

**CONFORMING AMENDMENTS TO REPEAL OF
HEALTH POLICY COMMISSION**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Rebecca D. Lockhart

This act modifies provisions related to the Health Policy Commission which was repealed last year. The act deletes references to the Health Policy Commission in the Health Code and the Insurance Code and makes technical changes.

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

AMENDS:

26-1-30, as last amended by Chapter 229, Laws of Utah 2000

26-1-30.5, as enacted by Chapter 321, Laws of Utah 1995

26-18-401, as last amended by Chapter 13, Laws of Utah 1998

26-33a-106.5, as enacted by Chapter 201, Laws of Utah 1996

26-40-103, as last amended by Chapter 351, Laws of Utah 2000

26-40-104, as enacted by Chapter 360, Laws of Utah 1998

26-40-109, as enacted by Chapter 360, Laws of Utah 1998

26-40-110, as enacted by Chapter 360, Laws of Utah 1998

31A-30-110, as last amended by Chapters 10 and 265, Laws of Utah 1997

31A-32a-106, as enacted by Chapter 131, Laws of Utah 1999

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

Section 1. Section **26-1-30** is amended to read:

26-1-30. Powers and duties of department.

(1) The department shall:

(a) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered; and

(b) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential

health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups.

(2) In addition to all other powers and duties of the department, it shall have and exercise the following powers and duties:

- (a) promote and protect the health and wellness of the people within the state;
- (b) establish, maintain, and enforce rules necessary or desirable to carry out the provisions and purposes of this title to promote and protect the public health or to prevent disease and illness;
- (c) investigate and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health;
- (d) provide for the detection, reporting, prevention, and control of communicable, infectious, acute, chronic, or any other disease or health hazard that the department considers to be dangerous, important, or likely to affect the public health;
- (e) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;
- (f) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;
- (g) establish and operate programs necessary or desirable for the promotion or protection of the public health and the control of disease or which may be necessary to ameliorate the major causes of injury, sickness, death, and disability in the state, except that the programs shall not be established if adequate programs exist in the private sector;
- (h) establish, maintain, and enforce isolation and quarantine, and for this purpose only, exercise physical control over property and individuals as the department finds necessary for the protection of the public health;
- (i) close theaters, schools, and other public places and forbid gatherings of people when necessary to protect the public health;
- (j) abate nuisances when necessary to eliminate sources of filth and infectious and

communicable diseases affecting the public health;

(k) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

(l) establish laboratory services necessary to support public health programs and medical services in the state;

(m) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;

(n) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

(o) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Youth Corrections, and the Crime Victims Reparations Board to conduct testing for HIV infection of convicted sexual offenders and any victims of a sexual offense;

(p) investigate the cause of maternal and infant mortality;

(q) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol;

(r) provide the commissioner of public safety with monthly statistics reflecting the results of the examinations provided for in Subsection (2)(q) and provide safeguards so that information derived from the examinations is not used for a purpose other than the compilation of statistics authorized in this Subsection (2)(r);

(s) establish qualifications for individuals permitted to draw blood pursuant to Section 41-6-44.10, and to issue permits to individuals it finds qualified, which permits may be terminated or revoked by the department;

(t) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or

desirable for the protection of public health;

(u) adopt rules and enforce minimum sanitary standards for the operation and maintenance of:

- (i) orphanages;
 - (ii) boarding homes;
 - (iii) summer camps for children;
 - (iv) lodging houses;
 - (v) hotels;
 - (vi) restaurants and all other places where food is handled for commercial purposes, sold, or served to the public;
 - (vii) tourist and trailer camps;
 - (viii) service stations;
 - (ix) public conveyances and stations;
 - (x) public and private schools;
 - (xi) factories;
 - (xii) private sanatoria;
 - (xiii) barber shops;
 - (xiv) beauty shops;
 - (xv) physicians' offices;
 - (xvi) dentists' offices;
 - (xvii) workshops;
 - (xviii) industrial, labor, or construction camps;
 - (xix) recreational resorts and camps;
 - (xx) swimming pools, public baths, and bathing beaches;
 - (xxi) state, county, or municipal institutions, including hospitals and other buildings, centers, and places used for public gatherings; and
 - (xxii) of any other facilities in public buildings and on public grounds;
- (v) conduct health planning for the state;

(w) monitor the costs of health care in the state and foster price competition in the health care delivery system;

(x) adopt rules for the licensure of health facilities within the state pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;

(y) serve as the collecting agent, on behalf of the state, for the nursing facility assessment fee imposed under Title 26, Chapter 35, Nursing Facility Assessment Act, and the provider assessment imposed under Chapter 40, Utah Children's Health Insurance Act, and adopt rules for the enforcement and administration of the assessments consistent with Chapters 35 and 40; and

~~[(z) monitor and report to the Health Policy Commission created in Title 63C, Chapter 3, Health Policy Commission, on the development of managed health care plans in rural areas of the state, including the effect of the managed health care plans on costs, access, and availability of providers located in the rural communities of the state; and]~~

~~[(aa)]~~ (z) license the provision of child care.

Section 2. Section **26-1-30.5** is amended to read:

26-1-30.5. Duty to establish pilot program for monitoring quality in health care.

(1) The department shall develop a two year demonstration project to promote and monitor quality health care. Implementation and execution of the demonstration project is contingent upon appropriations from the Legislature.

(2) The demonstration project shall include at least the following:

(a) a collaborative, public-private effort to promote clinical quality and cost effectiveness in health care through community wide continuous quality improvement methods; and

(b) a process for evaluating the effectiveness of health care continuous quality improvement efforts in the state.

~~[(3) (a) Before issuing any requests for proposals, as defined in Section 63-56-5, to implement the demonstration project described in this section, the department shall:]~~

~~[(i) submit to the Utah Health Policy Commission a draft of the request for proposal to be issued for the demonstration project; and]~~

~~[(ii) provide an opportunity for the commission to comment on the request for proposal.]~~

~~[(b) Sixty days before issuing any requests for proposals as defined in Section 63-56-5 for acquisition of hardware and software and information technology systems for the collection, storage, and encoding of encounter level data, the department shall submit to the Information Technology Commission a detailed description of the pilot program's plan for information technology acquisition and funding.]~~

Section 3. Section **26-18-401** is amended to read:

26-18-401. Medicaid waiver.

(1) (a) Before July 1, 1995, the division shall submit to the Secretary of the United States Department of Health and Human Services an application for a Medicaid Waiver under 42 U.S.C. Section 1315. The purpose of the waiver is to expand the coverage of the Medicaid program, and to the extent permissible under the waiver, private health insurance plans to low income, otherwise uninsured persons who are in eligibility categories not traditionally served by the Medicaid program.

(b) Prior to submitting the application under Subsection (1)(a), the department shall submit to the Health and Human Services Interim Committee a summary of the application and proposal for implementing the waiver.

(c) Prior to adopting any rules or policies to implement the waiver, the department shall submit to the Health and Human Services Interim Committee the proposed rules and policies.

(2) Implementation and execution of this waiver by the department will be within appropriations from the Legislature.

~~[(3) The Health Policy Commission may make recommendations to the department regarding implementation and execution of the waiver.]~~

~~[(4)]~~ (3) The department shall establish by rule the policies governing eligibility, income limitations, cost sharing, participating in private insurance plans, benefit plan, and voluntary employee enrollment by employers who volunteer to participate.

~~[(5)]~~ (4) The department shall provide ~~[a periodic report to the Health Policy Committee and]~~ an annual report to the Health and Human Services Interim Committee on the progress and results of the waiver implementation.

Section 4. Section **26-33a-106.5** is amended to read:

26-33a-106.5. Comparative analyses.

(1) The committee may publish compilations or reports that compare and identify health care providers or data suppliers from the data it collects under this chapter or from any other source.

~~[(2) Until June 30, 1998, the committee shall inform the Health Policy Commission created in Title 63C, Chapter 3, before publishing a compilation or report that compares and identifies health care providers or data suppliers.]~~

~~[(3)]~~ (2) The committee shall contract with a private, independent analyst to evaluate the standard comparative reports of the committee that identify, compare, or rank the performance of data suppliers by name. The evaluation shall include a validation of statistical methodologies, limitations, appropriateness of use, and comparisons using standard health services research practice. The analyst must be experienced in analyzing large databases from multiple data suppliers and in evaluating health care issues of cost, quality, and access. The results of the analyst's evaluation must be released to the public before the standard comparative analysis upon which it is based may be published by the committee.

~~[(4)]~~ (3) The committee shall adopt by rule a timetable for the collection and analysis of data from multiple types of data suppliers.

Section 5. Section **26-40-103** is amended to read:

26-40-103. Creation and administration of the Utah Children's Health Insurance Program.

(1) There is created the Utah Children's Health Insurance Program to be administered by the department in accordance with the provisions of:

- (a) this chapter; and
- (b) the State Children's Health Insurance Program, 42 U.S.C. Sec. 1397aa et seq.

(2) The department shall:

(a) prepare and submit the state's children's health insurance plan before May 1, 1998, and any amendments to the federal Department of Health and Human Services in accordance with 42 U.S.C. Sec. 1397ff; and

(b) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking

Act regarding:

- (i) eligibility requirements consistent with Subsection 26-18-3(6);
- (ii) program benefits;
- (iii) the level of coverage for each program benefit;
- (iv) cost-sharing requirements for enrollees, which may not:
 - (A) exceed the guidelines set forth in 42 U.S.C. Sec. 1397ee; or
 - (B) impose deductible, copayment, or coinsurance requirements on an enrollee for

well-child, well-baby, and immunizations; and

- (v) the administration of the program.

(3) Before July 1, 2001, the Governor's Office of Planning and Budget shall study the effectiveness of the department's administration of the program and report any findings to:

- (a) the Health and Human Services Interim Committee of the Legislature; and
- ~~[(b) the Health Policy Commission; and]~~
- ~~[(c)]~~ (b) the department.

Section 6. Section **26-40-104** is amended to read:

26-40-104. Utah Children's Health Insurance Program Advisory Council.

(1) There is created a Utah Children's Health Insurance Program Advisory Council consisting of at least eight and no more than eleven members appointed by the executive director of the department. The term of each appointment shall be three years. The appointments shall be staggered at one-year intervals to ensure continuity of the advisory council.

- (2) The advisory council shall meet at least quarterly.

(3) The membership of the advisory council shall include at least one representative from each of the following groups:

- (a) child health care providers;
- (b) parents and guardians of children enrolled in the program;
- (c) ethnic populations other than American Indians;
- (d) American Indians;
- ~~[(e) the Health Policy Commission;]~~

~~[(f)]~~ (e) the Utah Association of Health Care Providers;
~~[(g)]~~ (f) health and disability insurance providers; and
~~[(h)]~~ (g) the general public.

(4) The advisory council shall advise the department on:

- (a) benefits design;
- (b) eligibility criteria;
- (c) outreach;
- (d) evaluation; and
- (e) special strategies for under-served populations.

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

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the council at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

Section 7. Section **26-40-109** is amended to read:

26-40-109. Evaluation.

(1) The department shall develop performance measures and annually evaluate the program's performance.

(2) The department shall report annually on its evaluation to the Health and Human Services Interim Committee of the Legislature [~~and the Health Policy Commission~~] before November 1.

Section 8. Section **26-40-110** is amended to read:

26-40-110. Managed care -- Contracting for services.

(1) Services provided to enrollees under the program shall be delivered in a managed care system if services are available within 30 paved road miles of where the enrollee lives or resides. Otherwise, the program may provide services to enrollees through fee for service plans.

(2) Before awarding a contract to a managed care system or fee for service plan to provide services under Subsection (1) or determining that no bid or proposal received in response to such a request is acceptable, the executive director shall report that information to and seek recommendations from the Health ~~[Policy Commission]~~ Advisory Council created in Section 26-1-7.5.

(3) If after seeking the recommendation of the Health ~~[Policy Commission]~~ Advisory Council under Subsection (2), the executive director determines that no bid or proposal received in response to such a request is acceptable or if no bid or proposal has been received in response to such a request, the department may contract with the Group Insurance Division within the Utah State Retirement Office to provide services under Subsection (1).

(4) Title 63, Chapter 56, Utah Procurement Code, shall apply to this section.

Section 9. Section **31A-30-110** is amended to read:

31A-30-110. Individual enrollment cap.

(1) The commissioner shall set the individual enrollment cap at .5% on July 1, 1997.

(2) The commissioner shall raise the individual enrollment cap by .5% at the later of the following dates:

(a) six months from the last increase in the individual enrollment cap; or

(b) the date when CCI/TI is greater than .90, where:

(i) "CCI" is the total individual coverage count for all carriers certifying that their uninsurable percentage has reached the individual enrollment cap; and

(ii) "TI" is the total individual coverage count for all carriers.

(3) The commissioner may establish a minimum number of uninsurable individuals that a carrier entering the market who is subject to this chapter must accept under the individual enrollment provisions of this chapter.

(4) Beginning July 1, 1997, an individual carrier may decline to accept individuals applying

for individual enrollment under Subsection 31A-30-108(3), other than individuals applying for coverage as set forth in P.L. 104-191, 110 Stat. 1979, Sec. 2741 (a)-(b), if:

(a) the uninsurable percentage for that carrier equals or exceeds the cap established in Subsection (1); and

(b) the covered carrier has certified on forms provided by the commissioner that its uninsurable percentage equals or exceeds the individual enrollment cap.

(5) The department may audit a carrier's records to verify whether the carrier's uninsurable classification meets industry standards for underwriting criteria as established by the commissioner in accordance with Subsection 31A-30-106(1)(k).

~~[(6) (a) On or before July 1, 1997, and each July 1 thereafter, the commissioner:]~~

~~[(i) shall report to the Utah Health Policy Commission on the distribution of risks assumed by various carriers in the state under the individual enrollment provision of this part; and]~~

~~[(ii) may make recommendations to the Utah Health Policy Commission and the Legislature regarding the adjustment of the .5% cap on individual enrollment or some other risk adjustment to maintain equitable distribution of risk among carriers.]~~

~~[(b)]~~ (6) (a) If the commissioner determines that individual enrollment is causing a substantial adverse effect on premiums, enrollment, or experience, the commissioner may suspend, limit, or delay further individual enrollment for up to 12 months.

~~[(c)]~~ (b) The commissioner shall adopt rules to establish a uniform methodology for calculating and reporting loss ratios for individual policies for determining whether the individual enrollment provisions of Section 31A-30-108 should be waived for an individual carrier experiencing significant and adverse financial impact as a result of complying with those provisions.

~~[(7) (a) On or before November 30, 1995, the commissioner shall report to the Health Policy Commission and the Legislature on:]~~

~~[(i) the impact of the Small Employer Health Insurance Act on availability of small employer insurance in the market;]~~

~~[(ii) the number of carriers who have withdrawn from the market or ceased to issue new policies since the implementation of the Small Employer Health Insurance Act;]~~

~~[(iii) the expected impact of the individual enrollment provisions on the factors described in Subsections (7)(i) and (ii); and]~~

~~[(iv) the claims experience, costs, premiums, participation, and viability of the Comprehensive Health Insurance Pool created in Chapter 29.]~~

~~[(b) The report to the Legislature shall be submitted in writing to each legislator.]~~

Section 10. Section **31A-32a-106** is amended to read:

31A-32a-106. Regulation of account administrators -- Administration of tax deductions.

(1) The department shall regulate account administrators and may adopt rules necessary to administer this chapter.

~~[(2) Before adopting rules to administer this chapter, the department shall report the proposed rules to the Utah Health Policy Commission.]~~

~~[(3)]~~ (2) The tax commission may adopt rules necessary to monitor and implement the tax deductions established by this chapter and Section 59-10-114.