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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; EXTENDING RULEMAKING AUTHORITY; PERMITTING THE COMMISSION TO ESTABLISH VOLUNTARY TELEHEALTH NETWORKS AND RELATED USER FEES; PERMITTING THE COMMISSION TO ESTABLISH A TELEHEALTH GRANT PROGRAM; MAKING CONFORMING AMENDMENTS; CLARIFYING THE USE OF DEPARTMENT APPROPRIATIONS FOR TELEHEALTH IN FISCAL YEAR 2000-01; AND PROVIDING AN EFFECTIVE DATE.

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

AMENDS:

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

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

26-9f-105, Utah Code Annotated 1953

26-9f-106, Utah Code Annotated 1953

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

Section 1. Section **26-1-5** is amended to read:

26-1-5. Rules of department.

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

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

(3) Every rule adopted by the department pursuant to this section, or a committee or commission established under Section 26-1-7 or 26-1-7.5, shall be subject to the Utah Administrative Rulemaking Act, shall become effective at the time provided in the Utah Administrative Rulemaking Act, and shall be signed by the executive director.

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

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

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

Section 2. Section **26-1-7** is amended to read:

26-1-7. Committees and commissions within department.

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

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

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

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

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

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

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

(2) As provided in Section 26-9f-103, there is created within the department the Utah Telehealth Commission.

Section 3. Section **26-1-7.1** is amended to read:

26-1-7.1. Adjudicative proceedings.

All committees and commissions created by Section 26-1-7 shall comply with the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, in their adjudicative proceedings.

Section 4. Section **26-9f-101** is enacted to read:

CHAPTER 9f. UTAH TELEHEALTH COMMISSION ACT

26-9f-101. Title.

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

Section 5. Section **26-9f-102** is enacted to read:

26-9f-102. Definitions.

As used in this chapter:

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

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

Section 6. Section **26-9f-103** is enacted to read:

26-9f-103. Telehealth Commission.

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

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

(a) a physician who is involved in telehealth;

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

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

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

(e) seven members:

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

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

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

(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) Five commission members are necessary to constitute a quorum at any meeting 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 (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) 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) (a) The funding of the commission shall be a separate line item to the department in
124 the annual appropriations act.

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

126 Section 7. Section **26-9f-104** is enacted to read:

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

128 The commission shall:

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

130 (2) advise and make recommendations on telehealth issues to the Information Technology
131 Commission and other state entities;

132 (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) promote collaborative efforts to establish technical compatibility, uniform policies, and
135 privacy features to meet legal, financial, commercial, and other societal requirements;

136 (5) serve as a clearinghouse on emerging telehealth technologies;

137 (6) identify, address, and seek to resolve the legal, ethical, regulatory, financial, medical,
138 and technological issues that may serve as barriers to telehealth;

139 (7) explore and encourage the development of telehealth systems as a means of reducing
140 health costs and increasing health care quality and access;

141 (8) seek public input on telehealth issues;

142 (9) educate the public, state officials, and the health care community on telehealth issues;

143 (10) 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; and

148 (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:

26-9f-105. Commission-sponsored telehealth networks.

The commission may:

(1) establish one or more voluntary telehealth networks;

(2) establish standards for persons participating in a commission-sponsored telehealth network; and

(3) establish fees for participants and users in accordance with Section 26-1-6 to operate a commission-sponsored telehealth network.

Section 9. Section **26-9f-106** is enacted to read:

26-9f-106. Telehealth grants.

(1) To enhance the quality of and access to telehealth systems, the commission may create and administer a program to distribute telehealth grants.

(2) In connection with the telehealth grant program, the commission shall:

(a) establish criteria and objectives for grants in rule;

(b) establish priorities for the development of telehealth services throughout the state;

(c) award grants in accordance with the criteria and objectives in Subsection (2)(a) and within available funding; and

(d) seek appropriations, gifts, grants, contributions, and other financial resources to fund the telehealth grant program.

(3) (a) The funding for the telehealth grant program shall be a separate line item to the department in the annual appropriations act, and unless otherwise provided in an appropriations act, is nonlapsing.

(b) Funding shall include:

(i) appropriations from the General Fund; and

(ii) federal funds, gifts, grants, contributions, and other financial resources for the program.

Section 10. Appropriation.

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

Section 11. Effective date.

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