

**DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH**

**AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kelly B. Miles**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill requires that the expenditure of state funds on substance use disorder or mental health treatment or programming be limited to evidence-based treatment or programming.

**Highlighted Provisions:**

This bill:

- ▶ amends and defines terms;
- ▶ requires the local substance abuse authorities and the mental health authorities to identify in their state plans which programs and treatments are evidence-based;
- ▶ establishes requirements for an evidence-based treatment program;
- ▶ requires the division, the local substance abuse authorities, and the local mental health authorities to incrementally increase the percentage of evidence-based treatment programming;
- ▶ requires that certain training be for the provision of evidence-based treatment programs;
- ▶ specifies the allocation of certain future appropriations through fiscal year 2025;
- ▶ creates the Outcome Improvement Advisory Board; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 17-43-102, as last amended by Laws of Utah 2009, Chapter 75

34 17-43-201, as last amended by Laws of Utah 2016, Chapter 113

35 17-43-203, as last amended by Laws of Utah 2004, Chapter 80

36 17-43-301, as last amended by Laws of Utah 2016, Chapter 113

37 17-43-303, as last amended by Laws of Utah 2004, Chapter 80

38 62A-15-102, as last amended by Laws of Utah 2015, Chapter 412

39 62A-15-103, as last amended by Laws of Utah 2017, Chapter 163

40 63I-1-262, as last amended by Laws of Utah 2017, Chapter 459

41 ENACTS:

42 62A-15-114, Utah Code Annotated 1953

43 62A-15-115, Utah Code Annotated 1953



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

46 Section 1. Section 17-43-102 is amended to read:

47 **17-43-102. Definitions.**

48 As used in this chapter:

49 (1) "Department" means the Department of Human Services created in Section

50 62A-1-102.

51 (2) "Division" means the Division of Substance Abuse and Mental Health created

52 within the Department of Human Services in Section 62A-1-105.

53 (3) "Evidence-based" means that a treatment program:

54 (a) is based upon a written manual or protocol that specifies the nature of the services,

55 the quality of the service, the target population, and the amount of service that constitutes the

56 program; and

57 (b) is supported by scientific research that:

58 (i) demonstrated through two or more client samples of the target population that the

59 program improves client outcome central to the purpose of the program; and  
 60 (ii) evaluated the effect of the program through randomized control trials or  
 61 quasi-experimental studies.

62 Section 2. Section **17-43-201** is amended to read:

63 **17-43-201. Local substance abuse authorities -- Responsibilities.**

64 (1) (a) (i) In each county operating under a county executive-council form of  
 65 government under Section **17-52-504**, the county legislative body is the local substance abuse  
 66 authority, provided however that any contract for plan services shall be administered by the  
 67 county executive.

68 (ii) In each county operating under a council-manager form of government under  
 69 Section **17-52-505**, the county manager is the local substance abuse authority.

70 (iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the  
 71 county legislative body is the local substance abuse authority.

72 (b) Within [~~legislative~~] legislative appropriations and county matching funds required  
 73 by this section, and under the direction of the division, each local substance abuse authority  
 74 shall:

75 (i) develop substance [~~abuse~~] use disorder prevention and treatment services plans;

76 (ii) provide substance [~~abuse~~] use disorder services to residents of the county; [~~and~~]

77 (iii) cooperate with efforts of the Division of Substance Abuse and Mental Health to  
 78 promote integrated programs that address an individual's substance [~~abuse~~] use disorder,  
 79 mental health, and physical health care needs, as described in Section **62A-15-103**[~~;~~]; and

80 (iv) promote evidence-based treatment programming.

81 (c) Within [~~legislative~~] legislative appropriations and county matching funds required  
 82 by this section, each local substance abuse authority shall cooperate with the efforts of the  
 83 [~~Department of Human Services~~] department to promote a system of care, as defined in Section  
 84 **62A-1-104**, for minors with or at risk for complex emotional and behavioral needs, as  
 85 described in Section **62A-1-111**.

86 (2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal  
 87 Cooperation Act, two or more counties may join to:

88 (i) provide substance [~~abuse~~] use disorder prevention and treatment services; or

89 (ii) create a united local health department that provides substance [~~abuse~~] use disorder

90 treatment services, mental health services, and local health department services in accordance  
91 with Subsection (3).

92 (b) The legislative bodies of counties joining to provide services may establish  
93 acceptable ways of apportioning the cost of substance [~~abuse~~] use disorder services.

94 (c) Each agreement for joint substance [~~abuse~~] use disorder services shall:

95 (i) (A) designate the treasurer of one of the participating counties or another person as  
96 the treasurer for the combined substance abuse authorities and as the custodian of money  
97 available for the joint services; and

98 (B) provide that the designated treasurer, or other disbursing officer authorized by the  
99 treasurer, may make payments from the money for the joint services upon audit of the  
100 appropriate auditing officer or officers representing the participating counties;

101 (ii) provide for the appointment of an independent auditor or a county auditor of one of  
102 the participating counties as the designated auditing officer for the combined substance abuse  
103 authorities;

104 (iii) (A) provide for the appointment of the county or district attorney of one of the  
105 participating counties as the designated legal officer for the combined substance abuse  
106 authorities; and

107 (B) authorize the designated legal officer to request and receive the assistance of the  
108 county or district attorneys of the other participating counties in defending or prosecuting  
109 actions within their counties relating to the combined substance abuse authorities; and

110 (iv) provide for the adoption of management, clinical, financial, procurement,  
111 personnel, and administrative policies as already established by one of the participating  
112 counties or as approved by the legislative body of each participating county or interlocal board.

113 (d) An agreement for joint substance [~~abuse~~] use disorder services may provide for  
114 joint operation of services and facilities or for operation of services and facilities under contract  
115 by one participating local substance abuse authority for other participating local substance  
116 abuse authorities.

117 (3) A county governing body may elect to combine the local substance abuse authority  
118 with the local mental health authority created in Part 3, Local Mental Health Authorities, and  
119 the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department  
120 Act, to create a united local health department under Section [26A-1-105.5](#). A local substance

121 abuse authority that joins a united local health department shall comply with this part.

122 (4) (a) Each local substance abuse authority is accountable to the department, the  
123 Department of Health, and the state with regard to the use of state and federal funds received  
124 from those departments for substance ~~[abuse]~~ use disorder services, regardless of whether the  
125 services are provided by a private contract provider.

126 (b) Each local substance abuse authority shall comply, and require compliance by its  
127 contract provider, with all directives issued by the department and the Department of Health  
128 regarding the use and expenditure of state and federal funds received from those departments  
129 for the purpose of providing substance ~~[abuse]~~ use disorder programs and services. The  
130 department and Department of Health shall ensure that those directives are not duplicative or  
131 conflicting, and shall consult and coordinate with local substance abuse authorities with regard  
132 to programs and services.

133 (5) Each local substance abuse authority shall:

134 (a) review and evaluate substance ~~[abuse]~~ use disorder prevention and treatment needs  
135 and services, including substance ~~[abuse]~~ use disorder needs and services for individuals  
136 incarcerated in a county jail or other county correctional facility;

137 (b) annually prepare and submit to the division a plan approved by the county  
138 legislative body for funding and service delivery that includes:

139 (i) provisions for services, either directly by the substance abuse authority or by  
140 contract, for adults, youth, and children, including those incarcerated in a county jail or other  
141 county correctional facility; ~~[and]~~

142 (ii) primary prevention, targeted prevention, early intervention, and treatment services;  
143 and

144 (iii) identification of whether each treatment program within the plan is  
145 evidence-based;

146 (c) establish and maintain, either directly or by contract, programs licensed under Title  
147 62A, Chapter 2, Licensure of Programs and Facilities;

148 (d) appoint directly or by contract a ~~[full or part time]~~ full-time or part-time director for  
149 substance ~~[abuse]~~ use disorder programs, and prescribe the director's duties;

150 (e) provide input and comment on new and revised rules established by the division;

151 (f) establish and require contract providers to establish administrative, clinical,

152 procurement, personnel, financial, and management policies regarding substance [~~abuse~~] use  
153 disorder services and facilities, in accordance with the rules of the division, and state and  
154 federal law;

155 (g) establish mechanisms allowing for direct citizen input;

156 (h) annually contract with the division to provide substance [~~abuse~~] use disorder  
157 programs and services in accordance with the provisions of Title 62A, Chapter 15, Substance  
158 Abuse and Mental Health Act;

159 (i) comply with all applicable state and federal statutes, policies, audit requirements,  
160 contract requirements, and any directives resulting from those audits and contract requirements;

161 (j) promote or establish evidence-based programs for the prevention of substance  
162 [~~abuse~~] use disorder within the community setting through community-based prevention  
163 programs;

164 (k) provide funding equal to at least 20% of the state funds that it receives to fund  
165 services described in the plan;

166 (l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal  
167 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title  
168 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and  
169 Other Local Entities Act;

170 (m) for [~~persons~~] individuals convicted of driving under the influence in violation of  
171 Section 41-6a-502 or 41-6a-517, conduct the following as defined in Section 41-6a-501:

172 (i) a screening;

173 (ii) an assessment;

174 (iii) an educational series; and

175 (iv) substance [~~abuse~~] use disorder treatment; and

176 (n) utilize proceeds of the accounts described in Subsection 62A-15-503(1) to  
177 supplement the cost of providing the services described in Subsection (5)(m).

178 (6) Before disbursing any public funds, each local substance abuse authority shall  
179 require that each entity that receives any public funds from the local substance abuse authority  
180 agrees in writing that:

181 (a) the entity's financial records and other records relevant to the entity's performance  
182 of the services provided to the local substance abuse authority shall be subject to examination

183 by:

184 (i) the division;

185 (ii) the local substance abuse authority director;

186 (iii) (A) the county treasurer and county or district attorney; or

187 (B) if two or more counties jointly provide substance abuse services under an  
188 agreement under Subsection (2), the designated treasurer and the designated legal officer;

189 (iv) the county legislative body; and

190 (v) in a county with a county executive that is separate from the county legislative  
191 body, the county executive;

192 (b) the county auditor may examine and audit the entity's financial and other records  
193 relevant to the entity's performance of the services provided to the local substance abuse  
194 authority; and

195 (c) the entity will comply with the provisions of Subsection (4)(b).

196 (7) A local substance abuse authority may receive property, grants, gifts, supplies,  
197 materials, contributions, and any benefit derived therefrom, for substance [~~abuse~~] use disorder  
198 services. If those gifts are conditioned upon their use for a specified service or program, they  
199 shall be so used.

200 (8) (a) As used in this section, "public funds" means the same as that term is defined in  
201 Section [17-43-203](#).

202 (b) Public funds received for the provision of services pursuant to the local substance  
203 abuse plan may not be used for any other purpose except those authorized in the contract  
204 between the local substance [~~abuse~~] use disorder authority and the provider for the provision of  
205 plan services.

206 (9) Subject to the requirements of the federal Substance Abuse Prevention and  
207 Treatment Block Grant, Pub. L. No. 102-321, a local substance abuse authority shall ensure  
208 that all substance [~~abuse~~] use disorder treatment programs that receive public funds:

209 (a) accept and provide priority for admission to a pregnant woman or a pregnant minor;  
210 and

211 (b) if admission of a pregnant woman or a pregnant minor is not possible within 24  
212 hours of the time that a request for admission is made, provide a comprehensive referral for  
213 interim services that:

- 214 (i) are accessible to the pregnant woman or pregnant minor;
- 215 (ii) are best suited to provide services to the pregnant woman or pregnant minor;
- 216 (iii) may include:
- 217 (A) counseling;
- 218 (B) case management; or
- 219 (C) a support group; and
- 220 (iv) shall include a referral for:
- 221 (A) prenatal care; and
- 222 (B) counseling on the effects of alcohol and drug use during pregnancy.

223 (10) If a substance [~~abuse~~] use disorder treatment program described in Subsection (9)  
 224 is not able to accept and admit a pregnant woman or pregnant minor under Subsection (9)  
 225 within 48 hours of the time that request for admission is made, the local substance abuse  
 226 authority shall contact the Division of Substance Abuse and Mental Health for assistance in  
 227 providing services to the pregnant woman or pregnant minor.

228 Section 3. Section **17-43-203** is amended to read:

229 **17-43-203. Definition of "public funds" -- Responsibility for oversight of public**  
 230 **funds -- Substance use disorder programs and services.**

- 231 (1) As used in this section, "public funds":
- 232 (a) means:
- 233 (i) federal money received from the department or the Department of Health; and
- 234 (ii) state money appropriated by the Legislature to the department, the Department of
- 235 Health, a county governing body, or a local substance abuse authority for the purposes of
- 236 providing substance [~~abuse~~] use disorder programs or services; and
- 237 (b) includes that federal and state money:
- 238 (i) even after the money has been transferred by a local substance abuse authority to a
- 239 private provider under an annual or otherwise ongoing contract to provide comprehensive
- 240 substance [~~abuse~~] use disorder programs or services for the local substance abuse authority;
- 241 and
- 242 (ii) while in the possession of the private provider.

243 (2) Each local substance abuse authority is responsible for oversight of all public funds  
 244 received by it, to determine that those public funds are utilized in accordance with federal and



245 state law, the rules and policies of the department and the Department of Health, and the  
246 provisions of any contract between the local substance abuse authority and the department, the  
247 Department of Health, or a private provider. That oversight includes requiring that neither the  
248 contract provider, as described in Subsection (1), nor any of its employees:

249 (a) violate any applicable federal or state criminal law;

250 (b) knowingly violate any applicable rule or policy of the department or Department of  
251 Health, or any provision of contract between the local substance abuse authority and the  
252 department, the Department of Health, or the private provider;

253 (c) knowingly keep any false account or make any false entry or erasure in any account  
254 of or relating to the public funds;

255 (d) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating  
256 to public funds;

257 (e) fail to ensure competent oversight for lawful disbursement of public funds;

258 (f) appropriate public funds for an unlawful use or for a use that is not in compliance  
259 with contract provisions; or

260 (g) knowingly or intentionally use public funds unlawfully or in violation of a  
261 governmental contract provision, or in violation of state policy.

262 (3) Each local substance abuse authority that knows or reasonably should know of any  
263 of the circumstances described in Subsection (2), and that fails or refuses to take timely  
264 corrective action in good faith shall, in addition to any other penalties provided by law, be  
265 required to make full and complete repayment to the state of all public funds improperly used  
266 or expended.

267 (4) Any public funds required to be repaid to the state by a local substance abuse  
268 authority under Subsection (3), based upon the actions or failure of the contract provider, may  
269 be recovered by the local substance abuse authority from its contract provider, in addition to  
270 the local substance abuse authority's costs and attorney's fees.

271 (5) Each local substance abuse authority is responsible to ensure that the authority and  
272 the authority's contract provider expends state money, as described in Subsection (1), in  
273 accordance with Subsection [62A-15-103](#)(8).

274 Section 4. Section **17-43-301** is amended to read:

275 **17-43-301. Local mental health authorities -- Responsibilities.**

276 (1) (a) (i) In each county operating under a county executive-council form of  
277 government under Section 17-52-504, the county legislative body is the local mental health  
278 authority, provided however that any contract for plan services shall be administered by the  
279 county executive.

280 (ii) In each county operating under a council-manager form of government under  
281 Section 17-52-505, the county manager is the local mental health authority.

282 (iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the  
283 county legislative body is the local mental health authority.

284 (b) Within [~~legislative~~] legislative appropriations and county matching funds required  
285 by this section, under the direction of the division, each local mental health authority shall:

286 (i) provide mental health services to persons within the county; [~~and~~]

287 (ii) cooperate with efforts of the Division of Substance Abuse and Mental Health to  
288 promote integrated programs that address an individual's substance [~~abuse~~] use disorder,  
289 mental health, and physical health care needs, as described in Section 62A-15-103[-]; and

290 (iii) promote evidence-based treatment programming.

291 (c) Within [~~legislative~~] legislative appropriations and county matching funds required  
292 by this section, each local mental health authority shall cooperate with the efforts of the  
293 Department of Human Services to promote a system of care, as defined in Section 62A-1-104,  
294 for minors with or at risk for complex emotional and behavioral needs, as described in Section  
295 62A-1-111.

296 (2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal  
297 Cooperation Act, two or more counties may join to:

298 (i) provide mental health prevention and treatment services; or

299 (ii) create a united local health department that combines substance abuse treatment  
300 services, mental health services, and local health department services in accordance with  
301 Subsection (3).

302 (b) The legislative bodies of counties joining to provide services may establish  
303 acceptable ways of apportioning the cost of mental health services.

304 (c) Each agreement for joint mental health services shall:

305 (i) (A) designate the treasurer of one of the participating counties or another person as  
306 the treasurer for the combined mental health authorities and as the custodian of money

307 available for the joint services; and

308 (B) provide that the designated treasurer, or other disbursing officer authorized by the  
309 treasurer, may make payments from the money available for the joint services upon audit of the  
310 appropriate auditing officer or officers representing the participating counties;

311 (ii) provide for the appointment of an independent auditor or a county auditor of one of  
312 the participating counties as the designated auditing officer for the combined mental health  
313 authorities;

314 (iii) (A) provide for the appointment of the county or district attorney of one of the  
315 participating counties as the designated legal officer for the combined mental health  
316 authorities; and

317 (B) authorize the designated legal officer to request and receive the assistance of the  
318 county or district attorneys of the other participating counties in defending or prosecuting  
319 actions within their counties relating to the combined mental health authorities; and

320 (iv) provide for the adoption of management, clinical, financial, procurement,  
321 personnel, and administrative policies as already established by one of the participating  
322 counties or as approved by the legislative body of each participating county or interlocal board.

323 (d) An agreement for joint mental health services may provide for:

324 (i) joint operation of services and facilities or for operation of services and facilities  
325 under contract by one participating local mental health authority for other participating local  
326 mental health authorities; and

327 (ii) allocation of appointments of members of the mental health advisory council  
328 between or among participating counties.

329 (3) A county governing body may elect to combine the local mental health authority  
330 with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities,  
331 and the local health department created in Title 26A, Chapter 1, Part 1, Local Health  
332 Department Act, to create a united local health department under Section [26A-1-105.5](#). A local  
333 mental health authority that joins with a united local health department shall comply with this  
334 part.

335 (4) (a) Each local mental health authority is accountable to the department, the  
336 Department of Health, and the state with regard to the use of state and federal funds received  
337 from those departments for mental health services, regardless of whether the services are

338 provided by a private contract provider.

339 (b) Each local mental health authority shall comply, and require compliance by its  
340 contract provider, with all directives issued by the department and the Department of Health  
341 regarding the use and expenditure of state and federal funds received from those departments  
342 for the purpose of providing mental health programs and services. The department and  
343 Department of Health shall ensure that those directives are not duplicative or conflicting, and  
344 shall consult and coordinate with local mental health authorities with regard to programs and  
345 services.

346 (5) (a) Each local mental health authority shall:

347 (i) review and evaluate mental health needs and services, including mental health needs  
348 and services for [~~persons~~] individuals incarcerated in a county jail or other county correctional  
349 facility;

350 (ii) as provided in Subsection (5)(b), annually prepare and submit to the division a plan  
351 approved by the county legislative body for mental health funding and service delivery, either  
352 directly by the local mental health authority or by contract;

353 (iii) establish and maintain, either directly or by contract, programs licensed under Title  
354 62A, Chapter 2, Licensure of Programs and Facilities;

355 (iv) appoint, directly or by contract, a full-time or part-time director for mental health  
356 programs and prescribe the director's duties;

357 (v) provide input and comment on new and revised rules established by the division;

358 (vi) establish and require contract providers to establish administrative, clinical,  
359 personnel, financial, procurement, and management policies regarding mental health services  
360 and facilities, in accordance with the rules of the division, and state and federal law;

361 (vii) establish mechanisms allowing for direct citizen input;

362 (viii) annually contract with the division to provide mental health programs and  
363 services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and  
364 Mental Health Act;

365 (ix) comply with all applicable state and federal statutes, policies, audit requirements,  
366 contract requirements, and any directives resulting from those audits and contract requirements;

367 (x) provide funding equal to at least 20% of the state funds that it receives to fund  
368 services described in the plan;

369 (xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal  
370 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title  
371 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and  
372 Other Local Entities Act; and

373 (xii) take and retain physical custody of minors committed to the physical custody of  
374 local mental health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7,  
375 Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

376 (b) Each plan under Subsection (5)(a)(ii) shall include services for adults, youth, and  
377 children, which shall include:

378 (i) identification of whether each treatment program within the plan is evidence-based;

379 and

380 ~~(i)~~ (ii) inpatient care and services;

381 ~~(ii)~~ (iii) residential care and services;

382 ~~(iii)~~ (iv) outpatient care and services;

383 ~~(iv)~~ (v) 24-hour crisis care and services;

384 ~~(v)~~ (vi) psychotropic medication management;

385 ~~(vi)~~ (vii) psychosocial rehabilitation, including vocational training and skills  
386 development;

387 ~~(vii)~~ (viii) case management;

388 ~~(viii)~~ (ix) community supports, including in-home services, housing, family support  
389 services, and respite services;

390 ~~(ix)~~ (x) consultation and education services, including case consultation,  
391 collaboration with other county service agencies, public education, and public information; and

392 ~~(x)~~ (xi) services to ~~persons~~ individuals incarcerated in a county jail or other county  
393 correctional facility.

394 (6) Before disbursing any public funds, each local mental health authority shall require  
395 that each entity that receives ~~any~~ public funds from a local mental health authority agrees in  
396 writing that:

397 (a) the entity's financial records and other records relevant to the entity's performance  
398 of the services provided to the mental health authority shall be subject to examination by:

399 (i) the division;

400 (ii) the local mental health authority director;  
401 (iii) (A) the county treasurer and county or district attorney; or  
402 (B) if two or more counties jointly provide mental health services under an agreement  
403 under Subsection (2), the designated treasurer and the designated legal officer;  
404 (iv) the county legislative body; and  
405 (v) in a county with a county executive that is separate from the county legislative  
406 body, the county executive;  
407 (b) the county auditor may examine and audit the entity's financial and other records  
408 relevant to the entity's performance of the services provided to the local mental health  
409 authority; and

410 (c) the entity will comply with the provisions of Subsection (4)(b).

411 (7) A local mental health authority may receive property, grants, gifts, supplies,  
412 materials, contributions, and any benefit derived therefrom, for mental health services. If those  
413 gifts are conditioned upon their use for a specified service or program, they shall be so used.

414 (8) (a) As used in this section, "public funds" means the same as that term is defined in  
415 Section [17-43-303](#).

416 (b) Public funds received for the provision of services pursuant to the local mental  
417 health plan may not be used for any other purpose except those authorized in the contract  
418 between the local mental health authority and the provider for the provision of plan services.

419 Section 5. Section **17-43-303** is amended to read:

420 **17-43-303. Definition of "public funds" -- Responsibility for oversight of public**  
421 **funds -- Mental health programs and services.**

422 (1) As used in this section, "public funds":

423 (a) means:

424 (i) federal money received from the department or the Department of Health; and

425 (ii) state money appropriated by the Legislature to the department, the Department of  
426 Health, a county governing body, or a local mental health authority for the purposes of  
427 providing mental health programs or services; and

428 (b) includes that federal and state money:

429 (i) even after the money has been transferred by a local mental health authority to a  
430 private provider under an annual or otherwise ongoing contract to provide comprehensive

431 mental health programs or services for the local mental health authority; and

432 (ii) while in the possession of the private provider.

433 (2) Each local mental health authority is responsible for oversight of all public funds  
434 received by it, to determine that those public funds are utilized in accordance with federal and  
435 state law, the rules and policies of the department and the Department of Health, and the  
436 provisions of any contract between the local mental health authority and the department, the  
437 Department of Health, or a private provider. That oversight includes requiring that neither the  
438 contract provider, as described in Subsection (1), nor any of its employees:

439 (a) violate any applicable federal or state criminal law;

440 (b) knowingly violate any applicable rule or policy of the department or Department of  
441 Health, or any provision of contract between the local mental health authority and the  
442 department, the Department of Health, or the private provider;

443 (c) knowingly keep any false account or make any false entry or erasure in any account  
444 of or relating to the public funds;

445 (d) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating  
446 to public funds;

447 (e) fail to ensure competent oversight for lawful disbursement of public funds;

448 (f) appropriate public funds for an unlawful use or for a use that is not in compliance  
449 with contract provisions; or

450 (g) knowingly or intentionally use public funds unlawfully or in violation of a  
451 governmental contract provision, or in violation of state policy.

452 (3) A local mental health authority that knew or reasonably should have known of any  
453 of the circumstances described in Subsection (2), and that fails or refuses to take timely  
454 corrective action in good faith shall, in addition to any other penalties provided by law, be  
455 required to make full and complete repayment to the state of all public funds improperly used  
456 or expended.

457 (4) Any public funds required to be repaid to the state by a local mental health  
458 authority pursuant to Subsection (3), based upon the actions or failure of the contract provider,  
459 may be recovered by the local mental health authority from its contract provider, in addition to  
460 the local mental health authority's costs and attorney's fees.

461 (5) Each local mental health authority is responsible to ensure that the authority and the

462 authority's contract provider expends state money, as described in Subsection (1), in  
463 accordance with Subsection 62A-15-103(8).

464 Section 6. Section 62A-15-102 is amended to read:

465 **62A-15-102. Definitions.**

466 As used in this chapter:

467 (1) "Board" means the Outcome Improvement Advisory Board.

468 [(1)] (2) "Criminal risk factors" means a person's characteristics and behaviors that:

469 (a) affect the person's risk of engaging in criminal behavior; and

470 (b) are diminished when addressed by effective treatment, supervision, and other  
471 support resources, resulting in reduced risk of criminal behavior.

472 [(2)] (3) "Director" means the director of the Division of Substance Abuse and Mental  
473 Health.

474 [(3)] (4) "Division" means the Division of Substance Abuse and Mental Health  
475 established in Section 62A-15-103.

476 (5) "Evidence-based" means the same as that term is defined in Section 17-43-102.

477 [(4)] (6) "Local mental health authority" means a county legislative body.

478 [(5)] (7) "Local substance abuse authority" means a county legislative body.

479 [(6)] (8) (a) "Public funds" means federal money received from the [~~Department of~~  
480 ~~Human Services~~] department or the Department of Health[;] and state money [~~appropriated by~~  
481 ~~the Legislature to the Department of Human Services, the Department of Health, a county~~  
482 ~~governing body, or a local substance abuse authority, or a local mental health authority for the~~  
483 ~~purposes of providing substance abuse or mental health programs or services].~~

484 (b) "Public funds" include federal and state money that has been transferred by a local  
485 substance abuse authority or a local mental health authority to a private provider under an  
486 annual or otherwise ongoing contract to provide comprehensive substance abuse or mental  
487 health programs or services for the local substance abuse authority or local mental health  
488 authority. The money maintains the nature of "public funds" while in the possession of the  
489 private entity that has an annual or otherwise ongoing contract with a local substance abuse  
490 authority or a local mental health authority to provide comprehensive substance abuse or  
491 mental health programs or services for the local substance abuse authority or local mental  
492 health authority.



493 (c) Public funds received for the provision of services pursuant to substance abuse or  
494 mental health service plans may not be used for any other purpose except those authorized in  
495 the contract between the local mental health or substance abuse authority and provider for the  
496 provision of plan services.

497 [(7)] (9) "Severe mental disorder" means schizophrenia, major depression, bipolar  
498 disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by  
499 the division.

500 (10) "State money" means money appropriated by the Legislature to the Department of  
501 Human Services, the Department of Health, a county governing body, a local substance abuse  
502 authority, or a local mental health authority for the provision of substance use disorder or  
503 mental health programming.

504 Section 7. Section **62A-15-103** is amended to read:

505 **62A-15-103. Division -- Creation -- Responsibilities.**

506 (1) There is created the Division of Substance Abuse and Mental Health within the  
507 department, under the administration and general supervision of the executive director. The  
508 division is the substance abuse authority and the mental health authority for this state.

509 (2) The division shall:

510 (a) (i) educate the general public regarding the nature and consequences of substance  
511 [abuse] use disorder by promoting school and community-based prevention programs;

512 (ii) render support and assistance to public schools through approved school-based  
513 substance [abuse] use disorder education programs aimed at prevention of substance [abuse]  
514 use disorder;

515 (iii) promote or establish programs for the prevention of substance [abuse] use disorder  
516 within the community setting through community-based prevention programs;

517 (iv) cooperate with and assist treatment centers, recovery residences, and other  
518 organizations that provide services to individuals recovering from a substance [abuse] use  
519 disorder, by identifying and disseminating information about effective practices and programs;

520 (v) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative  
521 Rulemaking Act, to develop, in collaboration with public and private programs, minimum  
522 standards for public and private providers of substance [abuse] use disorder and mental health  
523 programs licensed by the [~~Department of Human Services~~] department under Title 62A,

524 Chapter 2, Licensure of Programs and Facilities;

525 (vi) promote integrated programs that address an individual's substance [~~abuse~~] use  
526 disorder, mental health, physical health, and criminal risk factors;

527 (vii) establish and promote [~~an~~] a diverse evidence-based continuum of screening,  
528 assessment, prevention, treatment, and recovery support services in the community for  
529 individuals with substance [~~abuse~~] use disorder and mental illness that addresses criminal risk  
530 factors;

531 (viii) evaluate the effectiveness of programs described in this Subsection (2);

532 (ix) consider the impact of the programs described in this Subsection (2) on:

533 (A) emergency department utilization;

534 (B) jail and prison populations;

535 (C) the homeless population; and

536 (D) the child welfare system; and

537 (x) promote or establish programs for education and certification of instructors to  
538 educate [~~persons~~] individuals convicted of driving under the influence of alcohol or drugs or  
539 driving with any measurable controlled substance in the body;

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

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

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

547 (iv) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative  
548 Rulemaking Act, to direct that all individuals receiving services through local mental health  
549 authorities or the Utah State Hospital be informed about and, if desired, provided assistance in  
550 completion of a declaration for mental health treatment in accordance with Section  
551 [62A-15-1002](#);

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

554 (ii) provide consultation and other assistance to public and private agencies and groups

- 555 working on substance [~~abuse~~] use disorder and mental health issues;
- 556 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,  
557 medical and social agencies, public health authorities, law enforcement agencies, education and  
558 research organizations, and other related groups;
- 559 (iv) in consultation with the board, promote or conduct research on substance [~~abuse~~]  
560 use disorder and mental health issues, and submit to the governor and the Legislature  
561 recommendations for changes in policy and legislation;
- 562 (v) receive, distribute, and provide direction over public funds for substance [~~abuse~~]  
563 use disorder and mental health services;
- 564 (vi) monitor and evaluate programs provided by local substance abuse authorities and  
565 local mental health authorities with a weighted metric that assigns 50% of the total available  
566 score to compliance with Subsection [62A-15-103\(2\)\(n\)](#);
- 567 (vii) examine expenditures of any local, state, and federal funds;
- 568 (viii) monitor the expenditure of public funds by:
- 569 (A) local substance abuse authorities;
- 570 (B) local mental health authorities; and
- 571 (C) in counties where they exist, the private contract provider that has an annual or  
572 otherwise ongoing contract to provide comprehensive substance abuse or mental health  
573 programs or services for the local substance abuse authority or local mental health authorities;
- 574 (ix) contract with local substance abuse authorities and local mental health authorities  
575 to provide a comprehensive continuum of services that include community-based services for  
576 individuals involved in the criminal justice system, in accordance with division policy, contract  
577 provisions, and the local plan;
- 578 (x) contract with private and public entities for special statewide or nonclinical  
579 services, or services for individuals involved in the criminal justice system, according to  
580 division rules;
- 581 (xi) review and approve each local substance abuse authority's plan and each local  
582 mental health authority's plan in order to ensure:
- 583 (A) a statewide comprehensive continuum of substance [~~abuse~~] use disorder services;
- 584 (B) a statewide comprehensive continuum of mental health services;
- 585 (C) services result in improved overall health and functioning;

586 (D) a statewide comprehensive continuum of community-based services designed to  
587 reduce criminal risk factors for individuals who are determined to have [~~substance abuse or~~] a  
588 substance use disorder or a mental illness [~~conditions~~] or both, and who are involved in the  
589 criminal justice system;

590 (E) compliance, where appropriate, with the certification requirements in Subsection  
591 (2)(i); and

592 (F) appropriate expenditure of public funds;

593 (xii) review and make recommendations regarding each local substance abuse  
594 authority's contract with its provider of substance [~~abuse~~] use disorder programs and services  
595 and each local mental health authority's contract with its provider of mental health programs  
596 and services to ensure compliance with state and federal law and policy;

597 (xiii) monitor and ensure compliance with division rules and contract requirements;  
598 and

599 (xiv) withhold funds from local substance abuse authorities, local mental health  
600 authorities, and public and private providers for contract noncompliance, failure to comply  
601 with division directives regarding the use of public funds, or for misuse of public funds or  
602 money;

603 (d) [~~assure~~] ensure that the requirements of this part are met and applied uniformly by  
604 local substance abuse authorities and local mental health authorities across the state;

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

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

610 (i) a review and determination regarding whether:

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

614 (B) each local substance abuse authority and each local mental health authority is  
615 exercising sufficient oversight and control over public funds allocated for substance [~~abuse~~]  
616 use disorder and mental health programs and services; and

617 (ii) items determined by the division to be necessary and appropriate; [~~and~~]  
618 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,  
619 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;  
620 (h) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative  
621 Rulemaking Act, minimum standards and requirements for the provision of substance [~~abuse~~]  
622 use disorder and mental health treatment to individuals who are required to participate in  
623 treatment by the court or the Board of Pardons and Parole, or who are incarcerated, including:  
624 (i) collaboration with the Department of Corrections and the Utah Substance Use and  
625 Mental Health Advisory Council to develop and coordinate the standards, including standards  
626 for county and state programs serving individuals convicted of class A and class B  
627 misdemeanors;  
628 (ii) determining that the standards ensure available treatment includes the most current  
629 practices and procedures demonstrated by recognized scientific research to reduce recidivism,  
630 including focus on the individual's criminal risk factors; and  
631 (iii) requiring that all public and private treatment programs meet the standards  
632 established under this Subsection (2)(h) in order to receive public funds allocated to the  
633 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice  
634 for the costs of providing screening, assessment, prevention, treatment, and recovery support;  
635 (i) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative  
636 Rulemaking Act, the requirements and procedures for the certification of licensed public and  
637 private providers who provide, as part of their practice, substance abuse and mental health  
638 treatment to individuals involved in the criminal justice system, including:  
639 (i) collaboration with the Department of Corrections, the Utah Substance Use and  
640 Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate,  
641 and implement the certification process;  
642 (ii) basing the certification process on the standards developed under Subsection (2)(h)  
643 for the treatment of individuals involved in the criminal justice system; and  
644 (iii) the requirement that all public and private providers of treatment to individuals  
645 involved in the criminal justice system shall obtain certification on or before July 1, 2016, and  
646 shall renew the certification every two years, in order to qualify for funds allocated to the  
647 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice

648 on or after July 1, 2016;

649 (j) collaborate with the Commission on Criminal and Juvenile Justice to analyze and  
650 provide recommendations to the Legislature regarding:

651 (i) pretrial services and the resources needed for the reduced recidivism efforts;

652 (ii) county jail and county behavioral health early-assessment resources needed for  
653 offenders convicted of a class A or class B misdemeanor; and

654 (iii) the replacement of federal dollars associated with drug interdiction law  
655 enforcement task forces that are reduced;

656 (k) (i) establish performance goals and outcome measurements for all treatment  
657 programs for which minimum standards are established under Subsection (2)(h), including  
658 recidivism data and data regarding cost savings associated with recidivism reduction and the  
659 reduction in the number of inmates, that are obtained in collaboration with the Administrative  
660 Office of the Courts and the Department of Corrections; and

661 (ii) collect data to track and determine whether the goals and measurements are being  
662 attained and make this information available to the public;

663 (l) in its discretion, use the data to make decisions regarding the use of funds allocated  
664 to the division, the Administrative Office of the Courts, and the Department of Corrections to  
665 provide treatment for which standards are established under Subsection (2)(h); ~~and~~

666 (m) annually, on or before August 31, submit the data collected under Subsection (2)(j)  
667 to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings  
668 based on the data and provide the report to the legislative Judiciary Interim Committee, the  
669 Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice  
670 Interim Committee, and the related appropriations subcommittees~~[-]; and~~

671 (n) ensure that an evidence-based treatment program is:

672 (i) provided by an individual who, within six months after the day on which the  
673 individual begins to provide the treatment program, receives training that includes:

674 (A) a discussion of the theory behind the treatment program;

675 (B) demonstrations of how to provide the treatment program; and

676 (C) practice of the necessary components of the treatment program;

677 (ii) provided by an individual who receives, at least quarterly, ongoing training on the  
678 provision of the treatment program, including individualized feedback of the individual's

679 provision of the treatment program, by another individual who is trained in and who  
680 demonstrates proficiency in the treatment program;  
681 (iii) monitored monthly through direct observation to:  
682 (A) ensure that the treatment program is delivered as prescribed in the applicable  
683 program manual or protocol; and  
684 (B) identify the need for corrective action when the program manual or protocol  
685 requirements are not met; and  
686 (iv) administered according to a sustainability plan that includes a description of how  
687 the administering authority will:  
688 (A) continue the practice of the treatment program regardless of staff turnover; and  
689 (B) fund the treatment program.  
690 (3) (a) The division may refuse to contract with and may pursue its legal remedies  
691 against any local substance abuse authority or local mental health authority that fails, or has  
692 failed, to expend public funds in accordance with state law, division policy, contract  
693 provisions, or directives issued in accordance with state law.  
694 (b) The division may withhold funds from a local substance abuse authority or local  
695 mental health authority if the authority's contract with its provider of substance ~~abuse~~ use  
696 disorder or mental health programs or services fails to comply with state and federal law or  
697 policy.  
698 (4) Before reissuing or renewing a contract with any local substance abuse authority or  
699 local mental health authority, the division shall review and determine whether the local  
700 substance abuse authority or local mental health authority is complying with its oversight and  
701 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and  
702 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and  
703 liability described in Section 17-43-303 and to the responsibility and liability described in  
704 Section 17-43-203.  
705 (5) In carrying out its duties and responsibilities, the division may not duplicate  
706 treatment or educational facilities that exist in other divisions or departments of the state, but  
707 shall work in conjunction with those divisions and departments in rendering the treatment or  
708 educational services that those divisions and departments are competent and able to provide.  
709 (6) The division may accept in the name of and on behalf of the state donations, gifts,

710 devises, or bequests of real or personal property or services to be used as specified by the  
711 donor.

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

- 715 (a) the use of public funds;
- 716 (b) oversight responsibilities regarding public funds; and
- 717 (c) governance of substance ~~[abuse]~~ use disorder and mental health programs and  
718 services.

719 ~~[(8) The Legislature may refuse to appropriate funds to the division upon the division's  
720 failure to comply with the provisions of this part.]~~

721 (8) Excluding screening and outcome instruments, the division shall require that:

722 (a) beginning in fiscal year 2020, 20% of all individual psychotherapy and individual  
723 therapeutic behavioral services that are billed by a local substance abuse authority or a local  
724 mental health authority are evidence-based;

725 (b) beginning in fiscal year 2020, 33% of all group psychotherapy and group  
726 therapeutic behavioral services that are billed by a local substance abuse authority or a local  
727 mental health authority are evidence-based;

728 (c) beginning in fiscal year 2021, 33% of all individual psychotherapy and individual  
729 therapeutic behavioral services that are billed by a local substance abuse authority or a local  
730 mental health authority are evidence-based;

731 (d) beginning in fiscal year 2021, 50% of all group psychotherapy and group  
732 therapeutic behavioral services that are billed by a local substance abuse authority or a local  
733 mental health authority are evidence-based;

734 (e) beginning in fiscal year 2022, 40% of all individual psychotherapy and individual  
735 therapeutic behavioral services that are billed by a local substance abuse authority or a local  
736 mental health authority are evidence-based; and

737 (f) beginning in fiscal year 2022, 66% of all group psychotherapy and group  
738 therapeutic behavioral services that are billed by a local substance abuse authority or a local  
739 mental health authority are evidence-based.

740 (9) Training that is recommended or offered by the division for the prevention or



741 treatment of a substance use disorder or a mental illness shall be training for the provision of an  
742 evidence-based program.

743 ~~[(9)]~~ (10) If a local substance abuse authority contacts the division under Subsection  
744 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant  
745 minor, the division shall:

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

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

750 (11) The Legislature may refuse to appropriate funds to the division upon the division's  
751 failure to comply with the provisions of this part.

752 Section 8. Section **62A-15-114** is enacted to read:

753 **62A-15-114. Outcome Improvement Advisory Board.**

754 (1) The division shall establish the board.

755 (2) The board shall be comprised of:

756 (a) eight voting board members:

757 (i) who have expertise in evidence-based or research-based behavioral health practices;

758 (ii) who are not employed by the department; and

759 (iii) at least three of whom are not otherwise involved with publically funded  
760 behavioral health; and

761 (b) a nonvoting staff member employed by the division, who:

762 (i) shall serve the board as an advisor; and

763 (ii) shall select the eight voting board members.

764 (3) The board shall:

765 (a) certify that a treatment program is evidence-based for purposes of Subsection  
766 62A-15-103(8);

767 (b) review the implementation practice and sustainability plan associated with an  
768 evidence-based treatment program; and

769 (c) advise the division on strategies, practices, or treatment programs that may improve  
770 client outcomes.

771 Section 9. Section **62A-15-115** is enacted to read:

772 **62A-15-115. Allocation of funding.**

773 (1) As used in this section, "division services" means services provided by the division,  
774 by a local substance abuse authority, by a local mental health authority, or by a contractor of  
775 the division, a local substance abuse authority, or a local mental health authority.

776 (2) Beginning fiscal year 2019, newly appropriated funds for the purposes of increasing  
777 the number of clients receiving division services or improving a client's access to division  
778 services shall be allocated:

779 (a) 60% to increase the number of clients receiving division services; and

780 (b) 40% to increase the quality of existing services, including:

781 (i) the adoption of evidence-based treatment programs; or

782 (ii) the training necessary to effectively provide evidence-based treatment programs.

783 Section 10. Section **63I-1-262** is amended to read:

784 **63I-1-262. Repeal dates, Title 62A.**

785 (1) Section [62A-4a-213](#) is repealed July 1, 2019.

786 (2) Section [62A-4a-202.9](#) is repealed December 31, 2019.

787 (3) Section [62A-15-115](#) is repealed June 30, 2025.

788 [~~3~~] (4) Subsection [62A-15-1101](#)(5) is repealed July 1, 2018.