

1 **COMMITTEE AUTHORITY AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Deidre M. Henderson**

5 House Sponsor: Steve Eliason

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to the rulemaking authority of the Department of
10 Health and certain committees created within the department.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ modifies the rulemaking authority of the following committees to require
14 concurrence with the Department of Health:

- 15 • State Emergency Medical Services Committee;
- 16 • Primary Care Grant Committee;
- 17 • Health Facility Committee;
- 18 • Health Data Committee; and
- 19 • Child Care Licensing Committee;

20 ▶ provides that if concurrence with the Department of Health is required in
21 rulemaking, the department has final authority if no concurrence can be reached;

22 and

23 ▶ makes technical changes.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 This bill provides a special effective date.

28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 26-1-5, as last amended by Laws of Utah 2011, Chapter 297
- 31 26-8a-104, as last amended by Laws of Utah 2008, Chapter 382
- 32 26-8a-106 (Superseded 07/01/16), as last amended by Laws of Utah 2011, Chapter 181
- 33 26-8a-106 (Effective 07/01/16), as last amended by Laws of Utah 2015, Chapter 141
- 34 26-10b-106, as enacted by Laws of Utah 2014, Chapter 384
- 35 26-21-5, as last amended by Laws of Utah 2008, Chapter 382
- 36 26-21-6, as last amended by Laws of Utah 2012, Chapter 328
- 37 26-21-8, as last amended by Laws of Utah 2011, Chapter 161
- 38 26-33a-102, as last amended by Laws of Utah 2011, Chapter 400
- 39 26-33a-104, as last amended by Laws of Utah 2013, Chapter 167
- 40 26-33a-106.5, as last amended by Laws of Utah 2014, Chapter 425
- 41 26-33a-107, as last amended by Laws of Utah 1996, Chapter 201
- 42 26-33a-109, as last amended by Laws of Utah 2014, Chapter 425
- 43 26-39-203, as enacted by Laws of Utah 2014, Chapter 322
- 44 26-39-301, as last amended by Laws of Utah 2014, Chapter 322

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

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

48 **26-1-5. Rules of department.**

49 (1) (a) Except in areas [~~regulated by statutory committees created by this title~~] subject
50 to concurrence between the department and a committee created under this title, the department
51 shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of
52 this title.

53 (b) If the adoption of rules under a provision of this title is subject to concurrence
54 between the department and a committee created under this title and no concurrence can be
55 reached, the department has final authority to adopt, amend, or rescind rules necessary to carry
56 out the provisions of this title.

57 (c) When the provisions of this title require concurrence between the department and a

58 committee created under this title:

59 (i) the department shall report to and update the committee on a regular basis related to
60 matters requiring concurrence; and

61 (ii) the committee shall review the report submitted by the department under this
62 Subsection (1)(c) and shall:

63 (A) concur with the report; or

64 (B) provide a reason for not concurring with the report and provide an alternative
65 recommendation to the department.

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

69 (3) Every rule adopted by the department [~~pursuant to this section~~], or by the
70 concurrence of the department and a committee established under Section 26-1-7 or 26-1-7.5,
71 shall be subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act and shall
72 become effective at the time and in the manner provided in that act.

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

76 (5) The department or the department in concurrence with a committee created under
77 Section 26-1-7 or 26-1-7.5, may not adopt a rule identical to a rule disapproved under
78 Subsection (4) of this section[;] before the beginning of the next general session of the
79 Legislature following the general session at which the rule was disapproved.

80 Section 2. Section **26-8a-104** is amended to read:

81 **26-8a-104. Committee advisory duties.**

82 The committee shall adopt rules, with the concurrence of the department, in accordance
83 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

84 (1) establish certification and reciprocity requirements under Section 26-8a-302;

85 (2) establish designation requirements under Section 26-8a-303;

- 86 (3) promote the development of a statewide emergency medical services system under
- 87 Section [26-8a-203](#);
- 88 (4) establish insurance requirements for ambulance providers;
- 89 (5) provide guidelines for requiring patient data under Section [26-8a-203](#);
- 90 (6) establish criteria for awarding grants under Section [26-8a-207](#);
- 91 (7) establish requirements for the coordination of emergency medical services and the
- 92 medical supervision of emergency medical service providers under Section [26-8a-306](#); and
- 93 (8) are necessary to carry out the responsibilities of the committee as specified in other
- 94 sections of this chapter.

95 Section 3. Section **26-8a-106 (Superseded 07/01/16)** is amended to read:

96 **26-8a-106 (Superseded 07/01/16). Waiver of rules.**

97 (1) Upon application, the ~~[committee or]~~ department, or the committee with the

98 concurrence of the department, may waive the requirements of a rule ~~[it]~~ the department, or the

99 committee with the concurrence of the department, has adopted if:

100 (a) the person applying for the waiver satisfactorily demonstrates that:

- 101 (i) the waiver is necessary for a pilot project to be undertaken by the applicant;
 - 102 (ii) in the particular situation, the requirement serves no beneficial public purpose; or
 - 103 (iii) circumstances warrant that waiver of the requirement outweighs the public benefit
- 104 to be gained by adherence to the rule; and

105 (b) for a waiver granted under Subsection (1)(a)(ii) or (iii)~~], the committee or~~

106 ~~department]~~:

107 (i) the committee or department extends the waiver to similarly situated persons upon

108 application; or

109 (ii) the department, or the committee with the concurrence of the department, amends

110 the rule to be consistent with the waiver.

111 (2) A waiver of education, licensing, or certification requirements may be granted to a

112 veteran, as defined in Section [71-8-1](#), if the veteran:

113 (a) provides to the committee or department documentation showing military education

114 and training in the field in which certification or licensure is sought; and

115 (b) successfully passes any examination required.

116 (3) No waiver may be granted under this section that is inconsistent with the provisions
117 of this chapter.

118 Section 4. Section **26-8a-106 (Effective 07/01/16)** is amended to read:

119 **26-8a-106 (Effective 07/01/16). Waiver of rules.**

120 (1) Upon application, the [~~committee or~~] department, or the committee with the
121 concurrence of the department, may waive the requirements of a rule [it] the department, or the
122 committee with the concurrence of the department, has adopted if:

123 (a) the person applying for the waiver satisfactorily demonstrates that:

124 (i) the waiver is necessary for a pilot project to be undertaken by the applicant;

125 (ii) in the particular situation, the requirement serves no beneficial public purpose; or

126 (iii) circumstances warrant that waiver of the requirement outweighs the public benefit
127 to be gained by adherence to the rule; and

128 (b) for a waiver granted under Subsection (1)(a)(ii) or (iii)[, ~~the committee or~~
129 ~~department~~]:

130 (i) the committee or department extends the waiver to similarly situated persons upon
131 application; or

132 (ii) the department, or the committee with the concurrence of the department, amends
133 the rule to be consistent with the waiver.

134 (2) A waiver of education, licensing, or certification requirements may be granted to a
135 veteran, as defined in Section [68-3-12.5](#), if the veteran:

136 (a) provides to the committee or department documentation showing military education
137 and training in the field in which certification or licensure is sought; and

138 (b) successfully passes any examination required.

139 (3) No waiver may be granted under this section that is inconsistent with the provisions
140 of this chapter.

141 Section 5. Section **26-10b-106** is amended to read:

142 **26-10b-106. Primary Care Grant Committee.**

143 (1) The Primary Care Grant Committee created in Section 26-1-7 shall:

144 (a) review grant applications forwarded to the committee by the department under
145 Subsection 26-10b-104(1);

146 (b) recommend, to the executive director, grant applications to award under Subsection
147 26-10b-102(1);

148 (c) evaluate:

149 (i) the need for primary health care in different areas of the state;

150 (ii) how the program is addressing those needs; and

151 (iii) the overall effectiveness and efficiency of the program;

152 (d) review annual reports from primary care grant recipients;

153 (e) meet as necessary to carry out its duties, or upon a call by the committee chair or by
154 a majority of committee members; and

155 (f) make rules, with the concurrence of the department, in accordance with Title 63G,
156 Chapter 3, Utah Administrative Rulemaking Act, that govern the committee, including the
157 committee's grant selection criteria.

158 (2) The committee shall consist of:

159 (a) as chair, the executive director or an individual designated by the executive
160 director; and

161 (b) six members appointed by the governor to serve up to two consecutive, two-year
162 terms of office, including:

163 (i) four licensed health care professionals; and

164 (ii) two community advocates who are familiar with a medically underserved
165 population and with health care systems, where at least one is familiar with a rural medically
166 underserved population.

167 (3) The executive director may remove a committee member:

168 (a) if the member is unable or unwilling to carry out the member's assigned
169 responsibilities; or

170 (b) for a rational reason.
171 (4) A committee member may not ~~[be compensated]~~ receive compensation or benefits
172 for the member's service, except a committee member who is not an employee of the
173 department may ~~[be reimbursed for reasonable travel expenses related to the member's~~
174 committee responsibilities.] receive per diem and travel expenses in accordance with:
175 (a) Section 63A-3-106;
176 (b) Section 63A-3-107; and
177 (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and
178 63A-3-107.

179 Section 6. Section **26-21-5** is amended to read:

180 **26-21-5. Duties of committee.**

181 The committee shall:

182 (1) with the concurrence of the department, make rules in accordance with Title 63G,
183 Chapter 3, Utah Administrative Rulemaking Act:

- 184 (a) for the licensing of health-care facilities; and
- 185 (b) requiring the submission of architectural plans and specifications for any proposed
186 new health-care facility or renovation to the department for review;
- 187 (2) approve the information for applications for licensure pursuant to Section **26-21-9**;
- 188 (3) advise the department as requested concerning the interpretation and enforcement
189 of the rules established under this chapter; and
- 190 (4) advise, consult, cooperate with, and provide technical assistance to other agencies
191 of the state and federal government, and other states and affected groups or persons in carrying
192 out the purposes of this chapter.

193 Section 7. Section **26-21-6** is amended to read:

194 **26-21-6. Duties of department.**

- 195 (1) The department shall:
 - 196 (a) enforce rules established pursuant to this chapter;
 - 197 (b) authorize an agent of the department to conduct inspections of health care facilities

198 pursuant to this chapter;

199 (c) collect information authorized by the committee that may be necessary to ensure
200 that adequate health care facilities are available to the public;

201 (d) collect and credit fees for licenses as free revenue;

202 (e) collect and credit fees for conducting plan reviews as dedicated credits;

203 (f) (i) collect and credit fees for conducting clearance under Chapter 21, Part 2,
204 Clearance for Direct Patient Access; and

205 (ii) beginning July 1, 2012:

206 (A) up to \$105,000 of the fees collected under Subsection (1)(f)(i) are dedicated
207 credits; and

208 (B) the fees collected for background checks under Subsection 26-21-204(6) and
209 Section 26-21-205 shall be transferred to the Department of Public Safety to reimburse the
210 Department of Public Safety for its costs in conducting the federal background checks;

211 (g) designate an executive secretary from within the department to assist the committee
212 in carrying out its powers and responsibilities;

213 (h) establish reasonable standards for criminal background checks by public and
214 private entities;

215 (i) recognize those public and private entities that meet the standards established
216 pursuant to Subsection (1)(h); and

217 (j) provide necessary administrative and staff support to the committee.

218 (2) The department may:

219 (a) exercise all incidental powers necessary to carry out the purposes of this chapter;

220 (b) review architectural plans and specifications of proposed health care facilities or
221 renovations of health care facilities to ensure that the plans and specifications conform to rules
222 established by the committee; and

223 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
224 make rules as necessary to implement the provisions of this chapter~~[, except as authority is~~
225 ~~specifically delegated to the committee].~~

226 Section 8. Section **26-21-8** is amended to read:

227 **26-21-8. License required -- Not assignable or transferable -- Posting --**
228 **Expiration and renewal -- Time for compliance by operating facilities.**

229 (1) (a) A person or governmental unit acting severally or jointly with any other person
230 or governmental unit, may not establish, conduct, or maintain a health care facility in this state
231 without receiving a license from the department as provided by this chapter and the rules [~~of~~
232 ~~the committee~~] adopted pursuant to this chapter.

233 (b) This Subsection (1) does not apply to facilities that are exempt under Section
234 [26-21-7](#).

235 (2) A license issued under this chapter is not assignable or transferable.

236 (3) The current license shall at all times be posted in each health care facility in a place
237 readily visible and accessible to the public.

238 (4) (a) The department may issue a license for a period of time not to exceed 12
239 months from the date of issuance for an abortion clinic and not to exceed 24 months from the
240 date of issuance for other health care facilities that meet the provisions of this chapter and
241 department rules adopted pursuant to this chapter.

242 (b) Each license expires at midnight on the day designated on the license as the
243 expiration date, unless previously revoked by the department.

244 (c) The license shall be renewed upon completion of the application requirements,
245 unless the department finds the health care facility has not complied with the provisions of this
246 chapter or the rules adopted pursuant to this chapter.

247 (5) A license may be issued under this section only for the operation of a specific
248 facility at a specific site by a specific person.

249 (6) Any health care facility in operation at the time of adoption of any applicable rules
250 as provided under this chapter shall be given a reasonable time for compliance as determined
251 by the committee.

252 Section 9. Section **26-33a-102** is amended to read:

253 **26-33a-102. Definitions.**

254 As used in this chapter:

255 (1) "Committee" means the Health Data Committee created by Section 26-1-7.

256 (2) "Control number" means a number assigned by the committee to an individual's
257 health data as an identifier so that the health data can be disclosed or used in research and
258 statistical analysis without readily identifying the individual.

259 (3) "Data supplier" means a health care facility, health care provider, self-funded
260 employer, third-party payor, health maintenance organization, or government department which
261 could reasonably be expected to provide health data under this chapter.

262 (4) "Disclosure" or "disclose" means the communication of health care data to any
263 individual or organization outside the committee, its staff, and contracting agencies.

264 (5) "Executive director" means the director of the department.

265 (6) (a) "Health care facility" means a facility that is licensed by the department under
266 Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act. [~~The committee~~]

267 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
268 committee, with the concurrence of the department, may by rule add, delete, or modify the list
269 of facilities that come within this definition for purposes of this chapter.

270 (7) "Health care provider" means any person, partnership, association, corporation, or
271 other facility or institution that renders or causes to be rendered health care or professional
272 services as a physician, registered nurse, licensed practical nurse, nurse-midwife, dentist, dental
273 hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, podiatric
274 physician, psychologist, chiropractic physician, naturopathic physician, osteopathic physician,
275 osteopathic physician and surgeon, audiologist, speech pathologist, certified social worker,
276 social service worker, social service aide, marriage and family counselor, or practitioner of
277 obstetrics, and others rendering similar care and services relating to or arising out of the health
278 needs of persons or groups of persons, and officers, employees, or agents of any of the above
279 acting in the course and scope of their employment.

280 (8) "Health data" means information relating to the health status of individuals, health
281 services delivered, the availability of health manpower and facilities, and the use and costs of

282 resources and services to the consumer, except vital records as defined in Section 26-2-2 shall
283 be excluded.

284 (9) "Health maintenance organization" has the meaning set forth in Section 31A-8-101.

285 (10) "Identifiable health data" means any item, collection, or grouping of health data
286 that makes the individual supplying or described in the health data identifiable.

287 (11) "Individual" means a natural person.

288 (12) "Organization" means any corporation, association, partnership, agency,
289 department, unit, or other legally constituted institution or entity, or part thereof.

290 (13) "Research and statistical analysis" means activities using health data analysis
291 including:

292 (a) describing the group characteristics of individuals or organizations;

293 (b) analyzing the noncompliance among the various characteristics of individuals or
294 organizations;

295 (c) conducting statistical procedures or studies to improve the quality of health data;

296 (d) designing sample surveys and selecting samples of individuals or organizations;

297 and

298 (e) preparing and publishing reports describing these matters.

299 (14) "Self-funded employer" means an employer who provides for the payment of
300 health care services for employees directly from the employer's funds, thereby assuming the
301 financial risks rather than passing them on to an outside insurer through premium payments.

302 (15) "Plan" means the plan developed and adopted by the Health Data Committee
303 under Section 26-33a-104.

304 (16) "Third party payor" means:

305 (a) an insurer offering a health benefit plan, as defined by Section 31A-1-301, to at
306 least 2,500 enrollees in the state;

307 (b) a nonprofit health service insurance corporation licensed under Title 31A, Chapter
308 7, Nonprofit Health Service Insurance Corporations;

309 (c) a program funded or administered by Utah for the provision of health care services,

310 including the Medicaid and medical assistance programs described in Chapter 18, Medical
311 Assistance Act; and

312 (d) a corporation, organization, association, entity, or person:

313 (i) which administers or offers a health benefit plan to at least 2,500 enrollees in the
314 state; and

315 (ii) which is required by administrative rule adopted by the department in accordance
316 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to supply health data to the
317 committee.

318 Section 10. Section **26-33a-104** is amended to read:

319 **26-33a-104. Purpose, powers, and duties of the committee.**

320 (1) The purpose of the committee is to direct a statewide effort to collect, analyze, and
321 distribute health care data to facilitate the promotion and accessibility of quality and
322 cost-effective health care and also to facilitate interaction among those with concern for health
323 care issues.

324 (2) The committee shall:

325 (a) with the concurrence of the department and in accordance with Title 63G, Chapter
326 3, Utah Administrative Rulemaking Act, develop and adopt by rule, following public hearing
327 and comment, a health data plan that shall among its elements:

328 (i) identify the key health care issues, questions, and problems amenable to resolution
329 or improvement through better data, more extensive or careful analysis, or improved
330 dissemination of health data;

331 (ii) document existing health data activities in the state to collect, organize, or make
332 available types of data pertinent to the needs identified in Subsection (2)(a)(i);

333 (iii) describe and prioritize the actions suitable for the committee to take in response to
334 the needs identified in Subsection (2)(a)(i) in order to obtain or to facilitate the obtaining of
335 needed data, and to encourage improvements in existing data collection, interpretation, and
336 reporting activities, and indicate how those actions relate to the activities identified under
337 Subsection (2)(a)(ii);

338 (iv) detail the types of data needed for the committee's work, the intended data
339 suppliers, and the form in which such data are to be supplied, noting the consideration given to
340 the potential alternative sources and forms of such data and to the estimated cost to the
341 individual suppliers as well as to the department of acquiring these data in the proposed
342 manner; the plan shall reasonably demonstrate that the committee has attempted to maximize
343 cost-effectiveness in the data acquisition approaches selected;

344 (v) describe the types and methods of validation to be performed to assure data validity
345 and reliability;

346 (vi) explain the intended uses of and expected benefits to be derived from the data
347 specified in Subsection (2)(a)(iv), including the contemplated tabulation formats and analysis
348 methods; the benefits described shall demonstrably relate to one or more of the following:

- 349 (A) promoting quality health care;
- 350 (B) managing health care costs; or
- 351 (C) improving access to health care services;

352 (vii) describe the expected processes for interpretation and analysis of the data flowing
353 to the committee; noting specifically the types of expertise and participation to be sought in
354 those processes; and

355 (viii) describe the types of reports to be made available by the committee and the
356 intended audiences and uses;

357 (b) have the authority to collect, validate, analyze, and present health data in
358 accordance with the plan while protecting individual privacy through the use of a control
359 number as the health data identifier;

360 (c) evaluate existing identification coding methods and, if necessary, require by rule
361 adopted in accordance with Subsection (3), that health data suppliers use a uniform system for
362 identification of patients, health care facilities, and health care providers on health data they
363 submit under this chapter; and

364 (d) advise, consult, contract, and cooperate with any corporation, association, or other
365 entity for the collection, analysis, processing, or reporting of health data identified by control

366 number only in accordance with the plan.

367 (3) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
368 Act, the committee, with the concurrence of the department, may adopt rules to carry out the
369 provisions of this chapter [~~in accordance with Title 63G, Chapter 3, Utah Administrative~~
370 ~~Rulemaking Act~~].

371 (4) Except for data collection, analysis, and validation functions described in this
372 section, nothing in this chapter shall be construed to authorize or permit the committee to
373 perform regulatory functions which are delegated by law to other agencies of the state or
374 federal governments or to perform quality assurance or medical record audit functions that
375 health care facilities, health care providers, or third party payors are required to conduct to
376 comply with federal or state law. The committee may not recommend or determine whether a
377 health care provider, health care facility, third party payor, or self-funded employer is in
378 compliance with federal or state laws including federal or state licensure, insurance,
379 reimbursement, tax, malpractice, or quality assurance statutes or common law.

380 (5) Nothing in this chapter shall be construed to require a data supplier to supply health
381 data identifying a patient by name or describing detail on a patient beyond that needed to
382 achieve the approved purposes included in the plan.

383 (6) No request for health data shall be made of health care providers and other data
384 suppliers until a plan for the use of such health data has been adopted.

385 (7) If a proposed request for health data imposes unreasonable costs on a data supplier,
386 due consideration shall be given by the committee to altering the request. If the request is not
387 altered, the committee shall pay the costs incurred by the data supplier associated with
388 satisfying the request that are demonstrated by the data supplier to be unreasonable.

389 (8) After a plan is adopted as provided in Section [26-33a-106.1](#), the committee may
390 require any data supplier to submit fee schedules, maximum allowable costs, area prevailing
391 costs, terms of contracts, discounts, fixed reimbursement arrangements, capitations, or other
392 specific arrangements for reimbursement to a health care provider.

393 (9) The committee may not publish any health data collected under Subsection (8) that

394 would disclose specific terms of contracts, discounts, or fixed reimbursement arrangements, or
395 other specific reimbursement arrangements between an individual provider and a specific
396 payer.

397 (10) Nothing in Subsection (8) shall prevent the committee from requiring the
398 submission of health data on the reimbursements actually made to health care providers from
399 any source of payment, including consumers.

400 Section 11. Section **26-33a-106.5** is amended to read:

401 **26-33a-106.5. Comparative analyses.**

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

405 (2) (a) Except as provided in Subsection (7)(c), the committee shall publish
406 compilations or reports from the data it collects under this chapter or from any other source
407 which:

408 (i) contain the information described in Subsection (2)(b); and

409 (ii) compare and identify by name at least a majority of the health care facilities, health
410 care plans, and institutions in the state.

411 (b) Except as provided in Subsection (7)(c), the report required by this Subsection (2)
412 shall:

413 (i) be published at least annually; and

414 (ii) contain comparisons based on at least the following factors:

415 (A) nationally or other generally recognized quality standards;

416 (B) charges; and

417 (C) nationally recognized patient safety standards.

418 (3) The committee may contract with a private, independent analyst to evaluate the
419 standard comparative reports of the committee that identify, compare, or rank the performance
420 of data suppliers by name. The evaluation shall include a validation of statistical
421 methodologies, limitations, appropriateness of use, and comparisons using standard health

422 services research practice. The analyst shall be experienced in analyzing large databases from
423 multiple data suppliers and in evaluating health care issues of cost, quality, and access. The
424 results of the analyst's evaluation shall be released to the public before the standard
425 comparative analysis upon which it is based may be published by the committee.

426 (4) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
427 Act, the committee, with the concurrence of the department, shall adopt by rule a timetable for
428 the collection and analysis of data from multiple types of data suppliers.

429 (5) The comparative analysis required under Subsection (2) shall be available:

430 (a) free of charge and easily accessible to the public; and

431 (b) on the Health Insurance Exchange either directly or through a link.

432 (6) (a) The department shall include in the report required by Subsection (2)(b), or
433 include in a separate report, comparative information on commonly recognized or generally
434 agreed upon measures of cost and quality identified in accordance with Subsection (7), for:

435 (i) routine and preventive care; and

436 (ii) the treatment of diabetes, heart disease, and other illnesses or conditions as
437 determined by the committee.

438 (b) The comparative information required by Subsection (6)(a) shall be based on data
439 collected under Subsection (2) and clinical data that may be available to the committee, and
440 shall compare:

441 (i) beginning December 31, 2014, results for health care facilities or institutions;

442 (ii) beginning December 31, 2014, results for health care providers by geographic
443 regions of the state;

444 (iii) beginning July 1, 2016, a clinic's aggregate results for a physician who practices at
445 a clinic with five or more physicians; and

446 (iv) beginning July 1, 2016, a geographic region's aggregate results for a physician who
447 practices at a clinic with less than five physicians, unless the physician requests physician-level
448 data to be published on a clinic level.

449 (c) The department:

450 (i) may publish information required by this Subsection (6) directly or through one or
451 more nonprofit, community-based health data organizations;

452 (ii) may use a private, independent analyst under Subsection (3) in preparing the report
453 required by this section; and

454 (iii) shall identify and report to the Legislature's Health and Human Services Interim
455 Committee by July 1, 2014, and every July 1 thereafter until July 1, 2019, at least three new
456 measures of quality to be added to the report each year.

457 (d) A report published by the department under this Subsection (6):

458 (i) is subject to the requirements of Section 26-33a-107; and

459 (ii) shall, prior to being published by the department, be submitted to a neutral,
460 non-biased entity with a broad base of support from health care payers and health care
461 providers in accordance with Subsection (7) for the purpose of validating the report.

462 (7) (a) The Health Data Committee shall, through the department, for purposes of
463 Subsection (6)(a), use the quality measures that are developed and agreed upon by a neutral,
464 non-biased entity with a broad base of support from health care payers and health care
465 providers.

466 (b) If the entity described in Subsection (7)(a) does not submit the quality measures,
467 the department may select the appropriate number of quality measures for purposes of the
468 report required by Subsection (6).

469 (c) (i) For purposes of the reports published on or after July 1, 2014, the department
470 may not compare individual facilities or clinics as described in Subsections (6)(b)(i) through
471 (iv) if the department determines that the data available to the department can not be
472 appropriately validated, does not represent nationally recognized measures, does not reflect the
473 mix of cases seen at a clinic or facility, or is not sufficient for the purposes of comparing
474 providers.

475 (ii) The department shall report to the Legislature's Executive Appropriations
476 Committee prior to making a determination not to publish a report under Subsection (7)(c)(i).

477 Section 12. Section 26-33a-107 is amended to read:

478 **26-33a-107. Limitations on release of reports.**

479 The committee may not release a compilation or report that compares and identifies
480 health care providers or data suppliers unless it:

481 (1) allows the data supplier and the health care provider to verify the accuracy of the
482 information submitted to the committee and submit to the committee any corrections of errors
483 with supporting evidence and comments within a reasonable period of time to be established by
484 rule, with the concurrence of the department, in accordance with Title 63G, Chapter 3, Utah
485 Administrative Rulemaking Act;

486 (2) corrects data found to be in error; and

487 (3) allows the data supplier a reasonable amount of time prior to publication to review
488 the committee's interpretation of the data and prepare a response.

489 Section 13. Section **26-33a-109** is amended to read:

490 **26-33a-109. Exceptions to prohibition on disclosure of identifiable health data.**

491 (1) The committee may not disclose any identifiable health data unless:

492 (a) the individual has authorized the disclosure; or

493 (b) the disclosure complies with the provisions of:

494 (i) this section;

495 (ii) insurance enrollment and coordination of benefits under Subsection

496 [26-33a-106.1\(1\)\(d\)](#); or

497 (iii) risk adjusting under Subsection [26-33a-106.1\(1\)\(b\)](#).

498 (2) The committee shall consider the following when responding to a request for
499 disclosure of information that may include identifiable health data:

500 (a) whether the request comes from a person after that person has received approval to
501 do the specific research and statistical work from an institutional review board; and

502 (b) whether the requesting entity complies with the provisions of Subsection (3).

503 (3) A request for disclosure of information that may include identifiable health data
504 shall:

505 (a) be for a specified period; or

506 (b) be solely for bona fide research and statistical purposes as determined in
507 accordance with administrative rules adopted by the department in accordance with Title 63G,
508 Chapter 3, Utah Administrative Rulemaking Act, which shall require:

509 (i) the requesting entity to demonstrate to the department that the data is required for
510 the research and statistical purposes proposed by the requesting entity; and

511 (ii) the requesting entity to enter into a written agreement satisfactory to the department
512 to protect the data in accordance with this chapter or other applicable law.

513 (4) A person accessing identifiable health data pursuant to Subsection (3) may not
514 further disclose the identifiable health data:

515 (a) without prior approval of the department; and

516 (b) unless the identifiable health data is disclosed or identified by control number only.

517 Section 14. Section **26-39-203** is amended to read:

518 **26-39-203. Duties of the Child Care Center Licensing Committee.**

519 (1) The licensing committee shall:

520 (a) in concurrence with the department and in accordance with Title 63G, Chapter 3,
521 Utah Administrative Rulemaking Act, make rules that govern center based child care as
522 necessary to protect qualifying children's common needs for a safe and healthy environment, to
523 provide for:

524 (i) adequate facilities and equipment; and

525 (ii) competent caregivers considering the age of the children and the type of program
526 offered by the licensee;

527 (b) in concurrence with the department and in accordance with Title 63G, Chapter 3,
528 Utah Administrative Rulemaking Act, make rules necessary to carry out the purposes of this
529 chapter that govern center based child care, in the following areas:

530 (i) requirements for applications, the application process, and compliance with other
531 applicable statutes and rules;

532 (ii) documentation and policies and procedures that providers shall have in place in
533 order to be licensed, in accordance with Subsection (1);

- 534 (iii) categories, classifications, and duration of initial and ongoing licenses;
- 535 (iv) changes of ownership or name, changes in licensure status, and changes in
- 536 operational status;
- 537 (v) license expiration and renewal, contents, and posting requirements;
- 538 (vi) procedures for inspections, complaint resolution, disciplinary actions, and other
- 539 procedural measures to encourage and assure compliance with statute and rule; and
- 540 (vii) guidelines necessary to assure consistency and appropriateness in the regulation
- 541 and discipline of licensees;
- 542 (c) advise the department on the administration of a matter affecting center based child
- 543 care;
- 544 (d) advise and assist the department in conducting center based child care provider
- 545 seminars; and
- 546 (e) perform other duties as provided under Section 26-39-301.

547 (2) (a) The licensing committee may not enforce the rules adopted under this section.

548 (b) The department shall enforce the rules adopted under this section in accordance
549 with Section 26-39-301.

550 Section 15. Section 26-39-301 is amended to read:

551 **26-39-301. Duties of the department -- Enforcement of chapter -- Licensing**
552 **committee requirements.**

553 (1) With regard to residential child care licensed or certified under this chapter, the
554 department may:

555 (a) make and enforce rules to implement this chapter and, as necessary to protect
556 qualifying children's common needs for a safe and healthy environment, to provide for:

557 (i) adequate facilities and equipment; and

558 (ii) competent caregivers considering the age of the children and the type of program
559 offered by the licensee;

560 (b) make and enforce rules necessary to carry out the purposes of this chapter, in the
561 following areas:

562 (i) requirements for applications, the application process, and compliance with other
563 applicable statutes and rules;

564 (ii) documentation and policies and procedures that providers shall have in place in
565 order to be licensed, in accordance with Subsection (1)(a);

566 (iii) categories, classifications, and duration of initial and ongoing licenses;

567 (iv) changes of ownership or name, changes in licensure status, and changes in
568 operational status;

569 (v) license expiration and renewal, contents, and posting requirements;

570 (vi) procedures for inspections, complaint resolution, disciplinary actions, and other
571 procedural measures to encourage and assure compliance with statute and rule; and

572 (vii) guidelines necessary to assure consistency and appropriateness in the regulation
573 and discipline of licensees; and

574 (c) set and collect licensing and other fees in accordance with Section 26-1-6.

575 (2) The department shall enforce the rules established by the licensing committee, with
576 the concurrence of the department, for center based child care.

577 (3) Rules made under this chapter by the department, or the licensing committee with
578 the concurrence of the department, shall be made in accordance with Title 63G, Chapter 3,
579 Utah Administrative Rulemaking Act.

580 (4) (a) The licensing committee and the department may not regulate educational
581 curricula, academic methods, or the educational philosophy or approach of the provider.

582 (b) The licensing committee and the department shall allow for a broad range of
583 educational training and academic background in certification or qualification of child day care
584 directors.

585 (5) In licensing and regulating child care programs, the licensing committee and the
586 department shall reasonably balance the benefits and burdens of each regulation and, by rule,
587 provide for a range of licensure, depending upon the needs and different levels and types of
588 child care provided.

589 (6) Notwithstanding the definition of "qualifying child" in Section 26-39-102, the

590 licensing committee and the department shall count children through age 12 and children with
591 disabilities through age 18 toward the minimum square footage requirement for indoor and
592 outdoor areas, including the child of:

- 593 (a) a licensed residential child care provider; or
- 594 (b) an owner or employee of a licensed child care center.

595 (7) Notwithstanding Subsection (1)(a)(i), the licensing committee and the department
596 may not exclude floor space used for furniture, fixtures, or equipment from the minimum
597 square footage requirement for indoor and outdoor areas if the furniture, fixture, or equipment
598 is used:

- 599 (a) by qualifying children;
- 600 (b) for the care of qualifying children; or
- 601 (c) to store classroom materials.

602 (8) (a) A child care center constructed prior to January 1, 2004, and licensed and
603 operated as a child care center continuously since January 1, 2004, is exempt from the licensing
604 committee's and the department's group size restrictions, if the child to caregiver ratios are
605 maintained, and adequate square footage is maintained for specific classrooms.

606 (b) An exemption granted under Subsection (7)(a) is transferrable to subsequent
607 licensed operators at the center if a licensed child care center is continuously maintained at the
608 center.

609 (9) The licensing committee [~~and the~~], with the concurrence of the department, shall
610 develop, by rule, a five-year phased-in compliance schedule for playground equipment safety
611 standards.

612 (10) Nothing in this chapter may be interpreted to grant a municipality or county the
613 authority to license or certify a child care program.

614 **Section 16. Effective date.**

615 This bill takes effect on May 10, 2016, except that the amendments to Section
616 26-8a-106 (Effective 07/01/16) take effect on July 1, 2016.