

SB0045S01 compared with SB0045

~~{deleted text}~~ shows text that was in SB0045 but was deleted in SB0045S01.

inserted text shows text that was not in SB0045 but was inserted into SB0045S01.

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Senator Jacob L. Anderegg proposes the following substitute bill:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: _____

LONG TITLE

~~{Committee Note:~~

~~_____ The Health and Human Services Interim Committee recommended this bill.~~

~~_____ Legislative Vote: 14 voting for 0 voting against _____ 4 absent~~

~~{General Description:~~

This bill implements the reorganization of the Department of Health and Human Services.

Highlighted Provisions:

This bill:

- ▶ implements the reorganization of the Department of Health and Human Services~~{~~

~~{~~

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- ▶ specifies the duties and responsibilities of the newly combined agency;
- ▶ harmonizes conflicting provisions of the Utah Health Code and the Utah Human Services Code;
- ▶ amends the responsibilities of the Department of Workforce Services; and
- ▶ makes technical and corresponding changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

~~{None}~~ This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-1-2, as last amended by Laws of Utah 2012, Chapter 391

26-8a-310, as last amended by Laws of Utah 2021, Chapters 237 and 262

26-18-2.4, as last amended by Laws of Utah 2016, Chapters 168 and 279

26-54-103, as last amended by Laws of Utah 2019, Chapter 405

26B-1-102, as enacted by Laws of Utah 2021, Chapter 422

26B-1-103, as enacted by Laws of Utah 2021, Chapter 422

26B-1-201, as enacted by Laws of Utah 2021, Chapter 422

26B-1-201.1, as enacted by Laws of Utah 2021, Chapter 422

35A-3-103 (Effective 07/01/22), as last amended by Laws of Utah 2021, Chapter 422

62A-1-104, as last amended by Laws of Utah 2020, Chapter 303

62A-1-111.6, as enacted by Laws of Utah 2021, Chapter 22

62A-15-102, as last amended by Laws of Utah 2020, Chapter 303

62A-15-103, as last amended by Laws of Utah 2021, Chapters 231 and 277

62A-15-104, as last amended by Laws of Utah 2009, Chapter 75

63I-2-226, as last amended by Laws of Utah 2021, Chapters 277, 422, and 433

ENACTS:

~~{26B-1-202}~~ 26B-2-101, Utah Code Annotated 1953

26B-3-101, Utah Code Annotated 1953

26B-4-101, Utah Code Annotated 1953

26B-5-101, Utah Code Annotated 1953

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26B-6-101, Utah Code Annotated 1953

26B-7-101, Utah Code Annotated 1953

26B-8-101, Utah Code Annotated 1953

26B-9-101, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

26B-1-104, (Renumbered from 26-1-32, as last amended by Laws of Utah 2011, Chapter 297)

26B-1-105, (Renumbered from 26-1-33, as enacted by Laws of Utah 1981, Chapter 126)

26B-1-202, (Renumbered from 62A-1-111, as last amended by Laws of Utah 2021, Chapters 22 and 262)

26B-1-203, (Renumbered from 62A-1-108, as last amended by Laws of Utah 2020, Chapter 352)

26B-1-204, (Renumbered from 62A-1-105, as last amended by Laws of Utah 2019, Chapters 139 and 246)

26B-1-205, (Renumbered from 62A-1-109, as last amended by Laws of Utah 2021, Chapter 345)

26B-1-206, (Renumbered from 62A-1-107.5, as enacted by Laws of Utah 2003, Chapter 246)

26B-1-207, (Renumbered from 26-1-4, as last amended by Laws of Utah 2013, Chapter 167)

26B-1-208, (Renumbered from 62A-1-112, as last amended by Laws of Utah 2008, Chapter 382)

26B-1-209, (Renumbered from 26-1-6, as last amended by Laws of Utah 2018, Chapter 469)

26B-1-210, (Renumbered from 62A-1-113, as enacted by Laws of Utah 1988, Chapter 1)

26B-1-211, (Renumbered from 26-1-17.1, as enacted by Laws of Utah 2018, Chapter 427)

26B-1-212, (Renumbered from 26-1-17.5, as last amended by Laws of Utah 2018, Chapter 415)

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[26B-1-301](#), (Renumbered from 26-1-16, as enacted by Laws of Utah 1981, Chapter [126](#))

[26B-1-302](#), (Renumbered from 62A-1-202, as last amended by Laws of Utah 2021, Chapter [356](#))

[26B-1-303](#), (Renumbered from 62A-1-119, as last amended by Laws of Utah 2016, Chapter [168](#))

[26B-1-304](#), (Renumbered from 26-1-34, as enacted by Laws of Utah 1998, Chapter [247](#))

REPEALS:

~~[26B-1-201.1](#)~~[26-1-1](#), as enacted by Laws of Utah ~~[2021](#)~~[1981](#), Chapter ~~[422](#)~~
~~[126](#)~~

[26-1-3](#), as last amended by Laws of Utah 1991, Chapter [112](#)

[26B-1-101](#), as enacted by Laws of Utah 2021, Chapter [422](#)

[62A-1-101](#), as last amended by Laws of Utah 1992, Chapter [30](#)

[62A-1-102](#), as last amended by Laws of Utah 1990, Chapter [183](#)

[62A-5-304](#), as last amended by Laws of Utah 2011, Chapter [366](#)

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

[Section 1. Section 26-1-2 is amended to read:](#)

26-1-2. Definitions.

~~[Subject to additional definitions contained in the chapters of this title which are applicable to specific chapters, as]~~ [As](#) used in this title:

(1) "Council" means the Utah Health Advisory Council.

(2) "Department" means the Department of Health [and Human Services](#) created in Section ~~[26-1-4](#)~~ [26B-1-201](#).

(3) "Executive director" means the executive director of the department appointed ~~[pursuant to Section 26-1-8]~~ [under Section 26B-1-203](#).

(4) "Public health authority" means an agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, an Indian tribe, or a person acting under a grant of authority from or contract with such an agency, that is responsible for public health matters as part of its official mandate.

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Section 2. Section 26-8a-310 is amended to read:

26-8a-310. Background clearance for emergency medical service personnel.

(1) Subject to Section 26-8a-310.5, the department shall determine whether to grant background clearance for an individual seeking licensure or certification under Section 26-8a-302 from whom the department receives:

(a) the individual's social security number, fingerprints, and other personal identification information specified by the department under Subsection (4); and

(b) any fees established by the department under Subsection (10).

(2) The department shall determine whether to deny or revoke background clearance for individuals for whom the department has previously granted background clearance.

(3) The department shall determine whether to grant, deny, or revoke background clearance for an individual based on an initial and ongoing evaluation of information the department obtains under Subsections (5) and (11), which, at a minimum, shall include an initial criminal background check of state, regional, and national databases using the individual's fingerprints.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that specify:

(a) the criteria the department will use under Subsection (3) to determine whether to grant, deny, or revoke background clearance; and

(b) the other personal identification information an individual seeking licensure or certification under Section 26-8a-302 must submit under Subsection (1).

(5) To determine whether to grant, deny, or revoke background clearance, the department may access and evaluate any of the following:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) adjudications by a juvenile court of committing an act that if committed by an adult would be a felony or misdemeanor, if:

(i) the applicant is under 28 years old; or

(ii) the applicant:

(A) is over 28 years old; and

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(B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor;

(c) juvenile court arrest, adjudication, and disposition records, other than those under Subsection (5)(b), as allowed under Section 78A-6-209;

(d) child abuse or neglect findings described in Section 80-3-404;

(e) the ~~Department of Human Services' Division of Child and Family Services~~ department's Licensing Information System described in Section 62A-4a-1006;

(f) the ~~Department of Human Services' Division of Aging and Adult Services~~ department's database of reports of vulnerable adult abuse, neglect, or exploitation, described in Section 62A-3-311.1;

(g) Division of Occupational and Professional Licensing records of licensing and certification under Title 58, Occupations and Professions;

(h) records in other federal criminal background databases available to the state; and

(i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance, pending diversion agreements, or dispositions.

(6) Except for the Department of Public Safety, an agency may not charge the department for information accessed under Subsection (5).

(7) When evaluating information under Subsection (3), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(8) The department shall adopt measures to protect the security of information the department accesses under Subsection (5), which shall include limiting access by department employees to those responsible for acquiring, evaluating, or otherwise processing the information.

(9) The department may disclose personal identification information the department receives under Subsection (1) to the ~~Department of Human Services~~ department to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (5)(d) through (f).

(10) The department may charge fees, in accordance with Section 63J-1-504, to pay for:

(a) the cost of obtaining, storing, and evaluating information needed under Subsection

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(3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke background clearance; and

(b) other department costs related to granting, denying, or revoking background clearance.

(11) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:

(a) retain, separate from other division records, personal information under Subsection (1), including any fingerprints sent to it by the ~~Department of Health~~ department; and

(b) notify the ~~Department of Health~~ department upon receiving notice that an individual for whom personal information has been retained is the subject of:

- (i) a warrant for arrest;
- (ii) an arrest;
- (iii) a conviction, including a plea in abeyance; or
- (iv) a pending diversion agreement.

(12) The department shall use the Direct Access Clearance System database created under Section 26-21-209 to manage information about the background clearance status of each individual for whom the department is required to make a determination under Subsection (1).

(13) Clearance granted for an individual licensed or certified under Section 26-8a-302 is valid until two years after the day on which the individual is no longer licensed or certified in Utah as emergency medical service personnel.

Section 3. Section 26-18-2.4 is amended to read:

26-18-2.4. Medicaid drug program -- Preferred drug list.

(1) A Medicaid drug program developed by the department under Subsection 26-18-2.3(2)(f):

(a) shall, notwithstanding Subsection 26-18-2.3(1)(b), be based on clinical and cost-related factors which include medical necessity as determined by a provider in accordance with administrative rules established by the Drug Utilization Review Board;

(b) may include therapeutic categories of drugs that may be exempted from the drug program;

(c) may include placing some drugs, except the drugs described in Subsection (2), on a preferred drug list:

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- (i) to the extent determined appropriate by the department; and
 - (ii) in the manner described in Subsection (3) for psychotropic drugs;
 - (d) notwithstanding the requirements of Part 2, Drug Utilization Review Board, and except as provided in Subsection (3), shall immediately implement the prior authorization requirements for a nonpreferred drug that is in the same therapeutic class as a drug that is:
 - (i) on the preferred drug list on the date that this act takes effect; or
 - (ii) added to the preferred drug list after this act takes effect; and
 - (e) except as prohibited by Subsections 58-17b-606(4) and (5), shall establish the prior authorization requirements established under Subsections (1)(c) and (d) which shall permit a health care provider or the health care provider's agent to obtain a prior authorization override of the preferred drug list through the department's pharmacy prior authorization review process, and which shall:
 - (i) provide either telephone or fax approval or denial of the request within 24 hours of the receipt of a request that is submitted during normal business hours of Monday through Friday from 8 a.m. to 5 p.m.;
 - (ii) provide for the dispensing of a limited supply of a requested drug as determined appropriate by the department in an emergency situation, if the request for an override is received outside of the department's normal business hours; and
 - (iii) require the health care provider to provide the department with documentation of the medical need for the preferred drug list override in accordance with criteria established by the department in consultation with the Pharmacy and Therapeutics Committee.
- (2) (a) For purposes of this Subsection (2):
- (i) "Immunosuppressive drug":
 - (A) means a drug that is used in immunosuppressive therapy to inhibit or prevent activity of the immune system to aid the body in preventing the rejection of transplanted organs and tissue; and
 - (B) does not include drugs used for the treatment of autoimmune disease or diseases that are most likely of autoimmune origin.
 - (ii) "Stabilized" means a health care provider has documented in the patient's medical chart that a patient has achieved a stable or steadfast medical state within the past 90 days using a particular psychotropic drug.

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(b) A preferred drug list developed under the provisions of this section may not include an immunosuppressive drug.

(c) The state Medicaid program shall reimburse for a prescription for an immunosuppressive drug as written by the health care provider for a patient who has undergone an organ transplant. For purposes of Subsection 58-17b-606(4), and with respect to patients who have undergone an organ transplant, the prescription for a particular immunosuppressive drug as written by a health care provider meets the criteria of demonstrating to the Department of Health a medical necessity for dispensing the prescribed immunosuppressive drug.

(d) Notwithstanding the requirements of Part 2, Drug Utilization Review Board, the state Medicaid drug program may not require the use of step therapy for immunosuppressive drugs without the written or oral consent of the health care provider and the patient.

(e) The department may include a sedative hypnotic on a preferred drug list in accordance with Subsection (2)(f).

(f) The department shall grant a prior authorization for a sedative hypnotic that is not on the preferred drug list under Subsection (2)(e), if the health care provider has documentation related to one of the following conditions for the Medicaid client:

(i) a trial and failure of at least one preferred agent in the drug class, including the name of the preferred drug that was tried, the length of therapy, and the reason for the discontinuation;

(ii) detailed evidence of a potential drug interaction between current medication and the preferred drug;

(iii) detailed evidence of a condition or contraindication that prevents the use of the preferred drug;

(iv) objective clinical evidence that a patient is at high risk of adverse events due to a therapeutic interchange with a preferred drug;

(v) the patient is a new or previous Medicaid client with an existing diagnosis previously stabilized with a nonpreferred drug; or

(vi) other valid reasons as determined by the department.

(g) A prior authorization granted under Subsection (2)(f) is valid for one year from the date the department grants the prior authorization and shall be renewed in accordance with Subsection (2)(f).

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(3) (a) For purposes of this Subsection (3), "psychotropic drug" means the following classes of drugs:

- (i) atypical anti-psychotic;
- (ii) anti-depressant;
- (iii) anti-convulsant/mood stabilizer;
- (iv) anti-anxiety; and
- (v) attention deficit hyperactivity disorder stimulant.

(b) The department shall develop a preferred drug list for psychotropic drugs. Except as provided in Subsection (3)(d), a preferred drug list for psychotropic drugs developed under this section shall allow a health care provider to override the preferred drug list by writing "dispense as written" on the prescription for the psychotropic drug. A health care provider may not override Section 58-17b-606 by writing "dispense as written" on a prescription.

(c) The department, and a Medicaid accountable care organization that is responsible for providing behavioral health, shall:

- (i) establish a system to:
 - (A) track health care provider prescribing patterns for psychotropic drugs;
 - (B) educate health care providers who are not complying with the preferred drug list;

and

(C) implement peer to peer education for health care providers whose prescribing practices continue to not comply with the preferred drug list; and

(ii) determine whether health care provider compliance with the preferred drug list is at least:

- (A) 55% of prescriptions by July 1, 2017;
- (B) 65% of prescriptions by July 1, 2018; and
- (C) 75% of prescriptions by July 1, 2019.

(d) Beginning October 1, 2019, the department shall eliminate the dispense as written override for the preferred drug list, and shall implement a prior authorization system for psychotropic drugs, in accordance with Subsection (2)(f), if by July 1, 2019, the department has not realized annual savings from implementing the preferred drug list for psychotropic drugs of at least \$750,000 General Fund savings.

~~(e) The department shall report to the Health and Human Services Interim Committee~~

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~~and the Social Services Appropriations Subcommittee before November 30, 2016, and before each November 30 thereafter regarding compliance with and savings from implementation of this Subsection (3).]~~

Section 4. Section 26-54-103 is amended to read:

26-54-103. Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee -- Creation -- Membership -- Terms -- Duties.

(1) There is created a Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee.

(2) The advisory committee shall be composed of 11 members as follows:

(a) the executive director, or the executive director's designee;

(b) two survivors, or family members of a survivor, of a traumatic brain injury appointed by the governor;

(c) two survivors, or family members of a survivor, of a traumatic spinal cord injury appointed by the governor;

(d) one traumatic brain injury or spinal cord injury professional appointed by the governor who, at the time of appointment and throughout the professional's term on the committee, does not receive a financial benefit from the fund;

(e) two parents of a child with a nonprogressive neurological condition appointed by the governor;

(f) (i) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act, with experience treating brain and spinal cord injuries, appointed by the governor;
or

(ii) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act, with experience treating brain and spinal cord injuries, appointed by the governor;

(g) a member of the House of Representatives appointed by the speaker of the House of Representatives; and

(h) a member of the Senate appointed by the president of the Senate.

(3) (a) The term of advisory committee members shall be four years. If a vacancy occurs in the committee membership for any reason, a replacement shall be appointed for the

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unexpired term in the same manner as the original appointment.

(b) The committee shall elect a chairperson from the membership.

(c) A majority of the committee constitutes a quorum at any meeting, and, if a quorum is present at an open meeting, the action of the majority of members shall be the action of the advisory committee.

(d) The terms of the advisory committee shall be staggered so that members appointed under Subsections (2)(b), (d), and (f) shall serve an initial two-year term and members appointed under Subsections (2)(c), (e), and (g) shall serve four-year terms. Thereafter, members appointed to the advisory committee shall serve four-year terms.

(4) The advisory committee shall comply with the procedures and requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) Title 63G, Chapter 2, Government Records Access and Management Act; and

(c) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules adopted by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) The advisory committee shall:

(a) adopt rules and procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish priorities and criteria for the advisory committee to follow in recommending distribution of money from the fund to assist qualified IRC 501(c)(3) charitable clinics, as defined in Sections 26-54-102 and 26-54-102.5;

(b) identify, evaluate, and review the quality of care available to:

(i) individuals with spinal cord and brain injuries through qualified IRC 501(c)(3) charitable clinics, as defined in Section 26-54-102; or

(ii) children with nonprogressive neurological conditions through qualified IRC

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501(c)(3) charitable clinics, as defined in Section 26-54-102.5; and

(c) explore, evaluate, and review other possible funding sources and make a recommendation to the Legislature regarding sources that would provide adequate funding for the advisory committee to accomplish its responsibilities under this section ~~;~~ and.

~~[(d) submit an annual report, not later than November 30 of each year, summarizing the activities of the advisory committee and making recommendations regarding the ongoing needs of individuals with spinal cord or brain injuries and children with nonprogressive neurological conditions to:]~~

~~[(i) the governor;]~~

~~[(ii) the Health and Human Services Interim Committee; and]~~

~~[(iii) the Social Services Appropriations Subcommittee.]~~

(7) Operating expenses for the advisory committee, including the committee's staff, shall be paid for only with money from:

(a) the Spinal Cord and Brain Injury Rehabilitation Fund;

(b) the Pediatric Neuro-Rehabilitation Fund; or

(c) both funds.

Section 5. Section 26B-1-102 is amended to read:

TITLE 26B. UTAH HEALTH AND HUMAN SERVICES CODE

CHAPTER 1. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Part 1. General Provisions

26B-1-102. Definitions.

As used in this title:

(1) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(2) "Department of Health" means the Department of Health created in Section 26-1-4.

(3) "Department of Human Services" means the Department of Human Services created in Section 62A-1-102.

(4) "Stabilization services" means in-home services provided to a child with, or who is at risk for, complex emotional and behavioral needs, including teaching the child's parent or guardian skills to improve family functioning.

(5) "Public health authority" means an agency or authority of the United States, a state,

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a territory, a political subdivision of a state or territory, an Indian tribe, or a person acting under a grant of authority from or a contract with such an agency, that is responsible for public health matters as part of the agency or authority's official mandate.

(6) "System of care" means a broad, flexible array of services and supports that:

(a) serve a child with or who is at risk for complex emotional and behavioral needs;

(b) are community based;

(c) are informed about trauma;

(d) build meaningful partnerships with families and children;

(e) integrate service planning, service coordination, and management across state and

local entities;

(f) include individualized case planning;

(g) provide management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and

(h) are guided by the type and variety of services needed by a child with or who is at risk for complex emotional and behavioral needs and by the child's family.

Section 6. Section 26B-1-103 is amended to read:

26B-1-103. Purpose of title -- Consolidation of functions into single state agency.

The purpose of this title is to consolidate into a single agency of state government all of the functions ~~exercised by:~~

~~— } previously exercised by[:] the Department of Health and the Department of Human Services to more efficiently and effectively carry out the responsibilities delegated to the department by state law.~~

~~[(1) the Department of Health, including all of the powers and duties described in Title 26, Utah Health Code; and]~~

~~[(2) the Department of Human Services, including all of the powers and duties described in Title 62A, Utah Human Services Code. {~~

~~— 26-1-32. Severability}]~~

Section 7. Section 26B-1-104, which is renumbered from Section 26-1-32 is renumbered and amended to read:

[26-1-32]. 26B-1-104. Severability of code provisions.

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If ~~[any]~~a provision of this ~~[code]~~title or Title 26, Utah Health Code, or the application of any such provision to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ~~[code]~~title or Title 26, Utah Health Code, which can be given effect without the invalid provision or application, and to this end the provisions of this ~~[code]~~title or Title 26, Utah Health Code, are declared to be severable.

~~{26-1-33. Individual}~~Section 8. Section 26B-1-105, which is renumbered from Section 26-1-33 is renumbered and amended to read:

~~[26-1-33].~~ 26B-1-105. Individual rights protected.

Nothing in this title ~~[shall prohibit]~~prohibits an individual from choosing the diet, therapy, or mode of treatment to be administered to an individual or an individual's family.

Section ~~{1}~~9. Section 26B-1-201 is amended to read:

Part 2. General Organization and Duties

26B-1-201. Department of Health and Human Services -- Creation -- Duties.

(1) There is created within state government the Department of Health and Human Services, which has all of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in this title~~;~~

~~—~~{(2)} and previously vested in the Department of Health and the Department of Human Services.

(2) The department is the health, health planning, medical assistance, and social services authority of the state and is the sole state agency for administration of federally assisted state programs or plans for:

(a) social service block grants;

(b) alcohol, drug, and mental health programs, including block grants;

(c) child welfare;

(d) state programs supported under the Older Americans Act, 42 U.S.C. Sec. 3001, et

seq.;

(e) public health;

(f) health planning;

(g) maternal and child health;

(h) services for individuals with a disability; and

(i) medical assistance.

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(3) A state plan or program administered by the department:

(a) shall be developed in the appropriate divisions or offices of the department in accordance with applicable requirements of state and federal law; and

(b) may be amended by the executive director to achieve coordination, efficiency, or economy.

~~[(2)] (4)~~ In addition to Subsection (1), ~~[during the transition period described in Section 26B-1-201.1,]~~ from July 1, 2022, through June 30, 2023, the Department of Health and Human Services ~~[may exercise any of]~~ shall exercise the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities of the Department of Health and the Department of Human Services under ~~[the joint direction of{:}]~~:

~~[(a) the executive director of the Department of Health; and]~~

~~[(b) the executive director of the Department of Human Services.]~~

~~[(2) (a) The chief administrative officer of the department is the executive director who shall be appointed by the governor with the advice and consent of the Senate.~~

~~— (b) The executive director shall serve at the pleasure of the governor.~~

~~— (c) The governor shall establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.~~ Title 26, Utah Health Code; and

(b) Title 62A, Utah Human Services Code.

Section 10. Section 26B-1-201.1 is amended to read:

26B-1-201.1. Transition to single state agency -- Transition plan{-- Restricted Account}.

(1) As used in this section:

(a) "Transition agencies" means the:

(i) Department of Health; and

(ii) Department of Human Services.

(b) "Transition period" means the period of time:

(i) during which the transition of the department to the Department of Health and Human Services takes place; and

(ii) beginning on ~~[the effective date of the bill,]~~ March 23, 2021, and ending on July 1, 2022.

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~~[(2) On or before December 1, 2021, the transition agencies shall develop a written transition plan for merging the functions of the transition agencies into the Department of Health and Human Services on July 1, 2022, in order to:]~~

~~[(a) more efficiently and effectively manage health and human services programs that are the responsibility of the state;]~~

~~[(b) establish a health and human services policy for the state; and]~~

~~[(c) promote health and the quality of life in the health and human services field.]~~

~~[(3) The written transition plan described in Subsection (2) shall describe:]~~

~~[(a) the tasks that need to be completed before the move on July 1, 2022, including a description of:]~~

~~[(i) how the transition agencies solicited comment from stakeholders, including:]~~

~~[(A) employees of the transition agencies;]~~

~~[(B) clients and partners of the transition agencies;]~~

~~[(C) members of the public;]~~

~~[(D) the Legislature; and]~~

~~[(E) the executive office of the governor;]~~

~~[(ii) the proposed organizational structure of the department, including the transition of responsibilities of employees, by job title and classification, under the newly proposed organizational structure and a plan for these transitions;]~~

~~[(iii) office space and infrastructure requirements related to the transition;]~~

~~[(iv) any work site location changes for transitioning employees;]~~

~~[(v) the transition of service delivery sites;]~~

~~[(vi) amendments needed to existing contracts, including grants;]~~

~~[(vii) legislative changes needed to implement the transition described in this section;]~~

~~[(viii) how the transition agencies will coordinate agency rules;]~~

~~[(ix) procedures for the transfer and reconciliation of budgeting and funding of the department as the transition agencies transition into the department; and]~~

~~[(x) the transition of technology services to the department;]~~

~~[(b) the tasks that may need to be completed after the transition on July 1, 2022; and]~~

~~[(c) how the transition to the department will be funded, including details of:]~~

~~[(i) how expenses associated with the transition will be managed;]~~

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~~[(ii) how funding for services provided by the transition agencies will be managed to ensure services will be provided by the transition agencies and the department without interruption; and]~~

~~[(iii) how federal funds will be used by or transferred between the transition agencies and the department to ensure services will be provided by the transition agencies and the department without interruption.]~~

~~[(4) The written transition plan described in Subsection (2) shall:]~~

~~[(a) include a detailed timeline for the completion of the tasks described in Subsection (3)(a);]~~

~~[(b) be updated at least one time in every two week period until the transition is complete;]~~

~~[(c) describe how information will be provided to clients of the transition agencies and the department regarding any changes to where services will be provided and the hours services will be provided;]~~

~~[(d) be provided to the:]~~

~~[(i) Health and Human Services Interim Committee;]~~

~~[(ii) Social Services Appropriations Subcommittee;]~~

~~[(iii) the executive office of the governor;]~~

~~[(iv) Division of Finance; and]~~

~~[(v) Division of Technology Services; and]~~

~~[(e) be made available to employees that are transitioning or may potentially be transitioned.]~~

~~[(5)]~~ (2) The transition agencies shall publish information that provides a full overview of ~~[the written transition plan and]~~ how the move may affect client services offered by the transition agencies on the transition agencies' respective websites, including regular updates regarding:

(a) how the move may affect client services offered by the transition agencies;

(b) information regarding the location where services are provided and the hours services are provided; and

(c) contact information so that clients of the transition agencies can contact transitioning employees and obtain information regarding client services.

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~~[(6)]~~1(3) The transition agencies may, separately or collectively, enter into a memorandum of understanding regarding how costs and responsibilities will be shared to:

- (a) ensure that services provided under agreements with the federal government, including new and ongoing grant programs, are fulfilled;
- (b) ensure that commitments made by the transition agencies are met;
- (c) provide ongoing or shared services as needed, including the provision of payments to the department from the transition agencies; and
- (d) ensure that money from the Department of Health and Human Services Transition Restricted Account created in ~~[Subsection (8)]~~ Section 26B-1-305 is used appropriately by the transition agencies and the department.

~~[(7)]~~1(4) In implementing the written transition plan described in this section, the transition agencies and the department shall protect existing services, programs, and access to services provided by the transition agencies.

(5) (a) The department shall provide a written update to the entities described in Subsection (5)(b):

- (i) at least one time after September 1, 2022, but before November 1, 2022;
- (ii) if the executive director adjusts the organizational structure of the department under Subsection 26B-1-204(5) in a manner that conflicts with the organizational structure described in statute; or

(iii) at the request of one or more of the entities described in Subsection (5)(b).

(b) The update described in Subsection (5)(a) shall be provided to:

- (i) the Health and Human Services Interim Committee;
- (ii) the Social Services Appropriations Subcommittee; and
- (iii) the executive office of the governor.

~~[(8) (a) There is created a restricted account within the General Fund known as the "Department of Health and Human Services Transition Restricted Account."]~~

~~[(b) The restricted account shall consist of appropriations made by the Legislature.]~~

~~[(c) Subject to appropriation, the transition agencies and the department may spend money from the restricted account to pay for expenses related to moving the transition agencies into the department, including staff and legal services.]~~

Section ~~{2}~~11. Section **26B-1-202** ~~{is enacted to read:~~

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}, which is renumbered from Section 62A-1-111 is renumbered and amended to read:

~~[62A-1-111].~~ 26B-1-202. ~~{ Divisions within the Department of Health and Human Services.~~

~~— There is created within} Department authority and duties.~~

The department may, subject to applicable restrictions in state law and in addition to all other authority and responsibility granted to the department by law:

(1) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law, as the department may consider necessary or desirable for providing health and social services to the people of this state;

(2) establish and manage client trust accounts in the ~~{department the following~~ divisions:

~~— (1) within the section on Operations:~~

~~— (a) the Division of Finance and Administration, which shall include:~~

~~— (i) the Office of} department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;~~

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative {Services;

~~— (ii) the Office of Budget and Fiscal Policy; and~~

~~— (iii) the Office of Contract Management and Procurement;~~

~~— (b) the Division of Licensing and Background Checks, which shall include:~~

~~— (i) the Office of Licensing; and~~

~~— (ii) the Office of Background Checks and Processing;~~

~~— (c) the Division of Customer Experience, which shall include:~~

~~— (i) the Office of the Ombudsman; and~~

~~— (ii) the Office of Connection and Navigation; and~~

~~— (d) the Division of Data, Systems, and Evaluation, which shall include:~~

~~— (i) the Office of Data Security and Privacy;~~

~~— (ii) the Office of Research and Evaluation; and~~

~~— (iii) the Office of Vital Records;~~

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- ~~— (2) within the section on Health Care Administration:~~
- ~~— (a) the Division of Integrated Health Care, which shall include:~~
 - ~~— (i) the state Medical Assistance Programs;~~
 - ~~— (ii) the Office of Behavioral Health Treatment and Crisis Response; and~~
 - ~~— (iii) the Utah State Hospital;~~
- ~~— (b) the Division of Aging and Adult Services, which shall include the Office of the Public Guardian; and~~
- ~~— (c) the Division of Services for People With Disabilities, which shall include the Utah State Developmental Center; and~~
- ~~— (3) within the section on Community Health and Well Being:~~
 - ~~— (a) Procedures Act;~~
 - (5) establish eligibility standards for [its] the department's programs, not inconsistent with state or federal law or regulations;
 - (6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;
 - (7) set and collect fees for the department's services;
 - (8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;
 - (9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;
 - (10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;
 - (11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;
 - (12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;
 - (13) carry out the responsibility assigned by Section 35A-8-602 with respect to

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coordination of services for the homeless;

(14) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;

(15) provide training and educational opportunities for the department's staff;

(16) collect child support payments and any other money due to the department;

(17) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

(18) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the Division of ~~{Children}~~ Child and Family Services or the Division of Juvenile Justice Services is given custody of a minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is ordered to prepare an attainment plan for a minor found not competent to proceed under Section 80-6-403[; any policy and procedures shall include], including:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(19) carry out the responsibilities assigned to the department by statute;

(20) examine and audit the expenditures of any public funds provided to a local substance abuse [authorities,] authority, a local mental health [authorities,] authority, a local area [agencies] agency on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to a local [authorities, area agencies] authority, an area agency, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, [it] the department may take steps necessary to

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ensure continuity of services. For purposes of this Subsection (20) "public funds" means the same as that term is defined in Section 62A-15-102;

(21) [pursuant to] in accordance with Subsection 62A-2-106(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

(22) within legislative appropriations [authorized by the Legislature], promote and develop a system of care and stabilization services:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions;

(23) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department; [and]

(24) reallocate unexpended funds as provided in Section 62A-1-111.6[-];

(25) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(26) consult with the Department of Environmental Quality and enter into cooperative

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agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(27) promote and protect the health and wellness of the people within the state;

(28) establish, maintain, and enforce rules necessary or desirable to carry out the provisions and purposes of this title to promote and protect the public health or to prevent disease and illness;

(29) investigate and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

(30) provide for the detection, reporting, prevention, and control of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

(31) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;

(32) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

(33) establish and operate programs necessary or desirable for the promotion or protection of the public health and the control of disease or which may be necessary to ameliorate the major causes of injury, sickness, death, and disability in the state, except that the programs may not be established if adequate programs exist in the private sector;

(34) establish, maintain, and enforce isolation and quarantine, and for this purpose only, exercise physical control over property and individuals as the department finds necessary for the protection of the public health;

(35) close theaters, schools, and other public places and forbid gatherings of people when necessary to protect the public health;

(36) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

(37) make necessary sanitary and health investigations and inspections in cooperation

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with local health departments as to any matters affecting the public health;

(38) establish laboratory services necessary to support public health programs and medical services in the state;

(39) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;

(40) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

(41) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations and Assistance Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(42) investigate the causes of maternal and infant mortality;

(43) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol, and provide the Commissioner of Public Safety with monthly statistics reflecting the results of these examinations, with necessary safeguards so that information derived from the examinations is not used for a purpose other than the compilation of these statistics;

(44) establish qualifications for individuals permitted to draw blood under Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals the department finds qualified, which permits may be terminated or revoked by the department;

(45) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

(46) adopt rules and enforce minimum sanitary standards as provided in Title 26, Chapter 15, General Sanitation;

(47) conduct health planning for the state;

(48) monitor the costs of health care in the state and foster price competition in the

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health care delivery system;

(49) adopt rules for the licensure of health facilities within the state in accordance with Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;

(50) license the provision of child care;

(51) accept contributions to and administer the funds contained in the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101;

(52) serve as the collecting agent, on behalf of the state, for the nursing care facility assessment fee imposed under Title 26, Chapter 35a, Nursing Care Facility Assessment Act, and adopt rules for the enforcement and administration of the nursing facility assessment consistent with the provisions of Title 26, Chapter 35a, Nursing Care Facility Assessment Act;

(53) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals the providers serve;

(54) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process; and

(55) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia;

(56) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required by the agency or under this title, Title 26, Utah Health Code or Title 62A, Utah Human Services Code; and

(57) oversee public education vision screening as described in Section 53G-9-404, Section 12. Section **26B-1-203**, which is renumbered from Section 62A-1-108 is renumbered and amended to read:

[62A-1-108]. **26B-1-203. Executive director -- Appointment -- Compensation -- Qualifications -- Responsibilities.**

(1) (a) The chief administrative officer of the department is the executive director, who shall be appointed by the governor with the advice and consent of the Senate.

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(b) The executive director may be removed at the will of the governor.

(c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) (a) The executive director shall be:

(i) experienced in administration, management, and coordination of complex organizations[-]; and

(ii) thoroughly informed and experienced in all aspects of public health work.

(b) If the executive director is not a physician, the executive director shall:

(i) have successfully completed at least a master's degree of public health or public administration from an accredited school of public health or from an accredited program of public health or public administration;

(ii) (A) have at least five years of professional full-time experience, of which at least two years have been in public health in a senior level administrative capacity; or

(B) have at least five years of professional full-time experience in public health programs, of which at least three years have been in a senior level administrative capacity;

(iii) appoint a deputy director of the department who shall have:

(A) successfully completed at least one year's graduate work in an accredited school of public health or an accredited program of public health; and

(B) at least five years of professional full-time experience in public health programs;
and

(iv) if the individual described in Subsection (2)(b)(iii) is not a physician licensed to practice medicine in the state, appoint a deputy director of the department who is a physician licensed to practice medicine in the state with experience in public health.

~~(2)~~ (3) The executive director is responsible for:

(a) administration and supervision of the department;

(b) coordination of policies and program activities conducted through the boards, divisions, and offices of the department;

(c) approval of the proposed budget of each board, division, and office within the department; and

(d) ~~such~~ other duties as the Legislature or governor shall assign to ~~him~~ the executive director.

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[(3)] (4) The executive director may appoint deputy or assistant directors to assist [him] the executive director in carrying out the department's responsibilities.

Section 13. Section 26B-1-204, which is renumbered from Section 62A-1-105 is renumbered and amended to read:

[62A-1-105]. 26B-1-204. Creation of boards, divisions, and offices.

(1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law for:

- (a) the administration and government of the department;
- (b) the conduct of the department's employees; and
- (c) the custody use and preservation of the records, papers, books, documents, and property of the department.

[(+)] (2) The following policymaking boards, councils, and committees are created within the Department of Health and Human Services:

- (a) [the] Board of Aging and Adult Services; [and]
- (b) [the] Utah State Developmental Center Board[-];
- (c) Health Advisory Council;
- (d) Health Facility Committee;
- (e) State Emergency Medical Services Committee;
- (f) Air Ambulance Committee;
- (g) Health Data Committee;
- (h) Utah Health Care Workforce Financial Assistance Program Advisory Committee;
- (i) Residential Child Care Licensing Advisory Committee;
- (j) Child Care Center Licensing Committee;
- (k) Primary Care Grant Committee;
- (l) Adult Autism Treatment Program Advisory Committee;
- (m) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee;

and

- (n) any boards, councils, or committees that are created by statute in:
 - (i) this title;
 - (ii) Title 26, Utah Health Code; or
 - (iii) Title 62A, Utah Human Services Code.

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~~(2)~~ (3) The following divisions are created within the Department of Health and Human Services:

(a) relating to operations:

(i) the Division of Finance and Administration;

(ii) the Division of Licensing and Background Checks;

(iii) the Division of Customer Experience;

(iv) the Division of Data, Systems, and Evaluation; and

(v) the Division of Continuous Quality Improvement;

(b) relating to healthcare administration:

(i) the Division of Integrated Healthcare, which shall include:

~~(i) }~~ responsibility for the ~~{Office of Children with Special Health Needs}~~ state's medical assistance programs;

(ii) the ~~{Office}~~ Division of ~~{Coordinated Care}~~ Aging and ~~{Regional Supports}~~ Adult Services; and

(iii) the ~~{Office of Maternal and Child Health};~~

~~(b)}~~ Division for Services for People with Disabilities; and

(c) relating to community health and well-being:

(i) the Division of Child and Family Services;

(ii) the Division of Family Health;

(iii) the Division of Population Health; and

(iv) the Division of Juvenile Justice and Youth Services; and

~~(f);~~

(4) The executive director may establish offices and bureaus to facilitate management of the department as required by, and in accordance, with:

(a) this title;

(b) Title 26, Utah Health Code; and

(c) Title 62A, Utah Human Services Code.

(5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in:

(a) this title;

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(b) Title 26, Utah Health Code; or

(c) Title 62A, Utah Human Services Code.

[(a) the Division of Aging and Adult Services;]

[(b) the Division of Child and Family Services;]

[(c) the Division of {Population Health, which shall include:

(i) Services for People with Disabilities;]

[(d) the Division of Substance Abuse and Mental Health; and]

[(e) the Division of Juvenile Justice Services.]

[(3) The following offices are created within the Department of Human Services:]

[(a) the Office of {Communicable Diseases and Emerging Infections;

(ii) the Office of Integrated Health Promotion and Prevention; and

(iii) Licensing;]

[(b) the Office of {Preparedness and Emergency Health.

Section 3} Public Guardian;]

[(c) the Office of Recovery Services; and]

[(d) the Office of Quality and Design.]

Section 14. Section 26B-1-205, which is renumbered from Section 62A-1-109 is renumbered and amended to read:

[62A-1-109]. **26B-1-205. Division directors -- Appointment --**

Compensation -- Qualifications.

(1) (a) The executive director of the department has administrative jurisdiction over each division and office director.

(b) The executive director may make changes in personnel and service functions in the divisions and offices under the executive director's administrative jurisdiction, and authorize designees to perform appropriate responsibilities, to effectuate greater efficiency and economy in the operations of the department.

(c) The executive director may establish offices and bureaus to perform functions such as budgeting, planning, data processing, and personnel administration, to facilitate management of the department.

[(4)] (2) The chief officer of each division and office enumerated in Section [62A-1-105] 26-1-204 shall be a director who shall serve as the executive and administrative

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head of the division or office.

~~[(2)] (3) [Each division director shall be appointed by the]~~ The executive director shall appoint each division director with the concurrence of the division's board, if the division has a board.

~~[(3)] (4) The director of any division may be removed from that position at the will of the executive director after consultation with that division's board, if the division has a board.~~

~~[(4) Each office director shall be appointed by the executive director.]~~

~~[(5)] (5) Directors of divisions and offices shall receive compensation as provided by Title 63A, Chapter 17, Utah State Personnel Management Act.~~

~~[(6)] (6) The director of each division and office shall be experienced in administration and possess such additional qualifications as determined by the executive director, and as provided by law.~~

Section 15. Section **26B-1-206**, which is renumbered from Section 62A-1-107.5 is renumbered and amended to read:

~~[62A-1-107.5].~~ **26B-1-206. Limitation on establishment of advisory bodies.**

~~[(1) Department divisions and boards:]~~

(1) A department division or board:

(a) may not establish permanent, ongoing advisory groups unless otherwise specifically created in federal or state statute; and

(b) shall comply with the provisions of this section ~~[with regard to any advisory groups created prior to or after July 1, 2003].~~

(2) (a) ~~[Divisions and boards]~~ A division or board may establish subject-limited and time-limited ad hoc advisory groups to provide input necessary to carry out ~~[their]~~ the division's or board's assigned responsibilities.

(b) When establishing such an advisory group, the board ~~[must]~~ shall establish in writing a specific charge and time limit.

(3) The department shall consolidate an advisory group or committee with another committee or advisory group as appropriate to create greater efficiencies and budgetary savings for the department.

~~[(3)] (4) [Members]~~ A member of any ad hoc advisory group shall receive no compensation or benefits for their service.

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~~[(4)] (5) The provision of staffing and support to any ad hoc advisory group [will be] is contingent on availability of human and financial resources.~~

Section 16. Section 26B-1-207, which is renumbered from Section 26-1-4 is renumbered and amended to read:

~~[26-1-4]. 26B-1-207. Policymaking responsibilities -- Regulations for local health departments prescribed by department -- Local standards not more stringent than federal or state standards -- Consultation with local health departments -- Committee to evaluate health policies and to review federal grants -- Committee responsibilities.~~

~~[(1) There is created the Department of Health, which has all of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities of the Division of Health, the Board of Health, the State Health Planning Development Agency, and the Office of Health Care Financing. Unless otherwise specifically provided, when reference is made in any statute of this state to the Board of Health, the Division of Health, the State Health Planning Development Agency, or the Office of Health Care Financing, it refers to the department. The department shall assume all of the policymaking functions, powers, rights, duties, and responsibilities over the division, agency, and office previously vested in the Department of Human Services and its executive director.]~~

~~[(2)] (1) In establishing public health policy, the department shall consult with the local health departments established under Title 26A, Chapter 1, Local Health Departments.~~

~~(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may prescribe by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, reasonable requirements not inconsistent with law for a local health department as defined in Section 26A-1-102.~~

~~(b) Except as provided in Subsection (2)(d), or where specifically allowed by federal law or state statute, a local health department, as defined in Section 26A-1-102, may not establish standards or regulations that are more stringent than those established by federal law, state statute, or administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

~~(c) The local health department may make standards and regulations more stringent than corresponding federal law, state statute, or state administrative rules, only if the local health department makes a written finding after public comment and hearing and based on~~

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evidence in the record, that corresponding federal laws, state statutes, or state administrative rules are not adequate to protect public health of the state.

(d) The findings described in Subsection (2)(c) shall address the public health information and studies contained in the record, which form the basis for the local health department's conclusion.

(e) Nothing in this Subsection (2), limits the ability of a local health department to make standards and regulations in accordance with Subsection 26A-1-121(1)(a) for:

(i) emergency rules made in accordance with Section 63G-3-304; or

(ii) items not regulated under federal law, state statute, or state administrative rule.

(3) (a) As used in this Subsection (3):

(i) "Committee" means the committee established under Subsection (3)(b).

(ii) "Exempt application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(iii).

(iii) "Expedited application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(iv).

(iv) "Federal grant" means a grant from the federal government that could provide funds for local health departments to help them fulfill their duties and responsibilities.

(v) "Reviewable application" means an application for a federal grant that is not an exempt application.

(b) The department shall establish a committee consisting of:

(i) the executive director, or the executive director's designee;

(ii) two representatives of the department, appointed by the executive director; and

(iii) three representatives of local health departments, appointed by all local health departments.

(c) The committee shall:

(i) evaluate:

(A) the allocation of public health resources between the department and local health departments; and

(B) policies that affect local health departments;

(ii) consider policy changes proposed by the department or local health departments;

(iii) establish criteria by which an application for a federal grant may be judged to

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determine whether it should be exempt from the requirements under Subsection (3)(d); and
(iv) establish criteria by which an application for a federal grant may be judged to
determine whether committee review under Subsection (3)(d)(i) should be delayed until after
the application is submitted because the application is required to be submitted under a
timetable that makes committee review before it is submitted impracticable if the submission
deadline is to be met.

(d) (i) The committee shall review the goals and budget for each reviewable
application:

(A) before the application is submitted, except for an expedited application; and

(B) for an expedited application, after the application is submitted but before funds
from the federal grant for which the application was submitted are disbursed or encumbered.

(ii) Funds from a federal grant [pursuant to] under a reviewable application may not be
disbursed or encumbered before the goals and budget for the federal grant are established by:

(A) a two-thirds vote of the committee, following the committee review under
Subsection (3)(d)(i); or

(B) if two-thirds of the committee cannot agree on the goals and budget, the chair of
the health advisory council, after consultation with the committee in a manner that the
committee determines.

(e) An exempt application is exempt from the requirements of Subsection (3)(d).

(f) The department may use money from a federal grant to pay administrative costs
incurred in implementing this Subsection (3).

Section 17. Section **26B-1-208**, which is renumbered from Section 62A-1-112 is
renumbered and amended to read:

[62A-1-112]. **26B-1-208. Participation in federal programs -- Federal**
grants -- Authority of executive director.

(1) The executive director may, by following the procedures and requirements of Title
63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in
federal programs.

(2) Wherever state law authorizes a board, director, division, or office of the
department to accept any grant, fund, or service which is to be advanced or contributed in
whole or in part by the federal government, that acceptance shall be subject to the approval or

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disapproval of the executive director.

(3) All applications for federal grants or other federal financial assistance for the support of any department program is subject to the approval of the executive director.

~~[(3)]~~ (4) If any executive or legislative provision of the federal government so requires, as a condition to participation by this state in any fund, property, or service, the executive director, with the governor's approval, shall expend whatever funds are necessary out of the money provided by the Legislature for use and disbursement by that department.

Section 18. Section **26B-1-209**, which is renumbered from Section 26-1-6 is renumbered and amended to read:

~~[26-1-6].~~ **26B-1-209. Fee schedule adopted by department.**

(1) The department may adopt a schedule of fees that may be assessed for services rendered by the department, provided that the fees are:

(a) reasonable and fair; and

(b) submitted to the Legislature as part of the department's annual appropriations request.

(2) When the department submits a fee schedule to the Legislature, the Legislature, in accordance with Section 63J-1-504, may:

(a) approve the fee;

(b) increase or decrease and approve the fee; or

(c) reject any fee submitted to it.

(3) Fees approved by the Legislature ~~[pursuant to]~~ under this section shall be paid into the state treasury.

Section 19. Section **26B-1-210**, which is renumbered from Section 62A-1-113 is renumbered and amended to read:

~~[62A-1-113].~~ **26B-1-210. Department budget -- Reports from divisions.**

(1) The department shall prepare and submit to the governor, for inclusion in ~~[his]~~ the governor's budget to be submitted to the Legislature, a budget of the department's financial requirements needed to carry out ~~[its]~~ the department's responsibilities, as provided by law during the fiscal year following the Legislature's next Annual General Session.

(2) The executive director shall require a report from each of the divisions and offices of the department, to aid in preparation of the departmental budget.

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Section 20. Section 26B-1-211, which is renumbered from Section 26-1-17.1 is renumbered and amended to read:

[26-1-17.1]. 26B-1-211. Background checks for employees.

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(2) Beginning July 1, 2018, the department may require a fingerprint-based local, regional, and national criminal history background check and ongoing monitoring of:

(a) all staff, contracted employees, and volunteers who:

(i) have access to protected health information or personal identifying information;

(ii) have direct contact with patients, children, or vulnerable adults as defined in

Section 62A-2-120;

(iii) work in areas of privacy and data security;

(iv) handle financial information, including receipt of funds, reviewing invoices, making payments, and other types of financial information; and

(v) perform audit functions, whether internal or external, on behalf of the department;

and

(b) job applicants who have been offered a position with the department and the job requirements include those described in Subsection (2)(a).

(3) Beginning July 1, 2022, for the purposes described in Subsection (2), the department may also access:

(a) the department's Management Information System created in Section 62A-4a-1003;

(b) the department's Licensing Information System created in Section 62A-4a-1006;

(c) the statewide database of the Division of Aging and Adult Services created by

Section 62A-3-311.1; and

(d) juvenile court records under Subsection 80-3-404(6).

[3] (4) Each individual in a position listed in Subsection (2) shall provide a completed fingerprint card to the department upon request.

[4] (5) The department shall require that an individual required to submit to a background check under Subsection [3] (4) provide a signed waiver on a form provided by the department that meets the requirements of Subsection 53-10-108(4).

[5] (6) For a noncriminal justice background search and registration in accordance

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with Subsection 53-10-108(13), the department shall submit to the bureau:

(a) the applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(b) a request for all information received as a result of the local, regional, and nationwide background check.

~~[(6)]~~ (7) The department is responsible for the payment of all fees required by Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.

~~[(7)]~~ (8) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) determine how the department will assess the employment status of an individual upon receipt of background information;

(b) determine the type of crimes and the severity that would disqualify an individual from holding a position; and

(c) identify the appropriate privacy risk mitigation strategy to be used in accordance with Subsection 53-10-108(13)(b).

Section 21. Section **26B-1-212**, which is renumbered from Section 26-1-17.5 is renumbered and amended to read:

~~[26-1-17.5].~~ **26B-1-212. Confidential records.**

(1) A record classified as confidential under this title shall remain confidential, and be released according to the provisions of this title, notwithstanding Section 63G-2-310.

(2) In addition to ~~[those persons]~~ a person granted access to a private record described in Subsection 63G-2-302(1)(b), ~~[schools, school districts, and local and state health departments and the state Department of Human Services]~~ a school, school district, local health department, and the department may share an immunization record as defined in Section 53G-9-301 or any other record relating to a vaccination or immunization as necessary to ensure compliance with Title 53G, Chapter 8, Part 3, Physical Restraint of Students, and to prevent, investigate, and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health.

Section 22. Section **26B-1-301**, which is renumbered from Section 26-1-16 is renumbered and amended to read:

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[26-1-16]. 26B-1-301. Executive director -- Power to accept funds and gifts.

The executive director may accept and receive such other funds and gifts as may be made available from private and public groups for the purposes of promoting and protecting the public health or for the provision of health services to the people of the state and shall expend the same as appropriated by the [legislature] Legislature.

Section 23. Section 26B-1-302, which is renumbered from Section 62A-1-202 is renumbered and amended to read:

[62A-1-202]. 26B-1-302. National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account.

(1) There is created in the General Fund a restricted account known as the "National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) are selected by the owners that, either on an individual or joint basis, own a controlling interest in a legal entity that is a franchised member of the internationally recognized national governing body for professional men's basketball in the United States;

(c) are headquartered within the state;

(d) create or support programs that focus on issues affecting women and children within the state, with an emphasis on health and education; and

(e) have a board of directors that disperses all funds of the organization.

(4) (a) An organization described in Subsection (3) may apply to the department to receive a distribution in accordance with Subsection (3).

(b) An organization that receives a distribution from the department in accordance with Subsection (3) shall expend the distribution only to:

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(i) create or support programs that focus on issues affecting women and children, with an emphasis on health and education;

(ii) create or sponsor programs that will benefit residents within the state; and

(iii) pay the costs of issuing or reordering National Professional Men's Basketball Team Support of Women and Children Issues support special group license plate decals.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under this Subsection (4).

(5) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

Section 24. Section **26B-1-303**, which is renumbered from Section 62A-1-119 is renumbered and amended to read:

~~[62A-1-119].~~ **26B-1-303. Respite Care Assistance Fund -- Use of money --**

Restrictions.

(1) There is created an expendable special revenue fund known as the Respite Care Assistance Fund.

(2) The fund shall consist of:

(a) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, made to the fund; and

(b) any additional amounts as appropriated by the Legislature.

(3) The fund shall be administered by the director of the Utah Developmental Disabilities Council.

(4) The fund money shall be used for the following activities:

(a) to support a respite care information and referral system;

(b) to educate and train caregivers and respite care providers; and

(c) to provide grants to caregivers.

(5) An individual who receives services paid for from the fund shall:

(a) be a resident of Utah; and

(b) be a primary care giver for:

(i) an aging individual; or

(ii) an individual with a cognitive, mental, or physical disability.

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(6) The fund money may not be used for:

(a) administrative expenses that are normally provided for by legislative appropriation;

or

(b) direct services or support mechanisms that are available from or provided by another government or private agency.

(7) All interest and other earnings derived from the fund money shall be deposited into the fund.

(8) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act.

Section 25. Section 26B-1-304, which is renumbered from Section 26-1-34 is renumbered and amended to read:

~~[26-1-34].~~ **26B-1-304. Restricted account created to fund drug testing for law enforcement agencies.**

(1) There is created within the General Fund a restricted account known as the State Laboratory Drug Testing Account.

(2) The account consists of a specified portion of fees generated under Subsection 53-3-106(5) from the reinstatement of certain licenses, which shall be deposited in this account.

(3) The Department of Health shall use funds in this account solely for the costs of performing drug and alcohol analysis tests for state and local law enforcement agencies, and may not assess any charge or fee to the law enforcement agencies for whom the analysis tests are performed.

Section 26. Section 26B-2-101 is enacted to read:

26B-2-101. Clinical services -- Reserved.

Reserved

Section 27. Section 26B-3-101 is enacted to read:

26B-3-101. Licensing and oversight -- Reserved.

Reserved

Section 28. Section 26B-4-101 is enacted to read:

26B-4-101. Health care administration -- Reserved.

Reserved

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Section 29. Section 26B-5-101 is enacted to read:

26B-5-101. Health care services -- Reserved.

Reserved

Section 30. Section 26B-6-101 is enacted to read:

26B-6-101. Long-term services and supports -- Reserved.

Reserved

Section 31. Section 26B-7-101 is enacted to read:

26B-7-101. Public health, prevention, and epidemiology -- Reserved.

Reserved

Section 32. Section 26B-8-101 is enacted to read:

26B-8-101. Children, youth, and families -- Reserved.

Reserved

Section 33. Section 26B-9-101 is enacted to read:

26B-9-101. Miscellaneous provisions -- Reserved.

Reserved

Section 34. Section 35A-3-103 (Effective 07/01/22) is amended to read:

35A-3-103 (Effective 07/01/22). Department responsibilities.

The department shall:

- (1) administer public assistance programs assigned by the Legislature and the governor;
- (2) determine eligibility for public assistance programs in accordance with the requirements of this chapter;
- (3) cooperate with the federal government in the administration of public assistance programs;
- (4) administer state employment services;
- (5) provide for the compilation of necessary or desirable information, statistics, and reports;
- (6) perform other duties and functions required by law;
- (7) monitor the application of eligibility policy;
- (8) develop personnel training programs for effective and efficient operation of the programs administered by the department;

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(9) provide refugee resettlement services in accordance with Section 35A-3-701;

(10) provide child care assistance for children in accordance with Part 2, Office of Child Care;

(11) provide services that enable an applicant or recipient to qualify for affordable housing in cooperation with:

(a) the Utah Housing Corporation;

(b) the Housing and Community Development Division; and

(c) local housing authorities;

[(12) in accordance with 42 C.F.R. Sec. 431.10, develop non-clinical eligibility policy and procedures to implement the eligibility state plan, waivers, and administrative rules developed and issued by the Department of Health and Human Services for medical assistance under:]

[(a) Title 26, Chapter 18, Medical Assistance Act, and]

[(b) Title 26, Chapter 40, Utah Children's Health Insurance Act;]

[(13)] (12) administer the Medicaid Eligibility Quality Control function in accordance with 42 C.F.R. Sec. 431.812; and

[(14)] (13) conduct non-clinical eligibility hearings and issue final decisions in adjudicative proceedings, including expedited appeals as defined in 42 C.F.R. Sec. 431.224, for medical assistance eligibility under:

(a) Title 26, Chapter 18, Medical Assistance Act; or

(b) Title 26, Chapter 40, Utah Children's Health Insurance Act.

Section 35. Section 62A-1-104 is amended to read:

62A-1-104. Definitions.

(1) As used in this title:

(a) "Competency evaluation" means the same as that term is defined in Section 77-15-2.

(b) "Concurrence of the board" means agreement by a majority of the members of a board.

(c) "Department" means the Department of Health and Human Services [established in Section 62A-1-102] created in Section 26B-1-201.

(d) "Executive director" means the executive director of the department, appointed

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under Section [62A-1-108] 26B-1-203.

(e) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(f) "Stabilization services" means in-home services provided to a child with, or who is at risk for, complex emotional and behavioral needs, including teaching the child's parent or guardian skills to improve family functioning.

(g) "System of care" means a broad, flexible array of services and supports that:

(i) serves a child with or who is at risk for complex emotional and behavioral needs;

(ii) is community based;

(iii) is informed about trauma;

(iv) builds meaningful partnerships with families and children;

(v) integrates service planning, service coordination, and management across state and local entities;

(vi) includes individualized case planning;

(vii) provides management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and

(viii) is guided by the type and variety of services needed by a child with or who is at risk for complex emotional and behavioral needs and by the child's family.

(2) The definitions provided in Subsection (1) are to be applied in addition to definitions contained throughout this title that are applicable to specified chapters or parts.

Section 36. Section 62A-1-111.6 is amended to read:

62A-1-111.6. Reallocating unexpended money to designated priority programs --

Reporting -- Limitation.

(1) (a) Beginning fiscal year 2022, the department may:

(i) designate up to three existing programs, as defined in Section 63J-1-102, within the department as priority programs to receive unrestricted General Fund money that is reallocated under Subsection (1)(a)(ii); and

(ii) reallocate unexpended, unrestricted General Fund money from a program in one line item within the department to one or more of the designated priority programs in another line item within the department.

(b) The department may only reallocate funds under Subsection (1)(a) between

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programs as defined by Section 63J-1-102 if the programs are created pursuant to this title.

[(b)] (c) The department shall make any reallocation of unexpended money under Subsection (1)(a) before the end of the fiscal year in which the money was appropriated.

[(c)] (d) The department may not make a reallocation under this section if the reallocation:

(i) results in the creation of a new program, benefit, or service;

(ii) results in a significant expansion of:

(A) a program; or

(B) the scope or type of benefit or service already provided; or

(iii) provides funding for a budget request that the Legislature previously declined.

(2) On or before December 1 of each year, the department shall report to the Social Services Appropriations Subcommittee:

(a) on the department's designation of priority programs to receive the unexpended money under Subsection (1)(a); and

(b) if applicable, on the department's use, during the prior fiscal year, of unexpended money reallocated under Subsection (1).

(3) Except in accordance with pay plans developed and adopted as described in Subsection 63A-17-307(4)(a), the department may not allocate unexpended money under Subsection (1) for a priority program's personnel costs.

Section 37. Section 62A-15-102 is amended to read:

62A-15-102. Definitions.

As used in this chapter:

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

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

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

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

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

(2) "Director" means, as designated by the executive director:

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(a) the director appointed by the executive director under Section 62A-15-104; or

(b) the director of the division.

(3) "Division" means:

(a) the Division of Integrated Healthcare created in Section 26B-1-204; or

(b) a division, office, or operation designated by the executive director under

Subsection 26B-1-204(5).

(4) "Local mental health authority" means a county legislative body.

(5) "Local substance abuse authority" means a county legislative body.

(6) "Mental health crisis" means:

(a) a mental health condition that manifests in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(i) serious danger to the individual's health or well-being; or

(ii) a danger to the health or well-being of others; or

(b) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or intervention.

(7) "Mental health crisis response training" means community-based training that educates laypersons and professionals on the warning signs of a mental health crisis and how to respond.

(8) "Mental health crisis services" means an array of services provided to an individual who experiences a mental health crisis, which may include:

(a) direct mental health services;

(b) on-site intervention provided by a mobile crisis outreach team;

(c) the provision of safety and care plans;

(d) prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis;

(e) referrals to other community resources;

(f) local mental health crisis lines; and

(g) the statewide mental health crisis line.

(9) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

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(10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.

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

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

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

(12) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.

(13) "Statewide mental health crisis line" means the same as that term is defined in Section 62A-15-1301.

Section 38. Section 62A-15-103 is amended to read:

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

(1) (a) [There is created] The department shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and

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Mental Health [within the department, under the administration and general supervision of the executive director].

(b) The [division] department is the substance abuse authority and the mental health authority for this state.

(2) The [division] department shall:

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

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

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

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

(v) except as provided in Section 62A-15-103.5, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private programs, minimum standards for public and private providers of substance abuse and mental health programs licensed by the department under [Title 62A,] Chapter 2, Licensure of Programs and Facilities;

(vi) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;

(vii) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance use disorder and mental illness that addresses criminal risk factors;

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

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

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(x) promote or establish programs for education and certification of instructors to

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educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

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

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

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

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;

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

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

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

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

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

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(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

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

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

(C) services result in improved overall health and functioning;

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

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

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance abuse programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

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

and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply

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with division directives regarding the use of public funds, or for misuse of public funds or money;

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

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

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

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

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

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(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance use disorder and mental health treatment to an individual who is incarcerated or who is required to participate in treatment by a court or by the Board of Pardons and Parole, including:

(i) collaboration with the Department of Corrections and the Utah Substance Use and Mental Health Advisory Council to develop and coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;

(ii) determining that the standards ensure available treatment, including the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and

(iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(i) in order to receive public funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;

(j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers, including individuals licensed by the Division of Occupational and Professional Licensing, programs licensed by the department, and health care facilities licensed by the Department of Health, who provide, as part of their

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practice, substance use disorder and mental health treatment to an individual involved in the criminal justice system, including:

(i) collaboration with the Department of Corrections, the Utah Substance Use and Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;

(ii) basing the certification process on the standards developed under Subsection (2)(i) for the treatment of an individual involved in the criminal justice system; and

(iii) the requirement that a public or private provider of treatment to an individual involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;

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

(i) pretrial services and the resources needed to reduce recidivism;

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

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

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

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

(m) in the division's discretion, use the data to make decisions regarding the use of funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(i);

(n) annually, on or before August 31, submit the data collected under Subsection (2)(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings

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based on the data and provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees; and

(o) consult and coordinate with the Department of Health and the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance abuse during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance abuse during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance abuse disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance abuse treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with the Department of Health, local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the

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cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a rebate program that includes a rebate that offers between \$10 and \$200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the rebate program; and

(e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education course at or before the November meeting each year.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or

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directives issued in accordance with state law.

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

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

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

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

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

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

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

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

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

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

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 39. Section 62A-15-104 is amended to read:

62A-15-104. Director -- Qualifications.

[(1) The director of the division shall be appointed by the executive director.]

(1) The executive director may appoint an individual to carry out all or part of the duties and responsibilities of the director described in this part.

(2) [The] If the executive director appoints an individual under Subsection (1), the director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in matters concerning substance abuse and mental health.

[(3) The director is the administrative head of the division.]

Section 40. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(c), in relation to the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 26-4-6.1 is repealed January 1, 2022.

(3) Section 26-6-41, in relation to termination of public health emergency powers pertaining to COVID-19, is repealed on July 1, 2021.

(4) Subsection 26-7-8(3) is repealed January 1, 2027.

(5) Section 26-8a-107 is repealed July 1, 2024.

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(6) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

(7) Section 26-8a-211 is repealed July 1, 2023.

(8) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26-8a-602(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(9) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

(10) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.

(11) Subsection 26-18-420(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

(12) In relation to the Air Ambulance Committee, July 1, 2024, Subsection 26-21-32(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(13) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

(14) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

(15) Subsection 26-61-202(4)(b) is repealed January 1, 2022.

(16) Subsection 26-61-202(5) is repealed January 1, 2022.

(17) Section 26A-1-130, in relation to termination of public health emergency powers

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pertaining to COVID-19, is repealed on July 1, 2021.

[(18) Section 26B-1-201.1 is repealed July 1, 2022.]

Section 41. Repealer.

This bill repeals:

Section ~~{26B-1-201.1, Transition to}~~ 26-1-1, Title cited as "Utah Health Code."

Section 26-1-3, Purpose of title -- Consolidation of health functions into single state
agency ~~{-- Transition plan -- Restricted Account.~~

}

Section 26B-1-101, Title.

Section 62A-1-101, Short title.

Section 62A-1-102, Department of Human Services -- Creation.

Section 62A-5-304, Limited admission of persons convicted of felony offenses.

Section 42. Effective date.

This bill takes effect on July 1, 2022.