

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

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Rebecca D. Lockhart**

6 **This act modifies provisions related to the Health Policy Commission which was repealed last**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

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

10 AMENDS:

11 **26-1-30**, as last amended by Chapter 229, Laws of Utah 2000

12 **26-1-30.5**, as enacted by Chapter 321, Laws of Utah 1995

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

14 **26-33a-106.5**, as enacted by Chapter 201, Laws of Utah 1996

15 **26-40-103**, as last amended by Chapter 351, Laws of Utah 2000

16 **26-40-104**, as enacted by Chapter 360, Laws of Utah 1998

17 **26-40-109**, as enacted by Chapter 360, Laws of Utah 1998

18 **26-40-110**, as enacted by Chapter 360, Laws of Utah 1998

19 **31A-30-110**, as last amended by Chapters 10 and 265, Laws of Utah 1997

20 **31A-32a-106**, as enacted by Chapter 131, Laws of Utah 1999

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

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

23 **26-1-30. Powers and duties of department.**

24 (1) The department shall:

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

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28 (b) consult with the Department of Environmental Quality and enter into cooperative
29 agreements, as needed, to ensure efficient use of resources and effective response to potential
30 health and safety threats from the environment, and to prevent gaps in protection from potential
31 risks from the environment to specific individuals or population groups.

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

34 (a) promote and protect the health and wellness of the people within the state;

35 (b) establish, maintain, and enforce rules necessary or desirable to carry out the provisions
36 and purposes of this title to promote and protect the public health or to prevent disease and illness;

37 (c) investigate and control the causes of epidemic, infectious, communicable, and other
38 diseases affecting the public health;

39 (d) provide for the detection, reporting, prevention, and control of communicable,
40 infectious, acute, chronic, or any other disease or health hazard that the department considers to
41 be dangerous, important, or likely to affect the public health;

42 (e) collect and report information on causes of injury, sickness, death, and disability and
43 the risk factors that contribute to the causes of injury, sickness, death, and disability within the
44 state;

45 (f) collect, prepare, publish, and disseminate information to inform the public concerning
46 the health and wellness of the population, specific hazards, and risks that may affect the health and
47 wellness of the population and specific activities which may promote and protect the health and
48 wellness of the population;

49 (g) establish and operate programs necessary or desirable for the promotion or protection
50 of the public health and the control of disease or which may be necessary to ameliorate the major
51 causes of injury, sickness, death, and disability in the state, except that the programs shall not be
52 established if adequate programs exist in the private sector;

53 (h) establish, maintain, and enforce isolation and quarantine, and for this purpose only,
54 exercise physical control over property and individuals as the department finds necessary for the
55 protection of the public health;

56 (i) close theaters, schools, and other public places and forbid gatherings of people when
57 necessary to protect the public health;

58 (j) abate nuisances when necessary to eliminate sources of filth and infectious and

59 communicable diseases affecting the public health;

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

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

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

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

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

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

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

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

81 (s) establish qualifications for individuals permitted to draw blood pursuant to Section
82 41-6-44.10, and to issue permits to individuals it finds qualified, which permits may be terminated
83 or revoked by the department;

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

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

- 90 (i) orphanages;
- 91 (ii) boarding homes;
- 92 (iii) summer camps for children;
- 93 (iv) lodging houses;
- 94 (v) hotels;
- 95 (vi) restaurants and all other places where food is handled for commercial purposes, sold,
- 96 or served to the public;
- 97 (vii) tourist and trailer camps;
- 98 (viii) service stations;
- 99 (ix) public conveyances and stations;
- 100 (x) public and private schools;
- 101 (xi) factories;
- 102 (xii) private sanatoria;
- 103 (xiii) barber shops;
- 104 (xiv) beauty shops;
- 105 (xv) physicians' offices;
- 106 (xvi) dentists' offices;
- 107 (xvii) workshops;
- 108 (xviii) industrial, labor, or construction camps;
- 109 (xix) recreational resorts and camps;
- 110 (xx) swimming pools, public baths, and bathing beaches;
- 111 (xxi) state, county, or municipal institutions, including hospitals and other buildings,
- 112 centers, and places used for public gatherings; and
- 113 (xxii) of any other facilities in public buildings and on public grounds;
- 114 (v) conduct health planning for the state;
- 115 (w) monitor the costs of health care in the state and foster price competition in the health
- 116 care delivery system;
- 117 (x) adopt rules for the licensure of health facilities within the state pursuant to Title 26,
- 118 Chapter 21, Health Care Facility Licensing and Inspection Act;
- 119 (y) serve as the collecting agent, on behalf of the state, for the nursing facility assessment
- 120 fee imposed under Title 26, Chapter 35, Nursing Facility Assessment Act, and the provider

121 assessment imposed under Chapter 40, Utah Children's Health Insurance Act, and adopt rules for
122 the enforcement and administration of the assessments consistent with Chapters 35 and 40; and
123 ~~[(z) monitor and report to the Health Policy Commission created in Title 63C, Chapter 3,~~
124 ~~Health Policy Commission, on the development of managed health care plans in rural areas of the~~
125 ~~state, including the effect of the managed health care plans on costs, access, and availability of~~
126 ~~providers located in the rural communities of the state; and]~~

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

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

129 **26-1-30.5. Duty to establish pilot program for monitoring quality in health care.**

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

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

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

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

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

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

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

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

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

149 **26-18-401. Medicaid waiver.**

150 (1) (a) Before July 1, 1995, the division shall submit to the Secretary of the United States
151 Department of Health and Human Services an application for a Medicaid Waiver under 42 U.S.C.

152 Section 1315. The purpose of the waiver is to expand the coverage of the Medicaid program, and
153 to the extent permissible under the waiver, private health insurance plans to low income, otherwise
154 uninsured persons who are in eligibility categories not traditionally served by the Medicaid
155 program.

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

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

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

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

165 ~~[(4)]~~ (3) The department shall establish by rule the policies governing eligibility, income
166 limitations, cost sharing, participating in private insurance plans, benefit plan, and voluntary
167 employee enrollment by employers who volunteer to participate.

168 ~~[(5)]~~ (4) The department shall provide ~~[a periodic report to the Health Policy Committee
169 and]~~ an annual report to the Health and Human Services Interim Committee on the progress and
170 results of the waiver implementation.

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

172 **26-33a-106.5. Comparative analyses.**

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

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

179 ~~[(3)]~~ (2) The committee shall contract with a private, independent analyst to evaluate the
180 standard comparative reports of the committee that identify, compare, or rank the performance of
181 data suppliers by name. The evaluation shall include a validation of statistical methodologies,
182 limitations, appropriateness of use, and comparisons using standard health services research

183 practice. The analyst must be experienced in analyzing large databases from multiple data
 184 suppliers and in evaluating health care issues of cost, quality, and access. The results of the
 185 analyst's evaluation must be released to the public before the standard comparative analysis upon
 186 which it is based may be published by the committee.

187 ~~[(4)]~~ (3) The committee shall adopt by rule a timetable for the collection and analysis of
 188 data from multiple types of data suppliers.

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

190 **26-40-103. Creation and administration of the Utah Children's Health Insurance**

191 **Program.**

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

194 (a) this chapter; and

195 (b) the State Children's Health Insurance Program, 42 U.S.C. Sec. 1397aa et seq.

196 (2) The department shall:

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

200 (b) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
 201 Act regarding:

202 (i) eligibility requirements consistent with Subsection 26-18-3(6);

203 (ii) program benefits;

204 (iii) the level of coverage for each program benefit;

205 (iv) cost-sharing requirements for enrollees, which may not:

206 (A) exceed the guidelines set forth in 42 U.S.C. Sec. 1397ee; or

207 (B) impose deductible, copayment, or coinsurance requirements on an enrollee for
 208 well-child, well-baby, and immunizations; and

209 (v) the administration of the program.

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

212 (a) the Health and Human Services Interim Committee of the Legislature; and

213 ~~[(b) the Health Policy Commission; and]~~

214 [~~e~~] (b) the department.

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

216 **26-40-104. Utah Children's Health Insurance Program Advisory Council.**

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

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

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

224 (a) child health care providers;

225 (b) parents and guardians of children enrolled in the program;

226 (c) ethnic populations other than American Indians;

227 (d) American Indians;

228 [~~e~~ the Health Policy Commission;]

229 [~~f~~] (e) the Utah Association of Health Care Providers;

230 [~~g~~] (f) health and disability insurance providers; and

231 [~~h~~] (g) the general public.

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

233 (a) benefits design;

234 (b) eligibility criteria;

235 (c) outreach;

236 (d) evaluation; and

237 (e) special strategies for under-served populations.

238 (5) (a) (i) Members who are not government employees may not receive compensation or
239 benefits for their services, but may receive per diem and expenses incurred in the performance of
240 the member's official duties at the rates established by the Division of Finance under Sections
241 63A-3-106 and 63A-3-107.

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

243 (b) (i) State government officer and employee members who do not receive salary, per
244 diem, or expenses from their agency for their service may receive per diem and expenses incurred

245 in the performance of their official duties from the council at the rates established by the Division
246 of Finance under Sections 63A-3-106 and 63A-3-107.

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

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

250 **26-40-109. Evaluation.**

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

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

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

257 **26-40-110. Managed care -- Contracting for services.**

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

261 (2) Before awarding a contract to a managed care system or fee for service plan to provide
262 services under Subsection (1) or determining that no bid or proposal received in response to such
263 a request is acceptable, the executive director shall report that information to and seek
264 recommendations from the Health [~~Policy Commission~~] Advisory Council created in Section
265 26-1-7.5.

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

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

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

273 **31A-30-110. Individual enrollment cap.**

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

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

276 following dates:

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

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

279 (i) "CCI" is the total individual coverage count for all carriers certifying that their

280 uninsurable percentage has reached the individual enrollment cap; and

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

282 (3) The commissioner may establish a minimum number of uninsurable individuals that

283 a carrier entering the market who is subject to this chapter must accept under the individual

284 enrollment provisions of this chapter.

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

286 applying for individual enrollment under Subsection 31A-30-108(3), other than individuals

287 applying for coverage as set forth in P.L. 104-191, 110 Stat. 1979, Sec. 2741 (a)-(b), if:

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

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

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

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

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

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

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

304 [~~(c)~~] (b) The commissioner shall adopt rules to establish a uniform methodology for
305 calculating and reporting loss ratios for individual policies for determining whether the individual
306 enrollment provisions of Section 31A-30-108 should be waived for an individual carrier

307 experiencing significant and adverse financial impact as a result of complying with those
 308 provisions.

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

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

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

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

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

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

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

321 **31A-32a-106. Regulation of account administrators -- Administration of tax
 322 deductions.**

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

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

327 ~~[(3)]~~ (2) The tax commission may adopt rules necessary to monitor and implement the tax
 328 deductions established by this chapter and Section 59-10-114.

Legislative Review Note

as of 11-28-00 1:45 PM

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

Office of Legislative Research and General Counsel