

30 62A-2-101, as last amended by Laws of Utah 2012, Chapter 384

31 62A-2-108.2, as last amended by Laws of Utah 2008, Chapter 382

32 62A-15-103, as last amended by Laws of Utah 2013, Chapters 17, 167, and 400

33 **Uncodified Material Affected:**

34 ENACTS UNCODIFIED MATERIAL



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

37 Section 1. Section 62A-2-101 is amended to read:

38 **62A-2-101. Definitions.**

39 As used in this chapter:

40 (1) "Adult day care" means nonresidential care and supervision:

41 (a) for three or more adults for at least four but less than 24 hours a day; and

42 (b) that meets the needs of functionally impaired adults through a comprehensive
43 program that provides a variety of health, social, recreational, and related support services in a
44 protective setting.

45 (2) (a) "Boarding school" means a private school that:

46 (i) uses a regionally accredited education program;

47 (ii) provides a residence to the school's students:

48 (A) for the purpose of enabling the school's students to attend classes at the school; and

49 (B) as an ancillary service to educating the students at the school;

50 (iii) has the primary purpose of providing the school's students with an education, as
51 defined in Subsection (2)(b)(i); and

52 (iv) (A) does not provide the treatment or services described in Subsection (26)(a); or

53 (B) provides the treatment or services described in Subsection (26)(a) on a limited
54 basis, as described in Subsection (2)(b)(ii).

55 (b) (i) For purposes of Subsection (2)(a)(iii), "education" means a course of study for
56 one or more of grades kindergarten through 12th grade.

57 (ii) For purposes of Subsection (2)(a)(iv)(B), a private school provides the treatment or

- 58 services described in Subsection (26)(a) on a limited basis if:
- 59 (A) the treatment or services described in Subsection (26)(a) are provided only as an
60 incidental service to a student; and
- 61 (B) the school does not:
- 62 (I) specifically solicit a student for the purpose of providing the treatment or services
63 described in Subsection (26)(a); or
- 64 (II) have a primary purpose of providing the services described in Subsection (26)(a).
- 65 (c) "Boarding school" does not include a therapeutic school.
- 66 (3) "Child" means a person under 18 years of age.
- 67 (4) "Child placing" means receiving, accepting, or providing custody or care for any
68 child, temporarily or permanently, for the purpose of:
- 69 (a) finding a person to adopt the child;
- 70 (b) placing the child in a home for adoption; or
- 71 (c) foster home placement.
- 72 (5) "Client" means an individual who receives or has received services from a licensee.
- 73 (6) "Day treatment" means specialized treatment that is provided to:
- 74 (a) a client less than 24 hours a day; and
- 75 (b) four or more persons who:
- 76 (i) are unrelated to the owner or provider; and
- 77 (ii) have emotional, psychological, developmental, physical, or behavioral
78 dysfunctions, impairments, or chemical dependencies.
- 79 (7) "Department" means the Department of Human Services.
- 80 (8) "Direct access" means that an individual has, or likely will have, contact with or
81 access to a child or vulnerable adult that provides the individual with an opportunity for
82 personal communication or touch.
- 83 (9) "Director" means the director of the Office of Licensing.
- 84 (10) "Domestic violence" is as defined in Section [77-36-1](#).
- 85 (11) "Domestic violence treatment program" means a nonresidential program designed

86 to provide psychological treatment and educational services to perpetrators and victims of
87 domestic violence.

88 (12) "Elder adult" means a person 65 years of age or older.

89 (13) "Executive director" means the executive director of the department.

90 (14) "Foster home" means a temporary residential living environment for the care of:

91 (a) fewer than four foster children in the home of a licensed or certified foster parent;

92 or

93 (b) four or more children in the home of a licensed or certified foster parent if the

94 children are siblings.

95 (15) (a) "Human services program" means a:

96 (i) foster home;

97 (ii) therapeutic school;

98 (iii) youth program;

99 (iv) resource family home; [~~or~~]

100 (v) recovery residence; or

101 [~~(v)~~] (vi) facility or program that provides:

102 (A) secure treatment;

103 (B) inpatient treatment;

104 (C) residential treatment;

105 (D) residential support;

106 (E) adult day care;

107 (F) day treatment;

108 (G) outpatient treatment;

109 (H) domestic violence treatment;

110 (I) child placing services;

111 (J) social detoxification; or

112 (K) any other human services that are required by contract with the department to be

113 licensed with the department.

- 114 (b) "Human services program" does not include a boarding school.
- 115 (16) "Licensee" means a person or human services program licensed by the office.
- 116 (17) "Local government" means a:
- 117 (a) city; or
- 118 (b) county.
- 119 (18) "Minor" has the same meaning as "child."
- 120 (19) "Office" means the Office of Licensing within the Department of Human Services.
- 121 (20) "Outpatient treatment" means individual, family, or group therapy or counseling
- 122 designed to improve and enhance social or psychological functioning for those whose physical
- 123 and emotional status allows them to continue functioning in their usual living environment.
- 124 (21) (a) "Person associated with the licensee" means a person:
- 125 (i) affiliated with a licensee as an owner, director, member of the governing body,
- 126 employee, agent, provider of care, or volunteer; or
- 127 (ii) applying to become affiliated with a licensee in any capacity listed under
- 128 Subsection (21)(a)(i).
- 129 (b) Notwithstanding Subsection (21)(a), "person associated with the licensee" does not
- 130 include an individual serving on the following bodies unless that individual has direct access to
- 131 children or vulnerable adults:
- 132 (i) a local mental health authority under Section 17-43-301;
- 133 (ii) a local substance abuse authority under Section 17-43-201; or
- 134 (iii) a board of an organization operating under a contract to provide:
- 135 (A) mental health or substance abuse programs; or
- 136 (B) services for the local mental health authority or substance abuse authority.
- 137 (c) "Person associated with the licensee" does not include a guest or visitor whose
- 138 access to children or vulnerable adults is directly supervised by the licensee at all times.
- 139 (22) "Recovery residence" means a home or facility, other than a residential treatment
- 140 or residential support program, that meets at least two of the following requirements:
- 141 (a) provides a supervised living environment for individuals recovering from a

142 substance abuse disorder;

143 (b) requires more than half of the individuals in the residence to be recovering from a
144 substance abuse disorder;

145 (c) provides or arranges for residents to receive services related to their recovery from a
146 substance abuse disorder, either on or off site;

147 (d) holds the home or facility out as being a recovery residence; or

148 (e) (i) receives public funding; or

149 (ii) runs the home or facility as a commercial venture for financial gain.

150 ~~[(22)]~~ (23) "Regular business hours" means:

151 (a) the hours during which services of any kind are provided to a client; or

152 (b) the hours during which a client is present at the facility of a licensee.

153 ~~[(23)]~~ (24) (a) "Residential support" means arranging for or providing the necessities of
154 life as a protective service to individuals or families who have a disability or who are
155 experiencing a dislocation or emergency that prevents them from providing these services for
156 themselves or their families.

157 (b) "Residential support" includes providing a supervised living environment for
158 persons with ~~[(+)]~~ dysfunctions or impairments that are:

159 ~~[(A)]~~ (i) emotional;

160 ~~[(B)]~~ (ii) psychological;

161 ~~[(C)]~~ (iii) developmental; or

162 ~~[(D)]~~ (iv) behavioral ~~[-or]~~;

163 ~~[(ii) chemical dependencies.]~~

164 (c) Treatment is not a necessary component of residential support.

165 (d) "Residential support" does not include:

166 (i) a recovery residence; or

167 (ii) residential services that are performed:

168 ~~[(+)]~~ (A) exclusively under contract with the Division of Services for People with
169 Disabilities; ~~[and]~~ or

170 [~~(11)~~] (B) in a facility that serves [~~less~~] fewer than four individuals.

171 [~~(24)~~] (25) (a) "Residential treatment" means a 24-hour group living environment for
172 four or more individuals unrelated to the owner or provider that offers room or board and
173 specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or
174 habilitation services for persons with emotional, psychological, developmental, or behavioral
175 dysfunctions, impairments, or chemical dependencies.

176 (b) "Residential treatment" does not include a:

177 (i) boarding school; [~~or~~]

178 (ii) foster home[-]; or

179 (iii) recovery residence.

180 [~~(25)~~] (26) "Residential treatment program" means a human services program that
181 provides:

182 (a) residential treatment; or

183 (b) secure treatment.

184 [~~(26)~~] (27) (a) "Secure treatment" means 24-hour specialized residential treatment or
185 care for persons whose current functioning is such that they cannot live independently or in a
186 less restrictive environment.

187 (b) "Secure treatment" differs from residential treatment to the extent that it requires
188 intensive supervision, locked doors, and other security measures that are imposed on residents
189 with neither their consent nor control.

190 [~~(27)~~] (28) "Social detoxification" means short-term residential services for persons
191 who are experiencing or have recently experienced drug or alcohol intoxication, that are
192 provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care
193 Facility Licensing and Inspection Act, and that include:

194 (a) room and board for persons who are unrelated to the owner or manager of the
195 facility;

196 (b) specialized rehabilitation to acquire sobriety; and

197 (c) aftercare services.

198 [~~(28)~~] (29) "Substance abuse treatment program" means a program:
199 (a) designed to provide:
200 (i) specialized drug or alcohol treatment;
201 (ii) rehabilitation; or
202 (iii) habilitation services; and
203 (b) that provides the treatment or services described in Subsection [~~(28)~~] (29)(a) to
204 persons with:
205 (i) a diagnosed substance abuse disorder; or
206 (ii) chemical dependency disorder.
207 [~~(29)~~] (30) "Therapeutic school" means a residential group living facility:
208 (a) for four or more individuals that are not related to:
209 (i) the owner of the facility; or
210 (ii) the primary service provider of the facility;
211 (b) that serves students who have a history of failing to function:
212 (i) at home;
213 (ii) in a public school; or
214 (iii) in a nonresidential private school; and
215 (c) that offers:
216 (i) room and board; and
217 (ii) an academic education integrated with:
218 (A) specialized structure and supervision; or
219 (B) services or treatment related to:
220 (I) a disability;
221 (II) emotional development;
222 (III) behavioral development;
223 (IV) familial development; or
224 (V) social development.
225 [~~(30)~~] (31) "Unrelated persons" means persons other than parents, legal guardians,

226 grandparents, brothers, sisters, uncles, or aunts.

227 ~~[(31)]~~ (32) "Vulnerable adult" means an elder adult or an adult who has a temporary or
228 permanent mental or physical impairment that substantially affects the person's ability to:

- 229 (a) provide personal protection;
- 230 (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- 231 (c) obtain services necessary for health, safety, or welfare;
- 232 (d) carry out the activities of daily living;
- 233 (e) manage the adult's own resources; or
- 234 (f) comprehend the nature and consequences of remaining in a situation of abuse,
235 neglect, or exploitation.

236 ~~[(32)]~~ (33) (a) "Youth program" means a nonresidential program designed to provide
237 behavioral, substance abuse, or mental health services to minors that:

- 238 (i) serves adjudicated or nonadjudicated youth;
- 239 (ii) charges a fee for its services;
- 240 (iii) may or may not provide host homes or other arrangements for overnight
241 accommodation of the youth;
- 242 (iv) may or may not provide all or part of its services in the outdoors;
- 243 (v) may or may not limit or censor access to parents or guardians; and
- 244 (vi) prohibits or restricts a minor's ability to leave the program at any time of the
245 minor's own free will.

246 (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl
247 Scouts, 4-H, and other such organizations.

248 Section 2. Section **62A-2-108.2** is amended to read:

249 **62A-2-108.2. Licensing residential treatment programs and recovery residences --**
250 **Notification of local government.**

251 (1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
252 the office shall make rules that establish categories of residential treatment and recovery
253 residence licenses based on differences in the types of residential treatment programs and

254 recovery residences.

255 (b) The categories referred to in Subsection (1)(a) may be based on differences in:

256 (i) services offered;

257 (ii) types of clients served;

258 (iii) risks posed to the community; or

259 (iv) other factors that make regulatory differences advisable.

260 (2) Subject to the requirements of federal and state law, and pursuant to the authority
261 granted by Section 62A-2-106, the office shall establish and enforce rules that:

262 (a) relate generally to all categories of residential treatment program and recovery
263 residence licenses; and

264 (b) relate to specific categories of residential treatment program and recovery residence
265 licenses on the basis of the regulatory needs, as determined by the office, of residential
266 treatment programs and recovery residences within those specific categories.

267 (3) (a) Beginning July 1, 2014, the office shall charge an annual licensing fee, set by
268 the office in accordance with the procedures described in Section 63J-1-504, to a recovery
269 residence in an amount that will pay for the cost of the licensing and inspection requirements
270 described in this section and in Section 62A-2-106.

271 (b) The office shall deposit the licensing fees described in this section in the General
272 Fund as a dedicated credit to be used solely to pay for the cost of the licensing and inspection
273 requirements described in this section and in Section 62A-2-106.

274 [~~3~~] (4) Before submitting an application for a license to operate a residential
275 treatment program, the applicant shall serve notice of its intent to operate a residential
276 treatment program on the governing body of:

277 (a) the city in which the residential treatment program will be located; or

278 (b) if the residential treatment program will be located in the unincorporated area of a
279 county, the county in which the residential treatment program will be located.

280 [~~4~~] (5) The notice described in Subsection [~~3~~] (4) shall include the following
281 information relating to the residential treatment program:

- 282 (a) an accurate description of the residential treatment program;
- 283 (b) the location where the residential treatment program will be operated;
- 284 (c) the services that will be provided by the residential treatment program;
- 285 (d) the type of clients that the residential treatment program will serve;
- 286 (e) the category of license for which the residential treatment program is applying to
- 287 the office;

288 (f) the name, telephone number, and address of a person that may be contacted to make

289 inquiries about the residential treatment program; and

290 (g) any other information that the office may require by rule.

291 ~~[(5)]~~ (6) When submitting an application for a license to operate a residential treatment

292 program, the applicant shall include with the application:

293 (a) a copy of the notice described in Subsection ~~[(3)]~~ (4); and

294 (b) proof that the applicant served the notice described in Subsection ~~[(3)]~~ (4) on the

295 governing body described in Subsection ~~[(3)]~~ (4).

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

297 **62A-15-103. Division -- Creation -- Responsibilities.**

298 (1) There is created the Division of Substance Abuse and Mental Health within the

299 department, under the administration and general supervision of the executive director. The

300 division is the substance abuse authority and the mental health authority for this state.

301 (2) The division shall:

302 (a) (i) educate the general public regarding the nature and consequences of substance

303 abuse by promoting school and community-based prevention programs;

304 (ii) render support and assistance to public schools through approved school-based

305 substance abuse education programs aimed at prevention of substance abuse;

306 (iii) promote or establish programs for the prevention of substance abuse within the

307 community setting through community-based prevention programs;

308 (iv) cooperate with and assist ~~[other organizations and private]~~ treatment centers ~~[for~~

309 ~~substance abusers]~~, recovery residences, and other organizations that provide services to

310 individuals recovering from a substance abuse disorder, by [~~providing them with essential~~
311 ~~materials for furthering programs of prevention and rehabilitation of actual and potential~~
312 ~~substance abusers]~~ identifying and disseminating information about effective practices and
313 programs;

314 (v) promote integrated programs that address an individual's substance abuse, mental
315 health, and physical healthcare needs;

316 (vi) evaluate the effectiveness of programs described in Subsection (2);

317 (vii) consider the impact of the programs described in Subsection (2) on:

318 (A) emergency department utilization;

319 (B) jail and prison populations;

320 (C) the homeless population; and

321 (D) the child welfare system; and

322 (viii) promote or establish programs for education and certification of instructors to
323 educate persons convicted of driving under the influence of alcohol or drugs or driving with
324 any measurable controlled substance in the body;

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

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

328 (iii) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative
329 Rulemaking Act, to educate families concerning mental illness and promote family
330 involvement, when appropriate, and with patient consent, in the treatment program of a family
331 member; and

332 (iv) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative
333 Rulemaking Act, to direct that all individuals receiving services through local mental health
334 authorities or the Utah State Hospital be informed about and, if desired, provided assistance in
335 completion of a declaration for mental health treatment in accordance with Section
336 [62A-15-1002](#);

337 (c) (i) consult and coordinate with local substance abuse authorities and local mental

- 338 health authorities regarding programs and services;
- 339 (ii) provide consultation and other assistance to public and private agencies and groups
- 340 working on substance abuse and mental health issues;
- 341 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
- 342 medical and social agencies, public health authorities, law enforcement agencies, education and
- 343 research organizations, and other related groups;
- 344 (iv) promote or conduct research on substance abuse and mental health issues, and
- 345 submit to the governor and the Legislature recommendations for changes in policy and
- 346 legislation;
- 347 (v) receive, distribute, and provide direction over public funds for substance abuse and
- 348 mental health services;
- 349 (vi) monitor and evaluate programs provided by local substance abuse authorities and
- 350 local mental health authorities;
- 351 (vii) examine expenditures of any local, state, and federal funds;
- 352 (viii) monitor the expenditure of public funds by:
- 353 (A) local substance abuse authorities;
- 354 (B) local mental health authorities; and
- 355 (C) in counties where they exist, the private contract provider that has an annual or
- 356 otherwise ongoing contract to provide comprehensive substance abuse or mental health
- 357 programs or services for the local substance abuse authority or local mental health authorities;
- 358 (ix) contract with local substance abuse authorities and local mental health authorities
- 359 to provide a comprehensive continuum of services in accordance with division policy, contract
- 360 provisions, and the local plan;
- 361 (x) contract with private and public entities for special statewide or nonclinical services
- 362 according to division rules;
- 363 (xi) review and approve each local substance abuse authority's plan and each local
- 364 mental health authority's plan in order to ensure:
- 365 (A) a statewide comprehensive continuum of substance abuse services;

- 366 (B) a statewide comprehensive continuum of mental health services;
- 367 (C) services result in improved overall health and functioning; and
- 368 (D) appropriate expenditure of public funds;
- 369 (xii) review and make recommendations regarding each local substance abuse
- 370 authority's contract with its provider of substance abuse programs and services and each local
- 371 mental health authority's contract with its provider of mental health programs and services to
- 372 ensure compliance with state and federal law and policy;
- 373 (xiii) monitor and ensure compliance with division rules and contract requirements;
- 374 and
- 375 (xiv) withhold funds from local substance abuse authorities, local mental health
- 376 authorities, and public and private providers for contract noncompliance, failure to comply
- 377 with division directives regarding the use of public funds, or for misuse of public funds or
- 378 money;
- 379 (d) assure that the requirements of this part are met and applied uniformly by local
- 380 substance abuse authorities and local mental health authorities across the state;
- 381 (e) require each local substance abuse authority and each local mental health authority
- 382 to submit its plan to the division by May 1 of each year; and
- 383 (f) conduct an annual program audit and review of each local substance abuse authority
- 384 in the state and its contract provider and each local mental health authority in the state and its
- 385 contract provider, including:
- 386 (i) a review and determination regarding whether:
- 387 (A) public funds allocated to local substance abuse authorities and local mental health
- 388 authorities are consistent with services rendered and outcomes reported by them or their
- 389 contract providers; and
- 390 (B) each local substance abuse authority and each local mental health authority is
- 391 exercising sufficient oversight and control over public funds allocated for substance abuse and
- 392 mental health programs and services; and
- 393 (ii) items determined by the division to be necessary and appropriate.

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

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

401 (4) Before reissuing or renewing a contract with any local substance abuse authority or
402 local mental health authority, the division shall review and determine whether the local
403 substance abuse authority or local mental health authority is complying with its oversight and
404 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and
405 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and
406 liability described in Section 17-43-303 and to the responsibility and liability described in
407 Section 17-43-203.

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

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

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

420 (7) The division shall annually review with each local substance abuse authority and
421 each local mental health authority the authority's statutory and contract responsibilities

422 regarding:

423 (a) the use of public funds;

424 (b) oversight responsibilities regarding public funds; and

425 (c) governance of substance abuse and mental health programs and services.

426 (8) The Legislature may refuse to appropriate funds to the division upon the division's
427 failure to comply with the provisions of this part.

428 (9) If a local substance abuse authority contacts the division under Subsection
429 17-43-201(9) for assistance in providing treatment services to a pregnant woman or pregnant
430 minor, the division shall:

431 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
432 capacity to provide the treatment services; or

433 (b) otherwise ensure that treatment services are made available to the pregnant woman
434 or pregnant minor.

435 Section 4. **Recovery Residences and Substance Abuse Treatment Committee --**
436 **Creation -- Membership.**

437 (1) In accordance with Subsection 63M-7-302(5), there is created a Recovery
438 Residences and Substance Abuse Treatment Committee within the Utah Substance Abuse
439 Advisory Council consisting of the following members:

440 (a) one member representing the Division of Substance Abuse and Mental Health,
441 designated by the director of the division;

442 (b) one member representing the Office of Licensing within the Department of Human
443 Services, designated by the director of the office;

444 (c) one member representing the Utah Substance Abuse Advisory Council, designated
445 by the chair; and

446 (d) one member representing the Utah Support Advocates for Recovery Awareness or
447 another foundation, association, or organization chartered to advocate for individuals
448 recovering from a substance abuse disorder, designated by a majority of committee members.

449 (2) A majority of committee members may invite other individuals, including

450 legislators, to become members of the committee.

451 (3) A majority of the members of the committee constitutes a quorum.

452 **Section 5. Duties -- Interim report.**

453 (1) The committee shall study and make recommendations regarding:

454 (a) industry best practices for recovery residences;

455 (b) quality assurance metrics for measuring success rates for individuals recovering

456 from a substance abuse disorder;

457 (c) the feasibility of prohibiting health benefit plans from making a direct payment to

458 an enrollee for substance abuse treatment; and

459 (d) other issues concerning recovery residences and substance abuse treatment.

460 (2) The committee shall present a final report, including any proposed legislation, to

461 the Health and Human Services Interim Committee before November 30, 2014.

462 **Section 6. Repeal date.**

463 Uncodified Section 4, which creates the Recovery Residences and Substance Abuse

464 Treatment Committee, and Uncodified Section 5, Duties and Interim report, are repealed on

465 November 30, 2014.