

UTAH TELEHEALTH COMMISSION

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Hogue

AN ACT RELATING TO HEALTH; DEFINING TERMS; ESTABLISHING THE UTAH TELEHEALTH COMMISSION; ESTABLISHING THE DUTIES AND RESPONSIBILITIES OF

THE COMMISSION; ~~h [EXTENDING RULEMAKING AUTHORITY; h REQUIRING THE CONCURRENCE OF THE EXECUTIVE DIRECTOR FOR DEPARTMENT RULES; h~~

~~PERMITTING THE~~

~~COMMISSION TO ESTABLISH VOLUNTARY TELEHEALTH NETWORKS AND RELATED USER FEES; PERMITTING THE COMMISSION TO ESTABLISH A TELEHEALTH GRANT~~

~~PROGRAM;]~~ h MAKING CONFORMING AMENDMENTS; CLARIFYING THE USE OF DEPARTMENT APPROPRIATIONS FOR TELEHEALTH IN FISCAL YEAR 2000-01;

h PROVIDING A SUNSET DATE; h AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

h 63-55-226, as last amended by Chapter 156, Laws of Utah 1999 h

h [26-1-5, as enacted by Chapter 126, Laws of Utah 1981

~~26-1-7, as last amended by Chapter 345, Laws of Utah 1996~~

~~26-1-7.1, as enacted by Chapter 161, Laws of Utah 1987] h~~

ENACTS:

~~26-9f-101, Utah Code Annotated 1953~~

~~26-9f-102, Utah Code Annotated 1953~~

~~26-9f-103, Utah Code Annotated 1953~~

~~26-9f-104, Utah Code Annotated 1953~~

h [26-9f-105, Utah Code Annotated 1953

~~26-9f-106, Utah Code Annotated 1953] h~~

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

h [Section 1. Section 26-1-5 is amended to read:

~~26-1-5. Rules of department.] h~~

28 ~~h [(1) Except in areas regulated by statutory committees or commissions created by this title,~~
 29 ~~the department shall have the power to adopt, amend, or rescind rules necessary to carry out the~~
 30 ~~provisions of this title.~~

31 ~~———— (2) Rules shall have the force and effect of law and may deal with matters which materially~~
 32 ~~affect the security of health or the preservation and improvement of public health in the state, and~~
 33 ~~any matters as to which jurisdiction is conferred upon the department by this title.~~

34 ~~———— (3) Every rule adopted by the department pursuant to this section, or a committee or~~
 35 ~~commission established under Section 26-1-7 or 26-1-7.5, shall be subject to the Utah~~
 36 ~~Administrative Rulemaking Act, shall become effective at the time provided in the Utah~~
 37 ~~Administrative Rulemaking Act, and h [shall be signed by] UPON THE CONCURRENCE AND~~
 37a ~~SIGNATURE OF h the executive director.~~

38 ~~———— (4) At the time a rule adopted by the department or a committee or commission established~~
 39 ~~by Section 26-1-7 or 26-1-7.5, is filed with the state archivist it shall also be filed with the~~
 40 ~~legislative research director.~~

41 ~~———— (5) If, at the next general session of the Legislature following the filing of a rule with the~~
 42 ~~legislative research director, the Legislature passes a bill disapproving such rule, the rule shall be~~
 43 ~~null and void.~~

44 ~~———— (6) The department or a committee or commission created under Section 26-1-7 or~~
 45 ~~26-1-7.5, shall not adopt a rule identical to a rule disapproved under Subsection (5) of this section,~~
 46 ~~before the beginning of the next general session of the Legislature following the general session~~
 47 ~~at which the rule was disapproved.~~

48 ~~———— Section 2. Section 26-1-7 is amended to read:~~

49 ~~———— 26-1-7. Committees and commissions within department.~~

50 ~~———— (1) There are created within the department the following committees:~~

51 ~~———— [(1)] (a) Health Facility Committee;~~

52 ~~———— [(2)] (b) State Emergency Medical Services Committee;~~

53 ~~———— [(3)] (c) Rural Medical Financial Assistance Committee;~~

54 ~~———— [(4)] (d) Nurse Financial Assistance Committee;~~

55 ~~———— [(5)] (e) Health Data Committee; and~~

56 ~~———— [(6)] (f) Special Population Health Care Provider Financial Assistance Committee.~~

57 ~~———— (2) As provided in Section 26-9f-103, there is created within the department the Utah~~
 58 ~~Telehealth Commission.] h~~

59 ~~h [Section 3. Section 26-1-7.1 is amended to read:~~
 60 ~~26-1-7.1. Adjudicative proceedings:~~
 61 ~~All committees and commissions created by Section 26-1-7 shall comply with the~~
 62 ~~procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, in their~~
 63 ~~adjudicative proceedings.] h~~

64 Section h [4.] 1. h Section 26-9f-101 is enacted to read:

65 **CHAPTER 9f. UTAH TELEHEALTH COMMISSION ACT**

66 **26-9f-101. Title.**

67 This chapter is known as the "Utah Telehealth Commission Act."

68 Section h [5.] 2. h Section 26-9f-102 is enacted to read:

69 **26-9f-102. Definitions.**

70 As used in this chapter:

71 (1) "Commission" means the Utah Telehealth Commission created in Section 26-9f-103.

72 (2) "Telehealth" means the electronic transfer or exchange of medically related data for
 73 diagnosis, treatment, consultation, educational, or other related purposes.

74 Section h [6.] 3. h Section 26-9f-103 is enacted to read:

75 **26-9f-103. Telehealth Commission.**

76 (1) There is created within the department the Utah Telehealth Commission.

77 (2) The governor shall appoint 11 members to the commission with the consent of the
 78 Senate, as follows:

79 (a) a physician who is involved in telehealth;

80 (b) a representative of a licensed health care facility as defined in Section 26-21-2;

81 (c) a representative of rural Utah, which may be a person nominated by an advisory
 82 committee on rural health issues created pursuant to Section 26-1-20;

83 (d) a member of the public who is not involved with telehealth; and

84 (e) seven members:

85 (i) selected from a list of three nominees for each open position submitted by the division
 86 over health systems improvement; and

87 (ii) who fall into one or more of the following categories:

88 (A) individuals who use telehealth in a public or private institution;

89 (B) individuals who use telehealth in serving medically underserved populations;

90 (C) nonphysician health care providers involved in telehealth;

91 (D) information technology professionals involved in telehealth;

92 (E) representatives of the health insurance industry; and

93 (F) telehealth consumer advocates.

94 (3) (a) The commission shall annually elect a chairperson from its membership.

95 (b) The commission shall hold meetings at least once every three months. Meetings may
96 be held from time to time on the call of the chair or a majority of the board members.

97 (c) ~~h~~ ~~[Five]~~ ~~SIX~~ ~~h~~ commission members are necessary to constitute a quorum at any meeting
97a and,

98 if a quorum exists, the action of a majority of members present shall be the action of the
99 commission.

100 (4) (a) Except as provided in Subsection (4)(b), a commission member shall be appointed
101 for a three-year term and eligible for two reappointments.

102 (b) Notwithstanding Subsection (4)(a), the governor shall, at the time of appointment or
103 reappointment, adjust the length of terms to ensure that the terms of commission members are
104 staggered so that approximately 1/3 of the commission is appointed each year.

105 (c) A commission member shall continue in office until the expiration of the member's
106 term and until a successor is appointed, which may not exceed 90 days after the formal expiration
107 of the term.

108 (d) Notwithstanding Subsection (4)(c), a commission member who fails to attend 75% of
109 the scheduled meetings in a calendar year shall be disqualified from serving.

110 (e) When a vacancy occurs in membership for any reason, the replacement shall be
111 appointed for the unexpired term.

112 (5) (a) Board members who are not government employees may not receive compensation
113 or benefits for the services, but may receive per diem and expenses incurred in the performance
114 of their official duties at rates established by the Division of Finance under Sections 63A-3-106
115 and 63A-3-107.

116 ~~h [(b) Board members who are government employees but do not receive salary, per diem,~~
117 ~~or expenses from their employing unit for service to the commission may receive per diem and~~
118 ~~expenses incurred in the performance of official commission duties at rates established by the~~
119 ~~Division of Finance under Sections 63A-3-106 and 63A-3-107.~~

120 ~~(c)] (b) h~~ A commission member may decline to receive per diem and expenses for service to

121 the commission.

122 (6) The department shall provide staff support to the commission.

123 (7) ~~h~~ ~~(a)~~ h The funding of the commission shall be a separate line item to the department

123a in

124 the annual appropriations act.

125 h ~~[(b) Section 26-9f-106 shall govern the funding of the commission's grant program.] h~~

126 Section h [7.] 4. h Section 26-9f-104 is enacted to read:

127 **26-9f-104. Duties and responsibilities.**

128 The commission shall:

129 h ~~[(1) establish and implement the telehealth policy of the department;~~

130 ——~~(2)~~ (1) h advise and make recommendations on telehealth issues to h **THE DEPARTMENT,** h
130a the Information Technology

131 Commission h , h and other state entities;

132 h ~~[(3) provide state oversight and regulation under the direction of the executive director as~~

133 **a means of facilitating coordinated telehealth systems that request such oversight;**

134 ——~~(4)~~ (2) h promote collaborative efforts to establish technical compatibility, uniform policies,
134a and

135 privacy features to meet legal, financial, commercial, and other societal requirements;

136 h ~~[(5)] (3) h serve as a clearinghouse on emerging telehealth technologies;~~

137 h ~~[(6)] (4) h identify, address, and seek to resolve the legal, ethical, regulatory, financial,~~
137a medical,

138 and technological issues that may serve as barriers to telehealth;

139 h ~~[(7)] (5) h explore and encourage the development of telehealth systems as a means of~~
139a reducing

140 health costs and increasing health care quality and access;

141 h ~~[(8)] (6) h seek public input on telehealth issues;~~

142 h ~~[(9)] (7) h educate the public, state officials, and the health care community on telehealth~~
142a issues; h **AND** h

143 h ~~[(10)] (8) h advise the governor and Legislature on:~~

144 (a) the role of telehealth in the state;

145 (b) the policy issues related to telehealth;

146 (c) the changing telehealth needs and resources in the state; and

147 (d) state budgetary matters related to telehealth ~~h~~ [~~;~~~~and~~] ~~.~~ ~~h~~
148 ~~h [(11) adopt rules, pursuant to Section 26-1-5, as may be necessary to:~~
149 ~~———— (a) carry out the duties and responsibilities specified in this section; and~~
150 ~~———— (b) exercise the authority granted under Sections 26-9f-105 and 26-9f-106.~~
151 ~~———— Section 8. Section 26-9f-105 is enacted to read:]~~ ~~h~~

- 152 ~~h [26-9f-105. Commission-sponsored telehealth networks:~~
- 153 ~~—— The commission may h AS REQUESTED h :~~
- 154 ~~—— (1) establish one or more voluntary telehealth networks;~~
- 155 ~~—— (2) establish standards for persons participating in a commission-sponsored telehealth~~
- 156 ~~network; and~~
- 157 ~~—— (3) establish fees for participants and users in accordance with Section 26-1-6 h TO BE~~
- 157a ~~DEPOSITED INTO THE GENERAL FUND AS DEDICATED CREDITS AND USED h to operate~~
- 158 ~~a commission-sponsored telehealth network.~~
- 159 ~~—— Section 9. Section 26-9f-106 is enacted to read:~~
- 160 ~~—— 26-9f-106. Telehealth grants:~~
- 161 ~~—— (1) To enhance the quality of and access to telehealth systems, the commission may create~~
- 162 ~~and administer a program to distribute telehealth grants.~~
- 163 ~~—— (2) In connection with the telehealth grant program, the commission shall:~~
- 164 ~~—— (a) establish criteria and objectives for grants in rule;~~
- 165 ~~—— (b) establish priorities for the development of telehealth services throughout the state;~~
- 166 ~~—— (c) award grants in accordance with the criteria and objectives in Subsection (2)(a) and~~
- 167 ~~within available funding; and~~
- 168 ~~—— (d) seek appropriations, gifts, grants, contributions, and other financial resources to fund~~
- 169 ~~the telehealth grant program.~~
- 170 ~~—— (3) (a) The funding for the telehealth grant program shall be a separate line item to the~~
- 171 ~~department in the annual appropriations act, and unless otherwise provided in an appropriations~~
- 172 ~~act, is nonlapsing.~~
- 173 ~~—— (b) Funding shall include:~~
- 174 ~~—— (i) appropriations from the General Fund; and~~
- 175 ~~—— (ii) federal funds, gifts, grants, contributions, and other financial resources for the program.]~~
- 175a Section 5. Section 63-55-226 is amended to read:
- 175b 63-55-226. Repeal dates, Title 26.
- 175c (1) Title 26, Chapter 1, Department of Health Organization, is repealed July 1, 2001.
- 175d (2) Title 26, Chapter 4, Utah Medical Examiner Act, is repealed July 1, 2000.
- 175e (3) TITLE 26, CHAPTER 9f, UTAH TELEHEALTH COMMISSION, IS REPEALED JULY 1, 2002.
- 175f ~~[(3)]~~ (4) Title 26, Chapter 10, Family Health Services, is repealed July 1, 2000.
- 175g ~~[(4)]~~ (5) Title 26, Chapter 18, Medical Assistance Act, is repealed July 1, 2004.
- 175h ~~[(5)]~~ (6) Title 26, Chapter 32a, Waste Tire Recycling Act, is repealed July 1, 2000.
- 175i ~~[(6)]~~ (7) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2004.
- 175j ~~[(7)]~~ (8) Section 26-32a-114 is repealed July 1, 2000. h

176 Section ~~h [10.]~~ **6.** **Appropriation.**

177 Any funds appropriated for fiscal year 2000-01 to the Department of Health for telehealth
178 shall be used in accordance with, and in furtherance of, this act.

179 Section ~~h [11.]~~ **7.** **Effective date.**

180 This act takes effect on July 1, 2000.

Legislative Review Note
as of 1-18-00 7:08 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel