

**Effective 5/3/2023**

**Chapter 7  
Public Health and Prevention**

**Part 1  
Health Promotion and Risk Reduction**

**26B-7-101 Definitions.**

As used in this part:

- (1) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.
- (2) "Maternal and child health services" means:
  - (a) the provision of educational, preventative, diagnostic, and treatment services, including medical care, hospitalization, and other institutional care and aftercare, appliances, and facilitating services directed toward reducing infant mortality and improving the health of mothers and children provided, however, that nothing in this Subsection (2) shall be construed to allow any agency of the state to interfere with the rights of the parent of an unmarried minor in decisions about the providing of health information or services;
  - (b) the development, strengthening, and improvement of standards and techniques relating to the services and care;
  - (c) the training of personnel engaged in the provision, development, strengthening, or improvement of the services and care; and
  - (d) necessary administrative services connected with Subsections (2)(a), (b), and (c).
- (3) "Minor" means a person under 18 years old.
- (4) "Services to children with disabilities" means:
  - (a) the early location of children with a disability, provided that any program of prenatal diagnosis for the purpose of detecting the possible disease or disabilities of an unborn child will not be used for screening, but rather will be utilized only when there are medical or genetic indications that warrant diagnosis;
  - (b) the provision for children described in Subsection (4)(a), of preventive, diagnosis, and treatment services, including medical care, hospitalization, and other institutional care and aftercare, appliances, and facilitating services directed toward the diagnosis of the condition of those children or toward the restoration of the children to maximum physical and mental health;
  - (c) the development, strengthening, and improvement of standards and techniques relating to services and care described in this Subsection (4);
  - (d) the training of personnel engaged in the provision, development, strengthening, or improvement of services and care described in this Subsection (4); and
  - (e) necessary administrative services connected with Subsections (4)(a), (b), and (c).

Amended by Chapter 308, 2023 General Session

**26B-7-102 Director of family health services programs.**

The executive director may appoint a director of family health services programs who shall be a board certified pediatrician or obstetrician with at least two years experience in public health programs.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-103 State plan for maternal and child health services.**

The department shall prepare and submit a state plan for maternal and child health services as required by Title II of the Public Health Services Act. The plan shall be the official state plan for the state and shall be used as the basis for administration of Title V programs within the state.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-104 Child literacy -- Distribution of information kits.**

(1) The Legislature recognizes that effective child literacy programs can have a dramatic long-term impact on each child's ability to:

- (a) succeed in school;
- (b) successfully compete in a global society; and
- (c) become a productive, responsible citizen.

(2)

(a) To help further this end, the department may make available to parents of new-born infants, as a resource, an information kit regarding child development, the development of emerging literacy skills, and activities which promote and enhance emerging literacy skills, including reading aloud to the child on a regular basis.

(b) The department shall seek private funding to help support this program.

(3)

(a) The department may seek assistance from the State Board of Education and local hospitals in making the information kit available to parents on a voluntary basis.

(b) The department may also seek assistance from private entities in making the kits available to parents.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-105 Cytomegalovirus (CMV) public education and testing.**

(1) As used in this section "CMV" means cytomegalovirus.

(2) The department shall establish and conduct a public education program to inform pregnant women and women who may become pregnant regarding:

- (a) the incidence of CMV;
- (b) the transmission of CMV to pregnant women and women who may become pregnant;
- (c) birth defects caused by congenital CMV;
- (d) methods of diagnosing congenital CMV; and
- (e) available preventative measures.

(3) The department shall provide the information described in Subsection (2) to:

- (a) child care programs licensed under Chapter 2, Part 4, Child Care Licensing, and their employees;
- (b) a person described in Subsection 26B-2-405(1)(a)(iii) and Subsections 26B-2-405(2)(a), (b), (c), (e), and (f);
- (c) a person serving as a school nurse under Section 53G-9-204;
- (d) a person offering health education in a school district;
- (e) health care providers offering care to pregnant women and infants; and
- (f) religious, ecclesiastical, or denominational organizations offering children's programs as a part of worship services.

- (4) If a newborn infant fails the newborn hearing screening test(s) under Subsection 26B-4-319(1), a medical practitioner shall:
  - (a) test the newborn infant for CMV before the newborn is 21 days old, unless a parent of the newborn infant objects; and
  - (b) provide to the parents of the newborn infant information regarding:
    - (i) birth defects caused by congenital CMV; and
    - (ii) available methods of treatment.
- (5) The department shall provide to the family and the medical practitioner, if known, information regarding the testing requirements under Subsection (4) when providing results indicating that an infant has failed the newborn hearing screening test(s) under Subsection 26B-4-319(1).
- (6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the provisions of this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-106 Down syndrome diagnosis -- Information and support.**

- (1) The department shall provide contact information for state and national Down syndrome organizations that are nonprofit and that provide information and support services for parents, including first-call programs and information hotlines specific to Down syndrome, resource centers or clearinghouses, and other education and support programs for Down syndrome.
- (2) The department shall:
  - (a) post the information described in Subsection (1) on the department's website; and
  - (b) create an informational support sheet with the information described in Subsection (1) and the web address described in Subsection (2)(a).
- (3) A Down syndrome organization may request that the department include the organization's informational material and contact information on the website. The department may add the information to the website, if the information meets the description under Subsection (1).
- (4) Upon request, the department shall provide a health care facility or health care provider a copy of the informational support sheet described in Subsection (2)(b) to give to a pregnant woman after the result of a prenatal screening or diagnostic test indicates the unborn child has or may have Down syndrome.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-107 Lead exposure public education and testing.**

- (1) The department shall establish a child blood lead epidemiology and surveillance program to:
  - (a) encourage pediatric health care providers to include a lead test in accordance with the department's recommendations under Subsection (2); and
  - (b) conduct a public education program to inform parents of children who are two years old or younger regarding:
    - (i) the effects of lead exposure in children;
    - (ii) the availability of free screening and testing for lead exposure; and
    - (iii) other available preventative measures.
- (2) The department may recommend consideration of screening and testing during the first year or second year well child clinical visit.
- (3)
  - (a) The department shall provide the information described in Subsection (1) to organizations that regularly provide care or services for children who are 5 years old or younger.

- (b) The department may work with the following organizations to share the information described in Subsection (1):
- (i) a child care program licensed under Chapter 2, Part 4, Child Care Licensing, and the employees of the child care program;
  - (ii) a health care facility licensed under Chapter 2, Part 2, Health Care Facility Licensing and Inspection;
  - (iii) a person providing child care under a program that is described in Subsection 26B-2-405(2);
  - (iv) an individual offering health education in a school district, including a school nurse under Section 53G-9-204;
  - (v) a health care provider offering care to pregnant women and infants;
  - (vi) a religious, ecclesiastical, or denominational organization offering children's programs as a part of worship services;
  - (vii) an organization that advocates for public education, testing, and screening of children for lead exposure;
  - (viii) a local health department as defined in Section 26A-1-102; and
  - (ix) any other person that the department believes would advance public education regarding the effects of lead exposure on children.
- (4) The department shall seek grant funding to fund the program created in this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-108 Rules for sale of drugs, cosmetics, and medical devices.**

The department shall establish and enforce rules for the sale or distribution of human drugs, cosmetics, and medical devices. The rules adopted under this section shall be no more stringent than those established by federal law.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-109 Director of community health nursing appointed by executive director.**

The executive director shall appoint a director of community health nursing who shall develop, implement, monitor, and evaluate community health nursing standards and services and participate in the formulation of policies for administration of health services.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-110 Duty to establish program to reduce deaths and other harm from prescription opiates used for chronic noncancer pain.**

- (1) As used in this section, "opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.
- (2) In addition to the duties listed in Section 26B-1-202, the department shall develop and implement a two-year program in coordination with the Division of Professional Licensing, the Utah Labor Commission, and the Utah attorney general, to:
  - (a) investigate the causes of and risk factors for death and nonfatal complications of prescription opiate use and misuse in Utah for chronic pain by utilizing the Utah Controlled Substance Database created in Section 58-37f-201;

- (b) study the risks, warning signs, and solutions to the risks associated with prescription opiate medications for chronic pain, including risks and prevention of misuse and diversion of those medications;
- (c) provide education to health care providers, patients, insurers, and the general public on the appropriate management of chronic pain, including the effective use of medical treatment and quality care guidelines that are scientifically based and peer reviewed; and
- (d) educate the public regarding:
  - (i) the purpose of the Controlled Substance Database established in Section 58-37f-201; and
  - (ii) the requirement that a person's name and prescription information be recorded on the database when the person fills a prescription for a schedule II, III, IV, or V controlled substance.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-111 Local health emergency assistance program.**

- (1) As used in this section:
  - (a) "Local health department" means the same as that term is defined in Section 26A-1-102.
  - (b) "Local health emergency" means an unusual event or series of events causing or resulting in a substantial risk or substantial potential risk to the health of a significant portion of the population within the boundary of a local health department, as determined by the local health department.
  - (c) "Program" means the local health emergency assistance program that the department is required to establish under this section.
  - (d) "Program fund" means money that the Legislature appropriates to the department for use in the program and other money otherwise made available for use in the program.
- (2) The department shall establish, to the extent of funds appropriated by the Legislature or otherwise made available to the program fund, a local health emergency assistance program.
- (3) Under the program, the department shall:
  - (a) provide a method for a local health department to seek reimbursement from the program fund for local health department expenses incurred in responding to a local health emergency;
  - (b) require matching funds from any local health department seeking reimbursement from the program fund;
  - (c) establish a method for apportioning money in the program fund to multiple local health departments when the total amount of concurrent requests for reimbursement by multiple local health departments exceeds the balance in the program fund; and
  - (d) establish by rule other provisions that the department considers necessary or advisable to implement the program.
- (4)
  - (a)
    - (i) Subject to Subsection (4)(a)(ii), the department shall use money in the program fund exclusively for purposes of the program.
    - (ii) The department may use money in the program fund to cover its costs of administering the program.
  - (b) Money that the Legislature appropriates to the program fund is nonlapsing in accordance with Section 63J-1-602.1.
  - (c) Any interest earned on money in the program fund shall be deposited to the General Fund.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-112 Health care grant requests and funding.**

- (1) Any time the United States Department of Health and Human Services accepts grant applications, the department shall apply for a grant under Title X of the Public Health Service Act, 42 U.S.C. Sec. 300 et seq.
- (2)
  - (a) As part of the application described in Subsection (1), the department shall request that the United States Department of Health and Human Services waive the requirement of the department to comply with requirements found in 42 C.F.R. Sec. 59.5(a)(4) pertaining to providing certain services to a minor without parental consent.
  - (b) If the department's application described in Subsection (1) is denied, and at such time the United States Department of Health and Human Services creates a waiver application process, the department shall apply for a waiver from compliance with the requirements found in 42 C.F.R. Sec. 59.5(a)(4) pertaining to providing certain services to a minor without parental consent in order to be eligible for a grant under Title X of the Public Health Service Act, 42 U.S.C. Sec. 300 et seq.
- (3) If the department receives a grant under Subsection (1), the department shall prioritize disbursement of grant funds in the prioritization order described in Subsection (4).
- (4)
  - (a)
    - (i) When disbursing grant funds, the department shall give first priority to nonpublic entities that provide family planning services as well as other comprehensive services to enable women to give birth and parent or place for adoption.
    - (ii) The department shall give preference to entities described in Subsection (4)(a)(i) that:
      - (A) expand availability of prenatal and postnatal care in low-income and under-served areas of the state;
      - (B) provide support for a woman to carry a baby to term;
      - (C) emphasize the health and viability of the fetus; and
      - (D) provide education and maternity support.
    - (iii) If the department receives applications from qualifying nonpublic entities as described in Subsection (4)(a), the department shall disburse all of the grant funds to qualifying nonpublic entities described in Subsection (4)(a).
  - (b) If grant funds are not exhausted under Subsection (4)(a), or if no entity qualifies for grant funding under the criteria described in Subsection (4)(a), the department shall give second priority for grant funds to nonpublic entities that provide:
    - (i) family planning services; and
    - (ii) required primary health services as described in 42 U.S.C. Sec. 254b(b)(1)(A).
  - (c) If grant funds are not exhausted under Subsections (4)(a) and (b), or if no entity qualifies for grant funding under the criteria described in Subsection (4)(a) or (b), the department shall give third priority for grant funds to public entities that provide family planning services, including state, county, or local community health clinics, and community action organizations.
  - (d) If grant funds are not exhausted under Subsections (4)(a), (b), and (c), or if no entity qualifies for grant funding under the criteria described in Subsection (4)(a), (b), or (c), the department shall give fourth priority for grant funds to nonpublic entities that provide family planning services but do not provide required primary health services as described in 42 U.S.C. Sec. 254b(b)(1)(A).

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-113 Identification of major risk factors by department -- Education of public -- Establishment of programs.**

The department shall identify the major risk factors contributing to injury, sickness, death, and disability within the state and where it determines that a need exists, educate the public regarding these risk factors, and the department may establish programs to reduce or eliminate these factors except that such programs may not be established if adequate programs exist in the private sector.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-114 Office of Health Equity -- Duties.**

(1) As used in this section:

- (a) "Multicultural or minority health issue" means a health issue, including a mental and oral health issue, of particular interest to cultural, ethnic, racial, or other subpopulations, including:
  - (i) disparities in:
    - (A) disease incidence, prevalence, morbidity, mortality, treatment, and treatment response; and
    - (B) access to care; and
  - (ii) cultural competency in the delivery of health care.
- (b) "Office" means the Office of Health Equity created in this section.

(2) There is created within the department the Office of Health Equity.

(3) The office shall:

- (a) promote and coordinate the research, data production, dissemination, education, and health promotion activities of the following that relate to a multicultural or minority health issue:
  - (i) the department;
  - (ii) local health departments;
  - (iii) local mental health authorities;
  - (iv) public schools;
  - (v) community-based organizations; and
  - (vi) other organizations within the state;
- (b) assist in the development and implementation of one or more programs to address a multicultural or minority health issue;
- (c) promote the dissemination and use of information on a multicultural or minority health issue by minority populations, health care providers, and others;
- (d) seek federal funding and other resources to accomplish the office's mission;
- (e) provide technical assistance to organizations within the state seeking funding to study or address a multicultural or minority health issue;
- (f) develop and increase the capacity of the office to:
  - (i) ensure the delivery of qualified timely culturally appropriate translation services across department programs; and
  - (ii) provide, when appropriate, linguistically competent translation and communication services for limited English proficiency individuals;
- (g) provide staff assistance to any advisory committee created by the department to study a multicultural or minority health issue; and
- (h) annually report to the Legislature on its activities and accomplishments.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-115 Utah Registry of Autism and Developmental Disabilities.**

- (1) As used in this section, "URADD" means the Utah Registry of Autism and Developmental Disabilities.
- (2) The department may enter into an agreement with:
  - (a) the University of Utah or another person for the operation of URADD; and
  - (b) a person to conduct a public education campaign to:
    - (i) improve public awareness of the early warning signs of autism spectrum disorders and developmental disabilities; and
    - (ii) promote the early identification of autism spectrum disorders and developmental disabilities.
- (3) URADD shall consist of a database that collects information on people in the state who have an autism spectrum disorder or a developmental disability.
- (4) The purpose of URADD is to assist health care providers to:
  - (a) determine the risk factors and causes of autism spectrum disorders and developmental disabilities;
  - (b) plan for and develop resources, therapies, methods of diagnoses, and other services for people with an autism spectrum disorder or a developmental disability;
  - (c) facilitate measuring and tracking of treatment outcomes;
  - (d) gather statistics relating to autism spectrum disorders and developmental disabilities; and
  - (e) improve coordination and cooperation between agencies and other programs that provide services to people with an autism spectrum disorder or a developmental disability.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-116 Radon awareness campaign.**

The department shall, in consultation with the Division of Waste Management and Radiation Control, develop a statewide electronic awareness campaign to educate the public regarding:

- (1) the existence and prevalence of radon gas in buildings and structures;
- (2) the health risks associated with radon gas;
- (3) options for radon gas testing; and
- (4) options for radon gas remediation.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-117 Syringe exchange and education.**

- (1) The following may operate a syringe exchange program in the state to prevent the transmission of disease and reduce morbidity and mortality among individuals who inject drugs, and those individuals' contacts:
  - (a) a government entity, including:
    - (i) the department;
    - (ii) a local health department; or
    - (iii) a local substance abuse authority, as defined in Section 26B-5-101;
  - (b) a nongovernment entity, including:
    - (i) a nonprofit organization; or
    - (ii) a for-profit organization; or
  - (c) any other entity that complies with Subsections (2) and (4).
- (2) An entity operating a syringe exchange program in the state shall:



- (a) facilitate the exchange of an individual's used syringe for one or more new syringes in sealed sterile packages;
  - (b) ensure that a recipient of a new syringe is given verbal and written instruction on:
    - (i) methods for preventing the transmission of blood-borne diseases, including hepatitis C and human immunodeficiency virus; and
    - (ii) options for obtaining:
      - (A) services for the treatment of a substance use disorder;
      - (B) testing for a blood-borne disease; and
      - (C) an opiate antagonist; and
  - (c) report annually to the department the following information about the program's activities:
    - (i) the number of individuals who have exchanged syringes;
    - (ii) the number of used syringes exchanged for new syringes; and
    - (iii) the number of new syringes provided in exchange for used syringes.
- (3) No later than October 1, 2017, and every two years thereafter, the department shall report to the Legislature's Health and Human Services Interim Committee on:
- (a) the activities and outcomes of syringe programs operating in the state, including:
    - (i) the number of individuals who have exchanged syringes;
    - (ii) the number of used syringes exchanged for new syringes;
    - (iii) the number of new syringes provided in exchange for used syringes;
    - (iv) the impact of the programs on blood-borne infection rates; and
    - (v) the impact of the programs on the number of individuals receiving treatment for a substance use disorder;
  - (b) the potential for additional reductions in the number of syringes contaminated with blood-borne disease if the programs receive additional funding;
  - (c) the potential for additional reductions in state and local government spending if the programs receive additional funding;
  - (d) whether the programs promote illicit use of drugs; and
  - (e) whether the programs should be continued, continued with modifications, or terminated.
- (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how and when an entity operating a syringe exchange program shall make the report required by Subsection (2)(c).

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-118 Online public health education module for vaccine-preventable diseases.**

- (1) As used in this section:
  - (a) "Health care provider" means the same as that term is defined in Section 78B-3-403.
  - (b) "Nonimmune" means that a child or an individual:
    - (i) has not received each vaccine required in Section 53G-9-305 and has not developed a natural immunity through previous illness to a vaccine-preventable disease, as documented by a health care provider;
    - (ii) cannot receive each vaccine required in Section 53G-9-305; or
    - (iii) is otherwise known to not be immune to a vaccine-preventable disease.
  - (c) "Vaccine-preventable disease" means an infectious disease that can be prevented by a vaccination required in Section 53G-9-305.
- (2) The department shall develop an online education module regarding vaccine-preventable diseases:
  - (a) to assist a parent of a nonimmune child to:

- (i) recognize the symptoms of vaccine-preventable diseases;
  - (ii) respond in the case of an outbreak of a vaccine-preventable disease;
  - (iii) protect children who contract a vaccine-preventable disease; and
  - (iv) prevent the spread of vaccine-preventable diseases;
- (b) that contains only the following:
- (i) information about vaccine-preventable diseases necessary to achieve the goals stated in Subsection (2)(a), including the best practices to prevent the spread of vaccine-preventable diseases;
  - (ii) recommendations to reduce the likelihood of a nonimmune individual contracting or transmitting a vaccine-preventable disease; and
  - (iii) information about additional available resources related to vaccine-preventable diseases and the availability of low-cost vaccines;
- (c) that includes interactive questions or activities; and
- (d) that is expected to take an average user 20 minutes or less to complete, based on user testing.
- (3) In developing the online education module described in Subsection (2), the department shall consult with individuals interested in vaccination or vaccine-preventable diseases, including:
- (a) representatives from organizations of health care professionals; and
  - (b) parents of nonimmune children.
- (4) The department shall make the online education module described in Subsection (2) publicly available to parents through:
- (a) a link on the department's website;
  - (b) county health departments, as that term is defined in Section 26A-1-102;
  - (c) local health departments, as that term is defined in Section 26A-1-102;
  - (d) local education agencies, as that term is defined in Section 53E-1-102; and
  - (e) other public health programs or organizations.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-119 Hepatitis C Outreach Pilot Program.**

- (1) As used in this section, "Hepatitis C outreach organization" means a private nonprofit organization that:
- (a) has an established relationship with individuals who are at risk of acquiring acute Hepatitis C;
  - (b) helps individuals who need Hepatitis C treatment, but who do not qualify for payment of the treatment by the Medicaid program or another health insurer, to obtain treatment;
  - (c) has the infrastructure necessary for conducting Hepatitis C assessment, testing, and diagnosis, including clinical staff with the training and ability to provide:
    - (i) specimen collection for Hepatitis C testing;
    - (ii) clinical assessments;
    - (iii) consultation regarding blood-borne diseases; and
    - (iv) case management services for patient support during Hepatitis C treatment; or
  - (d) has a partnership with a health care facility that can provide clinical follow-up and medical treatment following Hepatitis C rapid antibody testing and confirmatory testing.
- (2) There is created within the department the Hepatitis C Outreach Pilot Program.
- (3) Before September 1, 2020, the department shall, as funding permits, make grants to Hepatitis C outreach organizations in accordance with criteria established by the department under Subsection (4).

- (4) Before July 1, 2020, the department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
  - (a) create application requirements for a grant from the program;
  - (b) establish criteria for determining:
    - (i) whether a grant is awarded, including criteria that ensure grants are awarded to areas of the state, including rural areas, that would benefit most from the grant; and
    - (ii) the amount of a grant; and
  - (c) specify reporting requirements for the recipient of a grant under this section.
- (5) Before October 1, 2021, and before October 1 every year thereafter, the department shall submit a report to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee on the outcomes of the Hepatitis C Outreach Pilot Program.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-120 Invisible condition alert program education and outreach.**

- (1) As used in this section:
  - (a) "Health care professional" means the same as that term is defined in Section 53-3-207.
  - (b) "Invisible condition" means the same as that term is defined in Section 53-3-207.
  - (c) "Invisible condition alert program" means the same as that term is defined in Section 53-27-101.
- (2) In coordination with the Department of Public Safety as described in Section 53-27-102, the department shall develop:
  - (a) informational materials that describe the availability of the invisible condition alert program, including information on how an individual with an invisible condition may participate in the program; and
  - (b) educational materials for health care professionals regarding the invisible condition alert program.
- (3) The materials described in Subsection (2) shall be made available to health care professionals in accordance with Section 58-1-604.

Enacted by Chapter 456, 2023 General Session

**26B-7-121 Sickle cell disease.**

In collaboration with the Medicaid program as defined in Section 26B-3-101, the Drug Utilization Review Board created in Section 26B-3-302, the Health Data Committee created in Section 26B-1-413, the Office of Health Disparities Reduction created in Section 26B-7-114, and others within the department, the Division of Population Health created in Section 26B-1-204 shall:

- (1) review and develop recommendations for improving the surveillance, screening, diagnosis, and treatment of sickle cell disease among residents of the state; and
- (2) report the recommendations to the Health and Human Services Interim Committee before July 1, 2024.

Enacted by Chapter 465, 2023 General Session

**Part 2**

## Detection and Management of Chronic and Communicable Diseases and Public Health Emergencies

### 26B-7-201 Definitions.

As used in this part:

- (1) "Ambulatory surgical center" means the same as that term is defined in Section 26B-2-201.
- (2) "Carrier" means an infected individual or animal who harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source of infection for man. The carrier state may occur in an individual with an infection that is inapparent throughout its course, commonly known as healthy or asymptomatic carrier, or during the incubation period, convalescence, and postconvalescence of an individual with a clinically recognizable disease, commonly known as incubatory carrier or convalescent carrier. Under either circumstance the carrier state may be of short duration, as a temporary or transient carrier, or long duration, as a chronic carrier.
- (3) "Communicable disease" means illness due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from a reservoir to a susceptible host, either directly, as from an infected individual or animal, or indirectly, through an intermediate plant or animal host, vector, or the inanimate environment.
- (4) "Communicable period" means the time or times during which an infectious agent may be transferred directly or indirectly from an infected individual to another individual, from an infected animal to a human, or from an infected human to an animal, including arthropods.
- (5) "Contact" means an individual or animal having had association with an infected individual, animal, or contaminated environment so as to have had an opportunity to acquire the infection.
- (6) "End stage renal disease facility" is as defined in Section 26B-2-201.
- (7)
  - (a) "Epidemic" means the occurrence or outbreak in a community or region of cases of an illness clearly in excess of normal expectancy and derived from a common or propagated source.
  - (b) The number of cases indicating an epidemic will vary according to the infectious agent, size, and type of population exposed, previous experience or lack of exposure to the disease, and time and place of occurrence.
  - (c) Epidemicity is considered to be relative to usual frequency of the disease in the same area, among the specified population, at the same season of the year.
- (8) "General acute hospital" is as defined in Section 26B-2-201.
- (9) "Incubation period" means the time interval between exposure to an infectious agent and appearance of the first sign or symptom of the disease in question.
- (10) "Infected individual" means an individual who harbors an infectious agent and who has manifest disease or inapparent infection. An infected individual is one from whom the infectious agent can be naturally acquired.
- (11) "Infection" means the entry and development or multiplication of an infectious agent in the body of man or animals. Infection is not synonymous with infectious disease; the result may be inapparent or manifest. The presence of living infectious agents on exterior surfaces of the body, or upon articles of apparel or soiled articles, is not infection, but contamination of such surfaces and articles.
- (12) "Infectious agent" means an organism such as a virus, rickettsia, bacteria, fungus, protozoan, or helminth that is capable of producing infection or infectious disease.
- (13) "Infectious disease" means a disease of man or animals resulting from an infection.

- (14) "Isolation" means the separation, for the period of communicability, of infected individuals or animals from others, in such places and under such conditions as to prevent the direct or indirect conveyance of the infectious agent from those infected to those who are susceptible or who may spread the agent to others.
- (15) "Order of constraint" means the same as that term is defined in Section 26B-7-301.
- (16) "Quarantine" means the restriction of the activities of well individuals or animals who have been exposed to a communicable disease during its period of communicability to prevent disease transmission.
- (17) "School" means a public, private, or parochial nursery school, licensed or unlicensed day care center, child care facility, family care home, Head Start program, kindergarten, elementary, or secondary school through grade 12.
- (18) "Sexually transmitted disease" means those diseases transmitted through sexual intercourse or any other sexual contact.
- (19) "Specialty hospital" is as defined in Section 26B-2-201.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-202 Authority to investigate and control epidemic infections and communicable disease.**

- (1) Subject to Subsection (3) and the restrictions in this title, the department has authority to investigate and control the causes of epidemic infections and communicable disease, and shall provide for the detection, reporting, prevention, and control of communicable diseases and epidemic infections or any other health hazard which may affect the public health.
- (2)
  - (a) As part of the requirements of Subsection (1), the department shall distribute to the public and to health care professionals:
    - (i) medically accurate information about sexually transmitted diseases that may cause infertility and sterility if left untreated, including descriptions of:
      - (A) the probable side effects resulting from an untreated sexually transmitted disease, including infertility and sterility;
      - (B) medically accepted treatment for sexually transmitted diseases;
      - (C) the medical risks commonly associated with the medical treatment of sexually transmitted diseases; and
      - (D) suggested screening by a private physician or physician assistant; and
    - (ii) information about:
      - (A) public services and agencies available to assist individuals with obtaining treatment for the sexually transmitted disease;
      - (B) medical assistance benefits that may be available to the individual with the sexually transmitted disease; and
      - (C) abstinence before marriage and fidelity after marriage being the surest prevention of sexually transmitted disease.
  - (b) The information required by Subsection (2)(a):
    - (i) shall be distributed by the department and by local health departments free of charge;
    - (ii) shall be relevant to the geographic location in which the information is distributed by:
      - (A) listing addresses and telephone numbers for public clinics and agencies providing services in the geographic area in which the information is distributed; and
      - (B) providing the information in English as well as other languages that may be appropriate for the geographic area.

- (c)
  - (i) Except as provided in Subsection (2)(c)(ii), the department shall develop written material that includes the information required by this Subsection (2).
  - (ii) In addition to the written materials required by Subsection (2)(c)(i), the department may distribute the information required by this Subsection (2) by any other methods the department determines is appropriate to educate the public, excluding public schools, including websites, toll free telephone numbers, and the media.
  - (iii) If the information required by Subsection (2)(b)(ii)(A) is not included in the written pamphlet developed by the department, the written material shall include either a website, or a 24-hour toll free telephone number that the public may use to obtain that information.
- (3)
  - (a) The Legislature may at any time terminate by joint resolution an order of constraint issued by the department as described in this section in response to a declared public health emergency.
  - (b) A county governing body may at any time terminate by majority vote an order of constraint issued by the relevant local health department as described in this section in response to a declared public health emergency.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-203 Reporting AIDS and HIV infection -- Anonymous testing.**

- (1) Because of the nature and consequences of Acquired Immunodeficiency Syndrome and Human Immunodeficiency Virus infection, the department shall:
  - (a) require reporting of those conditions; and
  - (b) utilize contact tracing and other methods for "partner" identification and notification. The department shall, by rule, define individuals who are considered "partners" for purposes of this section.
- (2)
  - (a) The requirements of Subsection (1) do not apply to seroprevalence and other epidemiological studies conducted by the department.
  - (b) The requirements of Subsection (1) do not apply to, and anonymity shall be provided in, research studies conducted by universities or hospitals, under the authority of institutional review boards if those studies are funded in whole or in part by research grants and if anonymity is required in order to obtain the research grant or to carry out the research.
- (3) For all purposes of Sections 26B-7-201 through 26B-7-223, Acquired Immunodeficiency Syndrome and Human Immunodeficiency Virus infection are considered communicable and infectious diseases.
- (4) The department may establish or allow one site or agency within the state to provide anonymous testing.
  - (a) The site or agency that provides anonymous testing shall maintain accurate records regarding:
    - (i) the number of HIV positive individuals that it is able to contact or inform of their condition;
    - (ii) the number of HIV positive individuals who receive extensive counseling;
    - (iii) how many HIV positive individuals provide verifiable information for partner notification; and
    - (iv) how many cases in which partner notification is carried through.
  - (b) If the information maintained under Subsection (4)(a) indicates anonymous testing is not resulting in partner notification, the department shall phase out the anonymous testing program allowed by this Subsection (4).

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-204 Involuntary examination, treatment, isolation, and quarantine.**

- (1) The following individuals or groups of individuals are subject to examination, treatment, quarantine, or isolation under a department order of restriction:
  - (a) an individual who is infected or suspected to be infected with a communicable disease that poses a threat to the public health and who does not take action as required by the department or the local health department to prevent spread of the disease;
  - (b) an individual who is contaminated or suspected to be contaminated with an infectious agent that poses a threat to the public health and that could be spread to others if remedial action is not taken;
  - (c) an individual who is in a condition or suspected condition which, if exposed to others, poses a threat to public health, or is in a condition which if treatment is not completed will pose a threat to public health; and
  - (d) an individual who is contaminated or suspected to be contaminated with a chemical or biological agent that poses a threat to the public health and that could be spread to others if remedial action is not taken.
- (2) If an individual refuses to take action as required by the department or the local health department to prevent the spread of a communicable disease, infectious agent, or contamination, the department or the local health department may order involuntary examination, treatment, quarantine, or isolation of the individual and may petition the court to order involuntary examination, treatment, quarantine, or isolation in accordance with Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-205 Willful introduction of communicable disease a misdemeanor.**

Any person who willfully or knowingly introduces any communicable or infectious disease into any county, municipality, or community is guilty of a class A misdemeanor, except as provided in Section 76-10-1309.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-206 Duty to report individual suspected of having communicable disease.**

The following shall report to the department or the local health department regarding any individual suffering from or suspected of having a disease that is communicable, as required by department rule:

- (1) health care providers as defined in Section 78B-3-403;
- (2) facilities licensed under Chapter 2, Part 2, Health Care Facility Licensing and Inspection;
- (3) health care facilities operated by the federal government;
- (4) mental health facilities;
- (5) care facilities licensed by the department;
- (6) nursing homes and other care facilities;
- (7) dispensaries, clinics, or laboratories that diagnose, test, or otherwise care for individuals who are suffering from a disease suspected of being communicable;
- (8) individuals who have knowledge of others who have a communicable disease;

- (9) individuals in charge of schools having responsibility for any individuals who have a disease suspected of being communicable; and
- (10) child care programs, as defined in Section 26B-2-401.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-207 Designation of communicable diseases by department -- Establishment of rules for detection, reporting, investigation, prevention, and control.**

The department may designate those diseases which are communicable, of concern to the public health, and reportable; and establish rules for the detection, reporting, investigation, prevention, and control of communicable diseases, epidemic infections, and other health hazards that affect the public health.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-208 Tuberculosis -- Duty of department to investigate, control, and monitor.**

- (1) The department shall conduct or oversee the investigation, control, and monitoring of suspected or confirmed tuberculosis infection and disease within the state. Local health departments shall investigate, control, and monitor suspected or confirmed tuberculosis infection and disease within their respective jurisdictions.
- (2) A health care provider who treats an individual with suspected or confirmed tuberculosis shall treat the individual according to guidelines established by the department.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-209 Tuberculosis -- Testing of high risk individuals.**

Individuals at high risk for tuberculosis shall be tested as required by department rule, which:

- (1) shall establish criteria to identify individuals who are at high risk for tuberculosis; and
- (2) may establish who is responsible for the costs of the testing.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-210 Rabies or other animal disease -- Investigation and order of quarantine.**

- (1) As used in this section, "quarantine" means strict confinement upon the private premises of the owners, under restraint by leash, closed cage or paddock of all animals specified by the order.
- (2)
  - (a) Whenever rabies or any other animal disease dangerous to the health of human beings is reported, the department shall investigate to determine whether such disease exists, and the probable area of the state in which man or beast is thereby endangered.
  - (b) If the department finds that such disease exists, a quarantine may be declared against all animals designated in the quarantine order and within the area specified in the order.
  - (c) If the quarantine is for the purpose of preventing the spread of rabies or hydrophobia, the order shall contain a warning to the owners of dogs within the quarantined area to confine or muzzle all dogs to prevent biting.
  - (d) Any dog not muzzled found running at large in a quarantined area or any dog known to have been removed from or escaped from such area, may be killed by any person without liability therefor.



- (3) Following the order of quarantine the department shall make a thorough investigation as to the extent of the disease, the probable number of persons and beasts exposed, and the area involved.
- (4) During the period any quarantine order is in force all peace officers may kill or capture and hold for further action by the department all animals in a quarantined area not held in restraint on private premises.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-211 Rabies or other animal disease -- Possession of animal in violation of part a misdemeanor.**

Any person in possession of any animal being held in violation of Sections 26B-7-201 through 26B-7-223 is guilty of a class C misdemeanor.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-212 Sexually transmitted infections declared dangerous to public health.**

Syphilis, gonorrhea, lymphogranuloma inguinale (venereum) and chancroid are hereby declared to be contagious, infectious, communicable and dangerous to the public health.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-213 Sexually transmitted infections -- Examinations by authorities -- Treatment of infected persons.**

State, county, and municipal health officers within their respective jurisdictions may make examinations of persons reasonably suspected of being infected with venereal disease. Persons infected with venereal disease shall be required to report for treatment to either a reputable physician or physician assistant and continue treatment until cured or to submit to treatment provided at public expense until cured.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-214 Sexually transmitted infections -- Consent of minor to treatment.**

- (1) A consent to medical care or services by a hospital or public clinic or the performance of medical care or services by a licensed physician or physician assistant executed by a minor who is or professes to be afflicted with a sexually transmitted disease, shall have the same legal effect upon the minor and the same legal obligations with regard to the giving of consent as a consent given by a person of full legal age and capacity, the infancy of the minor and any contrary provision of law notwithstanding.
- (2) The consent of the minor is not subject to later disaffirmance by reason of minority at the time it was given and the consent of no other person or persons shall be necessary to authorize hospital or clinical care or services to be provided to the minor by a licensed physician or physician assistant.
- (3) The provisions of this section shall apply also to minors who profess to be in need of hospital or clinical care and services or medical care or services provided by a physician or physician assistant for suspected sexually transmitted disease, regardless of whether such professed suspicions are subsequently substantiated on a medical basis.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-215 Sexually transmitted infections -- Examination and treatment of persons in prison or jail.**

- (1)
  - (a) All persons confined in any state, county, or city prison or jail shall be examined, and if infected, treated for venereal diseases by the health authorities.
  - (b) The prison authorities of every state, county, or city prison or jail shall make available to the health authorities such portion of the prison or jail as may be necessary for a clinic or hospital wherein all persons suffering with venereal disease at the time of the expiration of their terms of imprisonment, shall be isolated and treated at public expense until cured.
- (2)
  - (a) The department may require persons suffering with venereal disease at the time of the expiration of their terms of imprisonment to report for treatment to a licensed physician or physician assistant or submit to treatment provided at public expense in lieu of isolation.
  - (b) Nothing in this section shall interfere with the service of any sentence imposed by a court as a punishment for the commission of crime.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-216 Serological testing of pregnant or recently delivered women.**

- (1) As used in this section, a "standard serological test" means a test for syphilis approved by the department and made at an approved laboratory.
- (2)
  - (a) Every licensed physician and surgeon attending a pregnant or recently delivered woman for conditions relating to her pregnancy shall take or cause to be taken a sample of blood of the woman at the time of first examination or within 10 days thereafter.
  - (b) The blood sample shall be submitted to an approved laboratory for a standard serological test for syphilis.
  - (c) The provisions of this section do not apply to any female who objects thereto on the grounds that she is a bona fide member of a specified, well recognized religious organization whose teachings are contrary to the tests.
- (3)
  - (a) Every other person attending a pregnant or recently delivered woman, who is not permitted by law to take blood samples, shall within 10 days from the time of first attendance cause a sample of blood to be taken by a licensed physician or physician assistant.
  - (b) The blood sample shall be submitted to an approved laboratory for a standard serological test for syphilis.
- (4)
  - (a) An approved laboratory is a laboratory approved by the department according to its rules governing the approval of laboratories for the purpose of this title.
  - (b) In submitting the sample to the laboratory the physician or physician assistant shall designate whether it is a prenatal test or a test following recent delivery.
- (5) The laboratory shall transmit a detailed report of the standard serological test, showing the result thereof to the physician or physician assistant.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-217 Information regarding communicable or reportable diseases confidentiality --**

**Exceptions.**

- (1)
  - (a) Information collected under Sections 26B-7-201 through 26B-7-223 in the possession of the department or local health departments relating to an individual who has or is suspected of having a disease designated by the department as a communicable or reportable disease under Sections 26B-7-201 through 26B-7-223 shall be held by the department and local health departments as strictly confidential.
  - (b) The department and local health departments may not release or make public that information upon subpoena, search warrant, discovery proceedings, or otherwise, except as provided by this section.
- (2) The information described in Subsection (1) may be released by the department or local health departments only in accordance with the requirements of Sections 26B-7-201 through 26B-7-223 and as follows:
  - (a) specific medical or epidemiological information may be released with the written consent of the individual identified in that information or, if that individual is deceased, the individual's next-of-kin;
  - (b) specific medical or epidemiological information may be released to medical personnel or peace officers in a medical emergency, as determined by the department in accordance with guidelines it has established, only to the extent necessary to protect the health or life of the individual identified in the information, or of the attending medical personnel or law enforcement or public safety officers;
  - (c) specific medical or epidemiological information may be released to authorized personnel within the department, local health departments, public health authorities, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention, or when necessary to continue patient services or to undertake public health efforts to interrupt the transmission of disease;
  - (d) if the individual identified in the information is under the 18 years old, the information may be released to the Division of Child and Family Services within the department in accordance with Section 80-2-602, and if that information is required in a court proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, Offenses Against the Individual, the information shall be disclosed in camera and sealed by the court upon conclusion of the proceedings;
  - (e) specific medical or epidemiological information may be released to authorized personnel in the department or in local health departments, and to the courts, to carry out the provisions of this title, and rules adopted by the department in accordance with this title;
  - (f) specific medical or epidemiological information may be released to blood banks, organ and tissue banks, and similar institutions for the purpose of identifying individuals with communicable diseases. The department may, by rule, designate the diseases about which information may be disclosed under this subsection, and may choose to release the name of an infected individual to those organizations without disclosing the specific disease;
  - (g) specific medical or epidemiological information may be released in such a way that no individual is identifiable;
  - (h) specific medical or epidemiological information may be released to a health care provider as defined in Section 78B-3-403, health care personnel, and public health personnel who have a legitimate need to have access to the information in order to assist the patient, or to protect the health of others closely associated with the patient;

- (i) specific medical or epidemiological information regarding a health care provider, as defined in Section 78B-3-403, may be released to the department, the appropriate local health department, and the Division of Professional Licensing within the Department of Commerce, if the identified health care provider is endangering the safety or life of any individual by his continued practice of health care;
  - (j) specific medical or epidemiological information may be released in accordance with Section 26B-7-221 if an individual is not identifiable; and
  - (k) specific medical or epidemiological information may be released to a state agency as defined in Section 67-27-102, to perform the analysis described in Subsection 26B-7-222(4) if the state agency agrees to act in accordance with the requirements in this part.
- (3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is intended only to aid health care providers in their treatment and containment of infectious disease.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-218 Protection from examination in legal proceedings -- Exceptions.**

- (1) Except as provided in Subsection (2), an officer or employee of the department or of a local health department may not be examined in a legal proceeding of any kind or character as to the existence or content of information retained pursuant to Sections 26B-7-201 through 26B-7-223 or obtained as a result of an investigation conducted pursuant to Sections 26B-7-201 through 26B-7-223, without the written consent of the individual who is identified in the information or, if that individual is deceased, the consent of the individual's next-of-kin.
- (2) This section does not restrict testimony and evidence provided by an employee or officer of the department or a local health department about:
  - (a) persons who are under restrictive actions taken by the department in accordance with Subsection 26B-7-217(2)(e); or
  - (b) individuals or groups of individuals subject to examination, treatment, isolation, and quarantine actions under Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-219 Violation -- Penalty.**

- (1) Any individual or entity entitled to receive confidential information from the department or a local health department under Sections 26B-7-201 through 26B-7-223, other than the individual identified in that information, who violates Sections 26B-7-201 through 26B-7-223 by releasing or making public confidential information, or by otherwise breaching the confidentiality requirements of Sections 26B-7-201 through 26B-7-223, is guilty of a class B misdemeanor.
- (2) Sections 26B-7-201 through 26B-7-223 do not apply to any individual or entity that holds or receives information relating to an individual who has or is suspected of having a disease designated by the department as a communicable or reportable disease under Sections 26B-7-201 through 26B-7-223, if that individual or entity has obtained the information from a source other than the department or a local health department.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-220 Exclusions from confidentiality requirements.**

- (1) The provisions of Sections 26B-7-201 through 26B-7-223 do not apply to:

- (a) information that relates to an individual who is in the custody of the Department of Corrections, a county jail, or the Division of Juvenile Justice and Youth Services within the department;
  - (b) information that relates to an individual who has been in the custody of the Department of Corrections, a county jail, or the Division of Juvenile Justice and Youth Services within the department, if liability of either of those departments, a county, or a division, or of an employee of a department, division, or county, is alleged by that individual in a lawsuit concerning transmission of an infectious or communicable disease; or
  - (c) any information relating to an individual who willfully or maliciously or with reckless disregard for the welfare of others transmits a communicable or infectious disease.
- (2) Nothing in Sections 26B-7-201 through 26B-7-223 limits the right of the individual identified in the information described in Subsection 26B-7-217(1) to disclose that information.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-221 Public reporting of health care associated infections.**

- (1)
- (a) An ambulatory surgical facility, a general acute hospital, a specialty hospital, an end stage renal disease facility, and other facilities as required by rules of the Center for Medicare and Medicaid Services shall give the department access to the facility's data on the incidence and rate of health care associated infections that the facility submits to the National Healthcare Safety Network in the United States Centers for Disease Control and Prevention pursuant to the Centers for Medicare and Medicaid Services rules for infection reporting.
  - (b) Access to data under this Subsection (1) may include data sharing through the National Healthcare Safety Network.
- (2)
- (a) The department shall, beginning May 1, 2013, use the data submitted by the facilities in accordance with Subsection (1) to compile an annual report on health care associated infections in ambulatory surgical facilities, general acute hospitals, and specialty hospitals for public distribution in accordance with the requirements of this subsection. The department shall publish the report on the department's website and the Utah Health Exchange.
  - (b) The department's report under this section shall:
    - (i) include the following health care associated infections as required by the Center for Medicare and Medicaid Services and protocols adopted by the National Healthcare Safety Network in the Centers for Disease Control and Prevention:
      - (A) central line associated bloodstream infections;
      - (B) catheter associated urinary tract infections;
      - (C) surgical site infections from procedures on the colon or an abdominal hysterectomy;
      - (D) methicillin-resistant staphylococcus aureus bacteremia;
      - (E) clostridium difficile of the colon; and
      - (F) other health care associated infections when reporting is required by the Center for Medicare and Medicaid Services and protocols adopted by the National Healthcare Safety Network in the Centers for Disease Control and Prevention;
    - (ii) include data on the rate of health care associated infections:
      - (A) for the infection types described in Subsection (2)(b)(i); and
      - (B) by health care facility or hospital;

- (iii) include data on how the rate of health care associated infections in ambulatory surgical facilities, general acute hospitals, and specialty hospitals compares with the rates in other states;
  - (iv) in compiling the report described in Subsection (2)(a), use analytical methodologies that meet accepted standards of validity and reliability;
  - (v) clearly identify and acknowledge, in the report, the limitations of the data sources and analytic methodologies used to develop comparative facility or hospital information;
  - (vi) decide whether information supplied by a facility or hospital under Subsection (1) is appropriate to include in the report;
  - (vii) adjust comparisons among facilities and hospitals for patient case mix and other relevant factors, when appropriate; and
  - (viii) control for provider peer groups, when appropriate.
- (3) Before posting or releasing the report described in Subsection (2)(a), the department shall:
- (a) disclose to each ambulatory surgical facility, general acute hospital, and specialty hospital whose data is included in the report:
    - (i) the entire methodology for analyzing the data; and
    - (ii) the comparative facility or hospital information and other information the department has compiled for the facility or hospital; and
  - (b) give the facility or hospital 30 days to suggest corrections or add explanatory comments about the data.
- (4) The department shall develop and implement effective safeguards to protect against the unauthorized use or disclosure of ambulatory surgical facility, general acute hospital, and specialty hospital data, including the dissemination of inconsistent, incomplete, invalid, inaccurate, or subjective data.
- (5) The report described in Subsection (2)(a):
- (a) may include data that compare and identify general acute hospitals, ambulatory surgical centers, and specialty hospitals;
  - (b) shall contain only statistical, non-identifying information and may not disclose the identity of:
    - (i) an employee of an ambulatory surgical facility, a general acute hospital, or a specialty hospital;
    - (ii) a patient; or
    - (iii) a health care provider licensed under Title 58, Occupations and Professions; and
  - (c) may not be used as evidence in a criminal, civil, or administrative proceeding.
- (6) This section does not limit the department's authority to investigate and collect data regarding infections and communicable diseases under other provisions of state or federal law.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-222 Testing for COVID-19 for high-risk individuals at care facilities -- Collection and release of information regarding risk factors and comorbidities for COVID-19.**

- (1) As used in this section:
- (a) "Care facility" means a facility described in Subsections 26B-7-206(2) through (6).
  - (b) "COVID-19" means the same as that term is defined in Section 78B-4-517.
- (2)
- (a) At the request of the department or a local health department, an individual who meets the criteria established by the department under Subsection (2)(b) shall submit to testing for COVID-19.
  - (b) The department:

- (i) shall establish protocols to identify and test individuals who are present at a care facility and are at high risk for contracting COVID-19;
  - (ii) may establish criteria to identify care facilities where individuals are at high risk for COVID-19; and
  - (iii) may establish who is responsible for the costs of the testing.
- (c)
- (i) The protocols described in Subsection (2)(b)(i) shall:
    - (A) notwithstanding Subsection (2)(a), permit an individual who is a resident of a care facility to refuse testing; and
    - (B) specify criteria for when an individual's refusal to submit to testing under Subsection (2)(c)(i)(A) endangers the health or safety of other individuals at the care facility.
  - (ii) Notwithstanding any other provision of state law, a care facility may discharge a resident who declines testing requested by the department under Subsection (2)(a) if:
    - (A) under the criteria specified by the department under Subsection (2)(c)(i)(B), the resident's refusal to submit to testing endangers the health or safety of other individuals at the care facility; and
    - (B) discharging the resident does not violate federal law.
- (3) The department may establish protocols to collect information regarding the individual's age and relevant comorbidities from an individual who receives a positive test result for COVID-19.
- (4)
- (a) The department shall publish deidentified information regarding comorbidities and other risk factors for COVID-19 in a manner that is accessible to the public.
  - (b) The department may work with a state agency as defined in Section 67-27-102, to perform the analysis or publish the information described in Subsection (4)(a).

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-223 Department support for local education agency test to stay programs --  
Department guidance for local education agencies.**

- (1) As used in this section:
- (a) "Case threshold" means the same as that term is defined in Section 53G-9-210.
  - (b) "COVID-19" means the same as that term is defined in Section 53G-9-210.
  - (c) "Local education agency" or "LEA" means the same as that term is defined in Section 53G-9-210.
  - (d) "Test to stay program" means the same as that term is defined in Section 53G-9-210.
- (2) At the request of an LEA, the department shall provide support for the LEA's test to stay program if a school in the LEA reaches the case threshold, including by providing:
- (a) COVID-19 testing supplies;
  - (b) a mobile testing unit; and
  - (c) other support requested by the LEA related to the LEA's test to stay program.
- (3) The department shall ensure that guidance the department provides to LEAs related to test to stay programs complies with Section 53G-9-210, including the determination of whether a school meets a case threshold described in Subsection 53G-9-210(3).
- (4) Subsection (2) regarding the requirement to support an LEA's test to stay program does not apply after February 2, 2022, unless the test to stay requirement is triggered under Subsection 53G-9-210(2)(c).

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-224 Study on violent incidents and fatalities involving substance abuse -- Report.**

- (1) As used in this section:
  - (a) "Drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance or alcohol was combined, that results in an individual requiring medical assistance.
  - (b) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.
  - (c) "Violent incident" means:
    - (i) aggravated assault as described in Section 76-5-103;
    - (ii) child abuse as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and 76-5-114;
    - (iii) an offense described in Title 76, Chapter 5, Part 2, Criminal Homicide;
    - (iv) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
    - (v) a burglary offense described in Sections 76-6-202 , 76-6-203, 76-6-204, and 76-6-204.5;
    - (vi) an offense described in Title 76, Chapter 6, Part 3, Robbery;
    - (vii) a domestic violence offense, as defined in Section 77-36-1; and
    - (viii) any other violent offense, as determined by the department.
- (2) In 2021 and continuing every other year, the department shall provide a report before October 1 to the Health and Human Services Interim Committee regarding the number of:
  - (a) violent incidents and fatalities that occurred in the state during the preceding calendar year that, at the time of occurrence, involved substance abuse;
  - (b) drug overdose events in the state during the preceding calendar year; and
  - (c) recommendations for legislation, if any, to prevent the occurrence of the events described in Subsections (2)(a) and (b).
- (3) The department may contract with another state agency, private entity, or research institution to assist the department with the report described in Subsection (2).

Amended by Chapter 111, 2023 General Session

Renumbered and Amended by Chapter 308, 2023 General Session

***Renumbered 7/1/2024***

**26B-7-225 Statewide stroke registry.**

- (1) The department shall establish and supervise a statewide stroke registry to:
  - (a) analyze information on the incidence, severity, causes, outcomes, and rehabilitation of stroke;
  - (b) promote optimal care for stroke patients;
  - (c) alleviate unnecessary death and disability from stroke;
  - (d) encourage the efficient and effective continuum of patient care, including prevention, prehospital care, hospital care, and rehabilitative care; and
  - (e) minimize the overall cost of stroke.
- (2) The department shall utilize the registry established under Subsection (1) to assess:
  - (a) the effectiveness of the data collected by the registry; and
  - (b) the impact of the statewide stroke registry on the provision of stroke care.
- (3)
  - (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:
    - (i) the data elements that general acute hospitals shall report to the registry; and
    - (ii) the time frame and format for reporting.



- (b) The data elements described in Subsection (3)(a)(i) shall include consensus metrics consistent with data elements used in nationally recognized data set platforms for stroke care.
- (c) The department shall permit a general acute hospital to submit data required under this section through an electronic exchange of clinical health information that meets the standards established by the department under Section 26B-8-411.
- (4) A general acute hospital shall submit stroke data in accordance with rules established under Subsection (3).
- (5) Data collected under this section shall be subject to Chapter 8, Part 4, Health Statistics.
- (6) No person may be held civilly liable for providing data to the department in accordance with this section.

Renumbered and Amended by Chapter 308, 2023 General Session

***Renumbered 7/1/2024***

**26B-7-226 Statewide cardiac registry.**

- (1) The department shall establish and supervise a statewide cardiac registry to:
  - (a) analyze information on the incidence, severity, causes, outcomes, and rehabilitation of cardiac diseases;
  - (b) promote optimal care for cardiac patients;
  - (c) alleviate unnecessary death and disability from cardiac diseases;
  - (d) encourage the efficient and effective continuum of patient care, including prevention, prehospital care, hospital care, and rehabilitative care; and
  - (e) minimize the overall cost of cardiac care.
- (2) The department shall utilize the registry established under Subsection (1) to assess:
  - (a) the effectiveness of the data collected by the registry; and
  - (b) the impact of the statewide cardiac registry on the provision of cardiac care.
- (3)
  - (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:
    - (i) the data elements that general acute hospitals shall report to the registry; and
    - (ii) the time frame and format for reporting.
  - (b) The data elements described in Subsection (3)(a)(i) shall include consensus metrics consistent with data elements used in nationally recognized data set platforms for cardiac care.
  - (c) The department shall permit a general acute hospital to submit data required under this section through an electronic exchange of clinical health information that meets the standards established by the department under Section 26B-8-411.
- (4) A general acute hospital shall submit cardiac data in accordance with rules established under Subsection (3).
- (5) Data collected under this section shall be subject to Chapter 8, Part 4, Health Statistics.
- (6) No person may be held civilly liable for providing data to the department in accordance with this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-227 Chronic disease control -- Establishing a prevention program -- Detection, monitoring, and community education.**

- (1) As used in this section, "chronic disease" means an impairment or deviation from the normal functioning of the human body having one or more of the following characteristics:
  - (a) is permanent;
  - (b) leaves residual disability;
  - (c) is caused by nonreversible pathological alterations;
  - (d) requires special patient education and instruction for rehabilitation; or
  - (e) may require a long period of supervision, observation and care.
- (2) The department shall establish and operate reasonable programs to prevent, delay, and detect the onset of chronic diseases including cancer, diabetes, cardiovascular and pulmonary diseases, genetic diseases, and such other chronic diseases as the department determines are important in promoting, protecting, and maintaining the public's health.
- (3)
  - (a) The department shall develop and maintain a system for detecting and monitoring chronic diseases within the state and shall investigate and determine the epidemiology of those conditions which contributed to preventable and premature sickness, or both, and to death and disability.
  - (b) The department shall consider the disease known as "lupus" a chronic disease subject to the detection and monitoring provisions of Subsection (3)(a).
- (4) The department shall establish programs of community and professional education relevant to the detection, prevention, and control of chronic diseases.

Renumbered and Amended by Chapter 308, 2023 General Session

### **Part 3**

## **Treatment, Isolation, and Quarantine Procedures for Communicable Diseases**

#### **26B-7-301 Definitions.**

As used in this part:

- (1) "Bioterrorism" means:
  - (a) the intentional use of any microorganism, virus, infectious substance, or biological product to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence, intimidate, or coerce the conduct of government or a civilian population; and
  - (b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic fevers.
- (2) "Diagnostic information" means a clinical facility's record of individuals who present for treatment, including the reason for the visit, chief complaint, presenting diagnosis, final diagnosis, and any pertinent lab results.
- (3) "Epidemic or pandemic disease":
  - (a) means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy; and
  - (b) includes diseases designated by the department which have the potential to cause serious illness or death.
- (4) "Exigent circumstances" means a significant change in circumstances following the expiration of a public health emergency declared in accordance with this title that:
  - (a) substantially increases the threat to public safety or health relative to the circumstances in existence when the public health emergency expired;

- (b) poses an imminent threat to public safety or health; and
  - (c) was not known or foreseen and could not have been known or foreseen at the time the public health emergency expired.
- (5) "First responder" means:
- (a) a law enforcement officer as defined in Section 53-13-103;
  - (b) emergency medical service personnel as defined in Section 26B-4-101;
  - (c) firefighters; and
  - (d) public health personnel having jurisdiction over the location where an individual subject to restriction is found.
- (6) "Health care provider" means the same as that term is defined in Section 78B-3-403.
- (7) "Legislative emergency response committee" means the same as that term is defined in Section 53-2a-203.
- (8)
- (a) "Order of constraint" means an order, rule, or regulation issued in response to a declared public health emergency under this part, that:
    - (i) applies to all or substantially all:
      - (A) individuals or a certain group of individuals; or
      - (B) public places or certain types of public places; and
    - (ii) for the protection of the public health and in response to the declared public health emergency:
      - (A) establishes, maintains, or enforces isolation or quarantine;
      - (B) establishes, maintains, or enforces a stay-at-home order;
      - (C) exercises physical control over property or individuals;
      - (D) requires an individual to perform a certain action or engage in certain behavior; or
      - (E) closes theaters, schools, or other public places or prohibits gatherings of people to protect the public health.
  - (b) "Order of constraint" includes a stay-at-home order.
- (9) "Order of restriction" means an order issued by a department or a district court which requires an individual or group of individuals who are subject to restriction to submit to an examination, treatment, isolation, or quarantine.
- (10) "Public health emergency" means an occurrence or imminent credible threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such illness or health condition includes an illness or health condition resulting from a natural disaster.
- (11) "Public health official" means:
- (a) the executive director or the executive director's authorized representative; or
  - (b) the executive director of a local health department or the executive director's authorized representative.
- (12) "Reportable emergency illness and health condition" includes the diseases, conditions, or syndromes designated by the department.
- (13) "Stay-at-home order" means an order of constraint that:
- (a) restricts movement of the general population to suppress or mitigate an epidemic or pandemic disease by directing individuals within a defined geographic area to remain in their respective residences; and
  - (b) may include exceptions for certain essential tasks.
- (14) "Subject to restriction" as applied to an individual, or a group of individuals, means the individual or group of individuals is:

- (a) infected or suspected to be infected with a communicable disease that poses a threat to the public health and who does not take action as required by the department to prevent spread of the disease;
- (b) contaminated or suspected to be contaminated with an infectious agent that poses a threat to the public health, and that could be spread to others if remedial action is not taken;
- (c) in a condition or suspected condition which, if the individual is exposed to others, poses a threat to public health, or is in a condition which if treatment is not completed the individual will pose a threat to public health; or
- (d) contaminated or suspected to be contaminated with a chemical or biological agent that poses a threat to the public health and that could be spread to others if remedial action is not taken.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-302 Executive director -- Power to order abatement of public health hazard.**

If the executive director finds that a condition of filth, sanitation, or other health hazard exists which creates a clear present hazard to the public health and which requires immediate action to protect human health or safety, the executive director with the concurrence of the governor may order persons causing or contributing to the condition to reduce, discontinue, or ameliorate it to the extent that the public health hazard is eliminated.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-303 Applicability -- Administrative procedures.**

- (1) Sections 26B-7-304 through 26B-7-315 apply to involuntary examination, treatment, isolation, and quarantine actions applied to individuals or groups of individuals by the department or a local health department.
- (2) The provisions of Sections 26B-7-304 through 26B-7-315 supersede the provisions of Title 63G, Chapter 4, Administrative Procedures Act.
- (3) The department may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the provisions of Sections 26B-7-304 through 26B-7-315.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-304 Order of restriction.**

- (1) Subject to Subsection (5), the department or a local health department having jurisdiction over the location where an individual or a group of individuals who are subject to restriction are found may:
  - (a) issue a written order of restriction for the individual or group of individuals pursuant to Section 26B-1-202 or Subsection 26A-1-114(1)(b) upon compliance with the requirements of Sections 26B-7-304 through 26B-7-314; and
  - (b) issue a verbal order of restriction for an individual or group of individuals pursuant to Subsection (2)(c).
- (2)
  - (a) A department or local health department's determination to issue an order of restriction shall be based upon the totality of circumstances reported to and known by the department or local health department, including:
    - (i) observation;

- (ii) information that the department or local health department determines is credible and reliable information; and
  - (iii) knowledge of current public health risks based on medically accepted guidelines as may be established by the department by administrative rule.
- (b) An order of restriction issued by the department or a local health department shall:
- (i) in the opinion of the public health official, be for the shortest reasonable period of time necessary to protect the public health;
  - (ii) use the least intrusive method of restriction that, in the opinion of the department or local health department, is reasonable based on the totality of circumstances known to the department or local health department issuing the order of restriction;
  - (iii) be in writing unless the provisions of Subsection (2)(c) apply; and
  - (iv) contain notice of an individual's rights as required in Section 26B-7-307.
- (c)
- (i) The department or a local health department may issue a verbal order of restriction, without prior notice to the individual or group of individuals if the delay in imposing a written order of restriction would significantly jeopardize the department or local health department's ability to prevent or limit:
    - (A) the transmission of a communicable or possibly communicable disease that poses a threat to public health;
    - (B) the transmission of an infectious agent or possibly infectious agent that poses a threat to public health;
    - (C) the exposure or possible exposure of a chemical or biological agent that poses a threat to public health; or
    - (D) the exposure or transmission of a condition that poses a threat to public health.
  - (ii) A verbal order of restriction issued under Subsection (2)(c)(i):
    - (A) is valid for 24 hours from the time the order of restriction is issued;
    - (B) may be verbally communicated to the individuals or group of individuals subject to restriction by a first responder;
    - (C) may be enforced by the first responder until the department or local health department is able to establish and maintain the place of restriction; and
    - (D) may only be continued beyond the initial 24 hours if a written order of restriction is issued pursuant to the provisions of Section 26B-7-307.
- (3) Pending issuance of a written order of restriction under Section 26B-7-307, or judicial review of an order of restriction under Section 26B-7-311, an individual who is subject to the order of restriction may be required to submit to involuntary examination, quarantine, isolation, or treatment in the individual's home, a hospital, or any other suitable facility under reasonable conditions prescribed by the department or local health department.
- (4) The department or local health department that issued the order of restriction shall take reasonable measures, including the provision of medical care, as may be necessary to assure proper care related to the reason for the involuntary examination, treatment, isolation, or quarantine of an individual ordered to submit to an order of restriction.
- (5)
- (a) The Legislature may at any time terminate by joint resolution an order of restriction issued by the department or local health department as described in this section in response to a declared public health emergency.
  - (b) A county governing body may at any time terminate by majority vote an order of restriction issued by the relevant local health department under this section issued in response to a declared public health emergency.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-305 Consent to order of restriction -- Periodic review.**

- (1)
  - (a) The department or a local health department shall either seek judicial review of an order of restriction under Sections 26B-7-309 through 26B-7-311, or obtain the consent of an individual subject to an order of restriction.
  - (b) If the department or a local health department obtains consent, the consent shall be in writing and shall inform the individual or group of individuals:
    - (i) of the terms and duration of the order of restriction;
    - (ii) of the importance of complying with the order of restriction to protect the public's health;
    - (iii) that each individual has the right to agree to the order of restriction, or refuse to agree to the order of restriction and seek a judicial review of the order of restriction;
    - (iv) that for any individual who consents to the order of restriction:
      - (A) the order of restriction will not be reviewed by the court unless the individual withdraws consent to the order of restriction in accordance with Subsection (1)(b)(iv)(B); and
      - (B) the individual shall notify the department or local health department in writing, with at least five business day's notice, if the individual intends to withdraw consent to the order of restriction; and
    - (v) that a breach of a consent agreement prior to the end of the order of restriction may subject the individual to an involuntary order of restriction under Section 26B-7-306.
- (2)
  - (a) The department or local health department responsible for the care of an individual who has consented to the order of restriction shall periodically reexamine the reasons upon which the order of restriction was based. This reexamination shall occur at least once every six months.
  - (b)
    - (i) If at any time, the department or local health department determines that the conditions justifying the order of restriction for either a group or an individual no longer exist, the department or local health department shall immediately discharge the individual or group from the order of restriction.
    - (ii) If the department or local health department determines that the conditions justifying the order of restriction continue to exist, the department or local health department shall send to the individual a written notice of:
      - (A) the department or local health department's findings, the expected duration of the order of restriction, and the reason for the decision; and
      - (B) the individual's right to a judicial review of the order of restriction by the court if requested by the individual.
    - (iii) Upon request for judicial review by an individual, the department or local health department shall:
      - (A) file a petition with the court within five business days after the individual's request for a judicial review; and
      - (B) proceed under Sections 26B-7-309 through 26B-7-311.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-306 Involuntary order of restriction -- Notice -- Effect of order during judicial review.**

- (1) If the department or local health department cannot obtain consent to the order of restriction from an individual, or if an individual withdraws consent to an order under Subsection 26B-7-305(1)(b)(iv)(B), the department or local health department shall:
  - (a) give the individual or group of individuals subject to the order of restriction a written notice of:
    - (i) the order of restriction and any supporting documentation; and
    - (ii) the individual's right to a judicial review of the order of restriction; and
  - (b) file a petition for a judicial review of the order of restriction under Section 26B-7-309 in court within:
    - (i) five business days after issuing the written notice of the order of restriction; or
    - (ii) if consent has been withdrawn under Subsection 26B-7-305(1)(b)(iv)(B), within five business days after receiving notice of the individual's withdrawal of consent.
- (2)
  - (a) An order of restriction remains in effect during any judicial proceedings to review the order of restriction if the department or local health department files a petition for judicial review of the order of restriction within the period of time required by this section.
  - (b) Law enforcement officers with jurisdiction in the area where the individual who is subject to the order of restriction can be located shall assist the department or local health department with enforcing the order of restriction.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-307 Contents of notice of order of restriction -- Rights of individuals.**

- (1) A written order of restriction issued by a department or local health department shall include the following information:
  - (a) the identity of the individual or a description of the group of individuals subject to the order of restriction;
  - (b) the identity or location of any premises that may be subject to restriction;
  - (c) the date and time for which the restriction begins and the expected duration of the restriction;
  - (d) the suspected communicable disease, infectious, chemical or biological agent, or other condition that poses a threat to public health;
  - (e) the requirements for termination of the order of restriction, such as necessary laboratory reports, the expiration of an incubation period, or the completion of treatment for the communicable disease;
  - (f) any conditions on the restriction, such as limitation of visitors or requirements for medical monitoring;
  - (g) the medical or scientific information upon which the restriction is based;
  - (h) a statement advising of the right to a judicial review of the order of restriction by the court; and
  - (i) pursuant to Subsection (2), the rights of each individual subject to restriction.
- (2) An individual subject to restriction has the following rights:
  - (a) the right to be represented by legal counsel in any judicial review of the order of restriction in accordance with Subsection 26B-7-309(3);
  - (b) the right to be provided with prior notice of the date, time, and location of any hearing concerning the order of restriction;
  - (c) the right to participate in any hearing, in a manner established by the court based on precautions necessary to prevent additional exposure to communicable or possibly communicable diseases or to protect the public health;
  - (d) the right to respond and present evidence and arguments on the individual's own behalf in any hearing;

- (e) the right to cross examine witnesses; and
  - (f) the right to review and copy all records in the possession of the department that issued the order of restriction which relate to the subject of the written order of restriction.
- (3)
- (a) Notwithstanding the provisions of Subsection (1), if the department or a local health department issues an order of restriction for a group of individuals, the department or local health department may modify the method of providing notice to the group or modify the information contained in the notice, if the public health official determines the modification of the notice is necessary to:
    - (i) protect the privacy of medical information of individuals in the group; or
    - (ii) provide notice to the group in a manner that will efficiently and effectively notify the individuals in the group within the period of time necessary to protect the public health.
  - (b) When the department or a local health department modifies notice to a group of individuals under Subsection (3)(a), the department or local health department shall provide each individual in the group with notice that complies with the provisions of Subsection (1) as soon as reasonably practical.
- (4)
- (a) In addition to the rights of an individual described in Subsections (1) and (2), an individual subject to an order of restriction may not be terminated from employment if the reason for termination is based solely on the fact that the individual is or was subject to an order of restriction.
  - (b) The department or local health department issuing the order of restriction shall give the individual subject to the order of restriction notice of the individual's employment rights under Subsection (4)(a).
  - (c) An employer in the state, including an employer who is the state or a political subdivision of the state, may not violate the provisions of Subsection (4)(a).

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-308 Medical records -- Privacy protections.**

- (1)
- (a) Health care providers as defined in Section 78B-3-403, health care facilities licensed under Chapter 2, Part 2, Health Care Facility Licensing and Inspection, and governmental entities, shall, when requested, provide the public health official and the individual subject to an order of restriction, a copy of medical records that are relevant to the order of restriction.
  - (b) The records requested under Subsection (1)(a) shall be provided as soon as reasonably possible after the request is submitted to the health care provider or health care facility, or as soon as reasonably possible after the health care provider or facility receives the results of any relevant diagnostic testing of the individual.
- (2)
- (a) The production of records under the provisions of this section is for the benefit of the public health and safety of the citizens of the state. A health care provider or facility is encouraged to provide copies of medical records or other records necessary to carry out the purpose of Sections 26B-7-304 through 26B-7-314 free of charge.
  - (b) Notwithstanding the provisions of Subsection (2)(c), a health care facility that is a state governmental entity shall provide medical records or other records necessary to carry out the purposes of Sections 26B-7-304 through 26B-7-314, free of charge.



- (c) If a health care provider or health care facility does not provide medical records free of charge under the provisions of Subsection (2)(a) or (b), the health care provider or facility may charge a fee for the records that does not exceed the presumed reasonable charges established for workers' compensation by administrative rule adopted by the Labor Commission.
- (3) Medical records held by a court related to orders of restriction under Sections 26B-7-304 through 26B-7-314 shall be sealed by the court at the conclusion of the case.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-309 Judicial review -- Required notice -- Representation by counsel -- Conduct of proceedings.**

- (1) The provisions of this section and Sections 26B-7-310 through 26B-7-312 apply if the department or a local health department issues an order for restriction, and:
  - (a) an individual subject to the order of restriction refuses to consent to the order of restriction;
  - (b) an individual subject to an order of restriction has withdrawn consent to an order of restriction under the provisions of Subsection 26B-7-305(1)(b)(iv)(B); or
  - (c) the department or local health department chooses to not attempt to obtain consent to an order of restriction and files an action for judicial review of the order of restriction.
- (2)
  - (a) If the individual who is subject to an order of restriction is in custody, the department or local health department, which is the petitioner, shall provide to the individual written notice of the petition for judicial review of the order of restriction and hearings held pursuant to Sections 26B-7-310 through 26B-7-312 as soon as practicable, and shall send the notice to the legal guardian, legal counsel for the parties involved, and any other persons and immediate adult family members whom the individual or the court designates.
  - (b) The notice described in Subsection (2)(a) shall advise these persons that a hearing may be held within the time provided by this part.
  - (c) If the individual has refused to permit release of information necessary for the provision of notice under this Subsection (2), the extent of notice shall be determined by the court.
  - (d) Notwithstanding the notice requirement in Subsection (2)(a), if the court determines that written notice to each individual in a group of individuals subject to an order of restriction is not practical considering the circumstances of the threat to public health, the court may order the department to provide notice to the individual or group of individuals in a manner determined by the court.
- (3)
  - (a) If the individual who is subject to an order of restriction is in custody, he shall be afforded an opportunity to be represented by counsel. If neither the individual nor others provide for counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the individual prior to the hearing. If the individual is indigent, the payment of reasonable attorney fees for counsel, as determined by the court, shall be made by the county in which the individual resides or was found.
  - (b) The parties may appear at the hearings, to testify, and to present and cross-examine witnesses. The court may, in its discretion, receive the testimony of any other individual.
  - (c) The court may allow a waiver of the individual's right to appear only for good cause shown, and that cause shall be made a part of the court record.
  - (d) The court may order that the individual participate in the hearing by telephonic or other electronic means if the individual's condition poses a health threat to those who physically attend the hearing or to others if the individual is transported to the court.

- (4) The court may, in its discretion, order that the individual be moved to a more appropriate treatment, quarantine, or isolation facility outside of its jurisdiction, and may transfer the proceedings to any other court within this state where venue is proper, provided that the transfer will not be adverse to the legal interests of the individual.
- (5) All persons to whom notice is required to be given may attend the hearings. The court may exclude from the hearing all persons not necessary for the conduct of the proceedings.
- (6) All hearings 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 health of the individual or others required to participate in the hearing.
- (7) The court shall receive all relevant and material evidence which is offered, subject to Utah Rules of Evidence.
- (8) The court may order law enforcement to assist the petitioner in locating the individuals subject to restriction and enforcing the order of restriction.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-310 Petition for judicial review of order of restriction -- Court-ordered examination period.**

- (1)
  - (a) A department may petition for a judicial review of the department's order of restriction for an individual or group of individuals who are subject to restriction by filing a written petition with the court of the county in which the individual or group of individuals reside or are located.
  - (b)
    - (i) The county attorney for the county where the individual or group of individuals reside or are located shall represent the local health department in any proceedings under Sections 26B-7-304 through 26B-7-314.
    - (ii) The Office of the Attorney General shall represent the department when the petitioner is the department in any proceedings under Sections 26B-7-304 through 26B-7-314.
- (2) The petition under Subsection (1) shall be accompanied by:
  - (a) written affidavit of the department stating:
    - (i) a belief the individual or group of individuals are subject to restriction;
    - (ii) a belief that the individual or group of individuals who are subject to restriction are likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately restrained;
    - (iii) this failure would pose a threat to the public health; and
    - (iv) the personal knowledge of the individual's or group of individuals' condition or the circumstances that lead to that belief; and
  - (b) a written statement by a licensed physician or physician assistant indicating the physician or physician assistant finds the individual or group of individuals are subject to restriction.
- (3) The court shall issue an order of restriction requiring the individual or group of individuals to submit to involuntary restriction to protect the public health if the court finds:
  - (a) there is a reasonable basis to believe that the individual's or group of individuals' condition requires involuntary examination, quarantine, treatment, or isolation pending examination and hearing; or
  - (b) the individual or group of individuals have refused to submit to examination by a health professional as directed by the department or to voluntarily submit to examination, treatment, quarantine, or isolation.

- (4) If the individual or group of individuals who are subject to restriction are not in custody, the court may make its determination and issue its order of restriction in an ex parte hearing.
- (5) At least 24 hours prior to the hearing required by Section 26B-7-311, the department which is the petitioner, shall report to the court, in writing, the opinion of qualified health care providers:
  - (a) regarding whether the individual or group of individuals are infected by or contaminated with:
    - (i) a communicable or possible communicable disease that poses a threat to public health;
    - (ii) an infectious agent or possibly infectious agent that poses a threat to public health;
    - (iii) a chemical or biological agent that poses a threat to public health; or
    - (iv) a condition that poses a threat to public health;
  - (b) that despite the exercise of reasonable diligence, the diagnostic studies have not been completed;
  - (c) whether the individual or group of individuals have agreed to voluntarily comply with necessary examination, treatment, quarantine, or isolation; and
  - (d) whether the petitioner believes the individual or group of individuals will comply without court proceedings.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-311 Court determination for an order of restriction after examination period.**

- (1) The court shall set a hearing regarding the involuntary order of restriction of an individual or group of individuals, to be held within 10 business days of the issuance of its order of restriction issued pursuant to Section 26B-7-310, unless the petitioner informs the court prior to this hearing that the individual or group of individuals:
  - (a) are not subject to restriction; or
  - (b) have stipulated to the issuance of an order of restriction.
- (2) If the individual or an individual in a group of individuals has stipulated to the issuance of an order of restriction, the court may issue an order as provided in Subsection (6) for those individuals without further hearing.
- (3)
  - (a) If the examination report required in Section 26B-7-310 proves the individual or group of individuals are not subject to restriction, the court may without further hearing terminate the proceedings and dismiss the petition.
  - (b) The court may, after a hearing at which the individual or group of individuals are present in person or by telephonic or other electronic means and have had the opportunity to be represented by counsel, extend its order of restriction for a reasonable period, not to exceed 90 days, if the court has reason to believe the individual or group of individuals are infected by or contaminated with:
    - (i) a communicable or possibly communicable disease that poses a threat to public health;
    - (ii) an infectious agent or possibly infectious agent that poses a threat to public health;
    - (iii) a chemical or biological agent that poses a threat to public health; or
    - (iv) a condition that poses a threat to public health, but, despite the exercise of reasonable diligence the diagnostic studies have not been completed.
- (4) The petitioner shall, at the time of the hearing, provide the court with the following items, to the extent that they have been issued or are otherwise available:
  - (a) the order of restriction issued by the petitioner;
  - (b) admission notes if any individual was hospitalized; and
  - (c) medical records pertaining to the current order of restriction.

- (5) The information provided to the court under Subsection (4) shall also be provided to the individual's or group of individual's counsel at the time of the hearing, and at any time prior to the hearing upon request of counsel.
- (6)
- (a) The court shall order the individual and each individual in a group of individuals to submit to the order of restriction if, upon completion of the hearing and consideration of the record, it finds by clear and convincing evidence that:
- (i) the individual or group of individuals are infected with a communicable disease or infectious agent, are contaminated with a chemical or biological agent, or are in a condition that poses a threat to public health;
- (ii) there is no appropriate and less restrictive alternative to a court order of examination, quarantine, isolation, and treatment, or any of them;
- (iii) the petitioner can provide the individual or group of individuals with treatment that is adequate and appropriate to the individual's or group of individuals' conditions and needs; and
- (iv) it is in the public interest to order the individual or group of individuals to submit to involuntary examination, quarantine, isolation, and treatment, or any of them after weighing the following factors:
- (A) the personal or religious beliefs, if any, of the individual that are opposed to medical examination or treatment;
- (B) the ability of the department to control the public health threat with treatment alternatives that are requested by the individual;
- (C) the economic impact for the department if the individual is permitted to use an alternative to the treatment recommended by the department; and
- (D) other relevant factors as determined by the court.
- (b) If upon completion of the hearing the court does not find all of the conditions listed in Subsection (6)(a) exist, the court shall immediately dismiss the petition.
- (7) The order of restriction shall designate the period, subject to Subsection (8), for which the individual or group of individuals shall be examined, treated, isolated, or quarantined.
- (8)
- (a) The order of restriction may not exceed six months without benefit of a court review hearing.
- (b)
- (i) The court review hearing shall be held prior to the expiration of the order of restriction issued under Subsection (7).
- (ii) At the review hearing the court may issue an order of restriction for up to an indeterminate period, if the court enters a written finding in the record determining by clear and convincing evidence that the required conditions in Subsection (6) will continue for an indeterminate period.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-312 Periodic review of individuals under court order.**

- (1)
- (a) At least two weeks prior to the expiration of the designated period of any court order still in effect, the petitioner shall inform the court that issued the order that the order is about to expire.
- (b) The petitioner shall immediately reexamine the reasons upon which the court's order was based.

- (c) If the petitioner determines that the conditions justifying that order no longer exist, the petitioner shall discharge the individual from involuntary quarantine, isolation, or treatment and report its action to the court for a termination of the order.
  - (d) If the conditions justifying the order still exist, the court shall schedule a hearing prior to the expiration of the court's order and proceed under Sections 26B-7-309 through 26B-7-311.
- (2)
- (a) The petitioner responsible for the care of an individual under a court order of involuntary quarantine, isolation, or treatment for an indeterminate period shall at six-month intervals reexamine the reasons upon which the order of indeterminate duration was based.
  - (b) If the petitioner determines that the conditions justifying that the court's order no longer exist, the petitioner shall discharge the individual from involuntary quarantine, isolation, or treatment and immediately report its action to the court for a termination of the order.
  - (c) If the petitioner determines that the conditions justifying the involuntary quarantine, isolation, or treatment continue to exist, the petitioner shall send a written report of those findings to the court.
  - (d) The petitioner shall notify the individual and his counsel of record in writing that the involuntary quarantine, isolation, or treatment will be continued, the reasons for that decision, and that the individual has the right to a review hearing by making a request to the court.
  - (e) Upon receiving the request for a review, the court shall immediately set a hearing date and proceed under Sections 26B-7-309 through 26B-7-311.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-313 Transportation of individuals subject to temporary or court-ordered restriction.**

Transportation of an individual subject to an order of restriction to court, or to a place for examination, quarantine, isolation, or treatment pursuant a temporary order issued by a department or local health department, or pursuant to a court order, shall be conducted by the county sheriff where the individual is located.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-314 Examination, quarantine, isolation, and treatment costs.**

If a local health department obtains approval from the department, the costs that the local health department would otherwise have to bear for examination, quarantine, isolation, and treatment ordered under the provisions of Sections 26B-7-304 through 26B-7-314 shall be paid by the department to the extent that the individual is unable to pay and that other sources and insurance do not pay.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-315 Severability.**

With respect to Sections 26B-7-304 through 26B-7-314, if a provision or the application of a provision to any person or circumstance is found to be unconstitutional, the provision that is found to be unconstitutional is severable and the balance of any sections not found to be unconstitutional remain effective, notwithstanding those sections found to be unconstitutional.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-316 Mandatory reporting requirements -- Contents of reports -- Penalties.**

- (1)
  - (a) A health care provider shall report to the department any case of any person who the provider knows has a confirmed case of, or who the provider believes in his professional judgment is sufficiently likely to harbor any illness or health condition that may be caused by:
    - (i) bioterrorism;
    - (ii) epidemic or pandemic disease; or
    - (iii) novel and highly fatal infectious agents or biological toxins which might pose a substantial risk of a significant number of human fatalities or incidences of permanent or long-term disability.
  - (b) A health care provider shall immediately submit the report required by Subsection (1)(a) within 24 hours of concluding that a report is required under Subsection (1)(a).
- (2)
  - (a) A report required by this section shall be submitted electronically, verbally, or in writing to the department or appropriate local health department.
  - (b) A report submitted pursuant to Subsection (1) shall include, if known:
    - (i) diagnostic information on the specific illness or health condition that is the subject of the report, and, if transmitted electronically, diagnostic codes assigned to the visit;
    - (ii) the patient's name, date of birth, sex, race, occupation, and current home and work address and phone number;
    - (iii) the name, address, and phone number of the health care provider; and
    - (iv) the name, address, and phone number of the reporting individual.
- (3) The department may impose a sanction against a health care provider for failure to make a report required by this section only if the department can show by clear and convincing evidence that a health care provider willfully failed to file a report.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-317 Authorization to report -- Declaration of a public health emergency -- Termination of a public health emergency -- Order of constraint.**

- (1) A health care provider is authorized to report to the department any case of a reportable emergency illness or health condition in any person when:
  - (a) the health care provider knows of a confirmed case; or
  - (b) the health care provider believes, based on the health care provider's professional judgment that a person likely harbors a reportable emergency illness or health condition.
- (2) A report pursuant to this section shall include, if known:
  - (a) the name of the facility submitting the report;
  - (b) a patient identifier that allows linkage with the patient's record for follow-up investigation if needed;
  - (c) the date and time of visit;
  - (d) the patient's age and sex;
  - (e) the zip code of the patient's residence;
  - (f) the reportable illness or condition detected or suspected;
  - (g) diagnostic information and, if available, diagnostic codes assigned to the visit; and
  - (h) whether the patient was admitted to the hospital.
- (3)
  - (a) Subject to Subsections (3)(b) and (4), if the department determines that a public health emergency exists, the department may, with the concurrence of the governor and the

executive director or in the absence of the executive director, the executive director's designee, declare a public health emergency, issue an order of constraint, and mandate reporting under this section for a limited reasonable period of time, as necessary to respond to the public health emergency.

- (b)
  - (i) During a public health emergency that has been in effect for more than 30 days, the department may not issue an order of constraint until the department has provided notice of the proposed action to the legislative emergency response committee no later than 24 hours before the department issues the order of constraint.
  - (ii) The department:
    - (A) shall provide the notice required by Subsection (3)(b)(i) using the best available method under the circumstances as determined by the executive director;
    - (B) may provide the notice required by Subsection (3)(b)(i) in electronic format; and
    - (C) shall provide the notice in written form, if practicable.
- (c) The department may not mandate reporting under this subsection for more than 90 days.

- (4)
  - (a) Except as provided in Subsection (4)(b), a public health emergency declared by the department as described in Subsection (3) expires at the earliest of:
    - (i) the day on which the department or the governor finds that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;
    - (ii) 30 days after the date on which the department declared the public health emergency; or
    - (iii) the day on which the public health emergency is terminated by a joint resolution of the Legislature.
  - (b)
    - (i) The Legislature, by joint resolution, may extend a public health emergency for a time period designated in the joint resolution.
    - (ii) If the Legislature extends a public health emergency as described in Subsection (4)(b)(i), the public health emergency expires on the date designated by the Legislature.
  - (c) Except as provided in Subsection (4)(d), if a public health emergency declared by the department expires as described in Subsection (4)(a) or (b), the department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.
  - (d)
    - (i) Notwithstanding Subsection (4)(c), subject to Subsection (4)(e), if the department finds that exigent circumstances exist, after providing notice to the Legislature, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.
    - (ii) A public health emergency declared as described in Subsection (4)(d)(i) expires in accordance with Subsection (4)(a) or (b).
  - (e) If the Legislature terminates a public health emergency declared due to exigent circumstances as described in Subsection (4)(d)(i), the department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.
- (5) During a declared public health emergency declared under this title:
  - (a) the Legislature may:
    - (i) at any time by joint resolution terminate an order of constraint issued by the department; or
    - (ii) by joint resolution terminate an order of constraint issued by a local health department in response to a public health emergency that has been in effect for more than 30 days; and

- (b) a county legislative body may at any time terminate an order of constraint issued by a local health department in response to a declared public health emergency.
- (6)
  - (a)
    - (i) If the department declares a public health emergency as described in this part, and the department finds that the public health emergency conditions warrant an extension of the public health emergency beyond the 30-day term or another date designated by the Legislature as described in this section, the department shall provide written notice to the speaker of the House of Representatives and the president of the Senate at least 10 days before the expiration of the public health emergency.
    - (ii) If a local health department declares a public health emergency as described in this part, and the local health department finds that the public health emergency conditions warrant an extension of the public health emergency beyond the 30-day term or another date designated by the county governing body as described in this section, the local health department shall provide written notice to the county governing body at least 10 days before the expiration of the public health emergency.
  - (b) If the department provides notice as described in Subsection (6)(a)(i) for a public health emergency within the first 30 days from the initial declaration of the public health emergency, the speaker of the House of Representatives and the president of the Senate:
    - (i) shall poll the members of their respective bodies to determine whether the Legislature will extend the public health emergency; and
    - (ii) may jointly convene the committee created in Section 53-2a-218.
  - (c) If the department provides notice as described in Subsection (6)(a)(i) for a public health emergency that has been extended beyond the 30 days from the initial declaration of the public health emergency, the speaker of the House of Representatives and the president of the Senate shall jointly convene the committee created in Section 53-2a-218.
- (7) If the committee created in Section 53-2a-218 is convened as described in Subsection (6), the committee shall conduct a public meeting to:
  - (a) discuss the nature of the public health emergency and conditions of the public health emergency;
  - (b) evaluate options for public health emergency response;
  - (c) receive testimony from individuals with expertise relevant to the current public health emergency;
  - (d) receive testimony from members of the public; and
  - (e) provide a recommendation to the Legislature whether to extend the public health emergency by joint resolution.
- (8)
  - (a) During a public health emergency declared as described in this title:
    - (i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and
    - (ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:
      - (A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or
      - (B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.



- (b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (8).
  - (c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:
    - (i) is in furtherance of a compelling government interest; and
    - (ii) is the least restrictive means of furthering that compelling government interest.
  - (d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.
- (9)
- (a) Unless the provisions of Subsection (3) apply, a health care provider is not subject to penalties for failing to submit a report under this section.
  - (b) If the provisions of Subsection (3) apply, a health care provider is subject to the penalties of Subsection 26B-7-316(3) for failure to make a report under this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-318 Pharmacy reporting requirements.**

- (1) Notwithstanding the provisions of Subsection 26B-7-316(1)(a), a pharmacist shall report unusual drug-related events as described in Subsection (2).
- (2) Unusual drug-related events that require a report include:
  - (a) an unusual increase in the number of prescriptions filled for antimicrobials;
  - (b) any prescription that treats a disease that has bioterrorism potential if that prescription is unusual or in excess of the expected frequency; and
  - (c) an unusual increase in the number of requests for information about or sales of over-the-counter pharmaceuticals to treat conditions which may suggest the presence of one of the illnesses or conditions described in Section 26B-7-316 or 26B-7-317 and which are designated by department rule.
- (3)
  - (a) A pharmacist shall submit the report required by this section within 24 hours after the pharmacist suspects, in his professional judgement, that an unusual drug-related event has occurred.
  - (b) If a pharmacy is part of a health care facility subject to the reporting requirements of Sections 26B-7-316 through 26B-7-324, the pharmacist in charge shall make the report under this section on behalf of the health care facility.
- (4)
  - (a) The report required by this section shall be submitted in accordance with Subsection 26B-7-316(2)(a).
  - (b) A report shall include the name and location of the reporting pharmacist, the name and type of pharmaceuticals that are the subject of the unusual increase in use, and if known, the suspected illness or health condition that is the subject of the report.
- (5) A pharmacist is subject to the penalties under Subsection 26B-7-316(3) for failing to make a report required by this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-319 Medical laboratory reporting requirements.**

- (1) Notwithstanding the provisions of Subsection 26B-7-316(1), the director of a medical laboratory located in this state is responsible for reporting results of a laboratory test that confirm a condition or illness described in Subsection 26B-7-316(1) within 24 hours after obtaining the results of the test. This reporting requirement also applies to results obtained on specimens sent to an out-of-state laboratory for analysis.
- (2) The director of a medical laboratory located outside this state that receives a specimen obtained inside this state is responsible for reporting the results of any test that confirm a condition or illness described in Subsection 26B-7-316(1), within 24 hours of obtaining the results, provided that the laboratory that performs the test has agreed to the reporting requirements of this state.
- (3) If a medical laboratory is part of a health care facility subject to the reporting requirements of Sections 26B-7-316 through 26B-7-324, the director of the medical laboratory shall make the report required by this section on behalf of the health care facility.
- (4) The report required by this section shall be submitted in accordance with Subsection 26B-7-316(2).
- (5) The director of a medical laboratory is subject to the penalties of Subsection 26B-7-316(3) for failing to make a report required by this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-320 Exemptions from liability.**

- (1) A health care provider may not be discharged, suspended, disciplined, or harassed for making a report under Sections 26B-7-316 through 26B-7-323.
- (2) A health care provider may not incur any civil or criminal liability as a result of making any report under Sections 26B-7-316 through 26B-7-323 so long as the report is made in good faith.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-321 Investigation of suspected bioterrorism and diseases -- Termination of orders of constraint.**

- (1) Subject to Subsection (6), the department shall:
  - (a) ascertain the existence of cases of an illness or condition caused by the factors described in Subsections 26B-7-316(1) and 26B-7-317(1);
  - (b) investigate all such cases for sources of infection or exposure;
  - (c) ensure that any cases, suspected cases, and exposed persons are subject to proper control measures; and
  - (d) define the distribution of the suspected illness or health condition.
- (2)
  - (a) Acting on information received from the reports required by Sections 26B-7-316 through 26B-7-320, or other reliable information, the department shall identify all individuals thought to have been exposed to an illness or condition described in Subsection 26B-7-316(1).
  - (b) The department may request information from a health care provider concerning an individual's identifying information as described in Subsection 26B-7-316(2)(b) when:
    - (i) the department is investigating a potential illness or condition described in Subsection 26B-7-316(1) and the health care provider has not submitted a report to the department with the information requested; or

- (ii) the department has received a report from a pharmacist under Section 26B-7-318, a medical laboratory under Section 26B-7-319, or another health care provider under Subsection 26B-7-317(1) and the department believes that further investigation is necessary to protect the public health.
- (c) A health care provider shall submit the information requested under this section to the department within 24 hours after receiving a request from the department.
- (3) The department shall counsel and interview identified individuals as appropriate to:
  - (a) assist in the positive identification of other cases and exposed individuals;
  - (b) develop information relating to the source and spread of the illness or condition; and
  - (c) obtain the names, addresses, phone numbers, or other identifying information of any other person from whom the illness or health condition may have been contracted and to whom the illness or condition may have spread.
- (4) The department shall, for examination purposes, close, evacuate, or decontaminate any facility when the department reasonably believes that such facility or material may endanger the public health due to a condition or illness described in Subsection 26B-7-316(1).
- (5) The department shall destroy personally identifying health information about an individual collected by the department as a result of a report under Sections 26B-7-316 through 26B-7-322 upon the earlier of:
  - (a) the department's determination that the information is no longer necessary to carry out an investigation under Sections 26B-7-316 through 26B-7-324; or
  - (b) 180 days after the information is collected.
- (6)
  - (a) The Legislature may at any time terminate by joint resolution an order of constraint issued by the department in response to a declared public health emergency.
  - (b) A county governing body may at any time terminate by majority vote an order of constraint issued by the relevant local health department in response to a declared public health emergency.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-322 Enforcement.**

The department may enforce the provisions of Sections 26B-7-316 through 26B-7-324 in accordance with existing enforcement laws and regulations.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-323 Information sharing with public safety authorities.**

- (1) As used in this section, "public safety authority" means a local, state, or federal law enforcement authority including the Division of Emergency Management, emergency medical services personnel, and firefighters.
- (2) Notwithstanding the provisions of Title 63G, Chapter 2, Government Records Access and Management Act:
  - (a) whenever a public safety authority suspects a case of a reportable illness or condition under the provisions of Sections 26B-7-316 through 26B-7-324, it shall immediately notify the department;
  - (b) whenever the department learns of a case of a reportable illness or condition under this part that the department reasonably believes has the potential to be caused by one of the factors

listed in Subsection 26B-7-316(1), the department shall immediately notify the appropriate public safety authority; and

- (c) sharing of information reportable under Sections 26B-7-316 through 26B-7-324 between persons authorized by Sections 26B-7-316 through 26B-7-324 shall be limited to information necessary for the treatment, control, investigation, and prevention of a public health emergency.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-324 Applicability of confidentiality provisions.**

The provisions of Sections 26B-7-217 and 26B-7-218 apply to information collected under Sections 26B-7-316 through 26B-7-323 except to the extent that application of a provision in Section 26B-7-217 or 26B-7-218 is inconsistent with Sections 26B-7-316 through 26B-7-323.

Enacted by Chapter 308, 2023 General Session

**Part 4**  
**General Sanitation and Food Safety**

**26B-7-401 Definitions.**

As used in this part:

- (1) "Agricultural tourism activity" means the same as that term is defined in Section 78B-4-512.
- (2) "Agritourism" means the same as that term is defined in Section 78B-4-512.
- (3) "Agritourism food establishment" means a non-commercial kitchen facility where food is handled, stored, or prepared to be offered for sale on a farm in connection with an agricultural tourism activity.
- (4) "Agritourism food establishment permit" means a permit issued by a local health department to the operator for the purpose of operating an agritourism food establishment.
- (5) "Back country food service establishment" means a federal or state licensed back country guiding or outfitting business that:
  - (a) provides food services; and
  - (b) meets department recognized federal or state food service safety regulations for food handlers.
- (6) "Certified food safety manager" means a manager of a food service establishment who:
  - (a) passes successfully a department-approved examination;
  - (b) successfully completes, every three years, renewal requirements established by department rule consistent with original certification requirements; and
  - (c) submits to the appropriate local health department the documentation required by Section 26B-7-412.
- (7) "Farm" means a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation.
- (8) "Food" means:
  - (a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption; or
  - (b) chewing gum.

- (9) "Food service establishment" means any place or area within a business or organization where potentially hazardous foods, as defined by the department under Section 26B-7-410, are prepared and intended for individual portion service and consumption by the general public, whether the consumption is on or off the premises, and whether or not a fee is charged for the food.
- (10)
- (a) "Microenterprise home kitchen" means a non-commercial kitchen facility located in a private home and operated by a resident of the home where ready-to-eat food is handled, stored, prepared, or offered for sale.
- (b) "Microenterprise home kitchen" does not include:
- (i) a catering operation;
  - (ii) a cottage food operation;
  - (iii) a food truck;
  - (iv) an agritourism food establishment;
  - (v) a bed and breakfast; or
  - (vi) a residence-based group care facility.
- (11) "Microenterprise home kitchen permit" means a permit issued by a local health department to the operator for the purpose of operating a microenterprise home kitchen.
- (12) "Ready-to-eat" means:
- (a) raw animal food that is cooked;
  - (b) raw fruits and vegetables that are washed;
  - (c) fruits and vegetables that are cooked for hot holding;
  - (d) a time or temperature control food that is cooked to the temperature and time required for the specific food in accordance with rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
  - (e) a bakery item for which further cooking is not required for food safety.
- (13) "Time or temperature control food" means food that requires time or temperature controls for safety to limit pathogenic microorganism growth or toxin formation.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-402 Minimum rules of sanitation established by department.**

The department shall establish and enforce, or provide for the enforcement of minimum rules of sanitation necessary to protect the public health. Such rules shall include, but not be limited to, rules necessary for the design, construction, operation, maintenance, or expansion of:

- (1) restaurants and all places where food or drink is handled, sold or served to the public;
- (2) public swimming pools;
- (3) public baths including saunas, spas, massage parlors, and suntan parlors;
- (4) public bathing beaches;
- (5) schools which are publicly or privately owned or operated;
- (6) recreational resorts, camps, and vehicle parks;
- (7) amusement parks and all other centers and places used for public gatherings;
- (8) mobile home parks and highway rest stops;
- (9) construction or labor camps;
- (10) jails, prisons and other places of incarceration or confinement;
- (11) hotels and motels;
- (12) lodging houses and boarding houses;
- (13) service stations;

- (14) barbershops and beauty shops, including a facility in which one or more individuals are engaged in:
  - (a) any of the practices licensed under Title 58, Chapter 11a, Cosmetology and Associated Professions Licensing Act; or
  - (b) styling hair in accordance with the exemption from licensure described in Section 58-11a-304(13);
- (15) physician and dentist offices;
- (16) public buildings and grounds;
- (17) public conveyances and terminals; and
- (18) commercial tanning facilities.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-403 Department to advise regarding the plumbing code.**

- (1) The department shall advise the Division of Professional Licensing and the Uniform Building Code Commission with respect to the adoption of a state construction code under Section 15A-1-204, including providing recommendations as to:
  - (a) a specific edition of a plumbing code issued by a nationally recognized code authority; and
  - (b) any amendments to a nationally recognized code.
- (2) The department may enforce the plumbing code adopted under Section 15A-1-204.
- (3) Section 58-56-9 does not apply to health inspectors acting under this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-404 Rules for wastewater disposal systems.**

The department shall establish rules necessary to protect the public health for the design, and construction, operation and maintenance of individual wastewater disposal systems.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-405 Rules for controlling vector-borne diseases and pests.**

- (1) As used in this section:
  - (a) "Pest" means a noxious, destructive, or troublesome organism whether plant or animal, when found in and around places of human occupancy, habitation, or use which threatens the public health or well-being of the people within the state.
  - (b) "Vector" means any organism, such as insects or rodents, that transmits a pathogen that can affect public health.
- (2) The department shall adopt rules to provide for the protection of the public health by controlling or preventing the spread of vector-borne diseases and infections and to control or reduce pests by the elimination of insanitary conditions which may include but not be limited to breeding areas, shelter, harborage or sources of food associated with such diseases or pests.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-406 Periodic evaluation of local health sanitation programs -- Minimum statewide enforcement standards -- Technical assistance.**

- (1) The department shall periodically evaluate the sanitation programs of local health departments to determine the levels of sanitation being maintained throughout the state.

- (2)
- (a) The department shall ensure that each local health department's enforcement of the minimum rules of sanitation adopted under Section 26B-7-402 for restaurants and other places where food or drink is handled meets or exceeds minimum statewide enforcement standards established by the department by administrative rule.
  - (b) Administrative rules adopted under Subsection (2)(a) shall include at least:
    - (i) the minimum number of periodic on-site inspections that shall be conducted by each local health department;
    - (ii) criteria for conducting additional inspections; and
    - (iii) standardized methods to be used by local health departments to assess compliance with the minimum rules of sanitation adopted under Section 26B-7-402.
  - (c) The department shall help local health departments comply with the minimum statewide enforcement standards adopted under this Subsection (2) by providing technical assistance.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-407 Regulation of tanning facilities.**

- (1) For purposes of this section:
- (a) "Minor" means an individual who is younger than 18 years old.
  - (b) "Phototherapy device" means equipment that emits ultraviolet radiation used by a health care professional in the treatment of disease.
  - (c)
    - (i) "Tanning device" means equipment to which a tanning facility provides access that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers used for tanning of the skin, including:
      - (A) a sunlamp; and
      - (B) a tanning booth or bed.
    - (ii) "Tanning device" does not include a phototherapy device.
  - (d) "Tanning facility" means a commercial location, place, area, structure, or business that provides access to a tanning device.
- (2) A tanning facility shall:
- (a) annually obtain a permit to do business as a tanning facility from the local health department with jurisdiction over the location in which the facility is located; and
  - (b) in accordance with Subsection (3) post a warning sign in a conspicuous location that is readily visible to a person about to use a tanning device.
- (3) The posted warning and written consent required by Subsections (2) and (5) shall be developed by the department through administrative rules and shall include:
- (a) that there are health risks associated with the use of a tanning device;
  - (b) that the facility may not allow a minor to use a tanning device unless the minor:
    - (i) has a written order from a physician; or
    - (ii) at each time of use is accompanied at the tanning facility by a parent or legal guardian who provides written consent authorizing the minor to use the tanning device.
- (4) It is unlawful for any operator of a tanning facility to allow a minor to use a tanning device unless:
- (a) the minor has a written order from a physician as defined in Section 58-67-102, to use a tanning device as a medical treatment; or
  - (b)

- (i) the minor's parent or legal guardian appears in person at the tanning facility each time that the minor uses a tanning device, except that the minor's parent or legal guardian is not required to remain at the facility for the duration of the use; and
  - (ii) the minor's parent or legal guardian signs the consent form required in Subsection (5).
- (5) The written consent required by Subsection (4) shall be signed and dated each time the minor uses a tanning device at the facility, and shall include at least:
- (a) information concerning the health risks associated with the use of a tanning device; and
  - (b) a statement that:
    - (i) the parent or legal guardian of the minor has read and understood the warnings given by the tanning facility, and consents to the minor's use of a tanning device; and
    - (ii) the parent or legal guardian agrees that the minor will use protective eye wear.
- (6) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying:
- (a) minimum requirements a tanning facility shall satisfy to obtain a permit under Subsection (2);
  - (b) the written information concerning health risks a facility should include in the posted signs required by Subsection (3) and in the consent form required by Subsection (5);
  - (c) procedures a tanning facility shall implement to ensure a minor and the minor's parent or legal guardian comply with Subsections (4) and (5), including use of a statewide uniform form:
    - (i) for a parent or legal guardian to certify and give consent under Subsection (5); and
    - (ii) that clearly identifies the department's seal or other means to indicate that the form is an official form of the department; and
  - (d) the size, placement, and content of the sign a tanning facility must post under Subsection (2).
- (7)
- (a) A violation of this section:
    - (i) is an infraction; and
    - (ii) may result in the revocation of a permit to do business as a tanning facility.
  - (b) If a person misrepresents to a tanning facility that the person is 18 years old or older, the person is guilty of an infraction.
- (8) This section supersedes any ordinance enacted by the governing body of a political subdivision that:
- (a) imposes restrictions on access to a tanning device by a person younger than 18 years old that is not essentially identical to the provisions of this section; or
  - (b) that require the posting of warning signs at the tanning facility that are not essentially identical to the provisions of this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-408 Procurement and use of a blood product is a service and not a sale -- Blood donation by a minor.**

- (1) As used in this section:
- (a) "Blood" means human blood.
  - (b) "Blood product" includes:
    - (i) whole blood;
    - (ii) blood plasma;
    - (iii) a blood derivative;
    - (iv) blood platelets; and
    - (v) blood clotting agents.



- (2) The following are considered to be the rendition of a service by each participant and are not considered to be a sale:
  - (a) the procurement, processing, distribution, or use of a blood product for the purpose of injecting or transfusing the blood product into the human body; and
  - (b) the process of injecting or transfusing a blood product.
- (3) A minor who is at least 16 years old may donate blood to a voluntary, noncompensatory blood donation program if a parent or legal guardian of the minor consents to the donation.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-409 Scientific standards for methamphetamine decontamination -- Public education concerning methamphetamine contamination.**

- (1) The department shall make rules adopting scientifically-based standards for methamphetamine decontamination.
- (2) A local health department, as defined in Title 26A, Local Health Authorities, shall follow rules made by the department under Subsection (1) in administering Title 19, Chapter 6, Part 9, Illegal Drug Operations Site Reporting and Decontamination Act.
- (3) The department shall conduct a public education campaign to inform the public about potential health risks of methamphetamine contamination.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-410 Food service establishment requirements -- Enforcement -- Right of appeal -- Rulemaking -- Enforcement by local health departments.**

- (1) Each food service establishment in the state shall be managed by at least one full-time certified food safety manager at each establishment site, who need not be present at the establishment site during all its hours of operation.
- (2) Within 60 days of the termination of a certified food safety manager's employment that results in the food service establishment no longer being in compliance with Subsection (1), the food service establishment shall:
  - (a) employ a new certified food safety manager; or
  - (b) designate another employee to become the establishment's certified food safety manager who shall commence a department-approved food safety manager training course.
- (3) Compliance with the 60-day time period provided in Subsection (2) may be extended by the local health department for reasonable cause, as determined by the department by rule.
- (4)
  - (a) The local health department may determine whether a food service establishment is in compliance with this section by visiting the establishment during regular business hours and requesting information and documentation about the employment of a certified food safety manager.
  - (b) If a violation of this section is identified, the local health department shall propose remedial action to bring the food service establishment into compliance.
  - (c)
    - (i) A food service establishment receiving notice of a violation and proposed remedial action from a local health department may appeal the notice of violation and proposed remedial action pursuant to procedures established by the local health department, which shall be essentially consistent with the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

- (ii) Notwithstanding the provisions of Section 63G-4-402, an appeal of a local health department decision shall be conducted as an original, independent proceeding, and not as a review of the proceedings conducted by the local health department.
  - (iii) The court shall give no deference to the findings or conclusions of the local health department.
- (5)
- (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
    - (i) a definition of "potentially hazardous foods" for purposes of this section and Section 26B-7-401; and
    - (ii) any provisions necessary to implement this section.
  - (b) The local health department with jurisdiction over the geographic area in which a food service establishment is located shall enforce the provisions of this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-411 Exemptions to food service establishment requirements.**

- (1) The following are not subject to the provisions of Section 26B-7-410:
- (a) special events sponsored by municipal or nonprofit civic organizations, including food booths at school sporting events and little league athletic events and church functions;
  - (b) temporary event food services approved by a local health department;
  - (c) vendors and other food service establishments that serve only commercially prepackaged foods and beverages as defined by the department by rule;
  - (d) private homes not used as a commercial food service establishment;
  - (e) health care facilities licensed under Chapter 2, Part 2, Health Care Facility Licensing and Inspection;
  - (f) bed and breakfast establishments at which the only meal served is a continental breakfast as defined by the department by rule;
  - (g) residential child care providers;
  - (h) child care providers and programs licensed under Chapter 2, Part 4, Child Care Licensing;
  - (i) back country food service establishments;
  - (j) an event that is sponsored by a charitable organization, if, at the event, the organization:
    - (i) provides food to a disadvantaged group free of charge; and
    - (ii) complies with rules established by the department under Subsection (3); and
  - (k) a lowest risk or permitted food establishment category determined by a risk assessment evaluation established by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) Nothing in this section may be construed as exempting a food service establishment described in Subsection (1) from any other applicable food safety laws of this state.
- (3) The department may establish additional requirements, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for charitable organizations providing food for free under Subsection (1)(j).

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-412 Certified food safety manager.**

- (1) Before a person may manage a food service establishment as a certified food safety manager, that person shall submit documentation in the format prescribed by the department to the

- appropriate local health department indicating a passing score on a department-approved examination.
- (2) To continue to manage a food service establishment, a certified food safety manager shall:
    - (a) successfully complete, every three years, renewal requirements established by department rule which are consistent with original certification requirements; and
    - (b) submit documentation in the format prescribed by the department within 30 days of the completion of renewal requirements to the appropriate local health department.
  - (3) A local health department may deny, revoke, or suspend the authority of a certified food safety manager to manage a food service establishment or require the completion of additional food safety training courses for any one of the following reasons:
    - (a) submitting information required under Subsection (1) or (2) that is false, incomplete, or misleading;
    - (b) repeated violations of department or local health department food safety rules; or
    - (c) operating a food service establishment in a way that causes or creates a health hazard or otherwise threatens the public health, safety, or welfare.
  - (4) A determination of a local health department made pursuant to Subsection (3) may be appealed by a certified food safety manager in the same manner provided for in Subsection 26B-7-410(4).
  - (5) No person may use the title "certified food safety manager," or any other similar title, unless the person has satisfied the requirements of this section.
  - (6) A local health department:
    - (a) may not charge a fee to accept or process the documentation described in Subsections (1) and (2);
    - (b) shall accept photocopies or electronic copies of the documentation described in Subsections (1) and (2); and
    - (c) shall allow an individual to submit the documentation described in Subsections (1) and (2) by mail, email, or in person.
  - (7) Certified food safety managers shall:
    - (a) establish and monitor compliance with practices and procedures in the food service establishments where they are employed to maintain compliance with department and local health department food safety rules; and
    - (b) perform such other duties that may be necessary to ensure food safety in the food service establishments where they are employed.
  - (8)
    - (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
      - (i) statewide, uniform standards for certified food safety managers;
      - (ii) criteria for food safety certification examinations; and
      - (iii) any provisions necessary to implement this section.
    - (b) The department shall approve food safety certification examinations in accordance with this section.
    - (c) The local health department with jurisdiction over the geographic area in which a food service establishment is located shall enforce the provisions of this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-413 Requirements for food handlers -- Training program and testing requirements for permit -- Rulemaking -- Exceptions.**

- (1) As used in this section:
  - (a) "Approved food handler training program" means a training program described by this section and approved by the department.
  - (b) "Food handler" means a person who works with unpackaged food, food equipment or utensils, or food-contact surfaces for a food service establishment.
  - (c) "Food handler permit" means a permit issued by a local health department to allow a person to work as a food handler.
  - (d) "Instructor" means an individual who is qualified to instruct an approved food handler program on behalf of a provider.
  - (e) "Provider" means a person or entity that provides an approved food handler training program.
- (2) A person may not work as a food handler for a food service establishment unless the person:
  - (a) successfully completes an approved food handler training program within 14 days after the day on which the person begins employment that includes food handler services; and
  - (b) obtains a food handler permit within 30 days after the day on which the person begins employment that includes food handler services.
- (3) An approved food handler training program shall include:
  - (a) at least 75 minutes of training time;
  - (b) an exam, which requires a passing score of 75% and, except as provided in Subsection (11), consists of:
    - (i) 40 multiple-choice questions developed by the department, in consultation with local health departments; and
    - (ii) four content sections designated by rule of the department with 10 randomly selected questions for each content section; and
  - (c) upon completion, the awarding of a certificate of completion that is valid with any local health department in the state for 30 days after the day on which the certificate is issued:
    - (i) to a student who:
      - (A) completes the training; and
      - (B) passes the exam described in this Subsection (3) or an exam approved by the department in accordance with Subsection (11); and
    - (ii) which certificate of completion:
      - (A) includes student identifying information determined by department rule; and
      - (B) is delivered by mail or electronic means.
- (4)
  - (a) A person may obtain a food handler permit by:
    - (i) providing a valid certificate of completion of an approved food handler training program and an application, approved by the local health department, to a local health department; and
    - (ii) paying a food handler permit fee to the local health department.
  - (b)
    - (i) A local health department may charge a food handler permit fee that is reasonable and that reflects the cost of managing the food safety program.
    - (ii) The department shall establish by rule the maximum amount a local health department may charge for the fee described in Subsection (4)(b)(i).
- (5) A person working as a food handler for a food service establishment shall obtain a food handler permit:
  - (a) before handling any food;
  - (b) within 30 days of initial employment with a food service establishment; and
  - (c) within seven days of the expiration of an existing food handler permit.
- (6)

- (a) A person who holds a valid food handler permit under this section may serve as a food handler throughout the state without restriction.
- (b) A food handler permit granted after June 30, 2013, is valid for three years from the date of issuance.
- (7) An individual may not serve as an instructor, unless the provider includes the individual on the provider's list of instructors.
- (8) The department, in consultation with local health departments, shall:
  - (a) approve the content of an approved food handler training program required under Subsection (3);
  - (b) approve, as qualified, each provider; and
  - (c) in accordance with applicable rules made under Subsection (12), provide a means to authenticate:
    - (i) documents used in an approved food handler training program;
    - (ii) the identity of an approved instructor; and
    - (iii) an approved provider.
- (9) An approved food handler training program shall:
  - (a) provide basic instruction on the Centers for Disease Control and Prevention's top five foodborne illness risk factors, including:
    - (i) improper hot and cold holding temperatures of potentially hazardous food;
    - (ii) improper cooking temperatures of food;
    - (iii) dirty or contaminated utensils and equipment;
    - (iv) poor employee health and hygiene; and
    - (v) food from unsafe sources;
  - (b) be offered through:
    - (i) a trainer-led class;
    - (ii) the Internet; or
    - (iii) a combination of a trainer-led class and the Internet;
  - (c) maintain a system to verify a certificate of completion of an approved food handler training program issued under Subsection (3) to the department, a local health department, and a food service establishment; and
  - (d) provide to the department unrestricted access to classroom training sessions and online course materials at any time for audit purposes.
- (10)
  - (a) A provider that provides an approved food handler training program may charge a reasonable fee.
  - (b) If a person or an entity is not approved by the department to provide an approved food handler training program, the person or entity may not represent, in connection with the person's or entity's name or business, including in advertising, that the person or entity is a provider of an approved food handler training program or otherwise represent that a program offered by the person or entity will qualify an individual to work as a food handler in the state.
- (11)
  - (a) Subject to the approval of the department every three years, a provider may use an exam that consists of questions that do not conform with the provisions of Subsection (3)(b), if:
    - (i) the provider complies with the provisions of this Subsection (11);
    - (ii) the provider pays a fee every three years to the department, which fee shall be determined by the department and shall reflect the cost of the review of the alternative test questions; and

- (iii) an independent instructional design and testing expert provides a written report to the department containing a positive recommendation based on the expert's analysis as described in Subsection 11(b).
- (b)
  - (i) A provider may request approval of a different bank of test questions other than the questions developed under Subsection (3) by submitting to the department a proposed bank of at least 200 test questions organized by learning objective in accordance with Subsection (9)(a).
  - (ii) A provider proposing a different bank of test questions under this Subsection (11) shall contract with an independent instructional design and testing expert approved by the department at the provider's expense to analyze the provider's bank of test questions to ensure the questions:
    - (A) effectively measure the applicant's knowledge of the required learning objectives; and
    - (B) meet the appropriate testing standards for question structure.
  - (c) If the department provides written notice to a provider that any test question of the provider's approved exam under this Subsection (11) inadequately tests the required learning objectives, the provider shall make required changes to the question within 30 days after the day on which written notice is received by the provider.
  - (d) A food handler exam offered by a provider may be:
    - (i) a written exam;
    - (ii) an online exam; or
    - (iii) an oral exam, if circumstances require, including when an applicant's language or reading abilities interfere with taking a written or online exam.
  - (e) A provider shall routinely rotate test questions from the test question bank, change the order of test questions in tests, and change the order of multiple-choice answers in test questions to discourage cheating.
- (12)
  - (a) When exercising rulemaking authority under this section the department shall comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
  - (b) The department shall, by rule, establish requirements designed to inhibit fraud for an approved food handler training program described in this section.
  - (c) The requirements described in Subsection (12)(b) may include requirements to ensure that:
    - (i) an individual does not attempt to complete the program or exam in another individual's place;
    - (ii) an individual taking the approved food handler training program is focused on training material and actively engaged throughout the training period;
    - (iii) if the individual is unable to participate online because of technical difficulties, an approved food handler training program provides technical support, such as requiring a telephone number, email, or other method of communication to allow an individual taking the online course or test to receive assistance;
    - (iv) an approved food handler training program provider maintains a system to reduce fraud as to who completes an approved food handler training program, such as requiring a distinct online certificate with information printed on the certificate that identifies a person taking an online course or exam, or requiring measures to inhibit duplication of a certificate of completion or of a food handler permit;
    - (v) the department may audit an approved food handler training program;
    - (vi) an individual taking an online course or certification exam has the opportunity to provide an evaluation of the online course or test;

- (vii) an approved food handler training program provider track the Internet protocol address or similar electronic location of an individual who takes an online course or certification exam;
  - (viii) an individual who takes an online course or exam uses an electronic signature; or
  - (ix) if the approved food handler training program provider learns that a certificate of completion does not accurately reflect the identity of the individual who took the online course or certification exam, an approved food handler training program provider invalidates the certificate of completion.
- (13) An instructor is not required to satisfy any additional training requirements if the instructor:
- (a) is an educator in a public or private school; and
  - (b) teaches a food program that includes food safety in a public or private school in which the instructor is an educator.
- (14)
- (a) This section does not apply to an individual who handles food:
    - (i) at an event sponsored by a charitable organization where the organization provides food to a disadvantaged group free of charge; and
    - (ii) in compliance with rules established by the department under Subsection (2).
  - (b) The department may establish additional requirements, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for individuals handling food at an event sponsored by a charitable organization under Subsection (14)(a).

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-414 Impoundment of adulterated food products authorized.**

The department and local health departments may impound any food products found in places where food or drink is handled, sold, or served to the public that is intended for but found to be adulterated and unfit for human consumption; and, upon five days' notice and reasonable opportunity for a hearing to the interested parties, to condemn and destroy the same if deemed necessary for the protection of the public health.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-415 Agritourism food establishment permits -- Permit requirements -- Inspections.**

- (1) As used in this section, "operator" means a person who owns, manages, or controls, or who has the duty to manage or control, the farm.
- (2)
  - (a) A farm may not operate an agritourism food establishment unless the farm obtains a permit from the local health department that has jurisdiction over the area in which the farm is located.
  - (b) In accordance with Section 26A-1-121, and subject to the restrictions of this section, a local health department shall make standards and regulations relating to the permitting of an agritourism food establishment.
  - (c) In accordance with Section 26A-1-114, a local health department shall impose a fee for an agritourism food establishment permit in an amount that reimburses the local health department for the cost of regulating the agritourism food establishment.
- (3)
  - (a) A local health department with jurisdiction over an area in which a farm is located may grant an agritourism food establishment permit to the farm.

- (b) Nothing in this section prevents a local health department from revoking an agritourism food establishment permit issued by the local health department if the operation of the agritourism food establishment violates the terms of the permit or the requirements of this section.
- (4) A farm may qualify for an agritourism food establishment permit if:
  - (a) poultry products that are served at the agritourism food establishment are slaughtered and processed in compliance with the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., and the applicable regulations issued pursuant to that act;
  - (b) meat not described in Subsection (4)(a) that is served at the agritourism food establishment is slaughtered and processed in compliance with the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq., and the applicable regulations issued pursuant to that act;
  - (c) a kitchen facility used to prepare food for the agritourism food establishment meets the requirements established by the department;
  - (d) the farm operates the agritourism food establishment for no more than 14 consecutive days at a time; and
  - (e) the farm complies with the requirements of this section.
- (5) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance requirements for agritourism food establishments.
- (6) A local health department shall:
  - (a) ensure compliance with the rules described in Subsection (5) when inspecting a kitchen facility;
  - (b) notwithstanding Section 26A-1-113, inspect the kitchen facility of a farm that requests an agritourism food establishment permit only:
    - (i) for an initial inspection, no more than one week before the agritourism food establishment is scheduled to begin operation;
    - (ii) for an unscheduled inspection:
      - (A) of an event scheduled to last no more than three days if the local health department conducts the inspection within three days before or after the day on which the agritourism food establishment is scheduled to begin operation; or
      - (B) of an event scheduled to last longer than three days if the local health department conducts the inspection within three days before or after the day on which the agritourism food establishment is scheduled to begin operation, or conducts the inspection during operating hours of the agritourism food establishment; or
    - (iii) for subsequent inspections if:
      - (A) the local health department provides the operator with reasonable advanced notice about an inspection; or
      - (B) the local health department has a valid reason to suspect that the agritourism food establishment is the source of an adulterated food or of an outbreak of illness caused by a contaminated food; and
  - (c) document the reason for any inspection after the permitting inspection, keep a copy of that documentation on file with the agritourism food establishment's permit, and provide a copy of that documentation to the operator.
- (7) An agritourism food establishment shall:
  - (a) take steps to avoid any potential contamination to:
    - (i) food;
    - (ii) equipment;
    - (iii) utensils; or
    - (iv) unwrapped single-service and single-use articles; and



- (b) prevent an individual from entering the food preparation area while food is being prepared if the individual is known to be suffering from:
  - (i) symptoms associated with acute gastrointestinal illness; or
  - (ii) a communicable disease that is transmissible through food.
- (8) When making the rules described in Subsection (5), the department may not make rules regarding:
  - (a) hand washing facilities, except to require that a hand washing station supplied with warm water, soap, and disposable hand towels is conveniently located;
  - (b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes are sanitized between each use;
  - (c) the individuals allowed access to the food preparation areas, food storage, and washing areas, except during food preparation;
  - (d) display guards, covers, or containers for display foods, except to require that any food on display that is not protected from the direct line of a consumer's mouth by an effective means is not served or sold to any subsequent consumer;
  - (e) outdoor display and sale of food, except to require that food is maintained at proper holding temperatures;
  - (f) reuse by an individual of drinking cups and tableware for multiple portions;
  - (g) utensils and equipment, except to require that utensils and equipment used in the home kitchen:
    - (i) retain their characteristic qualities under normal use conditions;
    - (ii) are properly sanitized after use; and
    - (iii) are maintained in a sanitary manner between uses;
  - (h) food contact surfaces, except to require that food contact surfaces are smooth, easily cleanable, in good repair, and properly sanitized between tasks;
  - (i) non-food contact surfaces, if those surfaces are made of materials ordinarily used in residential settings, except to require that those surfaces are kept clean from the accumulation of residue and debris;
  - (j) clean-in-place equipment, except to require that the equipment is cleaned and sanitized between uses;
  - (k) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and smoke are able to escape the kitchen;
  - (l) fixed temperature measuring devices or product mimicking sensors for the holding equipment for time or temperature controlled food, except to require non-fixed temperature measuring devices for hot and cold holding of food during storage, serving, and cooling;
  - (m) fixed floor-mounted and table-mounted equipment except to require that floor-mounted and table-mounted equipment be in good repair and sanitized between uses;
  - (n) dedicated laundry facilities, except to require that linens used for the agritourism food establishment are stored and laundered separately from household laundry and that soiled laundry is stored to prevent contamination of food and equipment;
  - (o) water, plumbing, drainage, and waste, except to require that sinks be supplied with hot water;
  - (p) the number of and path of access to toilet facilities, except to require that toilet facilities are equipped with proper handwashing stations;
  - (q) lighting, except to require that food preparation areas are well lit by natural or artificial light whenever food is being prepared;
  - (r) designated dressing areas and storage facilities, except to require that items not ordinarily found in a home kitchen are placed or stored away from food preparation areas, that dressing

- takes place outside of the kitchen facility, and that food items are stored in a manner that does not allow for contamination;
- (s) the presence and handling of animals, except to require that all animals are kept outside of food preparation and service areas during food service and food preparation;
  - (t) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces are smooth, of durable construction, easily cleanable, and kept clean and free of debris;
  - (u) kitchen facilities open to living areas, except to require that food is only prepared, handled, or stored in kitchen and food storage areas;
  - (v) submission of plans and specifications before construction or remodel of a kitchen facility;
  - (w) the number and type of time or temperature controlled food offered for sale;
  - (x) approved food sources, except those required by 9 C.F.R. Sec. 303.1;
  - (y) the use of an open air barbecue, grill, or outdoor wood-burning oven; or
  - (z) food safety certification, except any individual who is involved in the preparation, storage, or service of food in the agritourism food establishment shall hold a food handler permit as defined in Section 26B-7-413.
- (9) An operator applying for an agritourism food establishment permit shall provide to the local health department:
- (a) written consent to enter the premises where food is prepared, cooked, stored, or harvested for the agritourism food establishment; and
  - (b) written standard operating procedures that include:
    - (i) all food that will be stored, handled, and prepared;
    - (ii) the proposed procedures and methods of food preparation and handling;
    - (iii) procedures, methods, and schedules for cleaning utensils and equipment;
    - (iv) procedures and methods for the disposal of refuse; and
    - (v) a plan for maintaining time or temperature controlled food at the appropriate temperatures for each time or temperature controlled food.
- (10) In addition to a fee charged under Subsection (2), if the local health department is required to inspect the farm as a source of an adulterated food or an outbreak of illness caused by a contaminated food and finds, as a result of that inspection, that the farm has produced an adulterated food or was the source of an outbreak of illness caused by a contaminated food, the local health department may charge and collect from the farm a fee for that inspection.
- (11) An agritourism food establishment permit:
- (a) is nontransferable;
  - (b) is renewable on an annual basis;
  - (c) is restricted to the location listed on the permit; and
  - (d) shall provide the operator the opportunity to update the food types and products handled without requiring the operator to renew the permit.
- (12) This section does not prohibit an operator from applying for a different type of food event permit from a local health department.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-416 Microenterprise home kitchen permits -- Fees -- Safety and health inspections -- Permit requirements.**

- (1) As used in this section, "operator" means an individual who resides in the private home and who manages or controls the microenterprise home kitchen.
- (2)

- (a) An operator may not operate a microenterprise home kitchen unless the operator obtains a permit from the local health department that has jurisdiction over the area in which the microenterprise home kitchen is located.
  - (b) In accordance with Section 26A-1-121, and subject to the restrictions of this section, the department shall make standards and regulations relating to the permitting of a microenterprise home kitchen.
  - (c) In accordance with Section 26A-1-114, a local health department shall impose a fee for a microenterprise home kitchen permit in an amount that reimburses the local health department for the cost of regulating the microenterprise home kitchen.
- (3)
- (a) A local health department with jurisdiction over an area in which a microenterprise home kitchen is located may grant a microenterprise home kitchen permit to the operator.
  - (b) Nothing in this section prevents a local health department from revoking a microenterprise home kitchen permit issued by the local health department if the operation of the microenterprise home kitchen violates the terms of the permit or this section.
- (4) An operator may qualify for a microenterprise home kitchen permit if:
- (a) food that is served at the microenterprise home kitchen is processed in compliance with state and federal regulations;
  - (b) a kitchen facility used to prepare food for the microenterprise home kitchen meets the requirements established by the department;
  - (c) the microenterprise home kitchen operates only during the hours approved in the microenterprise home kitchen permit; and
  - (d) the microenterprise home kitchen complies with the requirements of this section.
- (5) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance requirements for microenterprise home kitchens.
- (6) A local health department shall:
- (a) ensure compliance with the rules described in Subsection (5) when inspecting a microenterprise home kitchen;
  - (b) notwithstanding Section 26A-1-113, inspect a microenterprise home kitchen that requests a microenterprise home kitchen permit only:
    - (i) for an initial inspection, no more than one week before the microenterprise home kitchen is scheduled to begin operation;
    - (ii) for an unscheduled inspection, if the local health department conducts the inspection:
      - (A) within three days before or after the day on which the microenterprise home kitchen is scheduled to begin operation; or
      - (B) during operating hours of the microenterprise home kitchen; or
    - (iii) for subsequent inspections if:
      - (A) the local health department provides the operator with reasonable advanced notice of the inspection; or
      - (B) the local health department has a valid reason to suspect that the microenterprise home kitchen is the source of an adulterated food or of an outbreak of illness caused by a contaminated food; and
  - (c) document the reason for any inspection after the initial inspection, keep a copy of that documentation on file with the microenterprise home kitchen's permit, and provide a copy of that documentation to the operator.
- (7) A microenterprise home kitchen shall:
- (a) take steps to avoid any potential contamination to:

- (i) food;
  - (ii) equipment;
  - (iii) utensils; or
  - (iv) unwrapped single-service and single-use articles;
- (b) prevent an individual from entering the food preparation area while food is being prepared if the individual is known to be suffering from:
- (i) symptoms associated with acute gastrointestinal illness; or
  - (ii) a communicable disease that is transmissible through food; and
- (c) comply with the following requirements:
- (i) time or temperature control food shall be prepared, cooked, and served on the same day;
  - (ii) food that is sold or provided to a customer may not be consumed onsite at the microenterprise home kitchen operation;
  - (iii) food that is sold or provided to a customer shall be picked up by the consumer or delivered within a safe time period based on holding equipment capacity;
  - (iv) food preparation may not involve processes that require a HACCP plan, or the production, service, or sale of raw milk or raw milk products;
  - (v) molluscan shellfish may not be served or sold;
  - (vi) the operator may only sell or provide food directly to consumers and may not sell or provide food to any wholesaler or retailer; and
  - (vii) the operator shall provide the consumer with a notification that, while a permit has been issued by the local health department, the kitchen may not meet all of the requirements of a commercial retail food establishment.
- (8) When making the rules described in Subsection (5), the department may not make rules regarding:
- (a) hand washing facilities, except to require that a hand washing station supplied with warm water, soap, and disposable hand towels is conveniently located in food preparation, food dispensing, and warewashing areas;
  - (b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes are sanitized between each use;
  - (c) the individuals allowed access to the food preparation areas, food storage areas, and washing areas, except during food preparation;
  - (d) display guards, covers, or containers for display foods, except to require that ready-to-eat food is protected from contamination during storage, preparation, handling, transport, and display;
  - (e) outdoor display and sale of food, except to require that food is maintained at proper holding temperatures;
  - (f) utensils and equipment, except to require that utensils and equipment used in the home kitchen:
    - (i) retain their characteristic qualities under normal use conditions;
    - (ii) are properly sanitized after use; and
    - (iii) are maintained in a sanitary manner between uses;
  - (g) food contact surfaces, except to require that food contact surfaces are smooth, easily cleanable, in good repair, and properly sanitized between tasks;
  - (h) non-food contact surfaces, if those surfaces are made of materials ordinarily used in residential settings, except to require that those surfaces are kept clean from the accumulation of residue and debris;

- (i) clean-in-place equipment, except to require that the equipment is cleaned and sanitized between uses;
- (j) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and smoke are able to escape the kitchen;
- (k) fixed temperature measuring devices or product mimicking sensors for the holding equipment for time or temperature control food, except to require non-fixed temperature measuring devices for hot and cold holding of food during storage, serving, and cooling;
- (l) fixed floor-mounted and table-mounted equipment, except to require that floor-mounted and table-mounted equipment be in good repair and sanitized between uses;
- (m) dedicated laundry facilities, except to require that linens used for the microenterprise home kitchen are stored and laundered separately from household laundry and that soiled laundry is stored to prevent contamination of food and equipment;
- (n) water, plumbing, drainage, and waste, except to require that:
  - (i) sinks be supplied with hot and cold potable water from:
    - (A) an approved public water system as defined in Section 19-4-102;
    - (B) if the local health department with jurisdiction over the microenterprise home kitchen has regulations regarding the safety of drinking water, a source that meets the local health department's regulations regarding the safety of drinking water; or
    - (C) a water source that is tested at least once per month for bacteriologic quality, and at least once in every three year period for lead and copper; and
  - (ii) food preparation and service is discontinued in the event of a disruption of potable water service;
- (o) the number of and path of access to toilet facilities, except to require that toilet facilities are equipped with proper handwashing stations;
- (p) lighting, except to require that food preparations are well lit by natural or artificial light whenever food is being prepared;
- (q) designated dressing areas and storage facilities, except to require that items not ordinarily found in a home kitchen are placed or stored away from food preparation areas, that dressing takes place outside of the kitchen facility, and that food items are stored in a manner that does not allow for contamination;
- (r) the presence and handling of animals, except to require that all animals are kept outside of food preparation and service areas;
- (s) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces are smooth, of durable construction, easily cleanable, and kept clean and free of debris;
- (t) kitchen facilities open to living areas, except to require that food is only prepared, handled, or stored in kitchen and food storage areas;
- (u) submission of plans and specifications before construction or remodel of a kitchen facility;
- (v) the number and type of time or temperature controlled food offered for sale, except:
  - (i) a raw time or temperature controlled food such as raw fish, raw milk, and raw shellfish;
  - (ii) any food requiring special processes that would necessitate a HACCP plan; and
  - (iii) fish from waters of the state;
- (w) approved food sources, except to require that:
  - (i) food in a hermetically sealed container is obtained from a regulated food processing plant;
  - (ii) liquid milk and milk products are obtained from sources that comply with Grade A standards specified by the Department of Agriculture and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
  - (iii) fish for sale or service are commercially and legally caught;
  - (iv) mushrooms picked in the wild are not offered for sale or service; and

- (v) game animals offered for sale or service are raised, slaughtered, and processed according to rules governing meat and poultry as specified by the Department of Agriculture and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
  - (x) the use of items produced under this section; or
  - (y) the use of an open air barbeque, grill, or outdoor wood-burning oven.
- (9) An operator applying for a microenterprise home kitchen permit shall provide to the local health department:
- (a) written consent to enter the premises where food is prepared, cooked, stored, or harvested for the microenterprise home kitchen; and
  - (b) written standard operating procedures that include:
    - (i) all food that will be stored, handled, and prepared;
    - (ii) the proposed procedures and methods of food preparation and handling;
    - (iii) procedures, methods, and schedules for cleaning utensils and equipment;
    - (iv) procedures and methods for the disposal of refuse; and
    - (v) a plan for maintaining time or temperature controlled food at the appropriate temperatures for each time or temperature controlled food.
- (10) In addition to a fee charged under Subsection (2), if the local health department is required to inspect the microenterprise home kitchen as a source of an adulterated food or an outbreak of illness caused by a contaminated food and finds, as a result of that inspection, that the microenterprise home kitchen has produced an adulterated food or was the source of an outbreak of illness caused by a contaminated food, the local health department may charge and collect from the microenterprise home kitchen a fee for that inspection.
- (11) A microenterprise home kitchen permit:
- (a) is nontransferable;
  - (b) is renewable on an annual basis;
  - (c) is restricted to the location and hours listed on the permit;
  - (d) shall include a statement that reads: "This location is permitted under modified FDA requirements."; and
  - (e) shall provide the operator the opportunity to update the food types and products handled without requiring the operator to renew the permit.
- (12) This section does not prohibit an operator from applying for a different type of food event permit from a local health department.

Renumbered and Amended by Chapter 308, 2023 General Session

## **Part 5**

### **Regulation of Smoking, Tobacco Products, and Nicotine Products**

#### **26B-7-501 Definitions.**

As used in this part:

- (1) "Community location" means the same as that term is defined:
  - (a) as it relates to a municipality, in Section 10-8-41.6; and
  - (b) as it relates to a county, in Section 17-50-333.
- (2) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.
- (3) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.
- (4) "Electronic cigarette substance" means the same as that term is defined in Section 76-10-101.

- (5) "Employee" means an employee of a tobacco retailer.
- (6) "Enforcing agency" means the department, or any local health department enforcing the provisions of this part.
- (7) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty business.
- (8) "Local health department" means the same as that term is defined in Section 26A-1-102.
- (9) "Manufacture" includes:
  - (a) to cast, construct, or make electronic cigarettes; or
  - (b) to blend, make, process, or prepare an electronic cigarette substance.
- (10) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette substance that is sold in a container that:
  - (a) is prefilled by the electronic cigarette substance manufacturer; and
  - (b) the electronic cigarette manufacturer does not intend for a consumer to open.
- (11) "Manufacturer sealed electronic cigarette product" means:
  - (a) an electronic cigarette substance or container that the electronic cigarette manufacturer does not intend for a consumer to open or refill; or
  - (b) a prefilled electronic cigarette as that term is defined in Section 76-10-101.
- (12) "Nicotine" means the same as that term is defined in Section 76-10-101.
- (13) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- (14) "Non-tobacco shisha" means any product that:
  - (a) does not contain tobacco or nicotine; and
  - (b) is smoked or intended to be smoked in a hookah or water pipe.
- (15) "Owner" means a person holding a 20% ownership interest in the business that is required to obtain a permit under this part.
- (16) "Permit" means a tobacco retail permit issued under Section 26B-7-507.
- (17) "Place of public access" means any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the place of public access have general and regular access or which the public uses, including:
  - (a) buildings, offices, shops, elevators, or restrooms;
  - (b) means of transportation or common carrier waiting rooms;
  - (c) restaurants, cafes, or cafeterias;
  - (d) taverns as defined in Section 32B-1-102, or cabarets;
  - (e) shopping malls, retail stores, grocery stores, or arcades;
  - (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or arenas;
  - (g) barber shops, hair salons, or laundromats;
  - (h) sports or fitness facilities;
  - (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, including the lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any of these;
  - (j)
    - (i) any child care facility or program subject to licensure or certification under this title, including those operated in private homes, when any child cared for under that license is present; and
    - (ii) any child care, other than child care as defined in Section 26B-2-401, that is not subject to licensure or certification under this title, when any child cared for by the provider, other than the child of the provider, is present;

- (k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located;
  - (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when used solely by the organization members or the members' guests or families;
  - (m) any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor;
  - (n) any workplace that is not a place of public access or a publicly owned building or office but has one or more employees who are not owner-operators of the business;
  - (o) any area where the proprietor or manager of the area has posted a conspicuous sign stating "no smoking", "thank you for not smoking", or similar statement; and
  - (p) a holder of a bar establishment license, as defined in Section 32B-1-102.
- (18)
- (a) "Proof of age" means:
    - (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;
    - (ii) a valid identification that:
      - (A) is substantially similar to an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;
      - (B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;
      - (C) includes date of birth; and
      - (D) has a picture affixed;
    - (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform Driver License Act, or in accordance with the laws of the state in which the valid driver license is issued;
    - (iv) a valid United States military identification card that:
      - (A) includes date of birth; and
      - (B) has a picture affixed; or
    - (v) a valid passport.
  - (b) "Proof of age" does not include a valid driving privilege card issued in accordance with Section 53-3-207.
- (19) "Publicly owned building or office" means any enclosed indoor place or portion of a place owned, leased, or rented by any state, county, or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.
- (20) "Retail tobacco specialty business" means the same as that term is defined:
  - (a) as it relates to a municipality, in Section 10-8-41.6; and
  - (b) as it relates to a county, in Section 17-50-333.
- (21) "Shisha" means any product that:
  - (a) contains tobacco or nicotine; and
  - (b) is smoked or intended to be smoked in a hookah or water pipe.
- (22) "Smoking" means:
  - (a) the possession of any lighted or heated tobacco product in any form;
  - (b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or hookah that contains:
    - (i) tobacco or any plant product intended for inhalation;
    - (ii) shisha or non-tobacco shisha;
    - (iii) nicotine;



- (iv) a natural or synthetic tobacco substitute; or
  - (v) a natural or synthetic flavored tobacco product;
  - (c) using an electronic cigarette; or
  - (d) using an oral smoking device intended to circumvent the prohibition of smoking in this part.
- (23) "Tax commission license" means a license issued by the State Tax Commission under:
- (a) Section 59-14-201 to sell a cigarette at retail;
  - (b) Section 59-14-301 to sell a tobacco product at retail; or
  - (c) Section 59-14-803 to sell an electronic cigarette product or a nicotine product.
- (24) "Tobacco product" means:
- (a) a tobacco product as defined in Section 76-10-101; or
  - (b) tobacco paraphernalia as defined in Section 76-10-101.
- (25) "Tobacco retailer" means a person that is required to obtain a tax commission license.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-502 Statutes on smoking considered public health laws.**

Section 26B-7-503 is a public health law and shall be enforced by the department and local health departments.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-503 Utah Indoor Clean Air Act -- Restriction on smoking in public places and in specified places -- Exceptions -- Enforcement -- Penalties -- Local ordinances.**

- (1) Except as provided in Subsections (2) and (3), smoking is prohibited in all enclosed indoor places of public access and publicly owned buildings and offices.
- (2) Subsection (1) does not apply to:
- (a) areas not commonly open to the public of owner-operated businesses having no employees other than the owner-operator;
  - (b) guest rooms in hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, but smoking is prohibited under Subsection (1) in the common areas of these facilities, including dining areas and lobby areas; and
  - (c) separate enclosed smoking areas:
    - (i) located in the passenger terminals of an international airport located in the city of the first class;
    - (ii) vented directly to the outdoors; and
    - (iii) certified, by a heating, ventilation, and air conditioning engineer licensed by the state, to prevent the drift of any smoke to any nonsmoking area of the terminal.
- (3)
- (a) A person is exempt from the restrictions of Subsection (1) if the person:
    - (i) is a member of an American Indian tribe whose members are recognized as eligible for the special programs and services provided by the United States to American Indians who are members of those tribes;
    - (ii) is an American Indian who actively practices an American Indian religion, the origin and interpretation of which is from a traditional American Indian culture;
    - (iii) is smoking tobacco using the traditional pipe of an American Indian tribal religious ceremony, of which tribe the person is a member, and is smoking the pipe as part of that ceremony; and

- (iv) the ceremony is conducted by a pipe carrier, Indian spiritual person, or medicine person recognized by the tribe of which the person is a member and the Indian community.
  - (b) This Subsection (3) takes precedence over Subsection (1).
  - (c) A religious ceremony using a traditional pipe under this section is subject to any applicable state or local law, except as provided in this section.
- (4)
- (a) An owner or the agent or employee of the owner of a place where smoking is prohibited under Subsection (1) who observes a person smoking in apparent violation of this section shall request the person to stop smoking.
  - (b) If the person fails to comply, the proprietor or the agent or employee of the proprietor shall ask the person to leave the premises.
- (5)
- (a) A first violation of Subsection (1) is subject to a civil penalty of not more than \$100.
  - (b) Any second or subsequent violation of Subsection (1) is subject to a civil penalty of not less than \$100 and not more than \$500.
- (6)
- (a) The department and local health departments shall:
    - (i) enforce this section and shall coordinate their efforts to promote the most effective enforcement of this section; and
    - (ii) impose the penalties under Subsection (5) in accordance with this Subsection (6).
  - (b) When enforcing this section, the department and the local health departments shall notify persons of alleged violations of this part, conduct hearings, and impose penalties in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
  - (c) The department shall adopt rules necessary and reasonable to implement the provisions of this section.
- (7) Civil penalties collected under this section by:
- (a) a local health department shall be paid to the treasurer of the county in which the violation was committed; and
  - (b) the department shall be deposited into the General Fund.
- (8)
- (a) This section supersedes any ordinance enacted by the governing body of a political subdivision that restricts smoking in a place of public access as defined in Section 26B-7-501 and that is not essentially identical to the provisions of this section.
  - (b) This Subsection (8) does not supersede an ordinance enacted by the governing body of a political subdivision that restricts smoking in outdoor places of public access which are owned or operated by:
    - (i) a political subdivision as defined in Section 17B-1-102;
    - (ii) a state institution of higher education; or
    - (iii) a state institution of public education.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-504 Gathering of information related to cigarettes and tobacco products.**

- (1) The department shall obtain annually publicly available information regarding cigarettes and tobacco products from other states and sources concerning:
  - (a) the presence of the following substances in detectable levels in a burned state and, if the cigarette or tobacco product is typically burned when consumed, in a burned state:
    - (i) ammonia or ammonia compounds;

- (ii) arsenic;
  - (iii) cadmium;
  - (iv) formaldehyde; and
  - (v) lead; and
  - (b) a nicotine yield rating for the cigarette or tobacco product for which a rating has been developed.
- (2) Information obtained by the department under Subsection (1) is a public record and may be disclosed in accordance with Section 63G-2-201 and disseminated generally by the department.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-505 Electronic cigarette products -- Labeling -- Requirements to sell -- Advertising -- Labeling of nicotine products containing nicotine.**

- (1) The department shall, in consultation with a local health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell an electronic cigarette substance that is not a manufacturer sealed electronic cigarette substance regarding:
- (a) labeling;
  - (b) nicotine content;
  - (c) packaging; and
  - (d) product quality.
- (2) On or before January 1, 2021, the department shall, in consultation with a local health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell a manufacturer sealed electronic cigarette product regarding:
- (a) labeling;
  - (b) nicotine content;
  - (c) packaging; and
  - (d) product quality.
- (3)
- (a) A person may not sell an electronic cigarette substance unless the electronic cigarette substance complies with the requirements established by the department under Subsection (1).
  - (b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic cigarette product unless the manufacturer sealed electronic cigarette product complies with the requirements established by the department under Subsection (2).
- (4)
- (a) A local health department may not enact a rule or regulation regarding electronic cigarette substance labeling, nicotine content, packaging, or product quality that is not identical to the requirements established by the department under Subsections (1) and (2).
  - (b) Except as provided in Subsection (4)(c), a local health department may enact a rule or regulation regarding electronic cigarette substance manufacturing.
  - (c) A local health department may not enact a rule or regulation regarding a manufacturer sealed electronic cigarette product.
- (5) A person may not advertise an electronic cigarette product as a tobacco cessation device.
- (6) Any nicotine product shall contain the statement described in Subsection (7) if the nicotine product:

- (a)
    - (i) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related federal regulations; or
    - (ii) is not otherwise required under federal or state law to contain a nicotine warning; and
  - (b) contains nicotine.
- (7) A statement shall appear on the exterior packaging of a nicotine product described in Subsection (6) as follows:  
"This product contains nicotine."

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-506 Regulation of tobacco retailers.**

The regulation of a tobacco retailer is an exercise of the police powers of the state, and through delegation, to other governmental entities.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-507 Permitting requirement.**

- (1)
  - (a) A tobacco retailer shall hold a valid tobacco retail permit issued in accordance with this part by the local health department with jurisdiction over the physical location where the tobacco retailer operates.
  - (b) A tobacco retailer without a valid permit may not:
    - (i) place a tobacco product, an electronic cigarette product, or a nicotine product in public view;
    - (ii) display any advertisement related to a tobacco product, an electronic cigarette product, or a nicotine product that promotes the sale, distribution, or use of those products; or
    - (iii) sell, offer for sale, or offer to exchange for any form of consideration, tobacco, a tobacco product, an electronic cigarette product, or a nicotine product.
- (2) A local health department may issue a permit under this part for a tobacco retailer in the classification of:
  - (a) a general tobacco retailer; or
  - (b) a retail tobacco specialty business.
- (3) A permit under this part is:
  - (a) valid only for one physical location, including a vending machine;
  - (b) valid only at one fixed business address; and
  - (c) if multiple tobacco retailers are at the same address, separately required for each tobacco retailer.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-508 Permit application.**

- (1) A local health department shall issue a permit for a tobacco retailer if the local health department determines that the applicant:
  - (a) accurately provided all information required under Subsection (3) and, if applicable, Subsection (4); and
  - (b) meets all requirements for a permit under this part.
- (2) An applicant for a permit shall:
  - (a) submit an application described in Subsection (3) to the local health department with jurisdiction over the area where the tobacco retailer is located; and

- (b) pay all applicable fees described in Section 26B-7-509.
- (3) The application for a permit shall include:
  - (a) the name, address, and telephone number of each proprietor;
  - (b) the name and mailing address of each proprietor authorized to receive permit-related communication and notices;
  - (c) the business name, address, and telephone number of the single, fixed location for which a permit is sought;
  - (d) evidence that the location for which a permit is sought has a valid tax commission license;
  - (e) information regarding whether, in the past 24 months, any proprietor of the tobacco retailer has been determined to have violated, or has been a proprietor at a location that has been determined to have violated:
    - (i) a provision of this part;
    - (ii) Section 26B-7-503;
    - (iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;
    - (iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
    - (v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or
    - (vi) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of a tobacco product, an electronic cigarette product, or a nicotine product; and
  - (f) the dates of all violations disclosed under this Subsection (3).
- (4)
  - (a) In addition to the information described in Subsection (3), an applicant for a retail tobacco specialty business permit shall include evidence showing whether the business is located within:
    - (i) 1,000 feet of a community location;
    - (ii) 600 feet of another retail tobacco specialty business; or
    - (iii) 600 feet of property used or zoned for agricultural or residential use.
  - (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.
- (5) The department or a local health department may not deny a permit to a retail tobacco specialty business under Subsection (4) if the retail tobacco specialty business meets the requirements described in Subsection 10-8-41.6(7) or 17-50-333(7).
- (6)
  - (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health departments in accordance with this part.
  - (b) The permit process established by the department under Subsection (6)(a) may not require any information in an application that is not required by this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-509 Permit term and fees.**

- (1)
  - (a) The term of a permit issued to a retail tobacco specialty business is one year.
  - (b) The term of a permit issued to a general tobacco retailer is two years.
- (2)

- (a) A local health department may not issue a permit until the applicant has paid a permit fee to the local health department of:
  - (i) \$30 for a new permit;
  - (ii) \$20 for a permit renewal; or
  - (iii) \$30 for reinstatement of a permit that has been revoked, suspended, or allowed to expire.
- (b) A local health department that collects fees under Subsection (2)(a) shall use the fees to administer the permit requirements described in Sections 26B-7-506 through 26B-7-521.
- (c) In addition to the fee described in Subsection (2)(a), a local health department may establish and collect a fee to perform a plan review for a retail tobacco specialty business permit.
- (3) A permit holder may apply for a renewal of a permit no earlier than 30 days before the day on which the permit expires.
- (4) A tobacco retailer that fails to renew a permit before the permit expires may apply to reinstate the permit by submitting to the local health department:
  - (a) the information required in Subsection 26B-7-508(3) and, if applicable, Subsection 26B-7-508(4);
  - (b) the fee for the reinstatement of a permit; and
  - (c) a signed affidavit affirming that the tobacco retailer has not violated the prohibitions in Subsection 26B-7-507(1)(b) after the permit expired.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-510 Permit nontransferable.**

- (1) A permit is nontransferable.
- (2) If the information described in Subsection 26B-7-508(3) changes, a tobacco retailer:
  - (a) may not renew the permit; and
  - (b) shall apply for a new permit no later than 15 days after the information in Subsection 26B-7-508(3) changes.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-511 Permit requirements for a retail tobacco specialty business.**

- (1) A retail tobacco specialty business shall:
  - (a) electronically verify proof of age for any individual that enters the premises of the business in accordance with Section 26B-7-521;
  - (b) except as provided in Subsection 76-10-105.1(4), prohibit any individual from entering the business if the individual is under 21 years old; and
  - (c) prominently display at the retail tobacco specialty business a sign on the public entrance of the business that communicates:
    - (i) the prohibition on the presence of an individual under 21 years old in a retail tobacco specialty business in Subsection 76-10-105.1(4); and
    - (ii) the prohibition on the sale of tobacco products and electronic cigarette products to an individual under 21 years old as described in Sections 76-10-104, 76-10-104.1, 76-10-105.1, and 76-10-114.
- (2) A retail tobacco specialty business may not:
  - (a) employ an individual under 21 years old to sell a tobacco product, an electronic cigarette product, or a nicotine product; or
  - (b) permit an employee under 21 years old to sell a tobacco product, an electronic cigarette product, or a nicotine product.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-512 Requirements for the sale of tobacco product, electronic cigarette product, or nicotine product.**

- (1) A tobacco retailer shall:
  - (a) provide the customer with an itemized receipt for each sale of a tobacco product, an electronic cigarette product, or a nicotine product that separately identifies:
    - (i) the name of the tobacco product, the electronic cigarette product, or the nicotine product;
    - (ii) the amount charged for each tobacco product, electronic cigarette product, or nicotine product; and
    - (iii) the date and time of the sale; and
  - (b) maintain an itemized transaction log for each sale of a tobacco product, an electronic cigarette product, or a nicotine product that separately identifies:
    - (i) the name of the tobacco product, the electronic cigarette product, or the nicotine product;
    - (ii) the amount charged for each tobacco product, electronic cigarette product, or nicotine product; and
    - (iii) the date and time of the sale.
- (2) The itemized transaction log described in Subsection (1)(b) shall be:
  - (a) maintained for at least one year after the date of each transaction in the itemized transaction log;
  - (b) made available to an enforcing agency or a peace officer at the request of the enforcing agency or the peace officer; and
  - (c) in addition to any documentation required under Section 59-1-1406 and Subsection 59-14-805(2).

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-513 Permit requirements for the sale of tobacco products and electronic cigarette products.**

- (1) A tobacco retailer shall:
  - (a) provide the customer with an itemized receipt for each sale of a tobacco product or an electronic cigarette product that separately identifies:
    - (i) the name of the tobacco product or the electronic cigarette product;
    - (ii) the amount charged for each tobacco product or electronic cigarette product; and
    - (iii) the time and date of the sale; and
  - (b) maintain an itemized transaction log for each sale of a tobacco product or an electronic cigarette product that separately identifies:
    - (i) the name of the tobacco product or the electronic cigarette product;
    - (ii) the amount charged for each tobacco product or electronic cigarette product; and
    - (iii) the date and time of the sale.
- (2) The itemized transaction log described in Subsection (1)(b) shall be:
  - (a) maintained for at least one year after the date of each transaction in the itemized transaction log; and
  - (b) made available to an enforcing agency or a peace officer at the request of the enforcing agency or the peace officer that is no less restrictive than the provisions in this part.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-514 Permit violation.**

A person is in violation of the permit issued under this part if the person violates:

- (1) a provision of this part;
- (2) a provision of licensing laws under Section 10-8-41.6 or Section 17-50-333;
- (3) a provision of Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;
- (4) a provision of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- (5) a regulation restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or
- (6) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of a tobacco product, an electronic cigarette product, or a nicotine product.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-515 Enforcement by state and local health departments.**

The department and local health departments shall enforce Sections 26B-7-506 through 26B-7-521 under the procedures of Title 63G, Chapter 4, Administrative Procedures Act, as an informal adjudicative proceeding, including:

- (1) notifying a tobacco retailer of alleged violations;
- (2) conducting hearings;
- (3) determining violations; and
- (4) imposing civil administrative penalties.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-516 Inspection of retail tobacco businesses.**

The department or a local health department may inspect a tobacco retailer to determine whether the tobacco retailer:

- (1) continues to meet the qualifications for the permit issued under this part;
- (2) if applicable, continues to meet the requirements for a retail tobacco specialty business license issued under Section 10-8-41.6 or Section 17-50-333;
- (3) engaged in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- (4) violated any of the regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or
- (5) has violated any other provision of state law or local ordinance.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-517 Hearing -- Evidence of criminal conviction.**

- (1) At a civil hearing conducted under Section 26B-7-515, evidence of the final criminal conviction of a tobacco retailer for violation of Section 76-10-114 at the same location and within the same time period as the location and time period alleged in the civil hearing for violation of this part for sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old is prima facie evidence of a violation of this part.
- (2) If the tobacco retailer is convicted of violating Section 76-10-114, the enforcing agency:



- (a) shall assess an additional monetary penalty under this part for the same offense for which the conviction was obtained; and
- (b) shall revoke or suspend a permit in accordance with Section 26B-7-518.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-518 Penalties.**

- (1)
  - (a) If an enforcing agency determines that a person has violated the terms of a permit issued under this part, the enforcing agency may impose the penalties described in this section.
  - (b) If multiple violations are found in a single inspection by an enforcing agency or a single investigation by a law enforcement agency under Section 77-39-101, the enforcing agency shall treat the multiple violations as one single violation under Subsections (2), (3), and (4).
- (2) Except as provided in Subsections (3) and (4), if a violation is found in an investigation by a law enforcement agency under Section 77-39-101 or an inspection by an enforcing agency, the enforcing agency shall:
  - (a) on a first violation at a retail location, impose a penalty of \$1,000;
  - (b) on a second violation at the same retail location that occurs within one year of a previous violation, impose a penalty of \$1,500;
  - (c) on a third violation at the same retail location that occurs within two years after two previous violations, impose:
    - (i) a suspension of the permit for 30 consecutive business days within 60 days after the day on which the third violation occurs; or
    - (ii) a penalty of \$2,000; and
  - (d) on a fourth or subsequent violation within two years of three previous violations:
    - (i) impose a penalty of \$2,000;
    - (ii) revoke a permit of the retailer; and
    - (iii) if applicable, recommend to a municipality or county that a retail tobacco specialty business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.
- (3) If a violation is found in an investigation of a general tobacco retailer by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old and the violation is committed by the owner of the general tobacco retailer, the enforcing agency shall:
  - (a) on a first violation, impose a fine of \$2,000 on the general tobacco retailer; and
  - (b) on the second violation for the same general tobacco retailer within one year of the first violation:
    - (i) impose a fine of \$5,000; and
    - (ii) revoke the permit for the general tobacco retailer.
- (4) If a violation is found in an investigation of a retail tobacco specialty business by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old, the enforcing agency shall:
  - (a) on the first violation:
    - (i) impose a fine of \$5,000; and
    - (ii) immediately suspend the permit for 30 consecutive days; and
  - (b) on the second violation at the same retail location within two years of the first violation:
    - (i) impose a fine of \$10,000; and
    - (ii) revoke the permit for the retail tobacco specialty business.

- (5)
- (a) Except when a transfer described in Subsection (6) occurs, a local health department may not issue a permit to:
    - (i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2) or (3); or
    - (ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner, or other holder of significant interest as another tobacco retailer for whom a permit is suspended or revoked under Subsection (2), (3), or (4).
  - (b) A person whose permit:
    - (i) is suspended under this section may not apply for a new permit for any other tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends the permit; and
    - (ii) is revoked under this section may not apply for a new permit for any tobacco retailer for a period of 24 months after the day on which an enforcing agency revokes the permit.
- (6) Violations of this part, Section 10-8-41.6, or Section 17-50-333 that occur at a tobacco retailer location shall stay on the record for that tobacco retailer location unless:
- (a) the tobacco retailer is transferred to a new proprietor; and
  - (b) the new proprietor provides documentation to the local health department that the new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous proprietor.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-519 Recognition of tobacco retailer training program.**

- (1) In determining the amount of the monetary penalty to be imposed for a violation of this part, a hearing officer shall reduce the civil penalty by at least 50% if the hearing officer determines that:
- (a) the tobacco retailer has implemented a documented employee training program; and
  - (b) the employees have completed that training program within 30 days after the day on which each employee commences the duties of selling a tobacco product, an electronic cigarette product, or a nicotine product.
- (2)
- (a) For the first offense at a location, if the hearing officer determines under Subsection (1) that the tobacco retailer has not implemented a documented training program with a written curriculum for employees at that location regarding compliance with this chapter, the hearing officer may suspend all or a portion of the penalty if:
    - (i) the tobacco retailer agrees to initiate a training program for employees at that location; and
    - (ii) the training program begins within 30 days after the hearing officer makes a determination under this Subsection (2)(a).
  - (b) If the hearing officer determines at a subsequent hearing that the tobacco retailer has not implemented the training program within the time period required under Subsection (2)(a)(ii), the hearing officer shall promptly impose the suspended monetary penalty, unless the tobacco retailer demonstrates good cause for an extension of time for implementation of the training program.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-520 Allocation of civil penalties.**

Civil monetary penalties collected under Section 26B-7-518 shall be allocated as follows:

- (1) if a local health department conducts an adjudicative proceeding under Section 26B-7-515, the penalty shall be paid to the treasurer of the county in which the violation was committed, and transferred to the local health department; and
- (2) if the department conducts a civil hearing under Section 26B-7-515, the penalty shall be deposited in the state's General Fund, and may be appropriated by the Legislature to the department for use in enforcement of this part.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-521 Verification of proof of age.**

- (1) As used in this section:
  - (a) "Employee" means an employee of a retail tobacco specialty business.
  - (b) "Electronic verification program" means a technology used by a retail tobacco specialty business to confirm proof of age for an individual.
- (2) A retail tobacco specialty business shall require that an employee verify proof of age as provided in this section.
- (3) To comply with Subsection (2), an employee shall:
  - (a) request the individual present proof of age; and
  - (b) verify the validity of the proof of age electronically in accordance with Subsection (4).
- (4) A retail tobacco specialty business shall use an electronic verification program to assist the business in complying with the requirements of this section.
- (5)
  - (a) A retail tobacco specialty business may not disclose information obtained under this section except as provided under this part.
  - (b) Information obtained under this section:
    - (i) shall be kept for at least 180 days; and
    - (ii) is subject to inspection upon request by a peace officer or the representative of an enforcing agency.
- (6)
  - (a) If an employee does not verify proof of age under this section, the employee may not permit an individual to:
    - (i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or
    - (ii) purchase a tobacco product or an electronic cigarette product.
  - (b) In accordance with Subsection 76-10-105.1(4), an individual who is under 21 years old may be permitted to enter a retail tobacco specialty business if the individual is:
    - (i) accompanied by a parent or legal guardian who provides proof of age; or
    - (ii)
      - (A) present at the retail tobacco specialty business solely for the purpose of providing a commercial service to the retail tobacco specialty business, including making a commercial delivery;
      - (B) monitored by the proprietor of the retail tobacco specialty business or an employee of the retail tobacco specialty business; and
      - (C) not permitted to make any purchase or conduct any commercial transaction other than the service described in Subsection (6)(b)(ii)(A).
- (7) To determine whether the individual described in Subsection (2) is 21 years old or older, the following may request an individual described in Subsection (2) to present proof of age:
  - (a) an employee;
  - (b) a peace officer; or

(c) a representative of an enforcing agency.

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