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COMMITTEE AUTHORITY AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: Steve Eliason

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

- State Emergency Medical Services Committee;
- Primary Care Grant Committee;
- Health Facility Committee;
- Health Data Committee; and
- Child Care Licensing Committee;

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

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

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- 32 **26-8a-106 (Superseded 07/01/16)**, as last amended by Laws of Utah 2011, Chapter 181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

45

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 (2) Rules shall have the force and effect of law and may deal with matters which
58 materially affect the security of health or the preservation and improvement of public health in

59 the state, and any matters as to which jurisdiction is conferred upon the department by this title.

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

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

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

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

72 **26-8a-104. Committee advisory duties.**

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

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

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

77 (3) promote the development of a statewide emergency medical services system under
 78 Section 26-8a-203;

79 (4) establish insurance requirements for ambulance providers;

80 (5) provide guidelines for requiring patient data under Section 26-8a-203;

81 (6) establish criteria for awarding grants under Section 26-8a-207;

82 (7) establish requirements for the coordination of emergency medical services and the
 83 medical supervision of emergency medical service providers under Section 26-8a-306; and

84 (8) are necessary to carry out the responsibilities of the committee as specified in other
 85 sections of this chapter.

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

87 **26-8a-106 (Superseded 07/01/16). Waiver of rules.**

88 (1) Upon application, the [~~committee or~~] department, or the committee with the
 89 concurrence of the department, may waive the requirements of a rule [it] the department, or the

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

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

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

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

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

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

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

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

102 (2) A waiver of education, licensing, or certification requirements may be granted to a
103 veteran, as defined in Section 71-8-1, if the veteran:

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

106 (b) successfully passes any examination required.

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

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

110 **26-8a-106 (Effective 07/01/16). Waiver of rules.**

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

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

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

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

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

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

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

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

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

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

129 (b) successfully passes any examination required.

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

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

133 **26-10b-106. Primary Care Grant Committee.**

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

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

137 (b) recommend, to the executive director, grant applications to award under Subsection
138 26-10b-102(1);

139 (c) evaluate:

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

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

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

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

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

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

149 (2) The committee shall consist of:

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

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

- 154 (i) four licensed health care professionals; and
- 155 (ii) two community advocates who are familiar with a medically underserved
156 population and with health care systems, where at least one is familiar with a rural medically
157 underserved population.

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

- 159 (a) if the member is unable or unwilling to carry out the member's assigned
160 responsibilities; or
- 161 (b) for a rational reason.

162 (4) A committee member may not ~~[be compensated]~~ receive compensation or benefits
163 for the member's service, except a committee member who is not an employee of the
164 department may ~~[be reimbursed for reasonable travel expenses related to the member's~~
165 ~~committee responsibilities.]~~ receive per diem and travel expenses in accordance with:

- 166 (a) Section 63A-3-106;
- 167 (b) Section 63A-3-107; and
- 168 (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and
169 63A-3-107.

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

171 **26-21-5. Duties of committee.**

172 The committee shall:

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

- 175 (a) for the licensing of health-care facilities; and
- 176 (b) requiring the submission of architectural plans and specifications for any proposed
177 new health-care facility or renovation to the department for review;

178 (2) approve the information for applications for licensure pursuant to Section 26-21-9;

179 (3) advise the department as requested concerning the interpretation and enforcement
180 of the rules established under this chapter; and

181 (4) advise, consult, cooperate with, and provide technical assistance to other agencies
182 of the state and federal government, and other states and affected groups or persons in carrying

183 out the purposes of this chapter.

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

185 **26-21-6. Duties of department.**

186 (1) The department shall:

187 (a) enforce rules established pursuant to this chapter;

188 (b) authorize an agent of the department to conduct inspections of health care facilities
189 pursuant to this chapter;

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

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

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

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

196 (ii) beginning July 1, 2012:

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

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

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

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

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

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

209 (2) The department may:

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

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

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

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

218 **26-21-8. License required -- Not assignable or transferable -- Posting --**
219 **Expiration and renewal -- Time for compliance by operating facilities.**

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

224 (b) This Subsection (1) does not apply to facilities that are exempt under Section
225 [26-21-7](#).

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

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

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

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

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

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

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

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

244 **26-33a-102. Definitions.**

245 As used in this chapter:

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

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

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

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

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

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

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

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

271 (8) "Health data" means information relating to the health status of individuals, health
272 services delivered, the availability of health manpower and facilities, and the use and costs of
273 resources and services to the consumer, except vital records as defined in Section 26-2-2 shall
274 be excluded.

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

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

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

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

281 (13) "Research and statistical analysis" means activities using health data analysis
282 including:

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

284 (b) analyzing the noncompliance among the various characteristics of individuals or
285 organizations;

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

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

288 and

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

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

293 (15) "Plan" means the plan developed and adopted by the Health Data Committee
294 under Section [26-33a-104](#).

295 (16) "Third party payor" means:

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

298 (b) a nonprofit health service insurance corporation licensed under Title 31A, Chapter
299 7, Nonprofit Health Service Insurance Corporations;

300 (c) a program funded or administered by Utah for the provision of health care services,
301 including the Medicaid and medical assistance programs described in Chapter 18, Medical
302 Assistance Act; and

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

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

306 (ii) which is required by administrative rule adopted by the department in accordance

307 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to supply health data to the
308 committee.

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

310 **26-33a-104. Purpose, powers, and duties of the committee.**

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

315 (2) The committee shall:

316 (a) with the concurrence of the department and in accordance with Title 63G, Chapter
317 3, Utah Administrative Rulemaking Act, develop and adopt by rule, following public hearing
318 and comment, a health data plan that shall among its elements:

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

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

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

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

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

337 (vi) explain the intended uses of and expected benefits to be derived from the data

338 specified in Subsection (2)(a)(iv), including the contemplated tabulation formats and analysis
339 methods; the benefits described shall demonstrably relate to one or more of the following:

340 (A) promoting quality health care;

341 (B) managing health care costs; or

342 (C) improving access to health care services;

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

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

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

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

355 (d) advise, consult, contract, and cooperate with any corporation, association, or other
356 entity for the collection, analysis, processing, or reporting of health data identified by control
357 number only in accordance with the plan.

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

362 (4) Except for data collection, analysis, and validation functions described in this
363 section, nothing in this chapter shall be construed to authorize or permit the committee to
364 perform regulatory functions which are delegated by law to other agencies of the state or
365 federal governments or to perform quality assurance or medical record audit functions that
366 health care facilities, health care providers, or third party payors are required to conduct to
367 comply with federal or state law. The committee may not recommend or determine whether a
368 health care provider, health care facility, third party payor, or self-funded employer is in

369 compliance with federal or state laws including federal or state licensure, insurance,
370 reimbursement, tax, malpractice, or quality assurance statutes or common law.

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

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

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

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

384 (9) The committee may not publish any health data collected under Subsection (8) that
385 would disclose specific terms of contracts, discounts, or fixed reimbursement arrangements, or
386 other specific reimbursement arrangements between an individual provider and a specific
387 payer.

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

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

392 **26-33a-106.5. Comparative analyses.**

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

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

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

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

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

404 (i) be published at least annually; and

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

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

407 (B) charges; and

408 (C) nationally recognized patient safety standards.

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

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

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

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

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

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

426 (i) routine and preventive care; and

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

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

431 shall compare:

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

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

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

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

440 (c) The department:

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

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

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

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

449 (i) is subject to the requirements of Section [26-33a-107](#); and

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

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

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

460 (c) (i) For purposes of the reports published on or after July 1, 2014, the department
461 may not compare individual facilities or clinics as described in Subsections (6)(b)(i) through

462 (iv) if the department determines that the data available to the department can not be
463 appropriately validated, does not represent nationally recognized measures, does not reflect the
464 mix of cases seen at a clinic or facility, or is not sufficient for the purposes of comparing
465 providers.

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

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

469 **26-33a-107. Limitations on release of reports.**

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

472 (1) allows the data supplier and the health care provider to verify the accuracy of the
473 information submitted to the committee and submit to the committee any corrections of errors
474 with supporting evidence and comments within a reasonable period of time to be established by
475 rule, with the concurrence of the department, in accordance with Title 63G, Chapter 3, Utah

476 Administrative Rulemaking Act;

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

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

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

481 **26-33a-109. Exceptions to prohibition on disclosure of identifiable health data.**

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

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

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

485 (i) this section;

486 (ii) insurance enrollment and coordination of benefits under Subsection
487 **26-33a-106.1(1)(d)**; or

488 (iii) risk adjusting under Subsection **26-33a-106.1(1)(b)**.

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

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

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

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

496 (a) be for a specified period; or

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

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

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

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

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

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

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

509 **26-39-203. Duties of the Child Care Center Licensing Committee.**

510 (1) The licensing committee shall:

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

515 (i) adequate facilities and equipment; and

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

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

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

523 (ii) documentation and policies and procedures that providers shall have in place in

- 524 order to be licensed, in accordance with Subsection (1);
- 525 (iii) categories, classifications, and duration of initial and ongoing licenses;
- 526 (iv) changes of ownership or name, changes in licensure status, and changes in
- 527 operational status;
- 528 (v) license expiration and renewal, contents, and posting requirements;
- 529 (vi) procedures for inspections, complaint resolution, disciplinary actions, and other
- 530 procedural measures to encourage and assure compliance with statute and rule; and
- 531 (vii) guidelines necessary to assure consistency and appropriateness in the regulation
- 532 and discipline of licensees;
- 533 (c) advise the department on the administration of a matter affecting center based child
- 534 care;
- 535 (d) advise and assist the department in conducting center based child care provider
- 536 seminars; and
- 537 (e) perform other duties as provided under Section 26-39-301.

- 538 (2) (a) The licensing committee may not enforce the rules adopted under this section.
- 539 (b) The department shall enforce the rules adopted under this section in accordance
- 540 with Section 26-39-301.

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

542 **26-39-301. Duties of the department -- Enforcement of chapter -- Licensing**
543 **committee requirements.**

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

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

- 548 (i) adequate facilities and equipment; and
- 549 (ii) competent caregivers considering the age of the children and the type of program
- 550 offered by the licensee;

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

- 553 (i) requirements for applications, the application process, and compliance with other
- 554 applicable statutes and rules;

- 555 (ii) documentation and policies and procedures that providers shall have in place in
556 order to be licensed, in accordance with Subsection (1)(a);
- 557 (iii) categories, classifications, and duration of initial and ongoing licenses;
- 558 (iv) changes of ownership or name, changes in licensure status, and changes in
559 operational status;
- 560 (v) license expiration and renewal, contents, and posting requirements;
- 561 (vi) procedures for inspections, complaint resolution, disciplinary actions, and other
562 procedural measures to encourage and assure compliance with statute and rule; and
- 563 (vii) guidelines necessary to assure consistency and appropriateness in the regulation
564 and discipline of licensees; and
- 565 (c) set and collect licensing and other fees in accordance with Section 26-1-6.
- 566 (2) The department shall enforce the rules established by the licensing committee, with
567 the concurrence of the department, for center based child care.
- 568 (3) Rules made under this chapter by the department, or the licensing committee with
569 the concurrence of the department, shall be made in accordance with Title 63G, Chapter 3,
570 Utah Administrative Rulemaking Act.
- 571 (4) (a) The licensing committee and the department may not regulate educational
572 curricula, academic methods, or the educational philosophy or approach of the provider.
- 573 (b) The licensing committee and the department shall allow for a broad range of
574 educational training and academic background in certification or qualification of child day care
575 directors.
- 576 (5) In licensing and regulating child care programs, the licensing committee and the
577 department shall reasonably balance the benefits and burdens of each regulation and, by rule,
578 provide for a range of licensure, depending upon the needs and different levels and types of
579 child care provided.
- 580 (6) Notwithstanding the definition of "qualifying child" in Section 26-39-102, the
581 licensing committee and the department shall count children through age 12 and children with
582 disabilities through age 18 toward the minimum square footage requirement for indoor and
583 outdoor areas, including the child of:
- 584 (a) a licensed residential child care provider; or
- 585 (b) an owner or employee of a licensed child care center.

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

- 590 (a) by qualifying children;
- 591 (b) for the care of qualifying children; or
- 592 (c) to store classroom materials.

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

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

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

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

605 Section 16. **Effective date.**

606 This bill takes effect on May 10, 2016, except that the amendments to Section
607 [26-8a-106](#) (Effective 07/01/16) take effect on July 1, 2016.

Legislative Review Note
Office of Legislative Research and General Counsel