) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or its designee under court order for detention in order to complete an examination, the court shall appoint two designated examiners:
  - (a) who did not sign the assisted outpatient treatment application nor the certification described in Subsection (1);
  - (b) one of whom is a licensed physician; and
  - (c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.
- (7) The court shall schedule a hearing to be held within 10 calendar days of the day on which the designated examiners are appointed.
- (8) The designated examiners shall:
  - (a) conduct their examinations separately;
  - (b) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place that is not likely to have a harmful effect on the proposed patient's health;
  - (c) inform the proposed patient, if not represented by an attorney:
    - (i) that the proposed patient does not have to say anything;
    - (ii) of the nature and reasons for the examination;
    - (iii) that the examination was ordered by the court;
    - (iv) that any information volunteered could form part of the basis for the proposed patient to be ordered to receive assisted outpatient treatment; and
    - (v) that findings resulting from the examination will be made available to the court; and
  - (d) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill. If the designated examiner reports orally, the designated examiner shall immediately send a written report to the clerk of the court.
- (9) If a designated examiner is unable to complete an examination on the first attempt because the proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.
- (10) If the local mental health authority, its designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to an assisted outpatient treatment hearing no longer exist, the local mental health authority, its designee, or the medical examiner shall immediately report that determination to the court.
- (11) The court may terminate the proceedings and dismiss the application at any time, including prior to the hearing, if the designated examiners or the local mental health authority or its designee informs the court that the proposed patient does not meet the criteria in Subsection (14).
- (12) Before the hearing, an opportunity to be represented by counsel shall be afforded to the proposed patient, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing. In the case of an indigent proposed patient, the payment of reasonable attorney fees for counsel, as determined by the court, shall be made by the county in which the proposed patient resides or is found.



(13)

- (a) All persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The court may, in its discretion, receive the testimony of any other individual. The court may allow a waiver of the proposed patient's right to appear for good cause, which cause shall be set forth in the record, or an informed waiver by the patient, which shall be included in the record.
  - (b) The court is authorized to exclude all individuals not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each examiner to be given out of the presence of any other examiners.
  - (c) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient.
  - (d) The court shall consider all relevant historical and material information that is offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah Rules of Evidence.
  - (e)
    - (i) A local mental health authority or its designee, or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:
      - (A) the detention order, if any;
      - (B) admission notes, if any;
      - (C) the diagnosis, if any;
      - (D) doctor's orders, if any;
      - (E) progress notes, if any;
      - (F) nursing notes, if any; and
      - (G) medication records, if any.
    - (ii) The information described in Subsection (13)(e)(i) shall also be provided to the proposed patient's counsel:
      - (A) at the time of the hearing; and
      - (B) at any time prior to the hearing, upon request.
- (14) The court shall order a proposed patient to assisted outpatient treatment if, upon completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that:
- (a) the proposed patient has a mental illness;
  - (b) there is no appropriate less-restrictive alternative to a court order for assisted outpatient treatment; and
  - (c)
    - (i) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental health treatment, as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment; or
    - (ii) the proposed patient needs assisted outpatient treatment in order to prevent relapse or deterioration that is likely to result in the proposed patient posing a substantial danger to self or others.
- (15) The court may order the applicant or a close relative of the patient to be the patient's personal representative, as described in 45 C.F.R. Sec. 164.502(g), for purposes of the patient's mental health treatment.
- (16) In the absence of the findings described in Subsection (14), the court, after the hearing, shall dismiss the proceedings.

(17)

- (a) The assisted outpatient treatment order shall designate the period for which the patient shall be treated, which may not exceed 12 months without a review hearing.
- (b) At a review hearing, the court may extend the duration of an assisted outpatient treatment order by up to 12 months, if:
  - (i) the court finds by clear and convincing evidence that the patient meets the conditions described in Subsection (14); or
  - (ii)
    - (A) the patient does not appear at the review hearing;
    - (B) notice of the review hearing was provided to the patient's last known address by the applicant described in Subsection (1) or by a local mental health authority; and
    - (C) the patient has appeared in court or signed an informed waiver within the previous 18 months.
- (c) The court shall maintain a current list of all patients under its order of assisted outpatient treatment.
- (d) At least two weeks prior to the expiration of the designated period of any assisted outpatient treatment order still in effect, the court that entered the original order shall inform the appropriate local mental health authority or its designee.
- (18) Costs of all proceedings under this section shall be paid by the county in which the proposed patient resides or is found.
- (19) A court may not hold an individual in contempt for failure to comply with an assisted outpatient treatment order.
- (20) As provided in Section 31A-22-651, a health insurance provider may not deny an insured the benefits of the insured's policy solely because the health care that the insured receives is provided under a court order for assisted outpatient treatment.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-360 Voluntary admission of adults.**

- (1) A local mental health authority, a designee of a local mental health authority, or another mental health facility may admit for observation, diagnosis, care, and treatment an adult who applies for voluntary admission and who has a mental illness or exhibits the symptoms of a mental illness.
- (2) No adult may be committed to a local mental health authority against that adult's will except as provided in this chapter.
- (3) An adult may be voluntarily admitted to a local mental health authority for treatment at the Utah State Hospital as a condition of probation or stay of sentence only after the requirements of Section 77-18-106 have been met.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-361 Release of voluntary adult -- Exceptions.**

- (1) Except as provided in Subsection (2), a mental health facility shall immediately release an adult patient:
  - (a) who is voluntarily admitted, as described in Section 26B-5-360, and who requests release, verbally or in writing; or
  - (b) whose release is requested in writing by the patient's legal guardian, parent, spouse, or adult next of kin.
- (2)

- (a) An adult patient's release under Subsection (1) may be conditioned upon the agreement of the patient, if:
  - (i) the request for release is made by an individual other than the patient; or
  - (ii) the admitting local mental health authority, the designee of the local mental health authority, or the admitting mental health facility has cause to believe that release of the patient would be unsafe for the patient or others.
- (b)
  - (i) An adult patient's release may be postponed for up to 48 hours, excluding weekends and holidays, if the admitting local mental health authority, the designee of the local mental health authority, or the admitting mental health facility causes involuntary commitment proceedings to be commenced with the court within the specified time period.
  - (ii) The admitting local mental health authority, the designee of the local mental health authority, or the admitting mental health facility shall provide written notice of the postponement and the reasons for the postponement to the patient without undue delay.
- (3) A judicial proceeding for involuntary commitment may not be commenced with respect to a voluntary patient unless the patient requests release.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-362 Commitment and care of criminally insane.**

Nothing contained in this part may be construed to alter or change the method presently employed for the commitment and care of the criminally insane as provided in Title 77, Chapter 15, Inquiry into Sanity of Defendant.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-363 Persons entering state mentally ill.**

- (1) A person who enters this state while mentally ill may be returned by a local mental health authority to the home of relatives or friends of that person with a mental illness, if known, or to a hospital in the state where that person with a mental illness is domiciled, in accordance with the Interstate Compact on Mental Health in Section 26B-5-365.
- (2) This section does not prevent commitment of persons who are traveling through or temporarily residing in this state.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-364 Persons eligible for care or treatment by federal agency -- Continuing jurisdiction of state courts.**

- (1) If an individual committed pursuant to Section 26B-5-332 is eligible for care or treatment by any agency of the United States, the court, upon receipt of a certificate from a United States agency, showing that facilities are available and that the individual is eligible for care or treatment therein, may order the individual to be placed in the custody of that agency for care.
- (2) When admitted to any facility or institution operated by a United States agency, within or without this state, the individual shall be subject to the rules and regulations of that agency.
- (3) The chief officer of any facility or institution operated by a United States agency and in which the individual is hospitalized, shall, with respect to that individual, be vested with the same powers as the superintendent or director of a mental health facility, regarding detention, custody, transfer, conditional release, or discharge of patients. Jurisdiction is retained in

appropriate courts of this state at any time to inquire into the mental condition of an individual so hospitalized, and to determine the necessity for continuance of hospitalization, and every order of hospitalization issued pursuant to this section is so conditioned.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-365 Interstate Compact on Mental Health -- Compact provisions.**

The Interstate Compact on Mental Health is hereby enacted and entered into with all other jurisdictions that legally join in the compact, which is, in form, substantially as follows:

**INTERSTATE COMPACT ON MENTAL HEALTH**

The contracting states solemnly agree that:

**Article I**

The proper and expeditious treatment of the mentally ill can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability of furnishing that care and treatment bears no primary relation to the residence or citizenship of the patient but that the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal and constitutional basis for commitment or other appropriate care and treatment of the mentally ill under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states.

The appropriate authority in this state for making determinations under this compact is the director of the division or his designee.

**Article II**

As used in this compact:

- (1) "After-care" means care, treatment, and services provided to a patient on convalescent status or conditional release.
- (2) "Institution" means any hospital, program, or facility maintained by a party state or political subdivision for the care and treatment of persons with a mental illness.
- (3) "Mental illness" means a psychiatric disorder as defined by the current Diagnostic and Statistical Manual of Mental Disorders, that substantially impairs a person's mental, emotional, behavioral, or related functioning to such an extent that he requires care and treatment for his own welfare, the welfare of others, or the community.
- (4) "Patient" means any person subject to or eligible, as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact and constitutional due process requirements.
- (5) "Receiving state" means a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be sent.
- (6) "Sending state" means a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be sent.
- (7) "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

**Article III**

(1) Whenever a person physically present in any party state is in need of institutionalization because of mental illness, he shall be eligible for care and treatment in an institution in that state, regardless of his residence, settlement, or citizenship qualifications.

(2) Notwithstanding the provisions of Subsection (1) of this article, any patient may be transferred to an institution in another state whenever there are factors, based upon clinical

determinations, indicating that the care and treatment of that patient would be facilitated or improved by that action. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors to be considered include the patient's full record with due regard for the location of the patient's family, the character of his illness and its probable duration, and other factors considered appropriate by authorities in the party state and the director of the division, or his designee.

(3) No state is obliged to receive any patient pursuant to the provisions of Subsection (2) of this article unless the sending state has:

- (a) given advance notice of its intent to send the patient;
- (b) furnished all available medical and other pertinent records concerning the patient;
- (c) given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient; and
- (d) determined that the receiving state agrees to accept the patient.

(4) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(5) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and further transfer of the patient may be made as is deemed to be in the best interest of the patient, as determined by appropriate authorities in the receiving and sending states.

#### Article IV

(1) Whenever, pursuant to the laws of the state in which a patient is physically present, it is determined that the patient should receive after-care or supervision, that care or supervision may be provided in the receiving state. If the medical or other appropriate clinical authorities who have responsibility for the care and treatment of the patient in the sending state believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of providing the patient with after-care in the receiving state. That request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge the patient would be placed, the complete medical history of the patient, and other pertinent documents.

(2) If the medical or other appropriate clinical authorities who have responsibility for the care and treatment of the patient in the sending state, and the appropriate authorities in the receiving state find that the best interest of the patient would be served, and if the public safety would not be jeopardized, the patient may receive after-care or supervision in the receiving state.

(3) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment as for similar local patients.

#### Article V

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities both within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of that patient, he shall be detained in the state where found, pending disposition in accordance with the laws of that state.

#### Article VI

Accredited officers of any party state, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

#### Article VII

- (1) No person may be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state has the effect of making the person a patient of the institution in the receiving state.
- (2) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs among themselves.
- (3) No provision of this compact may be construed to alter or affect any internal relationships among the departments, agencies, and officers of a party state, or between a party state and its subdivisions, as to the payment of costs or responsibilities.
- (4) Nothing in this compact may be construed to prevent any party state or any of its subdivisions from asserting any right against any person, agency, or other entity with regard to costs for which that party state or its subdivision may be responsible under this compact.
- (5) Nothing in this compact may be construed to invalidate any reciprocal agreement between a party state and a nonparty state relating to institutionalization, care, or treatment of the mentally ill, or any statutory authority under which those agreements are made.

#### Article VIII

- (1) Nothing in this compact may be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or with respect to any patient for whom he serves, except that when the transfer of a patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, a court of competent jurisdiction in the receiving state may make supplemental or substitute appointments. In that case, the court that appointed the previous guardian shall, upon being advised of the new appointment and upon the satisfactory completion of accounting and other acts as the court may require, relieve the previous guardian of power and responsibility to whatever extent is appropriate in the circumstances.

However, in the case of any patient having settlement in the sending state, a court of competent jurisdiction in the sending state has the sole discretion to relieve a guardian appointed by it or to continue his power and responsibility, as it deems advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

- (2) The term "guardian" as used in Subsection (1) of this article includes any guardian, trustee, legal committee, conservator, or other person or agency however denominated, who is charged by law with power to act for the person or property of a patient.

#### Article IX

(1) No provision of this compact except Article V applies to any person institutionalized while under sentence in a penal or correctional institution, while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness, he would be subject to incarceration in a penal or correctional institution.

(2) To every extent possible, it shall be the policy of party states that no patient be placed or detained in any prison, jail, or lockup, but shall, with all expedition, be taken to a suitable institutional facility for mental illness.

#### Article X

- (1) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state, either in the capacity of sending or receiving state. The compact administrator, or his designee, shall deal with all matters relating to the compact and patients processed under the compact. In this state the director of the division, or his designee shall act as the "compact administrator."
- (2) The compact administrators of the respective party states have power to promulgate reasonable rules and regulations as are necessary to carry out the terms and provisions of this compact. In this state, the division has authority to establish those rules in accordance with the Utah Administrative Rulemaking Act.
- (3) The compact administrator shall cooperate with all governmental departments, agencies, and officers in this state and its subdivisions in facilitating the proper administration of the compact and any supplementary agreement or agreements entered into by this state under the compact.
- (4) The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of this compact. In the event that supplementary agreements require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, that agreement shall have no force unless approved by the director of the department or agency under whose jurisdiction the institution or facility is operated, or whose department or agency will be charged with the rendering of services.
- (5) The compact administrator may make or arrange for any payments necessary to discharge financial obligations imposed upon this state by the compact or by any supplementary agreement entered into under the compact.

#### Article XI

Administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility, or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned find that those agreements will improve services, facilities, or institutional care and treatment of persons who are mentally ill. A supplementary agreement may not be construed to relieve a party state of any obligation that it otherwise would have under other provisions of this compact.

#### Article XII

This compact has full force and effect in any state when it is enacted into law in that state. Thereafter, that state is a party to the compact with any and all states that have legally joined.

#### Article XIII

A party state may withdraw from the compact by enacting a statute repealing the compact. Withdrawal takes effect one year after notice has been communicated officially and in writing to the compact administrators of all other party states. However, the withdrawal of a state does not change the status of any patient who has been sent to that state or sent out of that state pursuant to the compact.

#### Article XIV

This compact shall be liberally construed so as to effectuate its purposes. The provisions of this compact are severable, and if any phrase, clause, sentence or provision

is declared to be contrary to the constitution of the United States or the applicability to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and its applicability to any government, agency, person, or circumstance shall not be affected thereby. If this compact is held to be contrary to the constitution of any party state the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-366 Interstate compact on mental health -- Requirement of conformity with this chapter.**

All actions and proceedings taken under authority of this compact shall be in accordance with the procedures and constitutional requirements described in this part.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-367 Severability.**

If any one or more provision, section, subsection, sentence, clause, phrase, or word of this part, or the application thereof to any person or circumstance, is found to be unconstitutional the same is hereby declared to be severable and the balance of this part shall remain effective notwithstanding that unconstitutionality. The Legislature hereby declares that it would have passed this part, and each provision, section, subsection, sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase, or word be declared unconstitutional.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-370 Establishment of the Utah Forensic Mental Health Facility.**

The Utah Forensic Mental Health Facility is hereby established and shall be located on state land on the campus of the Utah State Hospital in Provo, Utah County.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-371 Utah Forensic Mental Health Facility -- Design and operation -- Security.**

(1) The forensic mental health facility is a secure treatment facility.

(2)

(a) The forensic mental health facility accommodates the following populations:

(i) prison inmates displaying mental illness necessitating treatment in a secure mental health facility;

(ii) criminally adjudicated persons found guilty with a mental illness or guilty with a mental condition at the time of the offense undergoing evaluation for a mental condition under Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition;

(iii) criminally adjudicated persons undergoing evaluation for competency or found guilty with a mental condition or guilty with a mental condition at the time of the offense under Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, who also have an intellectual disability;



- (iv) persons undergoing evaluation for competency or found by a court to be incompetent to proceed in accordance with Title 77, Chapter 15, Inquiry into Sanity of Defendant, or not guilty by reason of insanity under Title 77, Chapter 14, Defenses;
  - (v) persons who are civilly committed to the custody of a local mental health authority in accordance with this part, and who may not be properly supervised by the Utah State Hospital because of a lack of necessary security, as determined by the superintendent or the superintendent's designee; and
  - (vi) persons ordered to commit themselves to the custody of the division for treatment at the Utah State Hospital as a condition of probation or stay of sentence pursuant to Title 77, Chapter 18, The Judgment.
- (b) Placement of an offender in the forensic mental health facility under any category described in Subsection (2)(a)(ii), (iii), (iv), or (vi) shall be made on the basis of the offender's status as established by the court at the time of adjudication.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules providing for the allocation of beds to the categories described in Subsection (2)(a).
- (3) The department shall:
- (a) own and operate the forensic mental health facility;
  - (b) provide and supervise administrative and clinical staff; and
  - (c) provide security staff who are trained as psychiatric technicians.
- (4) Pursuant to Subsection 26B-5-303(3) the executive director shall designate individuals to perform security functions for the state hospital.

Amended by Chapter 184, 2023 General Session

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-372 Admission of person in custody of Department of Corrections to state hospital -- Retransfer of person to Department of Corrections.**

- (1) The executive director of the Department of Corrections may request the director to admit a person who is in the custody of the Department of Corrections to the state hospital, if the clinical director within the Department of Corrections finds that the inmate has mentally deteriorated to the point that admission to the state hospital is necessary to ensure adequate mental health treatment. In determining whether that inmate should be placed in the state hospital, the director of the division shall consider:
- (a) the mental health treatment needs of the inmate;
  - (b) the treatment programs available at the state hospital; and
  - (c) whether the inmate meets the requirements of Subsection 26B-5-306(2).
- (2) If the director denies the admission of an inmate as requested by the clinical director within the Department of Corrections, the Board of Pardons and Parole shall determine whether the inmate will be admitted to the state hospital. The Board of Pardons and Parole shall consider:
- (a) the mental health treatment needs of the inmate;
  - (b) the treatment programs available at the state hospital; and
  - (c) whether the inmate meets the requirements of Subsection 26B-5-306(2).
- (3) The state hospital shall receive any person in the custody of the Department of Corrections when ordered by either the director or the Board of Pardons and Parole, pursuant to Subsection (1) or (2). Any person so transferred to the state hospital shall remain in the custody of the Department of Corrections, and the state hospital shall act solely as the agent of the Department of Corrections.

- (4) Inmates transferred to the state hospital pursuant to this section shall be transferred back to the Department of Corrections through negotiations between the director and the director of the Department of Corrections. If agreement between the director and the director of the Department of Corrections cannot be reached, the Board of Pardons and Parole shall have final authority in determining whether a person will be transferred back to the Department of Corrections. In making that determination, that board shall consider:
- (a) the mental health treatment needs of the inmate;
  - (b) the treatment programs available at the state hospital;
  - (c) whether the person continues to meet the requirements of Subsection 26B-5-306(2);
  - (d) the ability of the state hospital to provide adequate treatment to the person, as well as safety and security to the public; and
  - (e) whether, in the opinion of the director, in consultation with the clinical director of the state hospital, the person's treatment needs have been met.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-380 Mental illness and intellectual disability examinations -- Responsibilities of the department.**

- (1) In accomplishing the department's duties to conduct a competency evaluation under Title 77, Utah Code of Criminal Procedure, and a juvenile competency evaluation under Section 80-6-402, the department shall proceed as outlined in this section and within appropriations authorized by the Legislature.
- (2) When the department is ordered by a court to conduct a competency evaluation, the department shall designate a forensic evaluator, selected under Subsection (4), to evaluate the defendant in the defendant's current custody or status.
- (3) When the department is ordered by the juvenile court to conduct a juvenile competency evaluation under Section 80-6-402, the department shall:
  - (a) designate an examiner selected pursuant to Subsection (4) to evaluate the minor; and
  - (b) upon a finding of good cause and order of the court, designate a second examiner to evaluate the minor.
- (4) The department shall establish criteria, in consultation with the Commission on Criminal and Juvenile Justice, and shall contract with persons to conduct competency evaluations and juvenile competency evaluations under Subsections (2) and (3)(b). In making this selection, the department shall follow the provisions of Title 63G, Chapter 6a, Utah Procurement Code.
- (5) Nothing in this section prohibits the department, at the request of defense counsel or a prosecuting attorney in a criminal proceeding under Title 77, Utah Code of Criminal Procedure, and for good cause shown, from proposing a person who has not been previously selected under Subsection (4) to contract with the department to conduct the evaluation. In selecting that person, the criteria of the department established under Subsection (4) and the provisions of Title 63G, Chapter 6a, Utah Procurement Code, shall be met.

Renumbered and Amended by Chapter 308, 2023 General Session

**Part 4**  
**Commitment of Persons Under Age 18**

**26B-5-401 Definitions.**

In addition to the definitions in Section 26B-5-301, as used in this part:

- (1) "Child" means a person under 18 years old.
- (2) "Commit" and "commitment" mean the transfer of physical custody in accordance with the requirements of this part.
- (3) "Legal custody" means:
  - (a) the right to determine where and with whom the child shall live;
  - (b) the right to participate in all treatment decisions and to consent or withhold consent for treatment in which a constitutionally protected liberty or privacy interest may be affected, including antipsychotic medication, electroshock therapy, and psychosurgery; and
  - (c) the right to authorize surgery or other extraordinary medical care.
- (4) "Physical custody" means:
  - (a) placement of a child in any residential or inpatient setting;
  - (b) the right to physical custody of a child;
  - (c) the right and duty to protect the child; and
  - (d) the duty to provide, or insure that the child is provided with, adequate food, clothing, shelter, and ordinary medical care.
- (5) "Residential" means any out-of-home placement made by a local mental health authority, but does not include out-of-home respite care.
- (6) "Respite care" means temporary, periodic relief provided to parents or guardians from the daily care of children with serious emotional disorders for the limited time periods designated by the division.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-402 Treatment and commitment of minors in the public mental health system.**

A child is entitled to due process proceedings, in accordance with the requirements of this part, whenever the child:

- (1) may receive or receives services through the public mental health system and is placed, by a local mental health authority, in a physical setting where his liberty interests are restricted, including residential and inpatient placements; or
- (2) receives treatment in which a constitutionally protected privacy or liberty interest may be affected, including the administration of antipsychotic medication, electroshock therapy, and psychosurgery.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-403 Residential and inpatient settings -- Commitment proceeding -- Child in physical custody of local mental health authority.**

- (1) A child may receive services from a local mental health authority in an inpatient or residential setting only after a commitment proceeding, for the purpose of transferring physical custody, has been conducted in accordance with the requirements of this section.
- (2) That commitment proceeding shall be initiated by a petition for commitment, and shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant to the procedures and requirements of this section. If the findings described in Subsection (4) exist, the proceeding shall result in the transfer of physical custody to the appropriate local mental health authority, and the child may be placed in an inpatient or residential setting.
- (3) The neutral and detached fact finder who conducts the inquiry:

- (a) shall be a designated examiner; and
  - (b) may not profit, financially or otherwise, from the commitment or physical placement of the child in that setting.
- (4) Upon determination by a fact finder that the following circumstances clearly exist, the fact finder may order that the child be committed to the physical custody of a local mental health authority:
- (a) the child has a mental illness;
  - (b) the child demonstrates a reasonable fear of the risk of substantial danger to self or others;
  - (c) the child will benefit from care and treatment by the local mental health authority; and
  - (d) there is no appropriate less-restrictive alternative.
- (5)
- (a) The commitment proceeding before the neutral and detached fact finder shall be conducted in as informal manner as possible and in a physical setting that is not likely to have a harmful effect on the child.
  - (b) The child, the child's parent or legal guardian, the petitioner, and a representative of the appropriate local mental health authority:
    - (i) shall receive informal notice of the date and time of the proceeding; and
    - (ii) may appear and address the petition for commitment.
  - (c) The neutral and detached fact finder may, in the fact finder's discretion, receive the testimony of any other person.
  - (d) The fact finder may allow a child to waive the child's right to be present at the commitment proceeding, for good cause shown. If that right is waived, the purpose of the waiver shall be made a matter of record at the proceeding.
  - (e) At the time of the commitment proceeding, the appropriate local mental health authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the commitment proceeding, shall provide the neutral and detached fact finder with the following information, as it relates to the period of current admission:
    - (i) the petition for commitment;
    - (ii) the admission notes;
    - (iii) the child's diagnosis;
    - (iv) physicians' orders;
    - (v) progress notes;
    - (vi) nursing notes; and
    - (vii) medication records.
  - (f) The information described in Subsection (5)(e) shall also be provided to the child's parent or legal guardian upon written request.
  - (g)
    - (i) The neutral and detached fact finder's decision of commitment shall state the duration of the commitment. Any commitment to the physical custody of a local mental health authority may not exceed 180 days. Prior to expiration of the commitment, and if further commitment is sought, a hearing shall be conducted in the same manner as the initial commitment proceeding, in accordance with the requirements of this section.
    - (ii) At the conclusion of the hearing and subsequently in writing, when a decision for commitment is made, the neutral and detached fact finder shall inform the child and the child's parent or legal guardian of that decision and of the reasons for ordering commitment.
    - (iii) The neutral and detached fact finder shall state in writing the basis of the decision, with specific reference to each of the criteria described in Subsection (4), as a matter of record.
- (6) A child may be temporarily committed for a maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health authority in

accordance with the procedures described in Section 26B-5-331 and upon satisfaction of the risk factors described in Subsection (4). A child who is temporarily committed shall be released at the expiration of the 72 hours unless the procedures and findings required by this section for the commitment of a child are satisfied.

- (7) A local mental health authority shall have physical custody of each child committed to it under this section. The parent or legal guardian of a child committed to the physical custody of a local mental health authority under this section, retains legal custody of the child, unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases when the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services has legal custody of a child, that division shall retain legal custody for purposes of this part.
- (8) The cost of caring for and maintaining a child in the physical custody of a local mental health authority shall be assessed to and paid by the child's parents, according to their ability to pay. For purposes of this section, the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services shall be financially responsible, in addition to the child's parents, if the child is in the legal custody of either of those divisions at the time the child is committed to the physical custody of a local mental health authority under this section, unless Medicaid regulation or contract provisions specify otherwise. The Office of Recovery Services shall assist those divisions in collecting the costs assessed pursuant to this section.
- (9) Whenever application is made for commitment of a minor to a local mental health authority under any provision of this section by a person other than the child's parent or guardian, the local mental health authority or its designee shall notify the child's parent or guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled proceeding.
- (10)
  - (a) Each child committed pursuant to this section is entitled to an appeal within 30 days after any order for commitment. The appeal may be brought on the child's own petition or on petition of the child's parent or legal guardian, to the juvenile court in the district where the child resides or is currently physically located. With regard to a child in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services, the attorney general's office shall handle the appeal, otherwise the appropriate county attorney's office is responsible for appeals brought pursuant to this Subsection (10)(a).
  - (b) Upon receipt of the petition for appeal, the court shall appoint a designated examiner previously unrelated to the case, to conduct an examination of the child in accordance with the criteria described in Subsection (4), and file a written report with the court. The court shall then conduct an appeal hearing to determine whether the findings described in Subsection (4) exist by clear and convincing evidence.
  - (c) Prior to the time of the appeal hearing, the appropriate local mental health authority, its designee, or the mental health professional who has been in charge of the child's care prior to commitment, shall provide the court and the designated examiner for the appeal hearing with the following information, as it relates to the period of current admission:
    - (i) the original petition for commitment;
    - (ii) admission notes;
    - (iii) diagnosis;
    - (iv) physicians' orders;
    - (v) progress notes;
    - (vi) nursing notes; and
    - (vii) medication records.

- (d) Both the neutral and detached fact finder and the designated examiner appointed for the appeal hearing shall be provided with an opportunity to review the most current information described in Subsection (10)(c) prior to the appeal hearing.
  - (e) The child, the child's parent or legal guardian, the person who submitted the original petition for commitment, and a representative of the appropriate local mental health authority shall be notified by the court of the date and time of the appeal hearing. Those persons shall be afforded an opportunity to appear at the hearing. In reaching its decision, the court shall review the record and findings of the neutral and detached fact finder, the report of the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion, allow or require the testimony of the neutral and detached fact finder, the designated examiner, the child, the child's parent or legal guardian, the person who brought the initial petition for commitment, or any other person whose testimony the court deems relevant. The court may allow the child to waive the right to appear at the appeal hearing, for good cause shown. If that waiver is granted, the purpose shall be made a part of the court's record.
- (11) Each local mental health authority has an affirmative duty to conduct periodic evaluations of the mental health and treatment progress of every child committed to its physical custody under this section, and to release any child who has sufficiently improved so that the criteria justifying commitment no longer exist.
- (12)
- (a) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional may release an improved child to a less restrictive environment, as they determine appropriate. Whenever the local mental health authority or its designee, and the child's current treating mental health professional, determine that the conditions justifying commitment no longer exist, the child shall be discharged and released to the child's parent or legal guardian. With regard to a child who is in the physical custody of the State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the child's current treating mental health professional.
  - (b) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional, is authorized to issue a written order for the immediate placement of a child not previously released from an order of commitment into a more restrictive environment, if the local authority or its designee and the child's current treating mental health professional has reason to believe that the less restrictive environment in which the child has been placed is exacerbating the child's mental illness, or increasing the risk of harm to self or others.
  - (c) The written order described in Subsection (12)(b) shall include the reasons for placement in a more restrictive environment and shall authorize any peace officer to take the child into physical custody and transport the child to a facility designated by the appropriate local mental health authority in conjunction with the child's current treating mental health professional. Prior to admission to the more restrictive environment, copies of the order shall be personally delivered to the child, the child's parent or legal guardian, the administrator of the more restrictive environment, or the administrator's designee, and the child's former treatment provider or facility.
  - (d) If the child has been in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the child or the child's representative may request a review within 30 days of the change, by a neutral and detached fact finder as described in Subsection (3). The fact finder shall determine whether:
    - (i) the less restrictive environment in which the child has been placed is exacerbating the child's mental illness or increasing the risk of harm to self or others; or

- (ii) the less restrictive environment in which the child has been placed is not exacerbating the child's mental illness or increasing the risk of harm to self or others, in which case the fact finder shall designate that the child remain in the less restrictive environment.
- (e) Nothing in this section prevents a local mental health authority or its designee, in conjunction with the child's current mental health professional, from discharging a child from commitment or from placing a child in an environment that is less restrictive than that designated by the neutral and detached fact finder.
- (13) Each local mental health authority or its designee, in conjunction with the child's current treating mental health professional shall discharge any child who, in the opinion of that local authority, or its designee, and the child's current treating mental health professional, no longer meets the criteria specified in Subsection (4), except as provided by Section 26B-5-405. The local authority and the mental health professional shall assure that any further supportive services required to meet the child's needs upon release will be provided.
- (14) Even though a child has been committed to the physical custody of a local mental health authority under this section, the child is still entitled to additional due process proceedings, in accordance with Section 26B-5-704, before any treatment that may affect a constitutionally protected liberty or privacy interest is administered. Those treatments include, but are not limited to, antipsychotic medication, electroshock therapy, and psychosurgery.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-404 Invasive treatment -- Due process proceedings.**

- (1) For purposes of this section, "invasive treatment" means treatment in which a constitutionally protected liberty or privacy interest may be affected, including antipsychotic medication, electroshock therapy, and psychosurgery.
- (2) The requirements of this section apply to all children receiving services or treatment from a local mental health authority, its designee, or its provider regardless of whether a local mental health authority has physical custody of the child or the child is receiving outpatient treatment from the local authority, its designee, or provider.
- (3)
  - (a) The division shall promulgate rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing due process procedures for children prior to any invasive treatment as follows:
    - (i) with regard to antipsychotic medications, if either the parent or child disagrees with that treatment, a due process proceeding shall be held in compliance with the procedures established under this Subsection (3);
    - (ii) with regard to psychosurgery and electroshock therapy, a due process proceeding shall be conducted pursuant to the procedures established under this Subsection (3), regardless of whether the parent or child agree or disagree with the treatment; and
    - (iii) other possible invasive treatments may be conducted unless either the parent or child disagrees with the treatment, in which case a due process proceeding shall be conducted pursuant to the procedures established under this Subsection (3).
  - (b) In promulgating the rules required by Subsection (3)(a), the division shall consider the advisability of utilizing an administrative law judge, court proceedings, a neutral and detached fact finder, and other methods of providing due process for the purposes of this section. The division shall also establish the criteria and basis for determining when invasive treatment should be administered.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-405 Commitment proceedings in juvenile court -- Criteria -- Custody.**

- (1)
  - (a) Subject to Subsection (1)(b), a commitment proceeding for a child may be commenced by filing a written application with the juvenile court of the county in which the child resides or is found, in accordance with the procedures described in Section 26B-5-332.
  - (b) A commitment proceeding under this section may be commenced only after a commitment proceeding under Section 26B-5-403 has concluded without the child being committed.
- (2) The juvenile court shall order commitment to the physical custody of a local mental health authority if, upon completion of the hearing and consideration of the record, the juvenile court finds by clear and convincing evidence that:
  - (a) the child has a mental illness;
  - (b) the child demonstrates a risk of harm to the child or others;
  - (c) the child is experiencing significant impairment in the child's ability to perform socially;
  - (d) the child will benefit from the proposed care and treatment; and
  - (e) there is no appropriate less restrictive alternative.
- (3) The juvenile court may not commit a child under Subsection (1) directly to the Utah State Hospital.
- (4) The local mental health authority has an affirmative duty to:
  - (a) conduct periodic reviews of children committed to the local mental health authority's custody in accordance with this section; and
  - (b) release any child who has sufficiently improved so that the local mental health authority, or the local mental authority's designee, determines that commitment is no longer appropriate.
- (5) If a child is committed to the custody of a local mental health authority, or the local mental health authority's designee, by the juvenile court, the local mental health authority, or the local mental health authority's designee, shall give the juvenile court written notice of the intention to release the child not fewer than five days before the day on which the child is released.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-406 Parent advocate.**

The division shall establish the position of a parent advocate to assist parents of children with a mental illness who are subject to the procedures required by this part.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-407 Confidentiality of information and records -- Exceptions -- Penalty.**

- (1) Notwithstanding the provisions of Title 63G, Chapter 2, Government Records Access and Management Act, all certificates, applications, records, and reports made for the purpose of this part that directly or indirectly identify a patient or former patient or an individual whose commitment has been sought under this part, shall be kept confidential and may not be disclosed by any person except as follows:
  - (a) the individual identified consents after reaching 18 years old;
  - (b) the child's parent or legal guardian consents;
  - (c) disclosure is necessary to carry out any of the provisions of this part; or



(d) a court may direct, upon its determination that disclosure is necessary for the conduct of proceedings before it, and that failure to make the disclosure would be contrary to the public interest.

(2) A person who violates any provision of this section is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-408 Mechanical restraints -- Clinical record.**

Mechanical restraints may not be applied to a child unless it is determined, by the local mental health authority or its designee in conjunction with the child's current treating mental health professional, that they are required by the needs of that child. Every use of a mechanical restraint and the reasons for that use shall be made a part of the child's clinical record, under the signature of the local mental health authority, its designee, and the child's current treating mental health professional.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-409 Habeas corpus.**

Any child committed in accordance with Section 26B-5-403 is entitled to a writ of habeas corpus upon proper petition by himself or next of friend to the court in the district in which he is detained.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-410 Restrictions and limitations -- Civil rights and privileges.**

(1) Subject to the specific rules of the division, and except to the extent that the local mental health authority or its designee, in conjunction with the child's current treating mental health professional, determines that it is necessary for the welfare of the person to impose restrictions, every child committed to the physical custody of a local mental health authority under Section 26B-5-403 is entitled to:

- (a) communicate, by sealed mail or otherwise, with persons, including official agencies, inside or outside of the facility;
- (b) receive visitors; and
- (c) exercise his civil rights.

(2) When any right of a child is limited or denied, the nature, extent, and reason for that limitation or denial shall be entered in the child's treatment record. Any continuing denial or limitation shall be reviewed every 30 days and shall also be entered in that treatment record. Notice of that continuing denial in excess of 30 days shall be sent to the division.

(3) Notwithstanding any limitations authorized under this section on the right of communication, each child committed to the physical custody of a local mental health authority is entitled to communicate by sealed mail with his attorney, the local mental health authority, its designee, his current treating mental health professional, and the court, if commitment was court ordered. In no case may the child be denied a visit with the legal counsel or clergy of his choice.

(4) Each local mental health authority shall provide appropriate and reasonable means and arrangements for informing children and their parents or legal guardians of their rights as provided in this part, and for assisting them in making and presenting requests for release.

(5) All local mental health facilities shall post a statement, promulgated by the division, describing patient's rights under Utah law.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-411 Standards for care and treatment.**

Every child is entitled to humane care and treatment and to medical care and treatment in accordance with the prevailing standards accepted in medical practice, psychiatric nursing practice, social work practice, and the practice of clinical psychology.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-412 Responsibilities of the division.**

- (1) The division shall ensure that the requirements of this part are met and applied uniformly by local mental health authorities across the state.
- (2) Because the division must, under Section 26B-5-102, contract with, review, approve, and oversee local mental health authority plans, and withhold funds from local mental health authorities and public and private providers for contract noncompliance or misuse of public funds, the division shall:
  - (a) require each local mental health authority to submit its plan to the division by May 1 of each year; and
  - (b) conduct an annual program audit and review of each local mental health authority in the state, and its contract provider.
- (3) The annual audit and review described in Subsection (2)(b) shall, in addition to items determined by the division to be necessary and appropriate, include a review and determination regarding whether or not:
  - (a) public funds allocated to local mental health authorities are consistent with services rendered and outcomes reported by it or its contract provider; and
  - (b) each local mental health authority is exercising sufficient oversight and control over public funds allocated for mental health programs and services.
- (4) The Legislature may refuse to appropriate funds to the division if the division fails to comply with the procedures and requirements of this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-413 Contracts with local mental health authorities -- Provisions.**

When the division contracts with a local mental health authority to provide mental health programs and services in accordance with the provisions of this chapter and Title 17, Chapter 43, Part 3, Local Mental Health Authorities, it shall ensure that those contracts include at least the following provisions:

- (1) that an independent auditor shall conduct any audit of the local mental health authority or its contract provider's programs or services, pursuant to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;
- (2) in addition to the requirements described in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, the division:
  - (a) shall prescribe guidelines and procedures, in accordance with those formulated by the state auditor pursuant to Section 67-3-1, for auditing the compensation and expenses of officers, directors, and specified employees of the private contract provider, to assure the state that no personal benefit is gained from travel or other expenses; and

- (b) may prescribe specific items to be addressed by that audit, depending upon the particular needs or concerns relating to the local mental health authority or contract provider at issue;
- (3) the local mental health authority or its contract provider shall invite and include all funding partners in its auditor's pre- and exit conferences;
- (4) each member of the local mental health authority shall annually certify that he has received and reviewed the independent audit and has participated in a formal interview with the provider's executive officers;
- (5) requested information and outcome data will be provided to the division in the manner and within the timelines defined by the division;
- (6) all audit reports by state or county persons or entities concerning the local mental health authority or its contract provider shall be provided to the executive director of the department, the local mental health authority, and members of the contract provider's governing board; and
- (7) the local mental health authority or its contract provider will offer and provide mental health services to residents who are indigent and who meet state criteria for serious and persistent mental illness or severe emotional disturbance.

Renumbered and Amended by Chapter 308, 2023 General Session

## **Part 5**

### **Essential Treatment and Intervention**

#### **26B-5-501 Definitions.**

In addition to the definitions in Section 26B-5-301, as used in this part:

- (1) "Emergency, life saving treatment" means treatment that is:
  - (a) provided at a licensed health care facility or licensed human services program;
  - (b) provided by a licensed health care professional;
  - (c) necessary to save the life of the patient; and
  - (d) required due to the patient's:
    - (i) use of an illegal substance; or
    - (ii) excessive use or misuse of a prescribed medication.
- (2) "Essential treatment examiner" means:
  - (a) a licensed physician, preferably a psychiatrist, who is designated by the division as specifically qualified by training or experience in the diagnosis of substance use disorder; or
  - (b) a licensed mental health professional designated by the division as specially qualified by training and who has at least five years' continual experience in the treatment of substance use disorder.
- (3) "Relative" means an adult who is a spouse, parent, stepparent, grandparent, child, or sibling of an individual.
- (4) "Serious harm" means the individual, due to substance use disorder, is at serious risk of:
  - (a) drug overdose;
  - (b) suicide;
  - (c) serious bodily self-injury;
  - (d) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter; or
  - (e) causing or attempting to cause serious bodily injury to another individual.

- (5) "Substance use disorder" means the same as that term is defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-502 Statement of legislative intent.**

To address the serious public health crisis of substance use disorder related deaths and life-threatening opioid addiction, and to allow and enable caring relatives to seek essential treatment and intervention, as may be necessary, on behalf of a sufferer of a substance use disorder, the Legislature enacts the Essential Treatment and Intervention Act.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-503 Petition for essential treatment -- Contents -- Commitment to pay.**

- (1) A relative seeking essential treatment and intervention for a sufferer of a substance use disorder may file a petition with the court of the county in which the sufferer of the substance use disorder resides or is found.
- (2) The petition shall include:
- (a) the respondent's:
    - (i) legal name;
    - (ii) date of birth, if known;
    - (iii) social security number, if known; and
    - (iv) residence and current location, if known;
  - (b) the petitioner's relationship to the respondent;
  - (c) the name and residence of the respondent's legal guardian, if any and if known;
  - (d) a statement that the respondent:
    - (i) is suffering from a substance use disorder; and
    - (ii) if not treated for the substance use disorder presents a serious harm to self or others;
  - (e) the factual basis for the statement described in Subsection (2)(d); and
  - (f) at least one specified local substance abuse authority or approved treatment facility or program where the respondent may receive essential treatment.
- (3) Any petition filed under this section:
- (a) may be accompanied by proof of health insurance to provide for the respondent's essential treatment;
  - (b) shall be accompanied by a binding commitment to pay, signed by the petitioner or another individual, obligating the petitioner or other individual to pay all treatment costs beyond those covered by the respondent's health insurance policy for court-ordered essential treatment for the respondent; and
  - (c) may be accompanied by documentation of emergency, life saving treatment provided to the respondent.
- (4) Nothing in this section alters the contractual relationship between a health insurer and an insured individual.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-504 Criteria for essential treatment and intervention.**

A court shall order an individual to undergo essential treatment for a substance use disorder when the court determines by clear and convincing evidence that the individual:

- (1) suffers from a substance use disorder;
- (2) can reasonably benefit from the essential treatment;
- (3) is unlikely to substantially benefit from a less-restrictive alternative treatment; and
- (4) presents a serious harm to self or others.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-505 Proceeding for essential treatment -- Duties of court -- Disposition.**

- (1) A court shall review the assertions contained in the verified petition described in Section 26B-5-503.
- (2) If the court determines that the assertions, if true, are sufficient to order the respondent to undergo essential treatment, the court shall:
  - (a) set an expedited date for a time-sensitive hearing to determine whether the court should order the respondent to undergo essential treatment for a substance use disorder;
  - (b) provide notice of:
    - (i) the contents of the petition, including all assertions made;
    - (ii) a copy of any order for detention or examination;
    - (iii) the date of the hearing;
    - (iv) the purpose of the hearing;
    - (v) the right of the respondent to be represented by legal counsel; and
    - (vi) the right of the respondent to request a preliminary hearing before submitting to an order for examination;
  - (c) provide notice to:
    - (i) the respondent;
    - (ii) the respondent's guardian, if any; and
    - (iii) the petitioner; and
  - (d) subject to the right described in Subsection (2)(b)(vi), order the respondent to be examined before the hearing date:
    - (i) by two essential treatment examiners; or
    - (ii) by one essential treatment examiner, if documentation before the court demonstrates that the respondent received emergency, life saving treatment:
      - (A) within 30 days before the day on which the petition for essential treatment and intervention was filed; or
      - (B) during the pendency of the petition for essential treatment and intervention.
- (3) An essential treatment examiner shall examine the respondent to determine:
  - (a) whether the respondent meets each of the criteria described in Section 26B-5-504;
  - (b) the severity of the respondent's substance use disorder, if any;
  - (c) what forms of treatment would substantially benefit the respondent, if the examiner determines that the respondent has a substance use disorder; and
  - (d) the appropriate duration for essential treatment, if essential treatment is recommended.
- (4) An essential treatment examiner shall certify the examiner's findings to the court within 24 hours after completion of the examination.
- (5) The court may, based upon the findings of an essential treatment examiner, terminate the proceedings and dismiss the petition.
- (6) The parties may, at any time, make a binding stipulation to an essential treatment plan and submit that plan to the court for court order.

- (7) At the hearing, the petitioner and the respondent may testify and may cross-examine witnesses.
- (8) If, upon completion of the hearing, the court finds that the criteria in Section 26B-5-504 are met, the court shall order essential treatment for an initial period that:
  - (a) does not exceed 360 days, subject to periodic review as provided in Section 26B-5-507; and
  - (b)
    - (i) is recommended by an essential treatment examiner; or
    - (ii) is otherwise agreed to at the hearing.
- (9) The court shall designate the facility for the essential treatment, as:
  - (a) described in the petition;
  - (b) recommended by an essential treatment examiner; or
  - (c) agreed to at the hearing.
- (10) The court shall issue an order that includes the court's findings and the reasons for the court's determination.
- (11) The court may order the petitioner to be the respondent's personal representative, as described in 45 C.F.R. Sec. 164.502(g), for purposes of the respondent's essential treatment.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-506 Failure to comply with court order.**

- (1) The provisions of this section apply after a respondent has been afforded full due process rights, as provided in this Essential Treatment and Intervention Act, including notice, an opportunity to respond and appear at a hearing, and, as applicable, the court's finding that the evidence meets the clear and convincing standard, as described in Section 26B-5-504, for a court to order essential treatment and intervention.
- (2) When a respondent fails to comply with a court order issued under Subsection 26B-5-505(2)(d) or (10), the court may:
  - (a) find the respondent in contempt under Subsection 78B-6-301(5); and
  - (b) issue a warrant of commitment under Section 78B-6-312.
- (3) When a peace officer executes a warrant issued under this section, the officer shall take the respondent into protective custody and transport the respondent to the location specified by the court.
- (4) Notwithstanding Subsection (3), if a peace officer determines through the peace officer's experience and training that taking the respondent into protective custody or transporting the respondent would increase the risk of substantial danger to the respondent or others, a peace officer may exercise discretion to not take the respondent into custody or transport the respondent, as permitted by policies and procedures established by the peace officer's law enforcement agency and any applicable federal or state statute, or case law.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-507 Periodic review -- Discharge.**

A local substance abuse authority or an approved treatment facility or program that provides essential treatment shall:

- (1) at least every 90 days after the day on which a patient is admitted, unless a court orders otherwise, examine or cause to be examined a patient who has been ordered to receive essential treatment;

- (2) notify the patient and the patient's personal representative or guardian, if any, of the substance and results of the examination;
- (3) discharge an essential treatment patient if the examination determines that the conditions justifying essential treatment and intervention no longer exist; and
- (4) after discharging an essential treatment patient, send a report describing the reasons for discharge to the clerk of the court where the proceeding for essential treatment was held and to the patient's personal representative or guardian, if any.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-508 Seventy-two-hour emergency treatment pending a final court order.**

- (1) A court may order a respondent to be hospitalized for up to 72 hours if:
  - (a) an essential treatment examiner has examined the respondent and certified that the respondent meets the criteria described in Section 26B-5-504; and
  - (b) the court finds by clear and convincing evidence that the respondent presents an imminent threat of serious harm to self or others as a result of a substance use disorder.
- (2) An individual who is admitted to a hospital under this section shall be released from the hospital within 72 hours after admittance, unless a treating physician or essential treatment examiner determines that the individual continues to pose an imminent threat of serious harm to self or others.
- (3) If a treating physician or essential treatment examiner makes the determination described in Subsection (2), the individual may be detained for as long as the threat of serious harm remains imminent, but not more than 10 days after the day on which the individual was hospitalized, unless a court orders otherwise.
- (4) A treating physician or an essential treatment examiner shall, as frequently as practicable, examine an individual hospitalized under this section and release the individual if it is determined that a threat of imminent serious harm no longer exists.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-509 Emergency, life saving treatment -- Temporary personal representative.**

- (1) When an individual receives emergency, life saving treatment:
  - (a) a licensed health care professional, at the health care facility where the emergency, life saving treatment is provided, may ask the individual who, if anyone, may be contacted and informed regarding the individual's treatment;
  - (b) a treating physician may hold the individual in the health care facility for up to 48 hours, if the treating physician determines that the individual poses a serious harm to self or others; and
  - (c) a relative of the individual may petition a court to be designated as the individual's personal representative, described in 45 C.F.R. Sec. 164.502(g), for the limited purposes of the individual's medical and mental health care related to a substance use disorder.
- (2) The petition described in Subsection (1)(c) shall include:
  - (a) the respondent's:
    - (i) legal name;
    - (ii) date of birth, if known;
    - (iii) social security number, if known; and
    - (iv) residence and current location, if known;
  - (b) the petitioner's relationship to the respondent;
  - (c) the name and residence of the respondent's legal guardian, if any and if known;

- (d) a statement that the respondent:
    - (i) is suffering from a substance use disorder; and
    - (ii) has received, within the last 72 hours, emergency, life saving treatment;
  - (e) the factual basis for the statement described in Subsection (2)(d); and
  - (f) the name of any other individual, if any, who may be designated as the respondent's personal representative.
- (3) A court shall grant a petition for designation as a personal representative, ex parte, if it appears from the petition for designation as a court-designated personal representative that:
- (a) the respondent is suffering from a substance use disorder;
  - (b) the respondent received emergency, life saving treatment within 10 days before the day on which the petition for designation as a personal representative is filed;
  - (c) the petitioner is a relative of the respondent; and
  - (d) no other individual is otherwise designated as the respondent's personal representative.
- (4) When a court grants, ex parte, a petition for designation as a personal representative, the court:
- (a) shall provide notice to the respondent;
  - (b) shall order the petitioner to be the respondent's personal representative for 10 days after the day on which the court designates the petitioner as the respondent's personal representative; and
  - (c) may extend the duration of the order:
    - (i) for good cause shown, after the respondent has been notified and given a proper and sufficient opportunity to respond; or
    - (ii) if the respondent consents to an extension.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-510 Confidentiality.**

- (1) The purpose of this part is to provide a process for essential treatment and intervention to save lives, preserve families, and reduce substance use disorder, including opioid addiction.
- (2) An essential treatment petition and any other document filed in connection with the petition for essential treatment is confidential and protected.
- (3) A hearing on an essential treatment petition is closed to the public, and only the following individuals and their legal counsel may be admitted to the hearing:
  - (a) parties to the petition;
  - (b) the essential treatment examiners who completed the court-ordered examination under Subsection 26B-5-505(3);
  - (c) individuals who have been asked to give testimony; and
  - (d) individuals to whom notice of the hearing is required to be given under Subsection 26B-5-505(2)(c).
- (4) Testimony, medical evaluations, the petition, and other documents directly related to the adjudication of the petition and presented to the court in the interest of the respondent may not be construed or applied as an admission of guilt to a criminal offense.
- (5) A court may, if applicable, enforce a previously existing warrant for a respondent or a warrant for a charge that is unrelated to the essential treatment petition filed under this part.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-511 Essential treatment for substance use disorder -- Rights of patient.**



All applicable rights guaranteed to a patient by Sections 26B-5-310 and 26B-5-311 shall be guaranteed to an individual who is ordered to undergo essential treatment for a substance use disorder.

Renumbered and Amended by Chapter 308, 2023 General Session

## **Part 6**

### **Mental Health Intervention and Treatment Programs**

#### **26B-5-601 Definitions.**

As used in this part:

- (1) "211" means the abbreviated dialing code assigned by the Federal Communications Commission for consumer access to community information and referral services.
- (2) "ACT team personnel" means a licensed psychiatrist or mental health therapist, or another individual, as determined by the division, who is part of an ACT team.
- (3) "Approved 211 service provider" means a public or nonprofit agency or organization designated by the department to provide 211 services.
- (4)
  - (a) "Assertive community treatment" means mental health services and on-site intervention that a person renders to an individual with a mental illness.
  - (b) "Assertive community treatment" includes the provision of assessment and treatment plans, rehabilitation, support services, and referrals to other community resources.
- (5) "Assertive community treatment team" or "ACT team" means a mobile team of medical and mental health professionals that provides assertive community outreach treatment and, based on the individual circumstances of each case, coordinates with other medical providers and appropriate community resources.
- (6) "Mental health therapist" means the same as that term is defined in Section 58-60-102.
- (7) "Mental illness" means the same as that term is defined in Section 26B-5-301.
- (8) "Psychiatrist" means an individual who:
  - (a) is licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
  - (b) 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.
- (9)
  - (a) "Utah 211" means an information and referral system that:
    - (i) maintains a database of:
      - (A) providers of health and human services; and
      - (B) volunteer opportunities and coordinators throughout the state;
    - (ii) assists individuals, families, and communities at no cost in identifying, understanding, and accessing the providers of health and human services; and
    - (iii) works collaboratively with state agencies, local governments, community-based organizations, not-for-profit organizations, organizations active in disaster relief, and faith-based organizations.
  - (b) "Utah 211" does not mean service provided by 911 and first responders.

Renumbered and Amended by Chapter 308, 2023 General Session

Amended by Chapter 308, 2023 General Session, (Coordination Clause)

**26B-5-602 Designated approved 211 service provider -- Department responsibilities.**

- (1) The department shall designate an approved 211 service provider to provide information to Utah citizens about health and human services available in the citizen's community.
- (2) Only a service provider approved by the department may provide 211 telephone services in this state.
- (3) The department shall approve a 211 service provider after considering the following:
  - (a) the ability of the proposed 211 service provider to meet the national 211 standards recommended by the Alliance of Information and Referral Systems;
  - (b) the financial stability of the proposed 211 service provider;
  - (c) the community support for the proposed 211 service provider;
  - (d) the relationship between the proposed 211 service provider and other information and referral services; and
  - (e) other criteria as the department considers appropriate.
- (4) The department shall coordinate with the approved 211 service provider and other state and local agencies to ensure the joint development and maintenance of a statewide information database for use by the approved 211 service provider.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-603 Utah 211 created -- Responsibilities.**

- (1) The designated 211 service provider described in Section 26B-5-601 shall be known as Utah 211.
- (2) Utah 211 shall, as appropriations allow:
  - (a) by 2014:
    - (i) provide the services described in this Subsection (2) 24 hours a day, seven days a week;
    - (ii) abide by the key standards for 211 programs, as specified in the Standards for Professional Information and Referral Requirements for Alliance of Information Systems Accreditation and Operating 211 systems; and
    - (iii) be a point of entry for disaster-related information and referral;
  - (b) track types of calls received and referrals made;
  - (c) develop, coordinate, and implement a statewide information and referral system that integrates existing community-based structures with state and local agencies;
  - (d) provide information relating to:
    - (i) health and human services; and
    - (ii) volunteer opportunities;
  - (e) create an online, searchable database to provide information to the public about the health and human services provided by public or private entities throughout the state, and ensure that:
    - (i) the material on the searchable database is indexed:
      - (A) geographically to inform an individual about the health and human services provided in the area where the individual lives; and
      - (B) by type of service provided; and
    - (ii) the searchable database contains links to the Internet sites of any local provider of health and human services, if possible, and include:
      - (A) the name, address, and phone number of organizations providing health and human services in a county; and

- (B) a description of the type of services provided;
- (f) be responsible, in collaboration with state agencies, for raising community awareness about available health and human services; and
- (g) host meetings on a quarterly basis until calendar year 2014, and on a biannual basis beginning in 2014, to seek input and guidance from state agencies, local governments, community-based organizations, not-for-profit organizations, and faith-based organizations.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-604 Other state agencies and local governments.**

- (1) A state agency or local government institution that provides health and human services, or a public or private entity receiving state-appropriated funds to provide health and human services, shall provide Utah 211 with information, in a form determined by Utah 211, about the services the agency or entity provides for inclusion in the statewide information and referral system.
- (2) A state agency or local government institution that provides health and human services may not establish a new public telephone line or hotline, other than an emergency first responder hotline, to provide information or referrals unless the agency or institution first:
  - (a) consults with Utah 211 about using the existing 211 to provide access to the information or referrals; and
  - (b) assesses whether a new line or the existing 211 program would be more cost effective.
- (3) Nothing in this section prohibits a state agency or local government institution from starting a public telephone line or hotline in an emergency situation.
- (4) State agencies, local governments, community-based organizations, not-for-profit organizations, faith-based organizations, and businesses that engage in providing human services may contract with Utah 211 to provide specialized projects, including:
  - (a) public health campaigns;
  - (b) seasonal community services; and
  - (c) expanded point of entry services.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-605 Immunity from liability.**

- (1) Except as provided in Subsection (2), Utah 211, its employees, directors, officers, and information specialists are not liable to any person in a civil action for injury or loss as a result of an act or omission of Utah 211, its employees, directors, officers, or information specialists, in connection with:
  - (a) developing, adopting, implementing, maintaining, or operating the Utah 211 system;
  - (b) making Utah 211 available for use by the public; or
  - (c) providing 211 services.
- (2) Utah 211, its employees, directors, officers, and information specialists shall be liable to any person in a civil action for an injury or loss resulting from willful or wanton misconduct.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-606 Division duties -- ACT team license creation.**

- (1) To promote the availability of assertive community treatment, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that create a certificate for ACT team personnel and ACT teams, that includes:

- (a) the standards the division establishes under Subsection (2); and
- (b) guidelines for:
  - (i) required training and experience of ACT team personnel; and
  - (ii) the coordination of assertive community treatment and other community resources.
- (2)
  - (a) The division shall:
    - (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards that an applicant is required to meet to qualify for the certifications described in Subsection (1); and
    - (ii) create a long-term, statewide ACT team plan that:
      - (A) identifies current and future statewide assertive community treatment needs, objectives, and priorities;
      - (B) identifies barriers to establishing an ACT team in areas where an ACT team does not currently exist;
      - (C) identifies the equipment, facilities, personnel training, and other resources necessary to provide assertive community treatment in areas where an ACT team does not currently exist; and
      - (D) identifies the gaps in housing needs for individuals served by ACT teams and how to ensure individuals served by ACT teams can secure and maintain housing.
  - (b) The division may delegate the ACT team plan requirement described in Subsection (2)(a)(ii) to a contractor with whom the division contracts to provide assertive community outreach treatment.
  - (c) The division shall report to the Health and Human Services Interim Committee before June 30, 2024, regarding:
    - (i) the long-term, statewide ACT team plan described in Subsection (2)(a)(ii);
    - (ii) the number of individuals in each local area who meet the criteria for serious mental illness and could benefit from ACT team services;
    - (iii) knowledge gained relating to the provision of care through ACT teams;
    - (iv) recommendations for further development of ACT teams; and
    - (v) obstacles that exist for further development of ACT teams throughout the state.

Amended by Chapter 282, 2023 General Session

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-607 Grants for development of an ACT team.**

- (1) The division shall award grants for the development of one or more ACT teams to provide assertive community treatment to individuals in the state.
- (2) The division shall prioritize the award of a grant described in Subsection (1) to entities, based on:
  - (a) the number of individuals the proposed ACT team will serve;
  - (b) the ability of the entity to provide housing to individuals served under the program;
  - (c) the ability of the entity to provide evidence of probable future program sustainability; and
  - (d) the percentage of matching funds the entity will provide to develop the proposed ACT team.
- (3)
  - (a) An entity does not need to have resources already in place to be awarded a grant described in Subsection (1).
  - (b) An entity may submit an application for and be awarded more than one grant pursuant to the prioritization described in Subsection (2).

- (c) An ACT team developed using a grant awarded under this section shall:
  - (i) coordinate with local homeless councils and criminal justice coordinating councils to align the ACT team's services with existing services and strategic plans; and
  - (ii) work with an individual served under the program to secure and maintain housing and provide wraparound services, including:
    - (A) clinical support;
    - (B) case management;
    - (C) peer support;
    - (D) employment support; and
    - (E) other services identified in the long-term, statewide ACT team plan described in Section 26B-5-606.
- (4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (1).
- (5) Before June 30, 2024, and before June 30 of each subsequent fiscal year in which a grant is awarded under Subsection (1), the division shall report to the Health and Human Services Interim Committee regarding:
  - (a) data gathered in relation to each awarded grant;
  - (b) knowledge gained relating to the provision of medical and mental health services by ACT teams;
  - (c) recommendations for the future use of ACT teams to provide medical and mental health services;
  - (d) Medicaid reimbursement for services provided by ACT teams; and
  - (e) aggregated data about the patients who have received services from an ACT team, including:
    - (i) the number of ACT team patients who have a severe mental illness;
    - (ii) the number of ACT team patients who have a co-occurring substance use disorder;
    - (iii) the number of ACT team patients who are experiencing homelessness or facing housing insecurity; and
    - (iv) the number of ACT team patients who, after the most recent report was made, have experienced:
      - (A) an acute psychiatric hospitalization;
      - (B) an arrest, incarceration, probation, or parole; or
      - (C) a transition from homelessness or housing insecurity to supported housing or housing.

Amended by Chapter 282, 2023 General Session

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-608 Housing assistance program for individuals discharged from the Utah State Hospital and receiving assertive community treatment.**

- (1)
  - (a) The division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a housing assistance program in consultation with the Utah State Hospital, established in Section 26B-5-302, and one or more housing authorities, associations of governments, or nonprofit entities.
  - (b) The housing assistance program shall provide the housing assistance described in Subsection (1)(c) to individuals:
    - (i) who are discharged from the Utah State Hospital; and
    - (ii) who the division determines would benefit from assertive community treatment.
  - (c) The housing assistance provided under the housing assistance program may include:

- (i) subsidizing rent payments for housing;
  - (ii) subsidizing the provision of temporary or transitional housing; or
  - (iii) providing money for one-time housing barrier assistance, including rental housing application fees, utility hookup fees, or rental housing security deposits.
- (2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures for the operation of the housing assistance program described in Subsection (1).
- (3) The division shall report to the Health and Human Services Interim Committee each year before November 30 regarding:
- (a) the entities the division consulted with under Subsection (1)(a);
  - (b) the number of individuals who are benefitting from the housing assistance program described in Subsection (1);
  - (c) the type of housing assistance provided under the housing assistance program described in Subsection (1);
  - (d) the average monthly dollar amount provided to individuals under the housing assistance program described in Subsection (1); and
  - (e) recommendations regarding improvements or changes to the housing assistance program described in Subsection (1).

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-609 Department and division duties -- MCOT license creation.**

- (1) As used in this section:
- (a) "Commission" means the Behavioral Health Crisis Response Commission created in Section 63C-18-202.
  - (b) "Emergency medical service personnel" means the same as that term is defined in Section 26B-4-101.
  - (c) "Emergency medical services" means the same as that term is defined in Section 26B-4-101.
  - (d) "MCOT certification" means the certification created in this part for MCOT personnel and mental health crisis outreach services.
  - (e) "MCOT personnel" means a licensed mental health therapist or other mental health professional, as determined by the division, who is a part of a mobile crisis outreach team.
  - (f) "Mental health crisis" means a mental health condition that manifests itself by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:
    - (i) serious jeopardy to the individual's health or well-being; or
    - (ii) a danger to others.
  - (g)
    - (i) "Mental health crisis services" means mental health services and on-site intervention that a person renders to an individual suffering from a mental health crisis.
    - (ii) "Mental health crisis services" includes the provision of safety and care plans, stabilization services offered for a minimum of 60 days, and referrals to other community resources.
  - (h) "Mental health therapist" means the same as that term is defined in Section 58-60-102.
  - (i) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that provides mental health crisis services and, based on the individual circumstances of each case, coordinates with local law enforcement, emergency medical service personnel, and other appropriate state or local resources.

- (2) To promote the availability of comprehensive mental health crisis services throughout the state, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that create a certificate for MCOT personnel and MCOTs, including:
  - (a) the standards the division establishes under Subsection (3); and
  - (b) guidelines for:
    - (i) credit for training and experience; and
    - (ii) the coordination of:
      - (A) emergency medical services and mental health crisis services;
      - (B) law enforcement, emergency medical service personnel, and mobile crisis outreach teams; and
      - (C) temporary commitment in accordance with Section 26B-5-331.
- (3)
  - (a) With recommendations from the commission, the division shall:
    - (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards that an applicant is required to meet to qualify for the MCOT certification described in Subsection (2); and
    - (ii) create a statewide MCOT plan that:
      - (A) identifies statewide mental health crisis services needs, objectives, and priorities; and
      - (B) identifies the equipment, facilities, personnel training, and other resources necessary to provide mental health crisis services.
  - (b) The division may delegate the MCOT plan requirement described in Subsection (3)(a)(ii) to a contractor with which the division contracts to provide mental health crisis services.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-610 Contracts for statewide mental health crisis line and statewide warm line -- Crisis worker and certified peer support specialist qualification or certification -- Operational standards.**

- (1) As used in this section:
  - (a) "Certified peer support specialist" means an individual who:
    - (i) meets the standards of qualification or certification that the division sets, in accordance with Subsection (3); and
    - (ii) staffs the statewide warm line under the supervision of at least one mental health therapist.
  - (b) "Commission" means the Behavioral Health Crisis Response Commission created in Section 63C-18-202.
  - (c) "Crisis worker" means an individual who:
    - (i) meets the standards of qualification or certification that the division sets, in accordance with Subsection (3); and
    - (ii) staffs the statewide mental health crisis line, the statewide warm line, or a local mental health crisis line under the supervision of at least one mental health therapist.
  - (d) "Local mental health crisis line" means a phone number or other response system that is:
    - (i) accessible within a particular geographic area of the state; and
    - (ii) intended to allow an individual to contact and interact with a qualified mental or behavioral health professional.
  - (e) "Mental health crisis" means the same as that term is defined in Section 26B-5-609.
  - (f) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

- (g) "Statewide mental health crisis line" means a statewide phone number or other response system that allows an individual to contact and interact with a qualified mental or behavioral health professional 24 hours per day, 365 days per year.
  - (h) "Statewide warm line" means a statewide phone number or other response system that allows an individual to contact and interact with a qualified mental or behavioral health professional or a certified peer support specialist.
- (2)
- (a) The division shall enter into a new contract or modify an existing contract to manage and operate, in accordance with this part, the statewide mental health crisis line and the statewide warm line.
  - (b) Through the contracts described in Subsection (2)(a) and in consultation with the commission, the division shall set standards of care and practice for:
    - (i) the mental health therapists and crisis workers who staff the statewide mental health crisis line; and
    - (ii) the mental health therapists, crisis workers, and certified peer support specialists who staff the statewide warm line.
- (3)
- (a) The division shall establish training and minimum standards for the qualification or certification of:
    - (i) crisis workers who staff the statewide mental health crisis line, the statewide warm line, and local mental health crisis lines; and
    - (ii) certified peer support specialists who staff the statewide warm line.
  - (b) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to establish the training and minimum standards described in Subsection (3)(a).
- (4) In consultation with the commission, the division shall ensure that:
- (a) the following individuals are available to staff and answer calls to the statewide mental health crisis line 24 hours per day, 365 days per calendar year:
    - (i) mental health therapists; or
    - (ii) crisis workers;
  - (b) a sufficient amount of staff is available to ensure that when an individual calls the statewide mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the statewide mental health crisis line, an individual described in Subsection (4)(a) answers the call without the caller first:
    - (i) waiting on hold; or
    - (ii) being screened by an individual other than a mental health therapist or crisis worker;
  - (c) the statewide mental health crisis line has capacity to accept all calls that local mental health crisis lines route to the statewide mental health crisis line;
  - (d) the following individuals are available to staff and answer calls to the statewide warm line during the hours and days of operation set by the division under Subsection (5):
    - (i) mental health therapists;
    - (ii) crisis workers; or
    - (iii) certified peer support specialists;
  - (e) when an individual calls the statewide mental health crisis line, the individual's call may be transferred to the statewide warm line if the individual is not experiencing a mental health crisis; and
  - (f) when an individual calls the statewide warm line, the individual's call may be transferred to the statewide mental health crisis line if the individual is experiencing a mental health crisis.



- (5) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the hours and days of operation for the statewide warm line.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-611 Suicide prevention -- Reporting requirements.**

- (1) As used in this section:
- (a) "Advisory Council" means the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301.
  - (b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.
  - (c) "Coalition" means the Statewide Suicide Prevention Coalition created under Subsection (3).
  - (d) "Coordinator" means the state suicide prevention coordinator appointed under Subsection (2).
  - (e) "Fund" means the Governor's Suicide Prevention Fund created in Section 26B-1-325.
  - (f) "Intervention" means an effort to prevent a person from attempting suicide.
  - (g) "Legal intervention" means an incident in which an individual is shot by another individual who has legal authority to use deadly force.
  - (h) "Postvention" means intervention after a suicide attempt or a suicide death to reduce risk and promote healing.
  - (i) "Shooter" means an individual who uses a gun in an act that results in the death of the actor or another individual, whether the act was a suicide, homicide, legal intervention, act of self-defense, or accident.
- (2) The division shall appoint a state suicide prevention coordinator to administer a state suicide prevention program composed of suicide prevention, intervention, and postvention programs, services, and efforts.
- (3) The coordinator shall:
- (a) establish a Statewide Suicide Prevention Coalition with membership from public and private organizations and Utah citizens; and
  - (b) appoint a chair and co-chair from among the membership of the coalition to lead the coalition.
- (4) The state suicide prevention program may include the following components:
- (a) delivery of resources, tools, and training to community-based coalitions;
  - (b) evidence-based suicide risk assessment tools and training;
  - (c) town hall meetings for building community-based suicide prevention strategies;
  - (d) suicide prevention gatekeeper training;
  - (e) training to identify warning signs and to manage an at-risk individual's crisis;
  - (f) evidence-based intervention training;
  - (g) intervention skills training;
  - (h) postvention training; or
  - (i) a public education campaign to improve public awareness about warning signs of suicide and suicide prevention resources.
- (5) The coordinator shall coordinate with the following to gather statistics, among other duties:
- (a) local mental health and substance abuse authorities;
  - (b) the State Board of Education, including the public education suicide prevention coordinator described in Section 53G-9-702;
  - (c) applicable divisions and offices within the department;
  - (d) health care providers, including emergency rooms;
  - (e) federal agencies, including the Federal Bureau of Investigation;
  - (f) other unbiased sources; and

- (g) other public health suicide prevention efforts.
- (6) The coordinator shall provide a written report to the Health and Human Services Interim Committee, at or before the October meeting every year, on:
  - (a) implementation of the state suicide prevention program, as described in Subsections (2) and (4);
  - (b) data measuring the effectiveness of each component of the state suicide prevention program;
  - (c) funds appropriated for each component of the state suicide prevention program; and
  - (d) five-year trends of suicides in Utah, including subgroups of youths and adults and other subgroups identified by the state suicide prevention coordinator.
- (7) The coordinator shall, in consultation with the bureau, implement and manage the operation of the firearm safety program described in Subsection 26B-5-102(3).
- (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:
  - (a) governing the implementation of the state suicide prevention program, consistent with this section; and
  - (b) in conjunction with the bureau, defining the criteria for employers to apply for grants under the Suicide Prevention Education Program described in Section 26B-5-110, which shall include:
    - (i) attendance at the suicide prevention education course described in Subsection 26B-5-102(3); and
    - (ii) distribution of the firearm safety brochures or packets created in Subsection 26B-5-102(3), but does not require the distribution of a cable-style gun lock with a firearm if the firearm already has a trigger lock or comparable safety mechanism.
- (9) As funding by the Legislature allows, the coordinator shall award grants, not to exceed a total of \$100,000 per fiscal year, to suicide prevention programs that focus on the needs of children who have been served by the Division of Juvenile Justice and Youth Services.
- (10) The coordinator and the coalition shall submit to the advisory council, no later than October 1 each year, a written report detailing the previous fiscal year's activities to fund, implement, and evaluate suicide prevention activities described in this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-5-612 Integrated behavioral health care grant program.**

- (1) As used in this section:
  - (a) "Integrated behavioral health care services" means coordinated physical and behavioral health care services for one patient.
  - (b) "Local mental health authority" means a local mental health authority described in Section 17-43-301.
  - (c) "Project" means a project described in Subsection (2).
- (2) Before July 1 of each year, the department shall issue a request for proposals in accordance with this section to award a grant to a local mental health authority for development or expansion of a project to provide effective delivery of integrated behavioral health care services.
- (3) To be considered for a grant award under Subsection (2), a local mental health authority shall submit an application to the department that:
  - (a) explains the benefits of integrated behavioral health care services to a patient who is receiving mental health or substance use disorder treatment;

- (b) describes the local mental health authority's operational plan for delivery of integrated behavioral health care services under the proposed project and any data or evidence-based practices supporting the likely success of the operational plan;
- (c) includes:
  - (i) the number of patients to be served by the local mental health authority's proposed project; and
  - (ii) the cost of the local mental health authority's proposed project; and
- (d) provides details regarding:
  - (i) any plan to use funding sources in addition to the grant award under this section for the local mental health authority's proposed project;
  - (ii) any existing or planned contracts or partnerships between the local mental health authority and other individuals or entities to develop or implement the local mental health authority's proposed project; and
  - (iii) the sustainability and reliability of the local mental health authority's proposed project.
- (4) In evaluating a local mental health authority's application under Subsection (3) to determine the grant award under Subsection (2), the department shall consider:
  - (a) how the local mental health authority's proposed project will ensure effective provision of integrated behavioral health care services;
  - (b) the cost of the local mental health authority's proposed project;
  - (c) the extent to which any existing or planned contracts or partnerships or additional funding sources described in the local mental health authority's application are likely to benefit the proposed project; and
  - (d) the sustainability and reliability of the local mental health authority's proposed project.
- (5) Before July 1, 2025, the department shall report to the Health and Human Services Interim Committee regarding:
  - (a) any knowledge gained or obstacles encountered in providing integrated behavioral health care services under each project;
  - (b) data gathered in relation to each project; and
  - (c) recommendations for expanding a project statewide.

Renumbered and Amended by Chapter 308, 2023 General Session