

1 **SUBSTANCE ABUSE AND MENTAL HEALTH**

2 **AMENDMENTS**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Loraine T. Pace**

6 **This act modifies the Substance Abuse and Mental Health Act and provisions relating to**
7 **local substance abuse and mental health authorities. The act rearranges provisions**
8 **relating to state and local substance abuse and mental health services and programs and**
9 **makes other technical changes.**

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

11 AMENDS:

12 **62A-15-103**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth
13 Special Session

14 **62A-15-107**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth
15 Special Session

16 **62A-15-108**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth
17 Special Session

18 **62A-15-110**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth
19 Special Session

20 ENACTS:

21 **17A-3-608**, Utah Code Annotated 1953

22 **17A-3-704**, Utah Code Annotated 1953

23 REPEALS:

24 **62A-15-109**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth
25 Special Session

26 **62A-15-111**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth
27 Special Session



28 **62A-15-112**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth
29 Special Session

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

31 Section 1. Section **17A-3-608** is enacted to read:

32 **17A-3-608. Fees for mental health services -- Responsibility for cost of service if**
33 **rendered by authority to nonresident -- Authority may receive funds from other sources.**

34 (1) Each local mental health authority shall charge a fee for mental health services,
35 except that mental health services may not be refused to any person because of inability to pay.

36 (2) If a local mental health authority, through its designated provider, provides a
37 service described in Section 17A-3-602 to a person who resides within the jurisdiction of
38 another local mental health authority, the local mental health authority in whose jurisdiction the
39 person resides is responsible for the cost of that service if its designated provider has
40 authorized the provision of that service.

41 (3) A local mental health authority and entities that contract with a local mental health
42 authority to provide mental health services may receive funds made available by federal, state,
43 or local health, substance abuse, mental health, education, welfare, or other agencies, in
44 accordance with the provisions of this part and Title 62A, Chapter 15, Substance Abuse and
45 Mental Health Act.

46 Section 2. Section **17A-3-704** is enacted to read:

47 **17A-3-704. Fees for substance abuse services -- Responsibility for cost of service if**
48 **rendered by authority to nonresident -- Authority may receive funds from other sources.**

49 (1) Each local substance abuse authority shall charge a fee for substance abuse
50 services, except that substance abuse services may not be refused to any person because of
51 inability to pay.

52 (2) If a local substance abuse authority, through its designated provider, provides a
53 service described in Subsection 17A-3-701(3) to a person who resides within the jurisdiction of
54 another local substance abuse authority, the local substance abuse authority in whose
55 jurisdiction the person resides is responsible for the cost of that service if its designated
56 provider has authorized the provision of that service.

57 (3) A local substance abuse authority and entities that contract with a local substance
58 abuse authority to provide substance abuse services may receive funds made available by

59 federal, state, or local health, substance abuse, mental health, education, welfare, or other
60 agencies, in accordance with the provisions of this part and Title 62A, Chapter 15, Substance
61 Abuse and Mental Health Act.

62 Section 3. Section **62A-15-103** is amended to read:

63 **62A-15-103. Division -- Creation -- Responsibilities.**

64 (1) There is created the Division of Substance Abuse and Mental Health within the
65 department, under the administration and general supervision of the executive director, and,
66 with regard to its programs, under the policy direction of the board. The division is the
67 substance abuse authority and the mental health authority for this state.

68 (2) The division shall:

69 (a) (i) educate the general public regarding the nature and consequences of substance
70 abuse by promoting school and community-based prevention programs;

71 (ii) render support and assistance to public schools through approved school-based
72 substance abuse education programs aimed at prevention of substance abuse;

73 (iii) promote or establish programs for the prevention of substance abuse within the
74 community setting through community-based prevention programs;

75 (iv) cooperate and assist other organizations and private treatment centers for substance
76 abusers, by providing them with essential materials for furthering programs of prevention and
77 rehabilitation of actual and potential substance abusers; and

78 (v) promote or establish programs for education and certification of instructors to
79 educate persons convicted of driving under the influence of alcohol or drugs or driving with
80 any measurable controlled substance in the body;

81 (b) (i) collect and disseminate information pertaining to mental health; and

82 (ii) provide direction over the state hospital including approval of its budget,
83 administrative policy, and coordination of services with local service plans; ~~and~~

84 (c) (i) consult and coordinate with local substance abuse authorities and local mental
85 health authorities regarding programs and services;

86 (ii) provide consultation and other assistance to public and private agencies and groups
87 working on substance abuse and mental health issues;

88 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
89 medical and social agencies, public health authorities, law enforcement agencies, education and

90 research organizations, and other related groups;

91 (iv) promote or conduct research on substance abuse and mental health issues, and

92 submit to the governor and the Legislature recommendations for changes in policy and

93 legislation;

94 (v) receive, distribute, and provide direction over public funds for substance abuse and

95 mental health services;

96 (vi) monitor and evaluate programs provided by local substance abuse authorities and

97 local mental health authorities;

98 (vii) examine expenditures of any local, state, and federal funds;

99 (viii) monitor the expenditure of public funds by:

100 (A) local substance abuse authorities;

101 (B) local mental health authorities; and

102 (C) in counties where they exist, the private contract provider that has an annual or

103 otherwise ongoing contract to provide comprehensive substance abuse or mental health

104 programs or services for the local substance abuse authority or local mental health authorities;

105 (ix) contract with local substance abuse authorities and local mental health authorities

106 to provide a comprehensive continuum of services in accordance with board and division

107 policy, contract provisions, and the local plan;

108 (x) contract with private and public entities for special statewide or nonclinical services

109 according to board and division policy;

110 (xi) review and approve each local substance abuse authority's plan and each local

111 mental health authority's plan in order to ensure:

112 (A) a statewide comprehensive continuum of substance abuse services;

113 (B) a statewide comprehensive continuum of mental health services; and

114 (C) appropriate expenditure of public funds;

115 (xii) review and make recommendations regarding each local substance abuse

116 authority's contract with its provider of substance abuse programs and services and each local

117 mental health authority's contract with its provider of mental health programs and services to

118 ensure compliance with state and federal law and policy;

119 (xiii) monitor and ensure compliance with board and division policy and contract

120 requirements; and

121 (xiv) withhold funds from local substance abuse authorities, local mental health
122 authorities, and public and private providers for contract noncompliance, failure to comply
123 with division directives regarding the use of public funds, or for misuse of public funds or
124 monies[-];

125 (d) assure that the requirements of this part are met and applied uniformly by local
126 substance abuse authorities and local mental health authorities across the state;

127 (e) require each local substance abuse authority and each local mental health authority
128 to submit its plan to the division by May 1 of each year;

129 (f) conduct an annual program audit and review of each local substance abuse authority
130 in the state and its contract provider and each local mental health authority in the state and its
131 contract provider, including:

132 (i) a review and determination regarding whether:

133 (A) public funds allocated to local substance abuse authorities and local mental health
134 authorities are consistent with services rendered and outcomes reported by them or their
135 contract providers; and

136 (B) each local substance abuse authority and each local mental health authority is
137 exercising sufficient oversight and control over public funds allocated for substance abuse and
138 mental health programs and services; and

139 (ii) items determined by the division to be necessary and appropriate;

140 (g) by July 1 of each year, provide to the Health and Human Services Interim
141 Committee and the Health and Human Services Appropriations Subcommittee a written report
142 that includes:

143 (i) the annual audit and review;

144 (ii) the financial expenditures of each local substance abuse authority and its contract
145 provider and each local mental health authority and its contract provider;

146 (iii) the status of the compliance of each local authority and its contract provider with
147 its plan, state statutes, and the provisions of the contract awarded; and

148 (iv) whether audit guidelines established under Section 62A-15-110 and Subsection
149 67-3-1(2)(o) provide the division with sufficient criteria and assurances of appropriate
150 expenditures of public funds; and

151 (h) if requested by the Health and Human Services Interim Committee or the Health

152 and Human Services Appropriations Subcommittee, provide an oral report as requested.

153 (3) (a) The division may refuse to contract with and may pursue its legal remedies
154 against any local substance abuse authority or local mental health authority that fails, or has
155 failed, to expend public funds in accordance with state law, division policy, contract
156 provisions, or directives issued in accordance with state law.

157 (b) The division may withhold funds from a local substance abuse authority or local
158 mental health authority if the authority's contract with its provider of substance abuse or mental
159 health programs or services fails to comply with state and federal law or policy.

160 (4) Before reissuing or renewing a contract with any local substance abuse authority or
161 local mental health authority, the division shall review and determine whether the local
162 substance abuse authority or local mental health authority is complying with its oversight and
163 management responsibilities described in Sections 17A-3-601, 17A-3-603.5, 17A-3-701 and
164 17A-3-703. Nothing in this Subsection (4) may be used as a defense to the responsibility and
165 liability described in Section 17A-3-603.5 and to the responsibility and liability described in
166 Section 17A-3-703.

167 (5) In carrying out its duties and responsibilities, the division may not duplicate
168 treatment or educational facilities that exist in other divisions or departments of the state, but
169 shall work in conjunction with those divisions and departments in rendering the treatment or
170 educational services that those divisions and departments are competent and able to provide.

171 (6) (a) The division may accept in the name of and on behalf of the state donations,
172 gifts, devises, or bequests of real or personal property or services to be used as specified by the
173 donor.

174 (b) Those donations, gifts, devises, or bequests shall be used by the division in
175 performing its powers and duties. Any money so obtained shall be considered private
176 nonlapsing funds and shall be deposited into an interest-bearing restricted special revenue fund
177 to be used by the division for substance abuse or mental health services. The state treasurer
178 may invest the fund and all interest shall remain with the fund.

179 (7) The division shall annually review with each local substance abuse authority and
180 each local mental health authority the authority's statutory and contract responsibilities
181 regarding:

182 (a) the use of public funds;

- 183 (b) oversight responsibilities regarding public funds; and
184 (c) governance of substance abuse and mental health programs and services.
185 (8) The Legislature may refuse to appropriate funds to the division upon the division's
186 failure to comply with the provisions of this part.

187 Section 4. Section **62A-15-107** is amended to read:

188 **62A-15-107. Authority to assess fees.**

189 [(1)] The division may, with the approval of the Legislature, the executive director, and
190 the board, establish fee schedules and assess fees for services rendered by the division.

191 [~~(2) Fees shall be charged for substance abuse and mental health treatment services, but~~
192 ~~services may not be refused to any person because of inability to pay.]~~

193 Section 5. Section **62A-15-108** is amended to read:

194 **62A-15-108. Formula for allocation of funds to local substance abuse authorities**
195 **and local mental health authorities.**

196 (1) The board shall establish, by rule, formulas for allocating funds to local substance
197 abuse authorities and local mental health authorities through contracts, to provide substance
198 abuse prevention and treatment services in accordance with the provisions of this chapter and
199 Title 17A, Chapter 3, Part 7, Local Substance Abuse Authorities, and mental health services in
200 accordance with the provisions of this chapter and Title 17A, Chapter 3, Part 6, Local Mental
201 Health Authorities. The formulas shall provide for allocation of funds based on need.
202 Determination of need shall be based on population unless the board establishes, by valid and
203 accepted data, that other defined factors are relevant and reliable indicators of need. The
204 formulas shall include a differential to compensate for additional costs of providing services in
205 rural areas.

206 (2) The formulas established under Subsection (1) apply to all state and federal funds
207 appropriated by the Legislature to the division for local substance abuse authorities and local
208 mental health authorities, but does not apply to:

209 (a) funds that local substance abuse authorities and local mental health authorities
210 receive from sources other than the division;

211 (b) funds that local substance abuse authorities and local mental health authorities
212 receive from the division to operate specific programs within their jurisdictions which are
213 available to all residents of the state;

214 (c) funds that local substance abuse authorities and local mental health authorities
215 receive from the division to meet needs that exist only within their local areas; and

216 (d) funds that local substance abuse authorities and local mental health authorities
217 receive from the division for research projects.

218 ~~[(3) Contracts with local substance abuse authorities and local mental health authorities
219 shall provide that the division may withhold funds otherwise allocated pursuant to this section
220 to cover the costs of audits, attorneys' fees, and other expenditures associated with reviewing
221 the expenditure of public funds by a local substance abuse authority or its contract provider or a
222 local mental health authority or its contract provider, if there has been an audit finding or
223 judicial determination that public funds have been misused by the local substance abuse
224 authority or its contract provider or the local mental health authority or its contract provider.]~~

225 Section 6. Section **62A-15-110** is amended to read:

226 **62A-15-110. Contracts for substance abuse and mental health services --**
227 **Provisions -- Responsibilities.**

228 ~~[When]~~ (1) If the division contracts with a local substance abuse authority or a local
229 mental health authority to provide substance abuse or mental health programs and services in
230 accordance with the provision of this chapter and Title 17A, Chapter 3, Part 7, Local Substance
231 Abuse Authorities, or Title 17A, Chapter 3, Part 6, Local Mental Health Authorities, it shall
232 ensure that those contracts include at least the following provisions:

233 ~~[(1)]~~ (a) that an independent auditor shall conduct any audit of the local substance
234 abuse authority or its contract provider's programs or services and any audit of the local mental
235 health authority or its contract provider's programs or services, pursuant to the provisions of
236 Title 51, Chapter 2, Audits of Political Subdivisions, Interlocal Organizations and Other Local
237 Entities;

238 ~~[(2)]~~ (b) in addition to the requirements described in Title 51, Chapter 2, Audits of
239 Political Subdivisions, Interlocal Organizations and Other Local Entities the division:

240 ~~[(a)]~~ (i) shall prescribe guidelines and procedures, in accordance with those formulated
241 by the state auditor pursuant to Section 67-3-1, for auditing the compensation and expenses of
242 officers, directors, and specified employees of the private contract provider, to assure the state
243 that no personal benefit is gained from travel or other expenses; and

244 ~~[(b)]~~ (ii) may prescribe specific items to be addressed by that audit, depending upon the

245 particular needs or concerns relating to the local substance abuse authority, local mental health
246 authority, or contract provider at issue;

247 ~~[(3)]~~ (c) the local substance abuse authority or its contract provider and the local
248 mental health authority and its contract provider shall invite and include all funding partners in
249 its auditor's pre- and exit conferences;

250 ~~[(4)]~~ (d) each member of the local substance abuse authority and each member of the
251 local mental health authority shall annually certify that he has received and reviewed the
252 independent audit and has participated in a formal interview with the provider's executive
253 officers;

254 ~~[(5)]~~ (e) requested information and outcome data will be provided to the division in the
255 manner and within the time lines defined by the division; and

256 ~~[(6)]~~ (f) all audit reports by state or county persons or entities concerning the local
257 substance abuse authority or its contract provider, or the local mental health authority or its
258 contract provider shall be provided to the executive director of the department, the local
259 substance abuse authority or local mental health authority, and members of the contract
260 provider's governing board.

261 (2) Each contract between the division and a local substance abuse authority or a local
262 mental health authority shall authorize the division to withhold funds, otherwise allocated
263 under Section 62A-15-108, to cover the costs of audits, attorney fees, and other expenditures
264 associated with reviewing the expenditure of public funds by a local substance abuse authority
265 or its contract provider or a local mental health authority or its contract provider, if there has
266 been an audit finding or judicial determination that public funds have been misused by the local
267 substance abuse authority or its contract provider or the local mental health authority or its
268 contract provider.

269 Section 7. **Repealer.**

270 This act repeals:

271 Section **62A-15-109, Responsibilities of the Division of Substance Abuse and**
272 **Mental health.**

273 Section **62A-15-111, Responsibility for cost of services provided by local substance**
274 **abuse or mental health authority.**

275 Section **62A-15-112, Receipt of funds.**

Legislative Review Note
as of 12-11-02 5:32 PM

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

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-13-02 10:19 AM

The Health and Human Services Interim Committee recommended this bill.

Mixed Membership Committee Note
as of 12-13-02 10:19 AM

The Funding of State and County Health and Human Services Task Force recommended this bill.

Membership:	8 legislators	2 non-legislators		
Legislative Vote:	7 voting for	0 voting against		1 absent

Fiscal Note
Bill Number HB0044

Substance Abuse and Mental Health Amendments

09-Jan-03

4:57 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst