

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: Norman K. Thurston

LONG TITLE

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;
- ▶ 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;
- ▶ updates cross references throughout the Utah Code; and
- ▶ makes technical and corresponding changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.



26 **Utah Code Sections Affected:**

27 AMENDS:

- 28 **10-8-41.6**, as last amended by Laws of Utah 2021, Chapter 348
- 29 **17-43-102**, as last amended by Laws of Utah 2009, Chapter 75
- 30 **17-43-201**, as last amended by Laws of Utah 2018, Chapter 68
- 31 **17-43-301**, as last amended by Laws of Utah 2020, Chapter 303
- 32 **17-50-333**, as last amended by Laws of Utah 2021, Chapter 348
- 33 **26-1-2**, as last amended by Laws of Utah 2012, Chapter 391
- 34 **26-1-10**, as last amended by Laws of Utah 2021, Chapter 437
- 35 **26-1-11**, as last amended by Laws of Utah 2011, Chapter 297
- 36 **26-2-12.5**, as last amended by Laws of Utah 2010, Chapter 278
- 37 **26-2-12.6**, as last amended by Laws of Utah 2021, Chapter 284
- 38 **26-4-17**, as last amended by Laws of Utah 2020, Chapter 201
- 39 **26-7-10**, as enacted by Laws of Utah 2020, Chapter 347
- 40 **26-8a-102**, as last amended by Laws of Utah 2021, Chapters 208, 237, and 265
- 41 **26-8a-103**, as last amended by Laws of Utah 2021, Chapters 208 and 237
- 42 **26-8a-107**, as last amended by Laws of Utah 2019, Chapter 262
- 43 **26-8a-208**, as last amended by Laws of Utah 2017, Chapter 326
- 44 **26-8a-302**, as last amended by Laws of Utah 2021, Chapters 208 and 237
- 45 **26-8a-310**, as last amended by Laws of Utah 2021, Chapters 237 and 262
- 46 **26-9f-103**, as last amended by Laws of Utah 2020, Chapter 352
- 47 **26-10-6**, as last amended by Laws of Utah 2018, Chapter 415
- 48 **26-10b-101**, as last amended by Laws of Utah 2014, Chapter 384
- 49 **26-10b-106**, as last amended by Laws of Utah 2016, Chapter 74
- 50 **26-18-2.4**, as last amended by Laws of Utah 2016, Chapters 168 and 279
- 51 **26-21-2**, as last amended by Laws of Utah 2020, Chapter 222
- 52 **26-21-3**, as last amended by Laws of Utah 2021, Chapter 64
- 53 **26-23b-102**, as last amended by Laws of Utah 2021, Chapter 437
- 54 **26-25-1**, as last amended by Laws of Utah 2008, Chapter 3
- 55 **26-33a-102**, as last amended by Laws of Utah 2019, Chapter 349
- 56 **26-33a-103**, as last amended by Laws of Utah 2020, Chapters 352 and 373

- 57 [26-39-102](#), as last amended by Laws of Utah 2015, Chapter 220
- 58 [26-39-200](#), as last amended by Laws of Utah 2020, Chapters 154 and 352
- 59 [26-39-201](#), as last amended by Laws of Utah 2020, Chapter 154
- 60 [26-39-301](#), as last amended by Laws of Utah 2018, Chapter 58
- 61 [26-39-402](#), as last amended by Laws of Utah 2018, Chapter 415
- 62 [26-49-102](#), as last amended by Laws of Utah 2021, Chapter 188
- 63 [26-54-103](#), as last amended by Laws of Utah 2019, Chapter 405
- 64 [26-60-104](#), as enacted by Laws of Utah 2017, Chapter 241
- 65 [26-67-102](#), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
- 66 [26-67-202](#), as enacted by Laws of Utah 2020, Chapter 169
- 67 [26A-1-102](#), as last amended by Laws of Utah 2021, Chapter 437
- 68 [26A-1-121](#), as last amended by Laws of Utah 2021, Chapter 437
- 69 [26B-1-102](#), as enacted by Laws of Utah 2021, Chapter 422
- 70 [26B-1-103](#), as enacted by Laws of Utah 2021, Chapter 422
- 71 [26B-1-201](#), as enacted by Laws of Utah 2021, Chapter 422
- 72 [26B-1-201.1](#), as enacted by Laws of Utah 2021, Chapter 422
- 73 [32B-2-308](#), as enacted by Laws of Utah 2020, Chapter 186
- 74 [32B-2-402](#), as last amended by Laws of Utah 2018, Chapter 330
- 75 [35A-3-103 \(Effective 07/01/22\)](#), as last amended by Laws of Utah 2021, Chapter 422
- 76 [41-1a-422](#), as last amended by Laws of Utah 2021, Chapters 219, 280, and 378
- 77 [53-3-106](#), as last amended by Laws of Utah 2018, Chapter 417
- 78 [53-5-707.6](#), as enacted by Laws of Utah 2019, Chapter 440
- 79 [53-10-108](#), as last amended by Laws of Utah 2021, Chapters 344 and 357
- 80 [53G-9-301](#), as last amended by Laws of Utah 2019, Chapter 293
- 81 [53G-9-309](#), as renumbered and amended by Laws of Utah 2018, Chapter 3
- 82 [58-1-601](#), as enacted by Laws of Utah 2019, Chapter 447
- 83 [58-17b-620](#), as last amended by Laws of Utah 2012, Chapter 150
- 84 [58-17b-627](#), as enacted by Laws of Utah 2021, Chapter 127
- 85 [58-17b-902](#), as last amended by Laws of Utah 2021, Chapter 397
- 86 [58-17b-907](#), as last amended by Laws of Utah 2021, Chapter 397
- 87 [62A-1-104](#), as last amended by Laws of Utah 2020, Chapter 303

- 88 **62A-1-107**, as last amended by Laws of Utah 2020, Chapters 352 and 373
- 89 **62A-2-121**, as last amended by Laws of Utah 2021, Chapter 262
- 90 **62A-4a-412**, as last amended by Laws of Utah 2021, Chapters 29, 231, 262, and 419
- 91 **62A-14-108**, as last amended by Laws of Utah 2008, Chapter 382
- 92 **62A-15-102**, as last amended by Laws of Utah 2020, Chapter 303
- 93 **62A-15-103**, as last amended by Laws of Utah 2021, Chapters 231 and 277
- 94 **62A-15-104**, as last amended by Laws of Utah 2009, Chapter 75
- 95 **63A-13-102**, as last amended by Laws of Utah 2019, Chapters 286 and 393
- 96 **63I-1-226**, as last amended by Laws of Utah 2021, Chapters 13, 50, 64, 163, 182, 234,
- 97 and 417
- 98 **63I-2-226**, as last amended by Laws of Utah 2021, Chapters 277, 422, and 433
- 99 **63J-1-315**, as last amended by Laws of Utah 2019, Chapter 393
- 100 **63J-1-602.1**, as last amended by Laws of Utah 2021, Chapters 280, 382, 401, and 438
- 101 **63M-7-301**, as last amended by Laws of Utah 2020, Chapter 304
- 102 **67-3-11**, as last amended by Laws of Utah 2021, Chapter 337
- 103 **76-5-413**, as last amended by Laws of Utah 2021, Chapter 262
- 104 **76-5-501**, as last amended by Laws of Utah 2015, Chapter 39
- 105 **78B-5-902**, as last amended by Laws of Utah 2021, Chapter 208
- 106 **78B-5-903**, as enacted by Laws of Utah 2018, Chapter 109
- 107 **80-1-102**, as last amended by Laws of Utah 2021, First Special Session, Chapter 2
- 108 **80-3-404**, as renumbered and amended by Laws of Utah 2021, Chapter 261
- 109 **80-5-102**, as enacted by Laws of Utah 2021, Chapter 261

110 ENACTS:

- 111 **26B-1-305**, Utah Code Annotated 1953
- 112 **26B-2-101**, Utah Code Annotated 1953
- 113 **26B-3-101**, Utah Code Annotated 1953
- 114 **26B-4-101**, Utah Code Annotated 1953
- 115 **26B-5-101**, Utah Code Annotated 1953
- 116 **26B-6-101**, Utah Code Annotated 1953
- 117 **26B-7-101**, Utah Code Annotated 1953
- 118 **26B-8-101**, Utah Code Annotated 1953

119 **26B-9-101**, Utah Code Annotated 1953
120 RENUMBERS AND AMENDS:
121 **26B-1-104**, (Renumbered from 26-1-32, as last amended by Laws of Utah 2011,
122 Chapter 297)
123 **26B-1-105**, (Renumbered from 26-1-33, as enacted by Laws of Utah 1981, Chapter
124 126)
125 **26B-1-202**, (Renumbered from 62A-1-111, as last amended by Laws of Utah 2021,
126 Chapters 22 and 262)
127 **26B-1-203**, (Renumbered from 62A-1-108, as last amended by Laws of Utah 2020,
128 Chapter 352)
129 **26B-1-204**, (Renumbered from 62A-1-105, as last amended by Laws of Utah 2019,
130 Chapters 139 and 246)
131 **26B-1-205**, (Renumbered from 62A-1-109, as last amended by Laws of Utah 2021,
132 Chapter 345)
133 **26B-1-206**, (Renumbered from 62A-1-107.5, as enacted by Laws of Utah 2003,
134 Chapter 246)
135 **26B-1-207**, (Renumbered from 26-1-4, as last amended by Laws of Utah 2013, Chapter
136 167)
137 **26B-1-208**, (Renumbered from 62A-1-112, as last amended by Laws of Utah 2008,
138 Chapter 382)
139 **26B-1-209**, (Renumbered from 26-1-6, as last amended by Laws of Utah 2018, Chapter
140 469)
141 **26B-1-210**, (Renumbered from 62A-1-113, as enacted by Laws of Utah 1988, Chapter
142 1)
143 **26B-1-211**, (Renumbered from 26-1-17.1, as enacted by Laws of Utah 2018, Chapter
144 427)
145 **26B-1-212**, (Renumbered from 26-1-17.5, as last amended by Laws of Utah 2018,
146 Chapter 415)
147 **26B-1-213**, (Renumbered from 26-1-5, as last amended by Laws of Utah 2016, Chapter
148 74)
149 **26B-1-301**, (Renumbered from 26-1-16, as enacted by Laws of Utah 1981, Chapter

150 126)
151 **26B-1-302**, (Renumbered from 62A-1-202, as last amended by Laws of Utah 2021,
152 Chapter 356)
153 **26B-1-303**, (Renumbered from 62A-1-119, as last amended by Laws of Utah 2016,
154 Chapter 168)
155 **26B-1-304**, (Renumbered from 26-1-34, as enacted by Laws of Utah 1998, Chapter
156 247)
157 REPEALS:
158 **26-1-1**, as enacted by Laws of Utah 1981, Chapter 126
159 **26-1-3**, as last amended by Laws of Utah 1991, Chapter 112
160 **26-1-4.1**, as last amended by Laws of Utah 2008, Chapter 382
161 **26-1-7**, as last amended by Laws of Utah 2020, Chapters 169 and 347
162 **26-1-7.1**, as last amended by Laws of Utah 2008, Chapter 382
163 **26-1-8**, as last amended by Laws of Utah 2020, Chapter 352
164 **26-1-9**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 16
165 **26-1-13**, as enacted by Laws of Utah 1981, Chapter 126
166 **26-1-14**, as last amended by Laws of Utah 1988, Chapter 169
167 **26-1-15**, as enacted by Laws of Utah 1981, Chapter 126
168 **26-1-17**, as enacted by Laws of Utah 1981, Chapter 126
169 **26-1-18**, as last amended by Laws of Utah 2011, Chapter 366
170 **26-1-20**, as enacted by Laws of Utah 1981, Chapter 126
171 **26-1-21**, as last amended by Laws of Utah 2011, Chapter 207
172 **26-1-22**, as enacted by Laws of Utah 1981, Chapter 126
173 **26-1-23**, as last amended by Laws of Utah 2012, Chapter 307
174 **26-1-24**, as enacted by Laws of Utah 1981, Chapter 126
175 **26-1-25**, as last amended by Laws of Utah 2011, Chapter 297
176 **26-1-30**, as last amended by Laws of Utah 2021, Chapters 378 and 437
177 **26B-1-101**, as enacted by Laws of Utah 2021, Chapter 422
178 **62A-1-101**, as last amended by Laws of Utah 1992, Chapter 30
179 **62A-1-102**, as last amended by Laws of Utah 1990, Chapter 183
180 **62A-1-106**, as last amended by Laws of Utah 2008, Chapter 382

181 [62A-1-110](#), as last amended by Laws of Utah 1991, Chapter 292

182 [62A-1-114](#), as last amended by Laws of Utah 1997, Chapter 375

183 [62A-1-118](#), as last amended by Laws of Utah 2019, Chapter 335

184 [62A-5-304](#), as last amended by Laws of Utah 2011, Chapter 366

185 **Utah Code Sections Affected by Revisor Instructions:**

186 [26B-1-103](#), as enacted by Laws of Utah 2021, Chapter 422

187 [26B-1-201](#), as enacted by Laws of Utah 2021, Chapter 422

188 [26B-1-201.1](#), as enacted by Laws of Utah 2021, Chapter 422



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

191 Section 1. Section **10-8-41.6** is amended to read:

192 **10-8-41.6. Regulation of retail tobacco specialty business.**

193 (1) As used in this section:

194 (a) "Community location" means:

195 (i) a public or private kindergarten, elementary, middle, junior high, or high school;

196 (ii) a licensed child-care facility or preschool;

197 (iii) a trade or technical school;

198 (iv) a church;

199 (v) a public library;

200 (vi) a public playground;

201 (vii) a public park;

202 (viii) a youth center or other space used primarily for youth oriented activities;

203 (ix) a public recreational facility;

204 (x) a public arcade; or

205 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.

206 (b) "Department" means the Department of Health~~;~~ and Human Services created in

207 Section ~~[26-1-4]~~ [26B-1-201](#).

208 (c) "Electronic cigarette product" means the same as that term is defined in Section

209 [76-10-101](#).

210 (d) "Flavored electronic cigarette product" means the same as that term is defined in

211 Section [76-10-101](#).

212 (e) "Licensee" means a person licensed under this section to conduct business as a
213 retail tobacco specialty business.

214 (f) "Local health department" means the same as that term is defined in Section
215 [26A-1-102](#).

216 (g) "Nicotine product" means the same as that term is defined in Section [76-10-101](#).

217 (h) "Retail tobacco specialty business" means a commercial establishment in which:

218 (i) sales of tobacco products, electronic cigarette products, and nicotine products
219 account for more than 35% of the total quarterly gross receipts for the establishment;

220 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
221 storage of tobacco products, electronic cigarette products, or nicotine products;

222 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of
223 tobacco products, electronic cigarette products, or nicotine products;

224 (iv) the commercial establishment:

225 (A) holds itself out as a retail tobacco specialty business; and

226 (B) causes a reasonable person to believe the commercial establishment is a retail
227 tobacco specialty business;

228 (v) any flavored electronic cigarette product is sold; or

229 (vi) the retail space features a self-service display for tobacco products, electronic
230 cigarette products, or nicotine products.

231 (i) "Self-service display" means the same as that term is defined in Section
232 [76-10-105.1](#).

233 (j) "Tobacco product" means:

234 (i) a tobacco product as defined in Section [76-10-101](#); or

235 (ii) tobacco paraphernalia as defined in Section [76-10-101](#).

236 (2) The regulation of a retail tobacco specialty business is an exercise of the police
237 powers of the state by the state or by delegation of the state's police powers to other
238 governmental entities.

239 (3) (a) A person may not operate a retail tobacco specialty business in a municipality
240 unless the person obtains a license from the municipality in which the retail tobacco specialty
241 business is located.

242 (b) A municipality may only issue a retail tobacco specialty business license to a

243 person if the person complies with the provisions of Subsections (4) and (5).

244 (4) (a) Except as provided in Subsection (7), a municipality may not issue a license for
245 a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty
246 business is located within:

- 247 (i) 1,000 feet of a community location;
- 248 (ii) 600 feet of another retail tobacco specialty business; or
- 249 (iii) 600 feet from property used or zoned for:
 - 250 (A) agriculture use; or
 - 251 (B) residential use.

252 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in
253 a straight line from the nearest entrance of the retail tobacco specialty business to the nearest
254 property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard
255 to intervening structures or zoning districts.

256 (5) A municipality may not issue or renew a license for a person to conduct business as
257 a retail tobacco specialty business until the person provides the municipality with proof that the
258 retail tobacco specialty business has:

259 (a) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter
260 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health
261 department having jurisdiction over the area in which the retail tobacco specialty business is
262 located; and

263 (b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax
264 Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; and

265 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid
266 license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an
267 electronic cigarette product or a nicotine product.

268 (6) (a) Nothing in this section:

- 269 (i) requires a municipality to issue a retail tobacco specialty business license; or
- 270 (ii) prohibits a municipality from adopting more restrictive requirements on a person
271 seeking a license or renewal of a license to conduct business as a retail tobacco specialty
272 business.

273 (b) A municipality may suspend or revoke a retail tobacco specialty business license

274 issued under this section:

275 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10,
276 Part 16, Pattern of Unlawful Activity Act;

277 (ii) if a licensee violates federal law or federal regulations restricting the sale and
278 distribution of tobacco products or electronic cigarette products to protect children and
279 adolescents;

280 (iii) upon the recommendation of the department or a local health department under
281 Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit; or

282 (iv) under any other provision of state law or local ordinance.

283 (7) (a) A retail tobacco specialty business is exempt from Subsection (4) if:

284 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
285 license to conduct business as a retail tobacco specialty business;

286 (ii) the retail tobacco specialty business is operating in a municipality in accordance
287 with all applicable laws except for the requirement in Subsection (4); and

288 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
289 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

290 (b) A retail tobacco specialty business may maintain an exemption under Subsection
291 (7)(a) if:

292 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse
293 or permanent revocation;

294 (ii) the retail tobacco specialty business does not close for business or otherwise
295 suspend the sale of tobacco products, electronic cigarette products, or nicotine products for
296 more than 60 consecutive days;

297 (iii) the retail tobacco specialty business does not substantially change the business
298 premises or business operation; and

299 (iv) the retail tobacco specialty business maintains the right to operate under the terms
300 of other applicable laws, including:

301 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

302 (B) zoning ordinances;

303 (C) building codes; and

304 (D) the requirements of the license described in Subsection (7)(a)(i).

305 (c) A retail tobacco specialty business that does not qualify for an exemption under
306 Subsection (7)(a) is exempt from Subsection (4) if:

307 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
308 general tobacco retailer permit or a retail tobacco specialty business permit under Title 26,
309 Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local
310 health department having jurisdiction over the area in which the retail tobacco specialty
311 business is located;

312 (ii) the retail tobacco specialty business is operating in the municipality in accordance
313 with all applicable laws except for the requirement in Subsection (4); and

314 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
315 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

316 (d) Except as provided in Subsection (7)(e), a retail tobacco specialty business may
317 maintain an exemption under Subsection (7)(c) if:

318 (i) on or before December 31, 2020, the retail tobacco specialty business receives a
319 retail tobacco specialty business permit from the local health department having jurisdiction
320 over the area in which the retail tobacco specialty business is located;

321 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse
322 or permanent revocation;

323 (iii) the retail tobacco specialty business does not close for business or otherwise
324 suspend the sale of tobacco products, electronic cigarette products, or nicotine products for
325 more than 60 consecutive days;

326 (iv) the retail tobacco specialty business does not substantially change the business
327 premises or business operation as the business existed when the retail tobacco specialty
328 business received a permit under Subsection (7)(d)(i); and

329 (v) the retail tobacco specialty business maintains the right to operate under the terms
330 of other applicable laws, including:

331 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

332 (B) zoning ordinances;

333 (C) building codes; and

334 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

335 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is

336 located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high,
337 or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco
338 specialty business:

339 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use
340 and located within a group of architecturally unified commercial establishments built on a site
341 that is planned, developed, owned, and managed as an operating unit; and

342 (ii) continues to meet the requirements described in Subsection (7)(b) that are not
343 directly related to the relocation described in this Subsection (7)(e).

344 Section 2. Section **17-43-102** is amended to read:

345 **17-43-102. Definitions.**

346 As used in this chapter:

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

349 (2) "Division" means the Division of [~~Substance Abuse and Mental Health~~ created]
350 Integrated Healthcare within the [~~Department of Human Services in Section 62A-1-105~~]
351 department.

352 Section 3. Section **17-43-201** is amended to read:

353 **17-43-201. Local substance abuse authorities -- Responsibilities.**

354 (1) (a) (i) In each county operating under a county executive-council form of
355 government under Section 17-52a-203, the county legislative body is the local substance abuse
356 authority, provided however that any contract for plan services shall be administered by the
357 county executive.

358 (ii) In each county operating under a council-manager form of government under
359 Section 17-52a-204, the county manager is the local substance abuse authority.

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

362 (b) Within legislative appropriations and county matching funds required by this
363 section, and under the direction of the division, each local substance abuse authority shall:

364 (i) develop substance abuse prevention and treatment services plans;

365 (ii) provide substance abuse services to residents of the county; and

366 (iii) cooperate with efforts of the [~~Division of Substance Abuse and Mental Health~~]

367 division to promote integrated programs that address an individual's substance abuse, mental
368 health, and physical healthcare needs, as described in Section [62A-15-103](#).

369 (c) Within legislative appropriations and county matching funds required by this
370 section, each local substance abuse authority shall cooperate with the efforts of the
371 [~~Department of Human Services~~] department to promote a system of care, as defined in Section
372 [~~62A-1-104~~] [26B-1-102](#), for minors with or at risk for complex emotional and behavioral
373 needs, as described in Section [~~62A-1-111~~] [26B-1-202](#).

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

376 (i) provide substance abuse prevention and treatment services; or

377 (ii) create a united local health department that provides substance abuse treatment
378 services, mental health services, and local health department services in accordance with
379 Subsection (3).

380 (b) The legislative bodies of counties joining to provide services may establish
381 acceptable ways of apportioning the cost of substance abuse services.

382 (c) Each agreement for joint substance abuse services shall:

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

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

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

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

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

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

401 (d) An agreement for joint substance abuse services may provide for joint operation of
402 services and facilities or for operation of services and facilities under contract by one
403 participating local substance abuse authority for other participating local substance abuse
404 authorities.

405 (3) A county governing body may elect to combine the local substance abuse authority
406 with the local mental health authority created in Part 3, Local Mental Health Authorities, and
407 the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department
408 Act, to create a united local health department under Section 26A-1-105.5. A local substance
409 abuse authority that joins a united local health department shall comply with this part.

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

414 (b) Each local substance abuse authority shall comply, and require compliance by its
415 contract provider, with all directives issued by the department ~~[and the Department of Health]~~
416 regarding the use and expenditure of state and federal funds received from those departments
417 for the purpose of providing substance abuse programs and services. The department ~~[and~~
418 ~~Department of Health]~~ shall ensure that those directives are not duplicative or conflicting, and
419 shall consult and coordinate with local substance abuse authorities with regard to programs and
420 services.

421 (5) Each local substance abuse authority shall:

422 (a) review and evaluate substance abuse prevention and treatment needs and services,
423 including substance abuse needs and services for individuals incarcerated in a county jail or
424 other county correctional facility;

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

427 (i) provisions for services, either directly by the substance abuse authority or by
428 contract, for adults, youth, and children, including those incarcerated in a county jail or other

- 429 county correctional facility; and
- 430 (ii) primary prevention, targeted prevention, early intervention, and treatment services;
- 431 (c) establish and maintain, either directly or by contract, programs licensed under Title
- 432 62A, Chapter 2, Licensure of Programs and Facilities;
- 433 (d) appoint directly or by contract a full or part time director for substance abuse
- 434 programs, and prescribe the director's duties;
- 435 (e) provide input and comment on new and revised rules established by the division;
- 436 (f) establish and require contract providers to establish administrative, clinical,
- 437 procurement, personnel, financial, and management policies regarding substance abuse services
- 438 and facilities, in accordance with the rules of the division, and state and federal law;
- 439 (g) establish mechanisms allowing for direct citizen input;
- 440 (h) annually contract with the division to provide substance abuse programs and
- 441 services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and
- 442 Mental Health Act;
- 443 (i) comply with all applicable state and federal statutes, policies, audit requirements,
- 444 contract requirements, and any directives resulting from those audits and contract requirements;
- 445 (j) promote or establish programs for the prevention of substance abuse within the
- 446 community setting through community-based prevention programs;
- 447 (k) provide funding equal to at least 20% of the state funds that it receives to fund
- 448 services described in the plan;
- 449 (l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
- 450 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title
- 451 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
- 452 Other Local Entities Act;
- 453 (m) for persons convicted of driving under the influence in violation of Section
- 454 [41-6a-502](#) or [41-6a-517](#), conduct the following as defined in Section [41-6a-501](#):
- 455 (i) a screening;
- 456 (ii) an assessment;
- 457 (iii) an educational series; and
- 458 (iv) substance abuse treatment; and
- 459 (n) utilize proceeds of the accounts described in Subsection [62A-15-503\(1\)](#) to

460 supplement the cost of providing the services described in Subsection (5)(m).

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

464 (a) the entity's financial records and other records relevant to the entity's performance
465 of the services provided to the local substance abuse authority shall be subject to examination
466 by:

467 (i) the division;

468 (ii) the local substance abuse authority director;

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

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

472 (iv) the county legislative body; and

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

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

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

479 (7) A local substance abuse authority may receive property, grants, gifts, supplies,
480 materials, contributions, and any benefit derived therefrom, for substance abuse services. If
481 those gifts are conditioned upon their use for a specified service or program, they shall be so
482 used.

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

485 (b) Public funds received for the provision of services pursuant to the local substance
486 abuse plan may not be used for any other purpose except those authorized in the contract
487 between the local substance abuse authority and the provider for the provision of plan services.

488 (9) Subject to the requirements of the federal Substance Abuse Prevention and
489 Treatment Block Grant, Pub. L. No. 102-321, a local substance abuse authority shall ensure
490 that all substance abuse treatment programs that receive public funds:

491 (a) accept and provide priority for admission to a pregnant woman or a pregnant minor;
492 and

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

496 (i) are accessible to the pregnant woman or pregnant minor;

497 (ii) are best suited to provide services to the pregnant woman or pregnant minor;

498 (iii) may include:

499 (A) counseling;

500 (B) case management; or

501 (C) a support group; and

502 (iv) shall include a referral for:

503 (A) prenatal care; and

504 (B) counseling on the effects of alcohol and drug use during pregnancy.

505 (10) If a substance abuse treatment program described in Subsection (9) is not able to
506 accept and admit a pregnant woman or pregnant minor under Subsection (9) within 48 hours of
507 the time that request for admission is made, the local substance abuse authority shall contact
508 the Division of [~~Substance Abuse and Mental Health~~] Integrated Healthcare for assistance in
509 providing services to the pregnant woman or pregnant minor.

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

511 **17-43-301. Local mental health authorities -- Responsibilities.**

512 (1) As used in this section:

513 (a) "Assisted outpatient treatment" means the same as that term is defined in Section
514 [62A-15-602](#).

515 (b) "Crisis worker" means the same as that term is defined in Section [62A-15-1301](#).

516 (c) "Local mental health crisis line" means the same as that term is defined in Section
517 [62A-15-1301](#).

518 (d) "Mental health therapist" means the same as that term is defined in Section
519 [58-60-102](#).

520 (e) "Public funds" means the same as that term is defined in Section [17-43-303](#).

521 (f) "Statewide mental health crisis line" means the same as that term is defined in

522 Section [62A-15-1301](#).

523 (2) (a) (i) In each county operating under a county executive-council form of
524 government under Section [17-52a-203](#), the county legislative body is the local mental health
525 authority, provided however that any contract for plan services shall be administered by the
526 county executive.

527 (ii) In each county operating under a council-manager form of government under
528 Section [17-52a-204](#), the county manager is the local mental health authority.

529 (iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the
530 county legislative body is the local mental health authority.

531 (b) Within legislative appropriations and county matching funds required by this
532 section, under the direction of the division, each local mental health authority shall:

533 (i) provide mental health services to individuals within the county; and

534 (ii) cooperate with efforts of the [~~Division of Substance Abuse and Mental Health~~]
535 division to promote integrated programs that address an individual's substance abuse, mental
536 health, and physical healthcare needs, as described in Section [62A-15-103](#).

537 (c) Within legislative appropriations and county matching funds required by this
538 section, each local mental health authority shall cooperate with the efforts of the [~~Department~~
539 ~~of Human Services~~] department to promote a system of care, as defined in Section [~~62A-1-104~~]
540 [26B-1-102](#), for minors with or at risk for complex emotional and behavioral needs, as
541 described in Section [~~62A-1-111~~] [26B-1-202](#).

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

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

545 (ii) create a united local health department that combines substance abuse treatment
546 services, mental health services, and local health department services in accordance with
547 Subsection (4).

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

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

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

553 available for the joint services; and

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

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

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

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

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

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

570 (i) joint operation of services and facilities or for operation of services and facilities
571 under contract by one participating local mental health authority for other participating local
572 mental health authorities; and

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

575 (4) A county governing body may elect to combine the local mental health authority
576 with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities,
577 and the local health department created in Title 26A, Chapter 1, Part 1, Local Health
578 Department Act, to create a united local health department under Section [26A-1-105.5](#). A local
579 mental health authority that joins with a united local health department shall comply with this
580 part.

581 (5) (a) Each local mental health authority is accountable to the department~~[, the~~
582 ~~Department of Health,~~] and the state with regard to the use of state and federal funds received
583 from those departments for mental health services, regardless of whether the services are

584 provided by a private contract provider.

585 (b) Each local mental health authority shall comply, and require compliance by its
586 contract provider, with all directives issued by the department [~~and the Department of Health~~]
587 regarding the use and expenditure of state and federal funds received from those departments
588 for the purpose of providing mental health programs and services. The department [~~and~~
589 ~~Department of Health~~] shall ensure that those directives are not duplicative or conflicting, and
590 shall consult and coordinate with local mental health authorities with regard to programs and
591 services.

592 (6) (a) Each local mental health authority shall:

593 (i) review and evaluate mental health needs and services, including mental health needs
594 and services for:

595 (A) an individual incarcerated in a county jail or other county correctional facility; and

596 (B) an individual who is a resident of the county and who is court ordered to receive
597 assisted outpatient treatment under Section [62A-15-630.5](#);

598 (ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a
599 plan approved by the county legislative body for mental health funding and service delivery,
600 either directly by the local mental health authority or by contract;

601 (iii) establish and maintain, either directly or by contract, programs licensed under Title
602 62A, Chapter 2, Licensure of Programs and Facilities;

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

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

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

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

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

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

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

617 (xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
618 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title
619 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
620 Other Local Entities Act; and

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

624 (b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and
625 children, which shall include:

626 (i) inpatient care and services;

627 (ii) residential care and services;

628 (iii) outpatient care and services;

629 (iv) 24-hour crisis care and services;

630 (v) psychotropic medication management;

631 (vi) psychosocial rehabilitation, including vocational training and skills development;

632 (vii) case management;

633 (viii) community supports, including in-home services, housing, family support
634 services, and respite services;

635 (ix) consultation and education services, including case consultation, collaboration
636 with other county service agencies, public education, and public information; and

637 (x) services to persons incarcerated in a county jail or other county correctional facility.

638 (7) (a) If a local mental health authority provides for a local mental health crisis line
639 under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local
640 mental health authority shall:

641 (i) collaborate with the statewide mental health crisis line described in Section
642 [62A-15-1302](#);

643 (ii) ensure that each individual who answers calls to the local mental health crisis line:

644 (A) is a mental health therapist or a crisis worker; and

645 (B) meets the standards of care and practice established by the Division of [~~Substance~~

646 ~~Abuse and Mental Health]~~ Integrated Healthcare, in accordance with Section [62A-15-1302](#);
647 and

648 (iii) ensure that when necessary, based on the local mental health crisis line's capacity,
649 calls are immediately routed to the statewide mental health crisis line to ensure that when an
650 individual calls the local mental health crisis line, regardless of the time, date, or number of
651 individuals trying to simultaneously access the local mental health crisis line, a mental health
652 therapist or a crisis worker answers the call without the caller first:

653 (A) waiting on hold; or

654 (B) being screened by an individual other than a mental health therapist or crisis
655 worker.

656 (b) If a local mental health authority does not provide for a local mental health crisis
657 line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the
658 local mental health authority shall use the statewide mental health crisis line as a local crisis
659 line resource.

660 (8) Before disbursing any public funds, each local mental health authority shall require
661 that each entity that receives any public funds from a local mental health authority agrees in
662 writing that:

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

665 (i) the division;

666 (ii) the local mental health authority director;

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

668 (B) if two or more counties jointly provide mental health services under an agreement
669 under Subsection (3), the designated treasurer and the designated legal officer;

670 (iv) the county legislative body; and

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

673 (b) the county auditor may examine and audit the entity's financial and other records
674 relevant to the entity's performance of the services provided to the local mental health
675 authority; and

676 (c) the entity will comply with the provisions of Subsection (5)(b).

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

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

683 (11) A local mental health authority shall provide assisted outpatient treatment
684 services, as described in Section [62A-15-630.4](#), to a resident of the county who has been
685 ordered under Section [62A-15-630.5](#) to receive assisted outpatient treatment.

686 Section 5. Section **17-50-333** is amended to read:

687 **17-50-333. Regulation of retail tobacco specialty business.**

688 (1) As used in this section:

689 (a) "Community location" means:

690 (i) a public or private kindergarten, elementary, middle, junior high, or high school;

691 (ii) a licensed child-care facility or preschool;

692 (iii) a trade or technical school;

693 (iv) a church;

694 (v) a public library;

695 (vi) a public playground;

696 (vii) a public park;

697 (viii) a youth center or other space used primarily for youth oriented activities;

698 (ix) a public recreational facility;

699 (x) a public arcade; or

700 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.

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

703 (c) "Electronic cigarette product" means the same as that term is defined in Section
704 [76-10-101](#).

705 (d) "Flavored electronic cigarette product" means the same as that term is defined in
706 Section [76-10-101](#).

707 (e) "Licensee" means a person licensed under this section to conduct business as a

708 retail tobacco specialty business.

709 (f) "Local health department" means the same as that term is defined in Section
710 26A-1-102.

711 (g) "Nicotine product" means the same as that term is defined in Section 76-10-101.

712 (h) "Retail tobacco specialty business" means a commercial establishment in which:

713 (i) sales of tobacco products, electronic cigarette products, and nicotine products
714 account for more than 35% of the total quarterly gross receipts for the establishment;

715 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
716 storage of tobacco products, electronic cigarette products, or nicotine products;

717 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of
718 tobacco products, electronic cigarette products, or nicotine products;

719 (iv) the commercial establishment:

720 (A) holds itself out as a retail tobacco specialty business; and

721 (B) causes a reasonable person to believe the commercial establishment is a retail
722 tobacco specialty business;

723 (v) any flavored electronic cigarette product is sold; or

724 (vi) the retail space features a self-service display for tobacco products, electronic
725 cigarette products, or nicotine products.

726 (i) "Self-service display" means the same as that term is defined in Section
727 76-10-105.1.

728 (j) "Tobacco product" means:

729 (i) the same as that term is defined in Section 76-10-101; or

730 (ii) tobacco paraphernalia as defined in Section 76-10-101.

731 (2) The regulation of a retail tobacco specialty business is an exercise of the police
732 powers of the state by the state or by the delegation of the state's police power to other
733 governmental entities.

734 (3) (a) A person may not operate a retail tobacco specialty business in a county unless
735 the person obtains a license from the county in which the retail tobacco specialty business is
736 located.

737 (b) A county may only issue a retail tobacco specialty business license to a person if
738 the person complies with the provisions of Subsections (4) and (5).

739 (4) (a) Except as provided in Subsection (7), a county may not issue a license for a
740 person to conduct business as a retail tobacco specialty business if the retail tobacco specialty
741 business is located within:

- 742 (i) 1,000 feet of a community location;
- 743 (ii) 600 feet of another retail tobacco specialty business; or
- 744 (iii) 600 feet from property used or zoned for:
 - 745 (A) agriculture use; or
 - 746 (B) residential use.

747 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in
748 a straight line from the nearest entrance of the retail tobacco specialty business to the nearest
749 property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard
750 to intervening structures or zoning districts.

751 (5) A county may not issue or renew a license for a person to conduct business as a
752 retail tobacco specialty business until the person provides the county with proof that the retail
753 tobacco specialty business has:

754 (a) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter
755 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health
756 department having jurisdiction over the area in which the retail tobacco specialty business is
757 located; and

- 758 (b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax
759 Commission in accordance with Section [59-14-201](#) or [59-14-301](#) to sell a tobacco product; or
- 760 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid
761 license issued by the State Tax Commission in accordance with Section [59-14-803](#) to sell an
762 electronic cigarette product or a nicotine product.

763 (6) (a) Nothing in this section:

- 764 (i) requires a county to issue a retail tobacco specialty business license; or
- 765 (ii) prohibits a county from adopting more restrictive requirements on a person seeking
766 a license or renewal of a license to conduct business as a retail tobacco specialty business.

767 (b) A county may suspend or revoke a retail tobacco specialty business license issued
768 under this section:

- 769 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10,

770 Part 16, Pattern of Unlawful Activity Act;

771 (ii) if a licensee violates federal law or federal regulations restricting the sale and
772 distribution of tobacco products or electronic cigarette products to protect children and
773 adolescents;

774 (iii) upon the recommendation of the department or a local health department under
775 Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit; or

776 (iv) under any other provision of state law or local ordinance.

777 (7) (a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is
778 exempt from Subsection (4) if:

779 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
780 license to conduct business as a retail tobacco specialty business;

781 (ii) the retail tobacco specialty business is operating in a county in accordance with all
782 applicable laws except for the requirement in Subsection (4); and

783 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
784 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

785 (b) A retail tobacco specialty business may maintain an exemption under Subsection
786 (7)(a) if:

787 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse
788 or permanent revocation;

789 (ii) the retail tobacco specialty business does not close for business or otherwise
790 suspend the sale of tobacco products, electronic cigarette products, or nicotine products for
791 more than 60 consecutive days;

792 (iii) the retail tobacco specialty business does not substantially change the business
793 premises or business operation; and

794 (iv) the retail tobacco specialty business maintains the right to operate under the terms
795 of other applicable laws, including:

796 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

797 (B) zoning ordinances;

798 (C) building codes; and

799 (D) the requirements of the license described in Subsection (7)(a)(i).

800 (c) A retail tobacco specialty business that does not qualify for an exemption under

801 Subsection (7)(a) is exempt from Subsection (4) if:

802 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
803 general tobacco retailer permit or a retail tobacco specialty business permit under Title 26,
804 Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local
805 health department having jurisdiction over the area in which the retail tobacco specialty
806 business is located;

807 (ii) the retail tobacco specialty business is operating in the county in accordance with
808 all applicable laws except for the requirement in Subsection (4); and

809 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
810 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

811 (d) A retail tobacco specialty business may maintain an exemption under Subsection
812 (7)(c) if:

813 (i) on or before December 31, 2020, the retail tobacco specialty business receives a
814 retail tobacco specialty business permit from the local health department having jurisdiction
815 over the area in which the retail tobacco specialty business is located;

816 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse
817 or permanent revocation;

818 (iii) the retail tobacco specialty business does not close for business or otherwise
819 suspend the sale of tobacco products, electronic cigarette products, or nicotine products for
820 more than 60 consecutive days;

821 (iv) the retail tobacco specialty business does not substantially change the business
822 premises or business operation as the business existed when the retail tobacco specialty
823 business received a permit under Subsection (7)(d)(i); and

824 (v) the retail tobacco specialty business maintains the right to operate under the terms
825 of other applicable laws, including:

826 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

827 (B) zoning ordinances;

828 (C) building codes; and

829 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

830 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is
831 located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high,

832 or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco
833 specialty business:

834 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use
835 and located within a group of architecturally unified commercial establishments built on a site
836 that is planned, developed, owned, and managed as an operating unit; and

837 (ii) continues to meet the requirements described in Subsection (7)(b) that are not
838 directly related to the relocation described in this Subsection (7)(e).

839 Section 6. Section **26-1-2** is amended to read:

840 **26-1-2. Definitions.**

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

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

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

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

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

852 Section 7. Section **26-1-10** is amended to read:

853 **26-1-10. Executive director -- Enforcement powers.**

854 Subject to the restrictions in this title and to the extent permitted by state law, the
855 executive director is empowered to issue orders to enforce state laws and rules established by
856 the department except where the enforcement power is given to a committee created [~~pursuant~~
857 ~~to Section 26-1-7~~] under Section 26B-1-204.

858 Section 8. Section **26-1-11** is amended to read:

859 **26-1-11. Executive director -- Power to amend, modify, or rescind committee**
860 **rules.**

861 The executive director pursuant to the requirements of the Administrative Rulemaking
862 Act may amend, modify, or rescind any rule of any committee created [~~pursuant to Section~~

863 ~~26-1-7~~] under Section [26B-1-204](#) if the rule creates a clear present hazard or clear potential
864 hazard to the public health except that the executive director may not act until after discussion
865 with the appropriate committee.

866 Section 9. Section **26-2-12.5** is amended to read:

867 **26-2-12.5. Certified copies of birth certificates -- Fees credited to Children's**
868 **Account.**

869 (1) In addition to the fees provided for in Section [~~26-1-6~~] [26B-1-209](#), the department
870 and local registrars authorized to issue certified copies shall charge an additional \$3 fee for
871 each certified copy of a birth certificate, including certified copies of supplementary and
872 amended birth certificates, under Sections [26-2-8](#) through [26-2-11](#). This additional fee may be
873 charged only for the first copy requested at any one time.

874 (2) The fee shall be transmitted monthly to the state treasurer and credited to the
875 Children's Account established in Section [62A-4a-309](#).

876 Section 10. Section **26-2-12.6** is amended to read:

877 **26-2-12.6. Fee waived for certified copy of birth certificate.**

878 (1) Notwithstanding Section [~~26-1-6~~] [26B-1-209](#) and Section [26-2-12.5](#), the
879 department shall waive a fee that would otherwise be charged for a certified copy of a birth
880 certificate, if the individual whose birth is confirmed by the birth certificate is:

881 (a) the individual requesting the certified copy of the birth certificate; and

882 (b) (i) homeless, as defined in Section [26-18-411](#);

883 (ii) a person who is homeless, as defined in Section [35A-5-302](#);

884 (iii) an individual whose primary nighttime residence is a location that is not designed
885 for or ordinarily used as a sleeping accommodation for an individual;

886 (iv) a homeless service provider as verified by the Department of Workforce Services;

887 or

888 (v) a homeless child or youth, as defined in 42 U.S.C. Sec. 11434a.

889 (2) To satisfy the requirement in Subsection (1)(b), the department shall accept written
890 verification that the individual is homeless or a person, child, or youth who is homeless from:

891 (a) a homeless shelter, as defined in Section [10-9a-526](#);

892 (b) a permanent housing, permanent, supportive, or transitional facility, as defined in
893 Section [35A-5-302](#);

- 894 (c) the Department of Workforce Services;
- 895 (d) a homeless service provider as verified by the Department of Workforce Services;
- 896 or
- 897 (e) a local educational agency liaison for homeless children and youth designated under
- 898 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

899 Section 11. Section **26-4-17** is amended to read:

900 **26-4-17. Records of medical examiner -- Confidentiality.**

901 (1) The medical examiner shall maintain complete, original records for the medical

902 examiner record, which shall:

- 903 (a) be properly indexed, giving the name, if known, or otherwise identifying every
- 904 individual whose death is investigated;
- 905 (b) indicate the place where the body was found;
- 906 (c) indicate the date of death;
- 907 (d) indicate the cause and manner of death;
- 908 (e) indicate the occupation of the decedent, if available;
- 909 (f) include all other relevant information concerning the death; and
- 910 (g) include a full report and detailed findings of the autopsy or report of the
- 911 investigation.

912 (2) (a) Upon written request from an individual described in Subsections (2)(a)(i)

913 through (iv), the medical examiner shall provide a copy of the medical examiner's final report

914 of examination for the decedent, including the autopsy report, toxicology report, lab reports,

915 and investigative reports to any of the following:

- 916 (i) a decedent's immediate relative;
- 917 (ii) a decedent's legal representative;
- 918 (iii) a physician or physician assistant who attended the decedent during the year before
- 919 the decedent's death; or

920 (iv) a county attorney, a district attorney, a criminal defense attorney, or other law

921 enforcement official with jurisdiction, as necessary for the performance of the attorney or

922 official's professional duties.

923 (b) Upon written request from the director or a designee of the director of an entity

924 described in Subsections (2)(b)(i) through (iv), the medical examiner may provide a copy of the

925 of the medical examiner's final report of examination for the decedent, including any other
926 reports described in Subsection (2)(a), to any of the following entities as necessary for
927 performance of the entity's official purposes:

- 928 (i) a local health department;
- 929 (ii) a local mental health authority;
- 930 (iii) a public health authority; or
- 931 (iv) another state or federal governmental agency.

932 (c) The medical examiner may provide a copy of the medical examiner's final report of
933 examination, including any other reports described in Subsection (2)(a), if the final report
934 relates to an issue of public health or safety, as further defined by rule made by the department
935 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

936 (3) Reports provided under Subsection (2) may not include records that the medical
937 examiner obtains from a third party in the course of investigating the decedent's death.

938 (4) The medical examiner may provide a medical examiner record to a researcher who:

- 939 (a) has an advanced degree;
- 940 (b) (i) is affiliated with an accredited college or university, a hospital, or another
941 system of care, including an emergency medical response or a local health agency; or
- 942 (ii) is part of a research firm contracted with an accredited college or university, a

943 hospital, or another system of care;

944 (c) requests a medical examiner record for a research project or a quality improvement
945 initiative that will have a public health benefit, as determined by the ~~[Department of Health]~~
946 department; and

947 (d) provides to the medical examiner an approval from:

- 948 (i) the researcher's sponsoring organization; and
- 949 (ii) the Utah Department of Health and Human Services Institutional Review Board.

950 (5) Records provided under Subsection (4) may not include a third party record, unless:

- 951 (a) a court has ordered disclosure of the third party record; and
- 952 (b) disclosure is conducted in compliance with state and federal law.

953 (6) A person who obtains a medical examiner record under Subsection (4) shall:

- 954 (a) maintain the confidentiality of the medical examiner record by removing personally
955 identifying information about a decedent or the decedent's family and any other information

956 that may be used to identify a decedent before using the medical examiner record in research;

957 (b) conduct any research within and under the supervision of the Office of the Medical
958 Examiner, if the medical examiner record contains a third party record with personally
959 identifiable information;

960 (c) limit the use of a medical examiner record to the purpose for which the person
961 requested the medical examiner record;

962 (d) destroy a medical examiner record and the data abstracted from the medical
963 examiner record at the conclusion of the research for which the person requested the medical
964 examiner record;

965 (e) reimburse the medical examiner, as provided in Section [~~26-1-6~~] [26B-1-209](#), for
966 any costs incurred by the medical examiner in providing a medical examiner record;

967 (f) allow the medical examiner to review, before public release, a publication in which
968 data from a medical examiner record is referenced or analyzed; and

969 (g) provide the medical examiner access to the researcher's database containing data
970 from a medical examiner record, until the day on which the researcher permanently destroys
971 the medical examiner record and all data obtained from the medical examiner record.

972 (7) The department may make rules, in accordance with Title 63G, Chapter 3, Utah
973 Administrative Rulemaking Act, and in consideration of applicable state and federal law, to
974 establish permissible uses and disclosures of a medical examiner record or other record
975 obtained under this section.

976 (8) Except as provided in this chapter or ordered by a court, the medical examiner may
977 not disclose any part of a medical examiner record.

978 (9) A person who obtains a medical examiner record under Subsection (4) is guilty of a
979 class B misdemeanor, if the person fails to comply with the requirements of Subsections (6)(a)
980 through (d).

981 Section 12. Section **26-7-10** is amended to read:

982 **26-7-10. Youth Electronic Cigarette, Marijuana, and Other Drug Prevention**
983 **Program.**

984 (1) As used in this section:

985 (a) "Committee" means the Youth Electronic Cigarette, Marijuana, and Other Drug
986 Prevention Committee created in Section [~~26-1-7~~] [26B-1-204](#).

987 (b) "Program" means the Youth Electronic Cigarette, Marijuana, and Other Drug
988 Prevention Program created in this section.

989 (2) (a) There is created within the department the Youth Electronic Cigarette,
990 Marijuana, and Other Drug Prevention Program.

991 (b) In consultation with the committee, the department shall:

992 (i) establish guidelines for the use of funds appropriated to the program;

993 (ii) ensure that guidelines developed under Subsection (2)(b)(i) are evidence-based and
994 appropriate for the population targeted by the program; and

995 (iii) subject to appropriations from the Legislature, fund statewide initiatives to prevent
996 use of electronic cigarettes, nicotine products, marijuana, and other drugs by youth.

997 (3) (a) The committee shall advise the department on:

998 (i) preventing use of electronic cigarettes, marijuana, and other drugs by youth in the
999 state;

1000 (ii) developing the guidelines described in Subsection (2)(b)(i); and

1001 (iii) implementing the provisions of the program.

1002 (b) The executive director shall:

1003 (i) appoint members of the committee; and

1004 (ii) consult with the Utah Substance Use and Mental Health Advisory Council created
1005 in Section [63M-7-301](#) when making the appointments under Subsection (3)(b)(i).

1006 (c) The committee shall include, at a minimum:

1007 (i) the executive director of a local health department as defined in Section [26A-1-102](#),
1008 or the local health department executive director's designee;

1009 (ii) one designee from the department;

1010 (iii) one representative from the Department of Public Safety;

1011 (iv) one representative from the behavioral health community; and

1012 (v) one representative from the education community.

1013 (d) A member of the committee may not receive compensation or benefits for the
1014 member's service on the committee, but may receive per diem and travel expenses in
1015 accordance with:

1016 (i) Section [63A-3-106](#);

1017 (ii) Section [63A-3-107](#); and

- 1018 (iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- 1019 (e) The department shall provide staff support to the committee.
- 1020 (4) On or before October 31 of each year, the department shall report to:
- 1021 (a) the Health and Human Services Interim Committee regarding:
- 1022 (i) the use of funds appropriated to the program;
- 1023 (ii) the impact and results of the program, including the effectiveness of each program
- 1024 funded under Subsection (2)(b)(iii), during the previous fiscal year;
- 1025 (iii) a summary of the impacts and results on reducing youth use of electronic cigarettes
- 1026 and nicotine products by entities represented by members of the committee, including those
- 1027 entities who receive funding through the Electronic Cigarette Substance and Nicotine Product
- 1028 Tax Restricted Account created in Section 59-14-807; and
- 1029 (iv) any recommendations for legislation; and
- 1030 (b) the Utah Substance Use and Mental Health Advisory Council created in Section
- 1031 63M-7-301, regarding:
- 1032 (i) the effectiveness of each program funded under Subsection (2)(b)(iii) in preventing
- 1033 youth use of electronic cigarettes, nicotine products, marijuana, and other drugs; and
- 1034 (ii) any collaborative efforts and partnerships established by the program with public
- 1035 and private entities to prevent youth use of electronic cigarettes, marijuana, and other drugs.
- 1036 Section 13. Section 26-8a-102 is amended to read:
- 1037 **26-8a-102. Definitions.**
- 1038 As used in this chapter:
- 1039 (1) (a) "911 ambulance or paramedic services" means:
- 1040 (i) either:
- 1041 (A) 911 ambulance service;
- 1042 (B) 911 paramedic service; or
- 1043 (C) both 911 ambulance and paramedic service; and
- 1044 (ii) a response to a 911 call received by a designated dispatch center that receives 911
- 1045 or E911 calls.
- 1046 (b) "911 ambulance or paramedic services" does not mean a seven or ~~ten~~ 10 digit
- 1047 telephone call received directly by an ambulance provider licensed under this chapter.
- 1048 (2) "Ambulance" means a ground, air, or water vehicle that:

- 1049 (a) transports patients and is used to provide emergency medical services; and
1050 (b) is required to obtain a permit under Section [26-8a-304](#) to operate in the state.
1051 (3) "Ambulance provider" means an emergency medical service provider that:
1052 (a) transports and provides emergency medical care to patients; and
1053 (b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.
1054 (4) (a) "Behavioral emergency services" means delivering a behavioral health
1055 intervention to a patient in an emergency context within a scope and in accordance with
1056 guidelines established by the department.
1057 (b) "Behavioral emergency services" does not include engaging in the:
1058 (i) practice of mental health therapy as defined in Section [58-60-102](#);
1059 (ii) practice of psychology as defined in Section [58-61-102](#);
1060 (iii) practice of clinical social work as defined in Section [58-60-202](#);
1061 (iv) practice of certified social work as defined in Section [58-60-202](#);
1062 (v) practice of marriage and family therapy as defined in Section [58-60-302](#); [or]
1063 (vi) practice of clinical mental health counseling as defined in Section [58-60-402](#);
1064 [and] or
1065 (vii) practice as a substance use disorder counselor as defined in Section [58-60-502](#).
1066 (5) "Committee" means the State Emergency Medical Services Committee created by
1067 Section [~~26-1-7~~] [26B-1-204](#).
1068 (6) "Direct medical observation" means in-person observation of a patient by a
1069 physician, registered nurse, physician's assistant, or individual licensed under Section
1070 [26-8a-302](#).
1071 (7) "Emergency medical condition" means:
1072 (a) a medical condition that manifests itself by symptoms of sufficient severity,
1073 including severe pain, that a prudent layperson, who possesses an average knowledge of health
1074 and medicine, could reasonably expect the absence of immediate medical attention to result in:
1075 (i) placing the individual's health in serious jeopardy;
1076 (ii) serious impairment to bodily functions; or
1077 (iii) serious dysfunction of any bodily organ or part; or
1078 (b) a medical condition that in the opinion of a physician or the physician's designee
1079 requires direct medical observation during transport or may require the intervention of an

1080 individual licensed under Section 26-8a-302 during transport.

1081 (8) (a) "Emergency medical service personnel" means an individual who provides
1082 emergency medical services or behavioral emergency services to a patient and is required to be
1083 licensed or certified under Section 26-8a-302.

1084 (b) "Emergency medical service personnel" includes a paramedic, medical director of a
1085 licensed emergency medical service provider, emergency medical service instructor, behavioral
1086 emergency services technician, other categories established by the committee, and a certified
1087 emergency medical dispatcher.

1088 (9) "Emergency medical service providers" means:

1089 (a) licensed ambulance providers and paramedic providers;

1090 (b) a facility or provider that is required to be designated under Subsection
1091 26-8a-303(1)(a); and

1092 (c) emergency medical service personnel.

1093 (10) "Emergency medical services" means:

1094 (a) medical services;

1095 (b) transportation services;

1096 (c) behavioral emergency services; or

1097 (d) any combination of the services described in Subsections (10)(a) through (c).

1098 (11) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

1099 (a) maintained and used for the transportation of emergency medical personnel,
1100 equipment, and supplies to the scene of a medical emergency; and

1101 (b) required to be permitted under Section 26-8a-304.

1102 (12) "Governing body":

1103 (a) means the same as that term is defined in Section 11-42-102; and

1104 (b) for purposes of a "special service district" under Section 11-42-102, means a
1105 special service district that has been delegated the authority to select a provider under this
1106 chapter by the special service district's legislative body or administrative control board.

1107 (13) "Interested party" means:

1108 (a) a licensed or designated emergency medical services provider that provides
1109 emergency medical services within or in an area that abuts an exclusive geographic service area
1110 that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic

- 1111 Providers;
- 1112 (b) any municipality, county, or fire district that lies within or abuts a geographic
1113 service area that is the subject of an application submitted pursuant to Part 4, Ambulance and
1114 Paramedic Providers; or
- 1115 (c) the department when acting in the interest of the public.
- 1116 (14) "Medical control" means a person who provides medical supervision to an
1117 emergency medical service provider.
- 1118 (15) "Non-911 service" means transport of a patient that is not 911 transport under
1119 Subsection (1).
- 1120 (16) "Nonemergency secured behavioral health transport" means an entity that:
- 1121 (a) provides nonemergency secure transportation services for an individual who:
- 1122 (i) is not required to be transported by an ambulance under Section [26-8a-305](#); and
- 1123 (ii) requires behavioral health observation during transport between any of the
1124 following facilities:
- 1125 (A) a licensed acute care hospital;
- 1126 (B) an emergency patient receiving facility;
- 1127 (C) a licensed mental health facility; and
- 1128 (D) the office of a licensed health care provider; and
- 1129 (b) is required to be designated under Section [26-8a-303](#).
- 1130 (17) "Paramedic provider" means an entity that:
- 1131 (a) employs emergency medical service personnel; and
- 1132 (b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.
- 1133 (18) "Patient" means an individual who, as the result of illness, injury, or a behavioral
1134 emergency condition, meets any of the criteria in Section [26-8a-305](#).
- 1135 (19) "Political subdivision" means:
- 1136 (a) a city, town, or metro township;
- 1137 (b) a county;
- 1138 (c) a special service district created under Title 17D, Chapter 1, Special Service
1139 District Act, for the purpose of providing fire protection services under Subsection
1140 [17D-1-201](#)(9);
- 1141 (d) a local district created under Title 17B, Limited Purpose Local Government Entities

1142 - Local Districts, for the purpose of providing fire protection, paramedic, and emergency
1143 services;

1144 (e) areas coming together as described in Subsection [26-8a-405.2\(2\)\(b\)\(ii\)](#); or

1145 (f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.

1146 (20) "Trauma" means an injury requiring immediate medical or surgical intervention.

1147 (21) "Trauma system" means a single, statewide system that:

1148 (a) organizes and coordinates the delivery of trauma care within defined geographic
1149 areas from the time of injury through transport and rehabilitative care; and

1150 (b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in
1151 delivering care for trauma patients, regardless of severity.

1152 (22) "Triage" means the sorting of patients in terms of disposition, destination, or
1153 priority. For prehospital trauma victims, triage requires a determination of injury severity to
1154 assess the appropriate level of care according to established patient care protocols.

1155 (23) "Triage, treatment, transportation, and transfer guidelines" means written
1156 procedures that:

1157 (a) direct the care of patients; and

1158 (b) are adopted by the medical staff of an emergency patient receiving facility, trauma
1159 center, or an emergency medical service provider.

1160 Section 14. Section **26-8a-103** is amended to read:

1161 **26-8a-103. State Emergency Medical Services Committee -- Membership --**

1162 **Expenses.**

1163 (1) The State Emergency Medical Services Committee created by Section [~~26-1-7~~]
1164 [26B-1-204](#) shall be composed of the following 19 members appointed by the governor, at least
1165 six of whom shall reside in a county of the third, fourth, fifth, or sixth class:

1166 (a) five physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1167 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as follows:

1168 (i) one surgeon who actively provides trauma care at a hospital;

1169 (ii) one rural physician involved in emergency medical care;

1170 (iii) two physicians who practice in the emergency department of a general acute
1171 hospital; and

1172 (iv) one pediatrician who practices in the emergency department or critical care unit of

1173 a general acute hospital or a children's specialty hospital;
1174 (b) two representatives from private ambulance providers;
1175 (c) one representative from an ambulance provider that is neither privately owned nor
1176 operated by a fire department;
1177 (d) two chief officers from fire agencies operated by the following classes of licensed
1178 or designated emergency medical services providers: municipality, county, and fire district,
1179 provided that no class of medical services providers may have more than one representative
1180 under this Subsection (1)(d);
1181 (e) one director of a law enforcement agency that provides emergency medical
1182 services;
1183 (f) one hospital administrator;
1184 (g) one emergency care nurse;
1185 (h) one paramedic in active field practice;
1186 (i) one emergency medical technician in active field practice;
1187 (j) one certified emergency medical dispatcher affiliated with an emergency medical
1188 dispatch center;
1189 (k) one licensed mental health professional with experience as a first responder;
1190 (l) one licensed behavioral emergency services technician; and
1191 (m) one consumer.
1192 (2) (a) Except as provided in Subsection (2)(b), members shall be appointed to a
1193 four-year term beginning July 1.
1194 (b) Notwithstanding Subsection (2)(a), the governor:
1195 (i) shall, at the time of appointment or reappointment, adjust the length of terms to
1196 ensure that the terms of committee members are staggered so that approximately half of the
1197 committee is appointed every two years;
1198 (ii) may not reappoint a member for more than two consecutive terms; and
1199 (iii) shall:
1200 (A) initially appoint the second member under Subsection (1)(b) from a different
1201 private provider than the private provider currently serving under Subsection (1)(b); and
1202 (B) thereafter stagger each replacement of a member in Subsection (1)(b) so that the
1203 member positions under Subsection (1)(b) are not held by representatives of the same private

1204 provider.

1205 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
1206 appointed by the governor for the unexpired term.

1207 (3) (a) (i) Each January, the committee shall organize and select one of the committee's
1208 members as chair and one member as vice chair.

1209 (ii) The committee may organize standing or ad hoc subcommittees, which shall
1210 operate in accordance with guidelines established by the committee.

1211 (b) (i) The chair shall convene a minimum of four meetings per year.

1212 (ii) The chair may call special meetings.

1213 (iii) The chair shall call a meeting upon request of five or more members of the
1214 committee.

1215 (c) (i) Nine members of the committee constitute a quorum for the transaction of
1216 business.

1217 (ii) The action of a majority of the members present is the action of the committee.

1218 (4) A member may not receive compensation or benefits for the member's service, but
1219 may receive per diem and travel expenses in accordance with:

1220 (a) Section [63A-3-106](#);

1221 (b) Section [63A-3-107](#); and

1222 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
1223 [63A-3-107](#).

1224 (5) Administrative services for the committee shall be provided by the department.

1225 Section 15. Section **26-8a-107** is amended to read:

1226 **26-8a-107. Air Ambulance Committee -- Membership -- Duties.**

1227 (1) The Air Ambulance Committee created by Section [~~26-1-7~~] [26B-1-204](#) shall be
1228 composed of the following members:

1229 (a) the state emergency medical services medical director;

1230 (b) one physician who:

1231 (i) is licensed under:

1232 (A) Title 58, Chapter 67, Utah Medical Practice Act;

1233 (B) Title 58, Chapter 67b, Interstate Medical Licensure Compact; or

1234 (C) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

- 1235 (ii) actively provides trauma or emergency care at a Utah hospital; and
1236 (iii) has experience and is actively involved in state and national air medical transport
1237 issues;
- 1238 (c) one member from each level 1 and level 2 trauma center in the state of Utah,
1239 selected by the trauma center the member represents;
- 1240 (d) one registered nurse who:
1241 (i) is licensed under Title 58, Chapter 31b, Nurse Practice Act; and
1242 (ii) currently works as a flight nurse for an air medical transport provider in the state of
1243 Utah;
- 1244 (e) one paramedic who:
1245 (i) is licensed under [~~Title 26, Chapter 8a, Utah Emergency Medical Services System~~
1246 ~~Act~~] this chapter; and
1247 (ii) currently works for an air medical transport provider in the state of Utah; and
1248 (f) two members, each from a different for-profit air medical transport company
1249 operating in the state of Utah.
- 1250 (2) The state emergency medical services medical director shall appoint the physician
1251 member under Subsection (1)(b), and the physician shall serve as the chair of the Air
1252 Ambulance Committee.
- 1253 (3) The chair of the Air Ambulance Committee shall:
1254 (a) appoint the Air Ambulance Committee members under Subsections (1)(c) through
1255 (f);
1256 (b) designate the member of the Air Ambulance Committee to serve as the vice chair
1257 of the committee; and
1258 (c) set the agenda for Air Ambulance Committee meetings.
- 1259 (4) (a) Except as provided in Subsection (4)(b), members shall be appointed to a
1260 two-year term.
1261 (b) Notwithstanding Subsection (4)(a), the Air Ambulance Committee chair shall, at
1262 the time of appointment or reappointment, adjust the length of the terms of committee
1263 members to ensure that the terms of the committee members are staggered so that
1264 approximately half of the committee is reappointed every two years.
- 1265 (5) (a) A majority of the members of the Air Ambulance Committee constitutes a

1266 quorum.

1267 (b) The action of a majority of a quorum constitutes the action of the Air Ambulance
1268 Committee.

1269 (6) The Air Ambulance Committee shall, before November 30, 2019, and before
1270 November 30 of every odd-numbered year thereafter, provide recommendations to the Health
1271 and Human Services Interim Committee regarding the development of state standards and
1272 requirements related to:

1273 (a) air medical transport provider licensure and accreditation;

1274 (b) air medical transport medical personnel qualifications and training; and

1275 (c) other standards and requirements to ensure patients receive appropriate and
1276 high-quality medical attention and care by air medical transport providers operating in the state
1277 of Utah.

1278 (7) (a) The committee shall prepare an annual report, using any data available to the
1279 department and in consultation with the Insurance Department, that includes the following
1280 information for each air medical transport provider that operates in the state:

1281 (i) which health insurers in the state the air medical transport provider contracts with;

1282 (ii) if sufficient data is available to the committee, the average charge for air medical
1283 transport services for a patient who is uninsured or out of network; and

1284 (iii) whether the air medical transport provider balance bills a patient for any charge
1285 not paid by the patient's health insurer.

1286 (b) When calculating the average charge under Subsection (7)(a)(ii), the committee
1287 shall distinguish between:

1288 (i) a rotary wing provider and a fixed wing provider; and

1289 (ii) any other differences between air medical transport service providers that may
1290 substantially affect the cost of the air medical transport service, as determined by the
1291 committee.

1292 (c) The department shall:

1293 (i) post the committee's findings under Subsection (7)(a) on the department's website;
1294 and

1295 (ii) send the committee's findings under Subsection (7)(a) to each emergency medical
1296 service provider, health care facility, and other entity that has regular contact with patients in

1297 need of air medical transport provider services.

1298 (8) An Air Ambulance Committee member may not receive compensation, benefits,
1299 per diem, or travel expenses for the member's service on the committee.

1300 (9) The Office of the Attorney General shall provide staff support to the Air
1301 Ambulance Committee.

1302 (10) The Air Ambulance Committee shall report to the Health and Human Services
1303 Interim Committee before November 30, 2023, regarding the sunset of this section in
1304 accordance with Section [63I-2-226](#).

1305 Section 16. Section **26-8a-208** is amended to read:

1306 **26-8a-208. Fees for training equipment rental, testing, and quality assurance**
1307 **reviews.**

1308 (1) The department may charge fees, established pursuant to Section [~~26-1-6~~]
1309 [26B-1-209](#):

1310 (a) for the use of department-owned training equipment;

1311 (b) to administer tests and conduct quality assurance reviews; and

1312 (c) to process an application for a designation, permit, or license.

1313 (2) (a) Fees collected under Subsections (1)(a) and (b) shall be separate dedicated
1314 credits.

1315 (b) Fees under Subsection (1)(a) may be used to purchase training equipment.

1316 (c) Fees under Subsection (1)(b) may be used to administer tests and conduct quality
1317 assurance reviews.

1318 Section 17. Section **26-8a-302** is amended to read:

1319 **26-8a-302. Licensure of emergency medical service personnel.**

1320 (1) To promote the availability of comprehensive emergency medical services
1321 throughout the state, the committee shall establish:

1322 (a) initial and ongoing licensure and training requirements for emergency medical
1323 service personnel in the following categories:

1324 (i) paramedic;

1325 (ii) medical director;

1326 (iii) emergency medical service instructor;

1327 (iv) behavioral emergency services technician;

- 1328 (v) advanced behavioral emergency services technician; and
1329 (vi) except emergency medical dispatchers, other types of emergency medical service
1330 personnel as the committee considers necessary;
- 1331 (b) a method to monitor the certification status and continuing medical education hours
1332 for emergency medical dispatchers; and
1333 (c) guidelines for giving credit for out-of-state training and experience.
- 1334 (2) The department shall, based on the requirements established in Subsection (1):
1335 (a) develop, conduct, and authorize training and testing for emergency medical service
1336 personnel;
1337 (b) issue a license and license renewals to emergency medical service personnel other
1338 than emergency medical dispatchers; and
1339 (c) verify the certification of emergency medical dispatchers.
- 1340 (3) The department shall coordinate with [~~the Department of Human Services~~
1341 ~~established in Section 62A-1-102, and~~] local mental health authorities described in Section
1342 17-43-301[;] to develop and authorize initial and ongoing licensure and training requirements
1343 for licensure as a:
1344 (a) behavioral emergency services technician; and
1345 (b) advanced behavioral emergency services technician.
- 1346 (4) As provided in Section 26-8a-502, an individual issued a license or certified under
1347 this section may only provide emergency medical services to the extent allowed by the license
1348 or certification.
- 1349 (5) An individual may not be issued or retain a license under this section unless the
1350 individual obtains and retains background clearance under Section 26-8a-310.
- 1351 (6) An individual may not be issued or retain a certification under this section unless
1352 the individual obtains and retains background clearance in accordance with Section
1353 26-8a-310.5.
- 1354 Section 18. Section 26-8a-310 is amended to read:
1355 **26-8a-310. Background clearance for emergency medical service personnel.**
1356 (1) Subject to Section 26-8a-310.5, the department shall determine whether to grant
1357 background clearance for an individual seeking licensure or certification under Section
1358 26-8a-302 from whom the department receives:

1359 (a) the individual's social security number, fingerprints, and other personal
1360 identification information specified by the department under Subsection (4); and

1361 (b) any fees established by the department under Subsection (10).

1362 (2) The department shall determine whether to deny or revoke background clearance
1363 for individuals for whom the department has previously granted background clearance.

1364 (3) The department shall determine whether to grant, deny, or revoke background
1365 clearance for an individual based on an initial and ongoing evaluation of information the
1366 department obtains under Subsections (5) and (11), which, at a minimum, shall include an
1367 initial criminal background check of state, regional, and national databases using the
1368 individual's fingerprints.

1369 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
1370 Administrative Rulemaking Act, that specify:

1371 (a) the criteria the department will use under Subsection (3) to determine whether to
1372 grant, deny, or revoke background clearance; and

1373 (b) the other personal identification information an individual seeking licensure or
1374 certification under Section 26-8a-302 must submit under Subsection (1).

1375 (5) To determine whether to grant, deny, or revoke background clearance, the
1376 department may access and evaluate any of the following:

1377 (a) Department of Public Safety arrest, conviction, and disposition records described in
1378 Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including
1379 information in state, regional, and national records files;

1380 (b) adjudications by a juvenile court of committing an act that if committed by an adult
1381 would be a felony or misdemeanor, if:

1382 (i) the applicant is under 28 years old; or

1383 (ii) the applicant:

1384 (A) is over 28 years old; and

1385 (B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in
1386 abeyance or diversion agreement for a felony or misdemeanor;

1387 (c) juvenile court arrest, adjudication, and disposition records, other than those under
1388 Subsection (5)(b), as allowed under Section 78A-6-209;

1389 (d) child abuse or neglect findings described in Section 80-3-404;

1390 (e) the [~~Department of Human Services' Division of Child and Family Services~~]
1391 department's Licensing Information System described in Section [62A-4a-1006](#);

1392 (f) the [~~Department of Human Services' Division of Aging and Adult Services~~]
1393 department's database of reports of vulnerable adult abuse, neglect, or exploitation, described
1394 in Section [62A-3-311.1](#);

1395 (g) Division of Occupational and Professional Licensing records of licensing and
1396 certification under Title 58, Occupations and Professions;

1397 (h) records in other federal criminal background databases available to the state; and

1398 (i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance,
1399 pending diversion agreements, or dispositions.

1400 (6) Except for the Department of Public Safety, an agency may not charge the
1401 department for information accessed under Subsection (5).

1402 (7) When evaluating information under Subsection (3), the department shall classify a
1403 crime committed in another state according to the closest matching crime under Utah law,
1404 regardless of how the crime is classified in the state where the crime was committed.

1405 (8) The department shall adopt measures to protect the security of information the
1406 department accesses under Subsection (5), which shall include limiting access by department
1407 employees to those responsible for acquiring, evaluating, or otherwise processing the
1408 information.

1409 (9) The department may disclose personal identification information the department
1410 receives under Subsection (1) to the [~~Department of Human Services~~] department to verify that
1411 the subject of the information is not identified as a perpetrator or offender in the information
1412 sources described in Subsections (5)(d) through (f).

1413 (10) The department may charge fees, in accordance with Section [63J-1-504](#), to pay
1414 for:

1415 (a) the cost of obtaining, storing, and evaluating information needed under Subsection
1416 (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke
1417 background clearance; and

1418 (b) other department costs related to granting, denying, or revoking background
1419 clearance.

1420 (11) The Criminal Investigations and Technical Services Division within the

1421 Department of Public Safety shall:

1422 (a) retain, separate from other division records, personal information under Subsection
1423 (1), including any fingerprints sent to it by the [~~Department of Health~~] department; and

1424 (b) notify the [~~Department of Health~~] department upon receiving notice that an
1425 individual for whom personal information has been retained is the subject of:

1426 (i) a warrant for arrest;

1427 (ii) an arrest;

1428 (iii) a conviction, including a plea in abeyance; or

1429 (iv) a pending diversion agreement.

1430 (12) The department shall use the Direct Access Clearance System database created
1431 under Section 26-21-209 to manage information about the background clearance status of each
1432 individual for whom the department is required to make a determination under Subsection (1).

1433 (13) Clearance granted for an individual licensed or certified under Section 26-8a-302
1434 is valid until two years after the day on which the individual is no longer licensed or certified in
1435 Utah as emergency medical service personnel.

1436 Section 19. Section 26-9f-103 is amended to read:

1437 **26-9f-103. Utah Digital Health Service Commission.**

1438 (1) There is created within the department the Utah Digital Health Service
1439 Commission.

1440 (2) The governor shall appoint 13 members to the commission with the advice and
1441 consent of the Senate, as follows:

1442 (a) a physician who is involved in digital health service;

1443 (b) a representative of a health care system or a licensed health care facility as that term
1444 is defined in Section 26-21-2;

1445 (c) a representative of rural Utah, which may be a person nominated by an advisory
1446 committee on rural health issues [~~created pursuant to Section 26-1-20~~];

1447 (d) a member of the public who is not involved with digital health service;

1448 (e) a nurse who is involved in digital health service; and

1449 (f) eight members who fall into one or more of the following categories:

1450 (i) individuals who use digital health service in a public or private institution;

1451 (ii) individuals who use digital health service in serving medically underserved

1452 populations;

1453 (iii) nonphysician health care providers involved in digital health service;

1454 (iv) information technology professionals involved in digital health service;

1455 (v) representatives of the health insurance industry;

1456 (vi) telehealth digital health service consumer advocates; and

1457 (vii) individuals who use digital health service in serving mental or behavioral health

1458 populations.

1459 (3) (a) The commission shall annually elect a chairperson from its membership. The
1460 chairperson shall report to the executive director of the department.

1461 (b) The commission shall hold meetings at least once every three months. Meetings
1462 may be held from time to time on the call of the chair or a majority of the board members.

1463 (c) Seven commission members are necessary to constitute a quorum at any meeting
1464 and, if a quorum exists, the action of a majority of members present shall be the action of the
1465 commission.

1466 (4) (a) Except as provided in Subsection (4)(b), a commission member shall be
1467 appointed for a three-year term and eligible for two reappointments.

1468 (b) Notwithstanding Subsection (4)(a), the governor shall, at the time of appointment
1469 or reappointment, adjust the length of terms to ensure that the terms of commission members
1470 are staggered so that approximately 1/3 of the commission is appointed each year.

1471 (c) A commission member shall continue in office until the expiration of the member's
1472 term and until a successor is appointed, which may not exceed 90 days after the formal
1473 expiration of the term.

1474 (d) Notwithstanding Subsection (4)(c), a commission member who fails to attend 75%
1475 of the scheduled meetings in a calendar year shall be disqualified from serving.

1476 (e) When a vacancy occurs in membership for any reason, the replacement shall be
1477 appointed for the unexpired term.

1478 (5) A member may not receive compensation or benefits for the member's service, but,
1479 at the executive director's discretion, may receive per diem and travel expenses in accordance
1480 with:

1481 (a) Section [63A-3-106](#);

1482 (b) Section [63A-3-107](#); and

1483 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
1484 [63A-3-107](#).

1485 (6) The department shall provide informatics staff support to the commission.

1486 (7) The funding of the commission shall be a separate line item to the department in
1487 the annual appropriations act.

1488 Section 20. Section **26-10-6** is amended to read:

1489 **26-10-6. Testing of newborn infants.**

1490 (1) Except in the case where parents object on the grounds that they are members of a
1491 specified, well-recognized religious organization whose teachings are contrary to the tests
1492 required by this section, a newborn infant shall be tested for:

1493 (a) phenylketonuria (PKU);

1494 (b) other heritable disorders which may result in an intellectual or physical disability or
1495 death and for which:

1496 (i) a preventive measure or treatment is available; and

1497 (ii) there exists a reliable laboratory diagnostic test method;

1498 (c) (i) an infant born in a hospital with 100 or more live births annually, hearing loss;

1499 and

1500 (ii) an infant born in a setting other than a hospital with 100 or more live births
1501 annually, hearing loss; and

1502 (d) critical congenital heart defects using pulse oximetry.

1503 (2) In accordance with Section [~~26-1-6~~] [26B-1-209](#), the department may charge fees
1504 for:

1505 (a) materials supplied by the department to conduct tests required under Subsection (1);

1506 (b) tests required under Subsection (1) conducted by the department;

1507 (c) laboratory analyses by the department of tests conducted under Subsection (1); and

1508 (d) the administrative cost of follow-up contacts with the parents or guardians of tested
1509 infants.

1510 (3) Tests for hearing loss described in Subsection (1) shall be based on one or more
1511 methods approved by the Newborn Hearing Screening Committee, including:

1512 (a) auditory brainstem response;

1513 (b) automated auditory brainstem response; and

- 1514 (c) evoked otoacoustic emissions.
- 1515 (4) Results of tests for hearing loss described in Subsection (1) shall be reported to:
- 1516 (a) the department; and
- 1517 (b) when results of tests for hearing loss under Subsection (1) suggest that additional
- 1518 diagnostic procedures or medical interventions are necessary:
- 1519 (i) a parent or guardian of the infant;
- 1520 (ii) an early intervention program administered by the department in accordance with
- 1521 Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1431 et seq.; and
- 1522 (iii) the Utah Schools for the Deaf and the Blind, created in Section [53E-8-201](#).
- 1523 (5) (a) There is established the Newborn Hearing Screening Committee.
- 1524 (b) The committee shall advise the department on:
- 1525 (i) the validity and cost of newborn infant hearing loss testing procedures; and
- 1526 (ii) rules promulgated by the department to implement this section.
- 1527 (c) The committee shall be composed of at least 11 members appointed by the
- 1528 executive director, including:
- 1529 (i) one representative of the health insurance industry;
- 1530 (ii) one pediatrician;
- 1531 (iii) one family practitioner;
- 1532 (iv) one ear, nose, and throat specialist nominated by the Utah Medical Association;
- 1533 (v) two audiologists nominated by the Utah Speech-Language-Hearing Association;
- 1534 (vi) one representative of hospital neonatal nurseries;
- 1535 (vii) one representative of the Early Intervention Baby Watch Program administered by
- 1536 the department;
- 1537 (viii) one public health nurse;
- 1538 (ix) one consumer; and
- 1539 (x) the executive director or the executive director's designee.
- 1540 (d) Of the initial members of the committee, the executive director shall appoint as
- 1541 nearly as possible half to two-year terms and half to four-year terms. Thereafter, appointments
- 1542 shall be for four-year terms except:
- 1543 (i) for those members who have been appointed to complete an unexpired term; and
- 1544 (ii) as necessary to ensure that as nearly as possible the terms of half the appointments

1545 expire every two years.

1546 (e) A majority of the members constitute a quorum, and a vote of the majority of the
1547 members present constitutes an action of the committee.

1548 (f) The committee shall appoint a chairman from the committee's membership.

1549 (g) The committee shall meet at least quarterly.

1550 (h) A member may not receive compensation or benefits for the member's service, but
1551 may receive per diem and travel expenses in accordance with:

1552 (i) Section 63A-3-106;

1553 (ii) Section 63A-3-107; and

1554 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
1555 63A-3-107.

1556 (i) The department shall provide staff for the committee.

1557 (6) Before implementing the test required by Subsection (1)(d), the department shall
1558 conduct a pilot program for testing newborns for critical congenital heart defects using pulse
1559 oximetry. The pilot program shall include the development of:

1560 (a) appropriate oxygen saturation levels that would indicate a need for further medical
1561 follow-up; and

1562 (b) the best methods for implementing the pulse oximetry screening in newborn care
1563 units.

1564 Section 21. Section 26-10b-101 is amended to read:

1565 **26-10b-101. Definitions.**

1566 As used in this chapter:

1567 (1) "Committee" means the Primary Care Grant Committee [~~created in Section 26-1-7~~
1568 ~~and~~] described in Section 26-10b-106.

1569 (2) "Community based organization":

1570 (a) means a private entity; and

1571 (b) includes for profit and not for profit entities.

1572 (3) "Cultural competence" means a set of congruent behaviors, attitudes, and policies
1573 that come together in a system, agency, or profession and enables that system, agency, or
1574 profession to work effectively in cross-cultural situations.

1575 (4) "Executive director" means the executive director of the department.

1576 (5) "Health literacy" means the degree to which an individual has the capacity to
1577 obtain, process, and understand health information and services needed to make appropriate
1578 health decisions.

1579 (6) "Institutional capacity" means the ability of a community based organization to
1580 implement public and private contracts.

1581 (7) "Medically underserved population" means the population of an urban or rural area
1582 or a population group that the committee determines has a shortage of primary health care.

1583 (8) "Primary care grant" means a grant awarded by the department under Subsection
1584 [26-10b-102\(1\)](#).

1585 (9) (a) "Primary health care" means:

1586 (i) basic and general health care services given when a person seeks assistance to
1587 screen for or to prevent illness and disease, or for simple and common illnesses and injuries;
1588 and

1589 (ii) care given for the management of chronic diseases.

1590 (b) "Primary health care" includes:

1591 (i) services of physicians, nurses, physician's assistants, and dentists licensed to
1592 practice in this state under Title 58, Occupations and Professions;

1593 (ii) diagnostic and radiologic services;

1594 (iii) preventive health services including perinatal services, well-child services, and
1595 other services that seek to prevent disease or its consequences;

1596 (iv) emergency medical services;

1597 (v) preventive dental services; and

1598 (vi) pharmaceutical services.

1599 (10) "Program" means the primary care grant program created under this chapter.

1600 Section 22. Section **26-10b-106** is amended to read:

1601 **26-10b-106. Primary Care Grant Committee.**

1602 (1) The [~~Primary Care Grant Committee created in Section [26-1-7](#)~~] committee shall:

1603 (a) review grant applications forwarded to the committee by the department under
1604 Subsection [26-10b-104\(1\)](#);

1605 (b) recommend, to the executive director, grant applications to award under Subsection
1606 [26-10b-102\(1\)](#);

- 1607 (c) evaluate:
- 1608 (i) the need for primary health care in different areas of the state;
- 1609 (ii) how the program is addressing those needs; and
- 1610 (iii) the overall effectiveness and efficiency of the program;
- 1611 (d) review annual reports from primary care grant recipients;
- 1612 (e) meet as necessary to carry out its duties, or upon a call by the committee chair or by
- 1613 a majority of committee members; and
- 1614 (f) make rules, with the concurrence of the department, in accordance with Title 63G,
- 1615 Chapter 3, Utah Administrative Rulemaking Act, that govern the committee, including the
- 1616 committee's grant selection criteria.
- 1617 (2) The committee shall consist of:
- 1618 (a) as chair, the executive director or an individual designated by the executive
- 1619 director; and
- 1620 (b) six members appointed by the governor to serve up to two consecutive, two-year
- 1621 terms of office, including:
- 1622 (i) four licensed health care professionals; and
- 1623 (ii) two community advocates who are familiar with a medically underserved
- 1624 population and with health care systems, where at least one is familiar with a rural medically
- 1625 underserved population.
- 1626 (3) The executive director may remove a committee member:
- 1627 (a) if the member is unable or unwilling to carry out the member's assigned
- 1628 responsibilities; or
- 1629 (b) for a rational reason.
- 1630 (4) A committee member may not receive compensation or benefits for the member's
- 1631 service, except a committee member who is not an employee of the department may receive per
- 1632 diem and travel expenses in accordance with:
- 1633 (a) Section [63A-3-106](#);
- 1634 (b) Section [63A-3-107](#); and
- 1635 (c) rules made by the Division of Finance in accordance with Sections [63A-3-106](#) and
- 1636 [63A-3-107](#).
- 1637 Section 23. Section **26-18-2.4** is amended to read:

1638 **26-18-2.4. Medicaid drug program -- Preferred drug list.**

1639 (1) A Medicaid drug program developed by the department under Subsection
1640 26-18-2.3(2)(f):

1641 (a) shall, notwithstanding Subsection 26-18-2.3(1)(b), be based on clinical and
1642 cost-related factors which include medical necessity as determined by a provider in accordance
1643 with administrative rules established by the Drug Utilization Review Board;

1644 (b) may include therapeutic categories of drugs that may be exempted from the drug
1645 program;

1646 (c) may include placing some drugs, except the drugs described in Subsection (2), on a
1647 preferred drug list:

1648 (i) to the extent determined appropriate by the department; and

1649 (ii) in the manner described in Subsection (3) for psychotropic drugs;

1650 (d) notwithstanding the requirements of Part 2, Drug Utilization Review Board, and
1651 except as provided in Subsection (3), shall immediately implement the prior authorization
1652 requirements for a nonpreferred drug that is in the same therapeutic class as a drug that is:

1653 (i) on the preferred drug list on the date that this act takes effect; or

1654 (ii) added to the preferred drug list after this act takes effect; and

1655 (e) except as prohibited by Subsections 58-17b-606(4) and (5), shall establish the prior
1656 authorization requirements established under Subsections (1)(c) and (d) which shall permit a
1657 health care provider or the health care provider's agent to obtain a prior authorization override
1658 of the preferred drug list through the department's pharmacy prior authorization review process,
1659 and which shall:

1660 (i) provide either telephone or fax approval or denial of the request within 24 hours of
1661 the receipt of a request that is submitted during normal business hours of Monday through
1662 Friday from 8 a.m. to 5 p.m.;

1663 (ii) provide for the dispensing of a limited supply of a requested drug as determined
1664 appropriate by the department in an emergency situation, if the request for an override is
1665 received outside of the department's normal business hours; and

1666 (iii) require the health care provider to provide the department with documentation of
1667 the medical need for the preferred drug list override in accordance with criteria established by
1668 the department in consultation with the Pharmacy and Therapeutics Committee.

1669 (2) (a) For purposes of this Subsection (2):

1670 (i) "Immunosuppressive drug":

1671 (A) means a drug that is used in immunosuppressive therapy to inhibit or prevent
1672 activity of the immune system to aid the body in preventing the rejection of transplanted organs
1673 and tissue; and

1674 (B) does not include drugs used for the treatment of autoimmune disease or diseases
1675 that are most likely of autoimmune origin.

1676 (ii) "Stabilized" means a health care provider has documented in the patient's medical
1677 chart that a patient has achieved a stable or steadfast medical state within the past 90 days using
1678 a particular psychotropic drug.

1679 (b) A preferred drug list developed under the provisions of this section may not include
1680 an immunosuppressive drug.

1681 (c) The state Medicaid program shall reimburse for a prescription for an
1682 immunosuppressive drug as written by the health care provider for a patient who has undergone
1683 an organ transplant. For purposes of Subsection 58-17b-606(4), and with respect to patients
1684 who have undergone an organ transplant, the prescription for a particular immunosuppressive
1685 drug as written by a health care provider meets the criteria of demonstrating to the [~~Department~~
1686 ~~of Health~~] department a medical necessity for dispensing the prescribed immunosuppressive
1687 drug.

1688 (d) Notwithstanding the requirements of Part 2, Drug Utilization Review Board, the
1689 state Medicaid drug program may not require the use of step therapy for immunosuppressive
1690 drugs without the written or oral consent of the health care provider and the patient.

1691 (e) The department may include a sedative hypnotic on a preferred drug list in
1692 accordance with Subsection (2)(f).

1693 (f) The department shall grant a prior authorization for a sedative hypnotic that is not
1694 on the preferred drug list under Subsection (2)(e), if the health care provider has documentation
1695 related to one of the following conditions for the Medicaid client:

1696 (i) a trial and failure of at least one preferred agent in the drug class, including the
1697 name of the preferred drug that was tried, the length of therapy, and the reason for the
1698 discontinuation;

1699 (ii) detailed evidence of a potential drug interaction between current medication and

1700 the preferred drug;

1701 (iii) detailed evidence of a condition or contraindication that prevents the use of the
1702 preferred drug;

1703 (iv) objective clinical evidence that a patient is at high risk of adverse events due to a
1704 therapeutic interchange with a preferred drug;

1705 (v) the patient is a new or previous Medicaid client with an existing diagnosis
1706 previously stabilized with a nonpreferred drug; or

1707 (vi) other valid reasons as determined by the department.

1708 (g) A prior authorization granted under Subsection (2)(f) is valid for one year from the
1709 date the department grants the prior authorization and shall be renewed in accordance with
1710 Subsection (2)(f).

1711 (3) (a) For purposes of this Subsection (3), "psychotropic drug" means the following
1712 classes of drugs:

1713 (i) atypical anti-psychotic;

1714 (ii) anti-depressant;

1715 (iii) anti-convulsant/mood stabilizer;

1716 (iv) anti-anxiety; and

1717 (v) attention deficit hyperactivity disorder stimulant.

1718 (b) The department shall develop a preferred drug list for psychotropic drugs. Except
1719 as provided in Subsection (3)(d), a preferred drug list for psychotropic drugs developed under
1720 this section shall allow a health care provider to override the preferred drug list by writing
1721 "dispense as written" on the prescription for the psychotropic drug. A health care provider may
1722 not override Section 58-17b-606 by writing "dispense as written" on a prescription.

1723 (c) The department, and a Medicaid accountable care organization that is responsible
1724 for providing behavioral health, shall:

1725 (i) establish a system to:

1726 (A) track health care provider prescribing patterns for psychotropic drugs;

1727 (B) educate health care providers who are not complying with the preferred drug list;

1728 and

1729 (C) implement peer to peer education for health care providers whose prescribing
1730 practices continue to not comply with the preferred drug list; and

1731 (ii) determine whether health care provider compliance with the preferred drug list is at
1732 least:

1733 (A) 55% of prescriptions by July 1, 2017;

1734 (B) 65% of prescriptions by July 1, 2018; and

1735 (C) 75% of prescriptions by July 1, 2019.

1736 (d) Beginning October 1, 2019, the department shall eliminate the dispense as written
1737 override for the preferred drug list, and shall implement a prior authorization system for
1738 psychotropic drugs, in accordance with Subsection (2)(f), if by July 1, 2019, the department has
1739 not realized annual savings from implementing the preferred drug list for psychotropic drugs of
1740 at least \$750,000 General Fund savings.

1741 ~~[(e) The department shall report to the Health and Human Services Interim Committee~~
1742 ~~and the Social Services Appropriations Subcommittee before November 30, 2016, and before~~
1743 ~~each November 30 thereafter regarding compliance with and savings from implementation of~~
1744 ~~this Subsection (3).]~~

1745 Section 24. Section **26-21-2** is amended to read:

1746 **26-21-2. Definitions.**

1747 As used in this chapter:

1748 (1) "Abortion clinic" means a type I abortion clinic or a type II abortion clinic.

1749 (2) "Activities of daily living" means essential activities including:

1750 (a) dressing;

1751 (b) eating;

1752 (c) grooming;

1753 (d) bathing;

1754 (e) toileting;

1755 (f) ambulation;

1756 (g) transferring; and

1757 (h) self-administration of medication.

1758 (3) "Ambulatory surgical facility" means a freestanding facility, which provides
1759 surgical services to patients not requiring hospitalization.

1760 (4) "Assistance with activities of daily living" means providing of or arranging for the
1761 provision of assistance with activities of daily living.

- 1762 (5) (a) "Assisted living facility" means:
- 1763 (i) a type I assisted living facility, which is a residential facility that provides assistance
- 1764 with activities of daily living and social care to two or more residents who:
- 1765 (A) require protected living arrangements; and
- 1766 (B) are capable of achieving mobility sufficient to exit the facility without the
- 1767 assistance of another person; and
- 1768 (ii) a type II assisted living facility, which is a residential facility with a home-like
- 1769 setting that provides an array of coordinated supportive personal and health care services
- 1770 available 24 hours per day to residents who have been assessed under department rule to need
- 1771 any of these services.
- 1772 (b) Each resident in a type I or type II assisted living facility shall have a service plan
- 1773 based on the assessment, which may include:
- 1774 (i) specified services of intermittent nursing care;
- 1775 (ii) administration of medication; and
- 1776 (iii) support services promoting residents' independence and self sufficiency.
- 1777 (6) "Birthing center" means a facility that:
- 1778 (a) receives maternal clients and provides care during pregnancy, delivery, and
- 1779 immediately after delivery; and
- 1780 (b) (i) is freestanding; or
- 1781 (ii) is not freestanding, but meets the requirements for an alongside midwifery unit
- 1782 described in Subsection [26-21-29\(7\)](#).
- 1783 (7) "Committee" means the Health Facility Committee created in Section [~~26-1-7~~]
- 1784 [26B-1-204](#).
- 1785 (8) "Consumer" means any person not primarily engaged in the provision of health care
- 1786 to individuals or in the administration of facilities or institutions in which such care is provided
- 1787 and who does not hold a fiduciary position, or have a fiduciary interest in any entity involved in
- 1788 the provision of health care, and does not receive, either directly or through his spouse, more
- 1789 than 1/10 of his gross income from any entity or activity relating to health care.
- 1790 (9) "End stage renal disease facility" means a facility which furnishes staff-assisted
- 1791 kidney dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.
- 1792 (10) "Freestanding" means existing independently or physically separated from another

1793 health care facility by fire walls and doors and administrated by separate staff with separate
1794 records.

1795 (11) "General acute hospital" means a facility which provides diagnostic, therapeutic,
1796 and rehabilitative services to both inpatients and outpatients by or under the supervision of
1797 physicians.

1798 (12) "Governmental unit" means the state, or any county, municipality, or other
1799 political subdivision or any department, division, board, or agency of the state, a county,
1800 municipality, or other political subdivision.

1801 (13) (a) "Health care facility" means general acute hospitals, specialty hospitals, home
1802 health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing
1803 centers, ambulatory surgical facilities, small health care facilities, abortion clinics, facilities
1804 owned or operated by health maintenance organizations, end stage renal disease facilities, and
1805 any other health care facility which the committee designates by rule.

1806 (b) "Health care facility" does not include the offices of private physicians or dentists,
1807 whether for individual or group practice, except that it does include an abortion clinic.

1808 (14) "Health maintenance organization" means an organization, organized under the
1809 laws of any state which:

1810 (a) is a qualified health maintenance organization under 42 U.S.C. Sec. 300e-9; or

1811 (b) (i) provides or otherwise makes available to enrolled participants at least the
1812 following basic health care services: usual physician services, hospitalization, laboratory, x-ray,
1813 emergency, and preventive services and out-of-area coverage;

1814 (ii) is compensated, except for copayments, for the provision of the basic health
1815 services listed in Subsection (14)(b)(i) to enrolled participants by a payment which is paid on a
1816 periodic basis without regard to the date the health services are provided and which is fixed
1817 without regard to the frequency, extent, or kind of health services actually provided; and

1818 (iii) provides physicians' services primarily directly through physicians who are either
1819 employees or partners of such organizations, or through arrangements with individual
1820 physicians or one or more groups of physicians organized on a group practice or individual
1821 practice basis.

1822 (15) (a) "Home health agency" means an agency, organization, or facility or a
1823 subdivision of an agency, organization, or facility which employs two or more direct care staff

1824 persons who provide licensed nursing services, therapeutic services of physical therapy, speech
1825 therapy, occupational therapy, medical social services, or home health aide services on a
1826 visiting basis.

1827 (b) "Home health agency" does not mean an individual who provides services under
1828 the authority of a private license.

1829 (16) "Hospice" means a program of care for the terminally ill and their families which
1830 occurs in a home or in a health care facility and which provides medical, palliative,
1831 psychological, spiritual, and supportive care and treatment.

1832 (17) "Nursing care facility" means a health care facility, other than a general acute or
1833 specialty hospital, constructed, licensed, and operated to provide patient living
1834 accommodations, 24-hour staff availability, and at least two of the following patient services:

1835 (a) a selection of patient care services, under the direction and supervision of a
1836 registered nurse, ranging from continuous medical, skilled nursing, psychological, or other
1837 professional therapies to intermittent health-related or paraprofessional personal care services;

1838 (b) a structured, supportive social living environment based on a professionally
1839 designed and supervised treatment plan, oriented to the individual's habilitation or
1840 rehabilitation needs; or

1841 (c) a supervised living environment that provides support, training, or assistance with
1842 individual activities of daily living.

1843 (18) "Person" means any individual, firm, partnership, corporation, company,
1844 association, or joint stock association, and the legal successor thereof.

1845 (19) "Resident" means a person 21 years [~~of age~~] old or older who:

1846 (a) as a result of physical or mental limitations or age requires or requests services
1847 provided in an assisted living facility; and

1848 (b) does not require intensive medical or nursing services as provided in a hospital or
1849 nursing care facility.

1850 (20) "Small health care facility" means a four to 16 bed facility that provides licensed
1851 health care programs and services to residents.

1852 (21) "Specialty hospital" means a facility which provides specialized diagnostic,
1853 therapeutic, or rehabilitative services in the recognized specialty or specialties for which the
1854 hospital is licensed.

1855 (22) "Substantial compliance" means in a department survey of a licensee, the
1856 department determines there is an absence of deficiencies which would harm the physical
1857 health, mental health, safety, or welfare of patients or residents of a licensee.

1858 (23) "Type I abortion clinic" means a facility, including a physician's office, but not
1859 including a general acute or specialty hospital, that:

1860 (a) performs abortions, as defined in Section 76-7-301, during the first trimester of
1861 pregnancy; and

1862 (b) does not perform abortions, as defined in Section 76-7-301, after the first trimester
1863 of pregnancy.

1864 (24) "Type II abortion clinic" means a facility, including a physician's office, but not
1865 including a general acute or specialty hospital, that:

1866 (a) performs abortions, as defined in Section 76-7-301, after the first trimester of
1867 pregnancy; or

1868 (b) performs abortions, as defined in Section 76-7-301, during the first trimester of
1869 pregnancy and after the first trimester of pregnancy.

1870 Section 25. Section 26-21-3 is amended to read:

1871 **26-21-3. Health Facility Committee -- Members -- Terms -- Organization --**
1872 **Meetings.**

1873 (1) (a) The [~~Health Facility Committee created by Section 26-1-7 consists~~] committee
1874 shall consist of 12 members appointed by the governor in consultation with the executive
1875 director.

1876 (b) The appointed members shall be knowledgeable about health care facilities and
1877 issues.

1878 (2) The membership of the committee is:

1879 (a) one physician, licensed to practice medicine and surgery under Title 58, Chapter 67,
1880 Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act,
1881 who is a graduate of a regularly chartered medical school;

1882 (b) one hospital administrator;

1883 (c) one hospital trustee;

1884 (d) one representative of a freestanding ambulatory surgical facility;

1885 (e) one representative of an ambulatory surgical facility that is affiliated with a

1886 hospital;

1887 (f) one representative of the nursing care facility industry;

1888 (g) one registered nurse, licensed to practice under Title 58, Chapter 31b, Nurse
1889 Practice Act;

1890 (h) one licensed architect or engineer with expertise in health care facilities;

1891 (i) one representative of assisted living facilities licensed under this chapter;

1892 (j) two consumers, one of whom has an interest in or expertise in geriatric care; and

1893 (k) one representative from either a home health care provider or a hospice provider.

1894 (3) (a) Except as required by Subsection (3)(b), members shall be appointed for a term
1895 of four years.

1896 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
1897 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1898 committee members are staggered so that approximately half of the committee is appointed
1899 every two years.

1900 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
1901 appointed for the unexpired term by the governor, giving consideration to recommendations
1902 made by the committee, with the consent of the Senate.

1903 (d) A member may not serve more than two consecutive full terms or 10 consecutive
1904 years, whichever is less. However, a member may continue to serve as a member until the
1905 member is replaced.

1906 (e) The committee shall annually elect from its membership a chair and vice chair.

1907 (f) The committee shall meet at least quarterly, or more frequently as determined by the
1908 chair or five members of the committee.

1909 (g) Six members constitute a quorum. A vote of the majority of the members present
1910 constitutes action of the committee.

1911 Section 26. Section **26-23b-102** is amended to read:

1912 **26-23b-102. Definitions.**

1913 As used in this chapter:

1914 (1) "Bioterrorism" means:

1915 (a) the intentional use of any microorganism, virus, infectious substance, or biological
1916 product to cause death, disease, or other biological malfunction in a human, an animal, a plant,

1917 or another living organism in order to influence, intimidate, or coerce the conduct of
1918 government or a civilian population; and

1919 (b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic
1920 fevers.

1921 [~~(2)~~] "~~Department~~" means the Department of Health created in Section ~~26-1-4~~ and a
1922 local health department as defined in Section ~~26A-1-102~~.]

1923 [~~(3)~~] (2) "Diagnostic information" means a clinical facility's record of individuals who
1924 present for treatment, including the reason for the visit, chief complaint, presenting diagnosis,
1925 final diagnosis, and any pertinent lab results.

1926 [~~(4)~~] (3) "Epidemic or pandemic disease":

1927 (a) means the occurrence in a community or region of cases of an illness clearly in
1928 excess of normal expectancy; and

1929 (b) includes diseases designated by the [~~Department of Health~~] department which have
1930 the potential to cause serious illness or death.

1931 [~~(5)~~] (4) "Exigent circumstances" means a significant change in circumstances
1932 following the expiration of a public health emergency declared in accordance with this title
1933 that:

1934 (a) substantially increases the threat to public safety or health relative to the
1935 circumstances in existence when the public health emergency expired;

1936 (b) poses an imminent threat to public safety or health; and

1937 (c) was not known or foreseen and could not have been known or foreseen at the time
1938 the public health emergency expired.

1939 [~~(6)~~] (5) "Health care provider" means the same as that term is defined in Section
1940 ~~78B-3-403~~.

1941 [~~(7)~~] (6) "Legislative emergency response committee" means the same as that term is
1942 defined in Section ~~53-2a-203~~.

1943 [~~(8)~~] (7) (a) "Order of constraint" means an order, rule, or regulation issued in response
1944 to a declared public health emergency under this chapter, that:

1945 (i) applies to all or substantially all:

1946 (A) individuals or a certain group of individuals; or

1947 (B) public places or certain types of public places; and

1948 (ii) for the protection of the public health and in response to the declared public health
1949 emergency:

1950 (A) establishes, maintains, or enforces isolation or quarantine;

1951 (B) establishes, maintains, or enforces a stay-at-home order;

1952 (C) exercises physical control over property or individuals;

1953 (D) requires an individual to perform a certain action or engage in certain behavior; or

1954 (E) closes theaters, schools, or other public places or prohibits gatherings of people to
1955 protect the public health.

1956 (b) "Order of constraint" includes a stay-at-home order.

1957 ~~[(9)]~~ (8) "Public health emergency" means an occurrence or imminent credible threat of
1958 an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or novel
1959 and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant
1960 number of human fatalities or incidents of permanent or long-term disability. Such illness or
1961 health condition includes an illness or health condition resulting from a natural disaster.

1962 ~~[(10)]~~ (9) "Reportable emergency illness and health condition" includes the diseases,
1963 conditions, or syndromes designated by the ~~[Department of Health]~~ department.

1964 ~~[(11)]~~ (10) "Stay-at-home order" means an order of constraint that:

1965 (a) restricts movement of the general population to suppress or mitigate an epidemic or
1966 pandemic disease by directing individuals within a defined geographic area to remain in their
1967 respective residences; and

1968 (b) may include exceptions for certain essential tasks.

1969 Section 27. Section **26-25-1** is amended to read:

1970 **26-25-1. Authority to provide data on treatment and condition of persons to**
1971 **designated agencies -- Immunity from liability.**

1972 (1) Any person, health facility, or other organization may, without incurring liability,
1973 provide the following information to the persons and entities described in Subsection (2):

1974 (a) information as determined by the state registrar of vital records appointed under
1975 Title 26, Chapter 2, Utah Vital Statistics Act;

1976 (b) interviews;

1977 (c) reports;

1978 (d) statements;

- 1979 (e) memoranda;
- 1980 (f) familial information; and
- 1981 (g) other data relating to the condition and treatment of any person.
- 1982 (2) The information described in Subsection (1) may be provided to:
- 1983 (a) the department and local health departments;
- 1984 (b) the Division of [~~Substance Abuse and Mental Health~~] Integrated Healthcare within
- 1985 the Department of Health and Human Services;
- 1986 (c) scientific and health care research organizations affiliated with institutions of higher
- 1987 education;
- 1988 (d) the Utah Medical Association or any of its allied medical societies;
- 1989 (e) peer review committees;
- 1990 (f) professional review organizations;
- 1991 (g) professional societies and associations; and
- 1992 (h) any health facility's in-house staff committee for the uses described in Subsection
- 1993 (3).
- 1994 (3) The information described in Subsection (1) may be provided for the following
- 1995 purposes:
- 1996 (a) study and advancing medical research, with the purpose of reducing the incidence
- 1997 of disease, morbidity, or mortality; or
- 1998 (b) the evaluation and improvement of hospital and health care rendered by hospitals,
- 1999 health facilities, or health care providers.
- 2000 (4) Any person may, without incurring liability, provide information, interviews,
- 2001 reports, statements, memoranda, or other information relating to the ethical conduct of any
- 2002 health care provider to peer review committees, professional societies and associations, or any
- 2003 in-hospital staff committee to be used for purposes of intraprofessional society or association
- 2004 discipline.
- 2005 (5) No liability may arise against any person or organization as a result of:
- 2006 (a) providing information or material authorized in this section;
- 2007 (b) releasing or publishing findings and conclusions of groups referred to in this
- 2008 section to advance health research and health education; or
- 2009 (c) releasing or publishing a summary of these studies in accordance with this chapter.

2010 (6) As used in this chapter:

2011 (a) "health care provider" has the meaning set forth in Section 78B-3-403; and

2012 (b) "health care facility" has the meaning set forth in Section 26-21-2.

2013 Section 28. Section 26-33a-102 is amended to read:

2014 **26-33a-102. Definitions.**

2015 As used in this chapter:

2016 (1) "Committee" means the Health Data Committee created by Section [26-1-7]
2017 [26B-1-204](#).

2018 (2) "Control number" means a number assigned by the committee to an individual's
2019 health data as an identifier so that the health data can be disclosed or used in research and
2020 statistical analysis without readily identifying the individual.

2021 (3) "Data supplier" means a health care facility, health care provider, self-funded
2022 employer, third-party payor, health maintenance organization, or government department which
2023 could reasonably be expected to provide health data under this chapter.

2024 (4) "Disclosure" or "disclose" means the communication of health care data to any
2025 individual or organization outside the committee, its staff, and contracting agencies.

2026 [~~5~~] "Executive director" means the director of the department.]

2027 [~~6~~] (5) (a) "Health care facility" means a facility that is licensed by the department
2028 under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

2029 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2030 committee, with the concurrence of the department, may by rule add, delete, or modify the list
2031 of facilities that come within this definition for purposes of this chapter.

2032 [~~7~~] (6) "Health care provider" means any person, partnership, association,
2033 corporation, or other facility or institution that renders or causes to be rendered health care or
2034 professional services as a physician, physician assistant, registered nurse, licensed practical
2035 nurse, nurse-midwife, dentist, dental hygienist, optometrist, clinical laboratory technologist,
2036 pharmacist, physical therapist, podiatric physician, psychologist, chiropractic physician,
2037 naturopathic physician, osteopathic physician, osteopathic physician and surgeon, audiologist,
2038 speech pathologist, certified social worker, social service worker, social service aide, marriage
2039 and family counselor, or practitioner of obstetrics, and others rendering similar care and
2040 services relating to or arising out of the health needs of persons or groups of persons, and

2041 officers, employees, or agents of any of the above acting in the course and scope of their
2042 employment.

2043 ~~[(8)]~~ (7) "Health data" means information relating to the health status of individuals,
2044 health services delivered, the availability of health manpower and facilities, and the use and
2045 costs of resources and services to the consumer, except vital records as defined in Section
2046 26-2-2 shall be excluded.

2047 ~~[(9)]~~ (8) "Health maintenance organization" has the meaning set forth in Section
2048 31A-8-101.

2049 ~~[(10)]~~ (9) "Identifiable health data" means any item, collection, or grouping of health
2050 data that makes the individual supplying or described in the health data identifiable.

2051 ~~[(11) "Individual" means a natural person.]~~

2052 ~~[(12)]~~ (10) "Organization" means any corporation, association, partnership, agency,
2053 department, unit, or other legally constituted institution or entity, or part thereof.

2054 ~~[(13)]~~ (11) "Research and statistical analysis" means activities using health data
2055 analysis including:

2056 (a) describing the group characteristics of individuals or organizations;

2057 (b) analyzing the noncompliance among the various characteristics of individuals or
2058 organizations;

2059 (c) conducting statistical procedures or studies to improve the quality of health data;

2060 (d) designing sample surveys and selecting samples of individuals or organizations;

2061 and

2062 (e) preparing and publishing reports describing these matters.

2063 ~~[(14)]~~ (12) "Self-funded employer" means an employer who provides for the payment
2064 of health care services for employees directly from the employer's funds, thereby assuming the
2065 financial risks rather than passing them on to an outside insurer through premium payments.

2066 ~~[(15)]~~ (13) "Plan" means the plan developed and adopted by the Health Data
2067 Committee under Section 26-33a-104.

2068 ~~[(16)]~~ (14) "Third party payor" means:

2069 (a) an insurer offering a health benefit plan, as defined by Section 31A-1-301, to at
2070 least 2,500 enrollees in the state;

2071 (b) a nonprofit health service insurance corporation licensed under Title 31A, Chapter

2072 7, Nonprofit Health Service Insurance Corporations;

2073 (c) a program funded or administered by Utah for the provision of health care services,
2074 including the Medicaid and medical assistance programs described in Chapter 18, Medical
2075 Assistance Act; and

2076 (d) a corporation, organization, association, entity, or person:

2077 (i) which administers or offers a health benefit plan to at least 2,500 enrollees in the
2078 state; and

2079 (ii) which is required by administrative rule adopted by the department in accordance
2080 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to supply health data to the
2081 committee.

2082 Section 29. Section **26-33a-103** is amended to read:

2083 **26-33a-103. Committee membership -- Terms -- Chair -- Compensation.**

2084 (1) The [~~Health Data Committee created by Section 26-1-7~~] committee shall be
2085 composed of 15 members.

2086 (2) (a) One member shall be:

2087 (i) the commissioner of the Utah Insurance Department; or

2088 (ii) the commissioner's designee who shall have knowledge regarding the health care
2089 system and characteristics and use of health data.

2090 (b) Fourteen members shall be appointed by the governor with the advice and consent
2091 of the Senate in accordance with Subsection (3) and in accordance with Title 63G, Chapter 24,
2092 Part 2, Vacancies. No more than seven members of the committee appointed by the governor
2093 may be members of the same political party.

2094 (3) The members of the committee appointed under Subsection (2)(b) shall:

2095 (a) be knowledgeable regarding the health care system and the characteristics and use
2096 of health data;

2097 (b) be selected so that the committee at all times includes individuals who provide
2098 care;

2099 (c) include one person employed by or otherwise associated with a general acute
2100 hospital as defined by Section 26-21-2, who is knowledgeable about the collection, analysis,
2101 and use of health care data;

2102 (d) include two physicians, as defined in Section 58-67-102:

- 2103 (i) who are licensed to practice in this state;
- 2104 (ii) who actively practice medicine in this state;
- 2105 (iii) who are trained in or have experience with the collection, analysis, and use of
- 2106 health care data; and
- 2107 (iv) one of whom is selected by the Utah Medical Association;
- 2108 (e) include three persons:
- 2109 (i) who are:
- 2110 (A) employed by or otherwise associated with a business that supplies health care
- 2111 insurance to its employees; and
- 2112 (B) knowledgeable about the collection and use of health care data; and
- 2113 (ii) at least one of whom represents an employer employing 50 or fewer employees;
- 2114 (f) include three persons representing health insurers:
- 2115 (i) at least one of whom is employed by or associated with a third-party payor that is
- 2116 not licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited
- 2117 Health Plans;
- 2118 (ii) at least one of whom is employed by or associated with a third party payer that is
- 2119 licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health
- 2120 Plans; and
- 2121 (iii) who are trained in, or experienced with the collection, analysis, and use of health
- 2122 care data;
- 2123 (g) include two consumer representatives:
- 2124 (i) from organized consumer or employee associations; and
- 2125 (ii) knowledgeable about the collection and use of health care data;
- 2126 (h) include one person:
- 2127 (i) representative of a neutral, non-biased entity that can demonstrate that it has the
- 2128 broad support of health care payers and health care providers; and
- 2129 (ii) who is knowledgeable about the collection, analysis, and use of health care data;
- 2130 and
- 2131 (i) include two persons representing public health who are trained in, or experienced
- 2132 with the collection, use, and analysis of health care data.
- 2133 (4) (a) Except as required by Subsection (4)(b), as terms of current committee members

2134 expire, the governor shall appoint each new member or reappointed member to a four-year
2135 term.

2136 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
2137 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
2138 committee members are staggered so that approximately half of the committee is appointed
2139 every two years.

2140 (c) Members may serve after their terms expire until replaced.

2141 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
2142 appointed for the unexpired term.

2143 (6) Committee members shall annually elect a chair of the committee from among their
2144 membership. The chair shall report to the executive director.

2145 (7) The committee shall meet at least once during each calendar quarter. Meeting dates
2146 shall be set by the chair upon 10 working days notice to the other members, or upon written
2147 request by at least four committee members with at least 10 working days notice to other
2148 committee members.

2149 (8) Eight committee members constitute a quorum for the transaction of business.
2150 Action may not be taken except upon the affirmative vote of a majority of a quorum of the
2151 committee.

2152 (9) A member may not receive compensation or benefits for the member's service, but
2153 may receive per diem and travel expenses in accordance with:

2154 (a) Section [63A-3-106](#);

2155 (b) Section [63A-3-107](#); and

2156 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
2157 [63A-3-107](#).

2158 (10) All meetings of the committee shall be open to the public, except that the
2159 committee may hold a closed meeting if the requirements of Sections [52-4-204](#), [52-4-205](#), and
2160 [52-4-206](#) are met.

2161 (11) A member shall comply with the conflict of interest provisions described in Title
2162 63G, Chapter 24, Part 3, Conflicts of Interest.

2163 Section 30. Section **26-39-102** is amended to read:

2164 **26-39-102. Definitions.**

2165 As used in this chapter:

2166 (1) "Advisory committee" means the Residential Child Care Licensing Advisory
2167 Committee[;] created in Section [~~26-1-7~~] [26B-1-204](#).

2168 (2) (a) "Center based child care" means, except as provided in Subsection (2)(b), a
2169 child care program licensed under this chapter.

2170 (b) "Center based child care" does not include:

2171 (i) a residential child care provider certified under Section [26-39-402](#); or

2172 (ii) a facility or program exempt under Section [26-39-403](#).

2173 (3) "Child care" means continuous care and supervision of five or more qualifying
2174 children, that is:

2175 (a) in lieu of care ordinarily provided by a parent in the parent's home;

2176 (b) for less than 24 hours a day; and

2177 (c) for direct or indirect compensation.

2178 (4) "Child care program" means a child care facility or program operated by a person
2179 who holds a license or certificate issued in accordance with this chapter.

2180 (5) "Exempt provider" means a person who provides care described in Subsection
2181 [26-39-403](#)(2).

2182 (6) "Licensing committee" means the Child Care Center Licensing Committee created
2183 in Section [~~26-1-7~~] [26B-1-204](#).

2184 (7) "Public school" means:

2185 (a) a school, including a charter school, that:

2186 (i) is directly funded at public expense; and

2187 (ii) provides education to qualifying children for any grade from first grade through
2188 twelfth grade; or

2189 (b) a school, including a charter school, that provides:

2190 (i) preschool or kindergarten to qualifying children, regardless of whether the preschool
2191 or kindergarten is funded at public expense; and

2192 (ii) education to qualifying children for any grade from first grade through twelfth
2193 grade, if each grade, from first grade to twelfth grade, that is provided at the school, is directly
2194 funded at public expense.

2195 (8) "Qualifying child" means an individual who is:

- 2196 (a) (i) under the age of 13 years old; or
- 2197 (ii) under the age of 18 years old, if the person has a disability; and
- 2198 (b) a child of:
 - 2199 (i) a person other than the person providing care to the child;
 - 2200 (ii) a licensed or certified residential child care provider, if the child is under the age of
 - 2201 four; or
 - 2202 (iii) an employee or owner of a licensed child care center, if the child is under the age
 - 2203 of four.
- 2204 (9) "Residential child care" means child care provided in the home of a provider.
- 2205 Section 31. Section **26-39-200** is amended to read:
- 2206 **26-39-200. Child Care Center Licensing Committee.**
- 2207 (1) (a) The [~~Child Care Center Licensing Committee created in Section 26-1-7~~]
- 2208 licensing committee shall be comprised of seven members appointed by the governor and
- 2209 approved by the Senate in accordance with this subsection.
- 2210 (b) The governor shall appoint three members who:
 - 2211 (i) have at least five years of experience as an owner in or director of a for profit or
 - 2212 not-for-profit center based child care; and
 - 2213 (ii) hold an active license as a child care center from the department to provide center
 - 2214 based child care.
- 2215 (c) (i) The governor shall appoint one member to represent each of the following:
 - 2216 (A) a parent with a child in center based child care;
 - 2217 (B) a child development expert from the state system of higher education;
 - 2218 (C) except as provided in Subsection (1)(e), a pediatrician licensed in the state; and
 - 2219 (D) an architect licensed in the state.
- 2220 (ii) Except as provided in Subsection (1)(c)(i)(B), a member appointed under
- 2221 Subsection (1)(c)(i) may not be an employee of the state or a political subdivision of the state.
- 2222 (d) At least one member described in Subsection (1)(b) shall at the time of appointment
- 2223 reside in a county that is not a county of the first class.
- 2224 (e) For the appointment described in Subsection (1)(c)(i)(C), the governor may appoint
- 2225 a health care professional who specializes in pediatric health if:
 - 2226 (i) the health care professional is licensed under:

2227 (A) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice nurse
2228 practitioner; or
2229 (B) Title 58, Chapter 70a, Utah Physician Assistant Act; and
2230 (ii) before appointing a health care professional under this Subsection (1)(e), the
2231 governor:
2232 (A) sends a notice to a professional physician organization in the state regarding the
2233 opening for the appointment described in Subsection (1)(c)(i)(C); and
2234 (B) receives no applications from a pediatrician who is licensed in the state for the
2235 appointment described in Subsection (1)(c)(i)(C) within 90 days after the day on which the
2236 governor sends the notice described in Subsection (1)(e)(ii)(A).
2237 (2) (a) Except as required by Subsection (2)(b), as terms of current members expire, the
2238 governor shall appoint each new member or reappointed member to a four-year term ending
2239 June 30.
2240 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the
2241 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
2242 members are staggered so that approximately half of the licensing committee is appointed
2243 every two years.
2244 (c) Upon the expiration of the term of a member of the licensing committee, the
2245 member shall continue to hold office until a successor is appointed and qualified.
2246 (d) A member may not serve more than two consecutive terms.
2247 (e) Members of the licensing committee shall annually select one member to serve as
2248 chair who shall establish the agenda for licensing committee meetings.
2249 (3) When a vacancy occurs in the membership for any reason, the governor, with the
2250 advice and consent of the Senate, shall appoint a replacement for the unexpired term.
2251 (4) (a) The licensing committee shall meet at least every two months.
2252 (b) The director may call additional meetings:
2253 (i) at the director's discretion;
2254 (ii) upon the request of the chair; or
2255 (iii) upon the written request of three or more members.
2256 (5) Three members of the licensing committee constitute a quorum for the transaction
2257 of business.

2258 (6) A member of the licensing committee may not receive compensation or benefits for
2259 the member's service, but may receive per diem and travel expenses as allowed in:

2260 (a) Section 63A-3-106;

2261 (b) Section 63A-3-107; and

2262 (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and
2263 63A-3-107.

2264 Section 32. Section 26-39-201 is amended to read:

2265 **26-39-201. Residential Child Care Licensing Advisory Committee.**

2266 (1) (a) The [~~Residential Child Care Licensing Advisory Committee created in Section~~
2267 ~~26-1-7~~] advisory committee shall advise the department on rules made by the department under
2268 this chapter for residential child care.

2269 (b) The advisory committee shall be composed of the following nine members who
2270 shall be appointed by the executive director:

2271 (i) two child care consumers;

2272 (ii) three licensed residential child care providers;

2273 (iii) one certified residential child care provider;

2274 (iv) one individual with expertise in early childhood development; and

2275 (v) two health care providers.

2276 (2) (a) Members of the advisory committee shall be appointed for four-year terms,
2277 except for those members who have been appointed to complete an unexpired term.

2278 (b) Appointments and reappointments may be staggered so that 1/4 of the advisory
2279 committee changes each year.

2280 (c) The advisory committee shall annually elect a chair from its membership.

2281 (3) The advisory committee shall meet at least quarterly, or more frequently as
2282 determined by the executive director, the chair, or three or more members of the committee.

2283 (4) Five members constitute a quorum and a vote of the majority of the members
2284 present constitutes an action of the advisory committee.

2285 (5) A member of the advisory committee may not receive compensation or benefits for
2286 the member's service, but may receive per diem and travel expenses as allowed in:

2287 (a) Section 63A-3-106;

2288 (b) Section 63A-3-107; and

2289 (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and
2290 63A-3-107.

2291 Section 33. Section 26-39-301 is amended to read:

2292 **26-39-301. Duties of the department -- Enforcement of chapter -- Licensing**
2293 **committee requirements.**

2294 (1) With regard to residential child care licensed or certified under this chapter, the
2295 department may:

2296 (a) make and enforce rules to implement this chapter and, as necessary to protect
2297 qualifying children's common needs for a safe and healthy environment, to provide for:

2298 (i) adequate facilities and equipment; and

2299 (ii) competent caregivers, considering the age of the children and the type of program
2300 offered by the licensee; and

2301 (b) make and enforce rules necessary to carry out the purposes of this chapter, in the
2302 following areas:

2303 (i) requirements for applications, the application process, and compliance with other
2304 applicable statutes and rules;

2305 (ii) documentation and policies and procedures that providers shall have in place in
2306 order to be licensed, in accordance with Subsection (1)(a);

2307 (iii) categories, classifications, and duration of initial and ongoing licenses;

2308 (iv) changes of ownership or name, changes in licensure status, and changes in
2309 operational status;

2310 (v) license expiration and renewal, contents, and posting requirements;

2311 (vi) procedures for inspections, complaint resolution, disciplinary actions, and other
2312 procedural measures to encourage and assure compliance with statute and rule; and

2313 (vii) guidelines necessary to assure consistency and appropriateness in the regulation
2314 and discipline of licensees.

2315 (2) The department shall enforce the rules established by the licensing committee, with
2316 the concurrence of the department, for center based child care.

2317 (3) Rules made under this chapter by the department, or the licensing committee with
2318 the concurrence of the department, shall be made in accordance with Title 63G, Chapter 3,
2319 Utah Administrative Rulemaking Act.

2320 (4) (a) The licensing committee and the department may not regulate educational
2321 curricula, academic methods, or the educational philosophy or approach of the provider.

2322 (b) The licensing committee and the department shall allow for a broad range of
2323 educational training and academic background in certification or qualification of child day care
2324 directors.

2325 (5) In licensing and regulating child care programs, the licensing committee and the
2326 department shall reasonably balance the benefits and burdens of each regulation and, by rule,
2327 provide for a range of licensure, depending upon the needs and different levels and types of
2328 child care provided.

2329 (6) Notwithstanding the definition of "qualifying child" in Section 26-39-102, the
2330 licensing committee and the department shall count children through age 12 and children with
2331 disabilities through age 18 toward the minimum square footage requirement for indoor and
2332 outdoor areas, including the child of:

2333 (a) a licensed residential child care provider; or

2334 (b) an owner or employee of a licensed child care center.

2335 (7) Notwithstanding Subsection (1)(a)(i), the licensing committee and the department
2336 may not exclude floor space used for furniture, fixtures, or equipment from the minimum
2337 square footage requirement for indoor and outdoor areas if the furniture, fixture, or equipment
2338 is used:

2339 (a) by qualifying children;

2340 (b) for the care of qualifying children; or

2341 (c) to store classroom materials.

2342 (8) (a) A child care center constructed prior to January 1, 2004, and licensed and
2343 operated as a child care center continuously since January 1, 2004, is exempt from the licensing
2344 committee's and the department's group size restrictions, if the child to caregiver ratios are
2345 maintained, and adequate square footage is maintained for specific classrooms.

2346 (b) An exemption granted under Subsection (7)(a) is transferrable to subsequent
2347 licensed operators at the center if a licensed child care center is continuously maintained at the
2348 center.

2349 (9) The licensing committee, with the concurrence of the department, shall develop, by
2350 rule, a five-year phased-in compliance schedule for playground equipment safety standards.

2351 (10) The department shall set and collect licensing and other fees in accordance with
2352 Section ~~[26-1-6]~~ [26-1-209](#).

2353 (11) Nothing in this chapter may be interpreted to grant a municipality or county the
2354 authority to license or certify a child care program.

2355 Section 34. Section **26-39-402** is amended to read:

2356 **26-39-402. Residential child care certificate.**

2357 (1) A residential child care provider of five to eight qualifying children shall obtain a
2358 Residential Child Care Certificate from the department, unless Section [26-39-403](#) applies.

2359 (2) The minimum qualifications for a Residential Child Care Certificate are:

2360 (a) the submission of:

2361 (i) an application in the form prescribed by the department;

2362 (ii) a certification and criminal background fee established in accordance with Section
2363 ~~[26-1-6]~~ [26B-1-209](#); and

2364 (iii) in accordance with Section [26-39-404](#), identifying information for each adult
2365 person and each juvenile age 12 through 17 years ~~[of age]~~ old who resides in the provider's
2366 home:

2367 (A) for processing by the Department of Public Safety to determine whether any such
2368 person has been convicted of a crime;

2369 (B) to screen for a substantiated finding of child abuse or neglect by a juvenile court;
2370 and

2371 (C) to discover whether the person is listed in the Licensing Information System
2372 described in Section [62A-4a-1006](#);

2373 (b) an initial and annual inspection of the provider's home within 90 days of sending an
2374 intent to inspect notice to:

2375 (i) check the immunization record, as defined in Section [53G-9-301](#), of each qualifying
2376 child who receives child care in the provider's home;

2377 (ii) identify serious sanitation, fire, and health hazards to qualifying children; and

2378 (iii) make appropriate recommendations; and

2379 (c) annual training consisting of 10 hours of department-approved training as specified
2380 by the department by administrative rule, including a current department-approved CPR and
2381 first aid course.

2382 (3) If a serious sanitation, fire, or health hazard has been found during an inspection
2383 conducted pursuant to Subsection (2)(b), the department shall require corrective action for the
2384 serious hazards found and make an unannounced follow up inspection to determine
2385 compliance.

2386 (4) In addition to an inspection conducted pursuant to Subsection (2)(b), the
2387 department may inspect the home of a residential care provider of five to eight qualifying
2388 children in response to a complaint of:

- 2389 (a) child abuse or neglect;
- 2390 (b) serious health hazards in or around the provider's home; or
- 2391 (c) providing residential child care without the appropriate certificate or license.

2392 (5) Notwithstanding this section:

2393 (a) a license under Section 26-39-401 is required of a residential child care provider
2394 who cares for nine or more qualifying children;

2395 (b) a certified residential child care provider may not provide care to more than two
2396 qualifying children under the age of two; and

2397 (c) an inspection may be required of a residential child care provider in connection
2398 with a federal child care program.

2399 (6) With respect to residential child care, the department may only make and enforce
2400 rules necessary to implement this section.

2401 Section 35. Section 26-49-102 is amended to read:

2402 **26-49-102. Definitions.**

2403 As used in this chapter:

2404 [~~(1)~~ "Department of Health" shall have the meaning provided for in Section 26-1-4.]

2405 [~~(2)~~] (1) "Disaster relief organization" means an entity that:

2406 (a) provides emergency or disaster relief services that include health or veterinary
2407 services provided by volunteer health practitioners;

2408 (b) is designated or recognized as a provider of the services described in Subsection
2409 [~~(2)~~] (1)(a) under a disaster response and recovery plan adopted by:

2410 (i) an agency of the federal government;

2411 [~~(ii) the state Department of Health; or~~]

2412 (ii) the department; or

- 2413 (iii) a local health department; and
- 2414 (c) regularly plans and conducts its activities in coordination with:
- 2415 (i) an agency of the federal government;
- 2416 [~~(ii) the Department of Health; or~~]
- 2417 (ii) the department; or
- 2418 (iii) a local health department.
- 2419 [~~(3)~~] (2) "Emergency" means:
- 2420 (a) a state of emergency declared by:
- 2421 (i) the president of the United States;
- 2422 (ii) the governor in accordance with Title 53, Chapter 2a, Part 2, Disaster Response and
- 2423 Recovery Act; and
- 2424 (iii) the chief executive officer of a political subdivision in accordance with Title 53,
- 2425 Chapter 2a, Part 2, Disaster Response and Recovery Act, for a local emergency; or
- 2426 (b) a public health emergency declared by:
- 2427 (i) the executive director through a public health order in accordance with Title 26,
- 2428 Utah Health Code; or
- 2429 (ii) a local health department for a location under the local health department's
- 2430 jurisdiction.
- 2431 [~~(4)~~] (3) "Emergency Management Assistance Compact" means the interstate compact
- 2432 approved by Congress by Public Law No. 104-321, 110 Stat. 3877 and adopted by Utah in Title
- 2433 53, Chapter 2a, Part 4, Emergency Management Assistance Compact.
- 2434 [~~(5)~~] (4) "Entity" means a person other than an individual.
- 2435 [~~(6)~~] (5) "Health facility" means an entity licensed under the laws of this or another
- 2436 state to provide health or veterinary services.
- 2437 [~~(7)~~] (6) "Health practitioner" means an individual licensed under Utah law or another
- 2438 state to provide health or veterinary services.
- 2439 [~~(8)~~] (7) "Health services" means the provision of treatment, care, advice, guidance,
- 2440 other services, or supplies related to the health or death of individuals or human populations, to
- 2441 the extent necessary to respond to an emergency, including:
- 2442 (a) the following, concerning the physical or mental condition or functional status of an
- 2443 individual or affecting the structure or function of the body:

- 2444 (i) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; or
- 2445 (ii) counseling, assessment, procedures, or other services;
- 2446 (b) selling or dispensing a drug, a device, equipment, or another item to an individual
- 2447 in accordance with a prescription; and
- 2448 (c) funeral, cremation, cemetery, or other mortuary services.

2449 ~~[(9)]~~ (8) "Host entity":

2450 (a) means an entity operating in Utah that:

- 2451 (i) uses volunteer health practitioners to respond to an emergency; and
- 2452 (ii) is responsible during an emergency, for actually delivering health services to
- 2453 individuals or human populations, or veterinary services to animals or animal populations; and

2454 (b) may include disaster relief organizations, hospitals, clinics, emergency shelters,

2455 health care provider offices, or any other place where volunteer health practitioners may

2456 provide health or veterinary services.

2457 ~~[(10)]~~ (9) (a) "License" means authorization by a state to engage in health or veterinary

2458 services that are unlawful without authorization.

2459 (b) "License" includes authorization under this title to an individual to provide health

2460 or veterinary services based upon a national or state certification issued by a public or private

2461 entity.

2462 ~~[(11)]~~ (10) "Local emergency" means the same as that term is defined in Section

2463 [53-2a-203](#).

2464 ~~[(12)]~~ (11) "Local health department" means the same as that term is defined in Section

2465 [26A-1-102](#).

2466 ~~[(13)] "Person" means an individual, corporation, business trust, trust, partnership,~~

2467 ~~limited liability company, association, joint venture, public corporation, government or~~

2468 ~~governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.]~~

2469 ~~[(14)]~~ (12) "Public health emergency" means the same as that term is defined in

2470 Section [26-23b-102](#).

2471 ~~[(15)]~~ (13) "Scope of practice" means the extent of the authorization to provide health

2472 or veterinary services granted to a health practitioner by a license issued to the practitioner in

2473 the state in which the principal part of the practitioner's services are rendered, including any

2474 conditions imposed by the licensing authority.

- 2475 [~~(16)~~] (14) "State" means:
- 2476 (a) a state of the United States;
- 2477 (b) the District of Columbia;
- 2478 (c) Puerto Rico;
- 2479 (d) the United States Virgin Islands; or
- 2480 (e) any territory or insular possession subject to the jurisdiction of the United States.

2481 [~~(17)~~] (15) "Veterinary services" shall have the meaning provided for in Subsection

2482 [58-28-102](#)(11).

2483 [~~(18)~~] (16) (a) "Volunteer health practitioner" means a health practitioner who provides

2484 health or veterinary services, whether or not the practitioner receives compensation for those

2485 services.

2486 (b) "Volunteer health practitioner" does not include a practitioner who receives

2487 compensation under a preexisting employment relationship with a host entity or affiliate that

2488 requires the practitioner to provide health services in Utah, unless the practitioner is:

- 2489 (i) not a Utah resident; and
- 2490 (ii) employed by a disaster relief organization providing services in Utah during an
- 2491 emergency.

2492 Section 36. Section **26-54-103** is amended to read:

2493 **26-54-103. Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric**

2494 **Neuro-Rehabilitation Fund Advisory Committee -- Creation -- Membership -- Terms --**

2495 **Duties.**

2496 (1) There is created a Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric

2497 Neuro-Rehabilitation Fund Advisory Committee.

2498 (2) The advisory committee shall be composed of 11 members as follows:

- 2499 (a) the executive director, or the executive director's designee;
- 2500 (b) two survivors, or family members of a survivor, of a traumatic brain injury
- 2501 appointed by the governor;
- 2502 (c) two survivors, or family members of a survivor, of a traumatic spinal cord injury
- 2503 appointed by the governor;
- 2504 (d) one traumatic brain injury or spinal cord injury professional appointed by the
- 2505 governor who, at the time of appointment and throughout the professional's term on the

2506 committee, does not receive a financial benefit from the fund;

2507 (e) two parents of a child with a nonprogressive neurological condition appointed by
2508 the governor;

2509 (f) (i) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy
2510 Practice Act, with experience treating brain and spinal cord injuries, appointed by the governor;
2511 or

2512 (ii) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
2513 Therapy Practice Act, with experience treating brain and spinal cord injuries, appointed by the
2514 governor;

2515 (g) a member of the House of Representatives appointed by the speaker of the House of
2516 Representatives; and

2517 (h) a member of the Senate appointed by the president of the Senate.

2518 (3) (a) The term of advisory committee members shall be four years. If a vacancy
2519 occurs in the committee membership for any reason, a replacement shall be appointed for the
2520 unexpired term in the same manner as the original appointment.

2521 (b) The committee shall elect a chairperson from the membership.

2522 (c) A majority of the committee constitutes a quorum at any meeting, and, if a quorum
2523 is present at an open meeting, the action of the majority of members shall be the action of the
2524 advisory committee.

2525 (d) The terms of the advisory committee shall be staggered so that members appointed
2526 under Subsections (2)(b), (d), and (f) shall serve an initial two-year term and members
2527 appointed under Subsections (2)(c), (e), and (g) shall serve four-year terms. Thereafter,
2528 members appointed to the advisory committee shall serve four-year terms.

2529 (4) The advisory committee shall comply with the procedures and requirements of:

2530 (a) Title 52, Chapter 4, Open and Public Meetings Act;

2531 (b) Title 63G, Chapter 2, Government Records Access and Management Act; and

2532 (c) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2533 (5) (a) A member who is not a legislator may not receive compensation or benefits for
2534 the member's service, but, at the executive director's discretion, may receive per diem and
2535 travel expenses as allowed in:

2536 (i) Section [63A-3-106](#);

2537 (ii) Section 63A-3-107; and
 2538 (iii) rules adopted by the Division of Finance according to Sections 63A-3-106 and
 2539 63A-3-107.

2540 (b) Compensation and expenses of a member who is a legislator are governed by
 2541 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

2542 (6) The advisory committee shall:

2543 (a) adopt rules and procedures in accordance with Title 63G, Chapter 3, Utah
 2544 Administrative Rulemaking Act, that establish priorities and criteria for the advisory committee
 2545 to follow in recommending distribution of money from the fund to assist qualified IRC
 2546 501(c)(3) charitable clinics, as defined in Sections 26-54-102 and 26-54-102.5;

2547 (b) identify, evaluate, and review the quality of care available to:

2548 (i) individuals with spinal cord and brain injuries through qualified IRC 501(c)(3)
 2549 charitable clinics, as defined in Section 26-54-102; or

2550 (ii) children with nonprogressive neurological conditions through qualified IRC
 2551 501(c)(3) charitable clinics, as defined in Section 26-54-102.5; and

2552 (c) explore, evaluate, and review other possible funding sources and make a
 2553 recommendation to the Legislature regarding sources that would provide adequate funding for
 2554 the advisory committee to accomplish its responsibilities under this section[; and].

2555 [~~(d) submit an annual report, not later than November 30 of each year, summarizing the~~
 2556 ~~activities of the advisory committee and making recommendations regarding the ongoing needs~~
 2557 ~~of individuals with spinal cord or brain injuries and children with nonprogressive neurological~~
 2558 ~~conditions to:]~~

2559 [~~(i) the governor;~~]

2560 [~~(ii) the Health and Human Services Interim Committee; and]~~

2561 [~~(iii) the Social Services Appropriations Subcommittee.]~~

2562 (7) Operating expenses for the advisory committee, including the committee's staff,
 2563 shall be paid for only with money from:

2564 (a) the Spinal Cord and Brain Injury Rehabilitation Fund;

2565 (b) the Pediatric Neuro-Rehabilitation Fund; or

2566 (c) both funds.

2567 Section 37. Section 26-60-104 is amended to read:

2568 **26-60-104. Enforcement.**

2569 (1) The Division of Occupational and Professional Licensing created in Section
2570 [58-1-103](#) is authorized to enforce the provisions of Section [26-60-103](#) as it relates to providers
2571 licensed under Title 58, Occupations and Professions.

2572 (2) The department is authorized to enforce the provisions of:

2573 (a) Section [26-60-103](#) as it relates to providers licensed under this title[:]; and
2574 [~~(3) The Department of Human Services created in Section [62A-1-102](#) is authorized to~~
2575 ~~enforce the provisions of]~~

2576 (b) Section [26-60-103](#) as it relates to providers licensed under Title 62A, Chapter 2,
2577 Licensure of Programs and Facilities.

2578 Section 38. Section **26-67-102** is amended to read:

2579 **26-67-102. Definitions.**

2580 As used in this chapter:

2581 (1) "Adult Autism Treatment Account" means the Adult Autism Treatment Account
2582 created in Section [26-67-205](#).

2583 (2) "Advisory committee" means the Adult Autism Treatment Program Advisory
2584 Committee created in Section [~~26-1-7~~] [26B-1-204](#).

2585 (3) "Applied behavior analysis" means the same as that term is defined in Section
2586 [31A-22-642](#).

2587 (4) "Autism spectrum disorder" means the same as that term is defined in Section
2588 [31A-22-642](#).

2589 (5) "Program" means the Adult Autism Treatment Program created in Section
2590 [26-67-201](#).

2591 (6) "Qualified individual" means an individual who:

2592 (a) is at least 22 years old;

2593 (b) is a resident of the state;

2594 (c) has been diagnosed by a qualified professional as having:

2595 (i) an autism spectrum disorder; or

2596 (ii) another neurodevelopmental disorder requiring significant supports through
2597 treatment using applied behavior analysis; and

2598 (d) needs significant supports for a condition described in Subsection (6)(c), as

2599 demonstrated by formal assessments of the individual's:

2600 (i) cognitive ability;

2601 (ii) adaptive ability;

2602 (iii) behavior; and

2603 (iv) communication ability.

2604 (7) "Qualified provider" means a provider that is qualified under Section 26-67-202 to
2605 provide services for the program.

2606 Section 39. Section 26-67-202 is amended to read:

2607 **26-67-202. Adult Autism Treatment Program Advisory Committee --**

2608 **Membership -- Procedures -- Compensation -- Duties -- Expenses.**

2609 (1) The Adult Autism Treatment Advisory Committee created in Section [26-1-7]

2610 26B-1-204 shall consist of six members appointed by the governor to two-year terms as

2611 follows:

2612 (a) one individual who:

2613 (i) has a doctorate degree in psychology;

2614 (ii) is a licensed behavior analyst practicing in the state; and

2615 (iii) has treated adults with an autism spectrum disorder for at least three years;

2616 (b) one individual who is:

2617 (i) employed by the department; and

2618 (ii) has professional experience with the treatment of autism spectrum disorder;

2619 (c) three individuals who have firsthand experience with autism spectrum disorders and

2620 the effects, diagnosis, treatment, and rehabilitation of autism spectrum disorders, including:

2621 (i) family members of an adult with an autism spectrum disorder;

2622 (ii) representatives of an association that advocates for adults with an autism spectrum

2623 disorder; and

2624 (iii) specialists or professionals who work with adults with an autism spectrum

2625 disorder; and

2626 (d) one individual who is:

2627 (i) a health insurance professional;

2628 (ii) holds a Doctor of Medicine or Doctor of Philosophy degree, with professional

2629 experience relating to the treatment of autism spectrum disorder; and

2630 (iii) has a knowledge of autism benefits and therapy that are typically covered by the
2631 health insurance industry.

2632 (2) (a) Notwithstanding Subsection (1), the governor shall, at the time of appointment
2633 or reappointment, adjust the length of terms to ensure the terms of members are staggered so
2634 that approximately half of the advisory committee is appointed every year.

2635 (b) If a vacancy occurs in the membership of the advisory committee, the governor may
2636 appoint a replacement for the unexpired term.

2637 (3) (a) The advisory committee shall annually elect a chair from its membership.

2638 (b) A majority of the advisory committee constitutes a quorum at any meeting and, if a
2639 quorum exists, the action of the majority of members present is the action of the advisory
2640 committee.

2641 (4) The advisory committee shall meet as necessary to:

2642 (a) advise the department regarding implementation of the program;

2643 (b) make recommendations to the department and the Legislature for improving the
2644 program; and

2645 (c) before October 1 each year, provide a written report of the advisory committee's
2646 activities and recommendations to:

2647 (i) the executive director;

2648 (ii) the Health and Human Services Interim Committee; and

2649 (iii) the Social Services Appropriations Subcommittee.

2650 (5) The advisory committee shall comply with the procedures and requirements of:

2651 (a) Title 52, Chapter 4, Open and Public Meetings Act; and

2652 (b) Title 63G, Chapter 2, Government Records Access and Management Act.

2653 (6) A member may not receive compensation or benefits for the member's service, but
2654 may receive per diem and travel expenses in accordance with:

2655 (a) Section 63A-3-106;

2656 (b) Section 63A-3-107; and

2657 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
2658 63A-3-107.

2659 (7) (a) The department shall staff the advisory committee.

2660 (b) Expenses of the advisory committee, including the cost of advisory committee staff

2661 if approved by the executive director, may be paid only with funds from the Adult Autism
2662 Treatment Account.

2663 Section 40. Section **26A-1-102** is amended to read:

2664 **26A-1-102. Definitions.**

2665 As used in this part:

2666 (1) "Board" means a local board of health established under Section [26A-1-109](#).

2667 (2) "County governing body" means one of the types of county government provided
2668 for in Title 17, Chapter 52a, Part 2, Forms of County Government.

2669 (3) "County health department" means a local health department that serves a county
2670 and municipalities located within that county.

2671 (4) "Department" means the Department of Health and Human Services created in
2672 [~~Title 26, Chapter 1, Department of Health Organization~~] [Section 26B-1-201](#).

2673 (5) "Local health department" means:

2674 (a) a single county local health department;

2675 (b) a multicounty local health department;

2676 (c) a united local health department; or

2677 (d) a multicounty united local health department.

2678 (6) "Mental health authority" means a local mental health authority created in Section
2679 [17-43-301](#).

2680 (7) "Multicounty local health department" means a local health department that is
2681 formed under Section [26A-1-105](#) and that serves two or more contiguous counties and
2682 municipalities within those counties.

2683 (8) "Multicounty united local health department" means a united local health
2684 department that is formed under Section [26A-1-105.5](#) and that serves two or more contiguous
2685 counties and municipalities within those counties.

2686 (9) (a) "Order of constraint" means an order, rule, or regulation issued by a local health
2687 department in response to a declared public health emergency under this chapter that:

2688 (i) applies to all or substantially all:

2689 (A) individuals or a certain group of individuals; or

2690 (B) public places or certain types of public places; and

2691 (ii) for the protection of the public health and in response to the declared public health

2692 emergency:

2693 (A) establishes, maintains, or enforces isolation or quarantine;

2694 (B) establishes, maintains, or enforces a stay-at-home order;

2695 (C) exercises physical control over property or individuals;

2696 (D) requires an individual to perform a certain action or engage in a certain behavior;

2697 or

2698 (E) closes theaters, schools, or other public places or prohibits gatherings of people to
2699 protect the public health.

2700 (b) "Order of constraint" includes a stay-at-home order.

2701 (10) "Public health emergency" means the same as that term is defined in Section
2702 [26-23b-102](#).

2703 (11) "Single county local health department" means a local health department that is
2704 created by the governing body of one county to provide services to the county and the
2705 municipalities within that county.

2706 (12) "Stay-at-home order" means an order of constraint that:

2707 (a) restricts movement of the general population to suppress or mitigate an epidemic or
2708 pandemic disease by directing individuals within a defined geographic area to remain in their
2709 respective residences; and

2710 (b) may include exceptions for certain essential tasks.

2711 (13) "Substance abuse authority" means a local substance abuse authority created in
2712 Section [17-43-201](#).

2713 (14) "United local health department":

2714 (a) means a substance abuse authority, a mental health authority, and a local health
2715 department that join together under Section [26A-1-105.5](#); and

2716 (b) includes a multicounty united local health department.

2717 Section 41. Section **26A-1-121** is amended to read:

2718 **26A-1-121. Standards and regulations adopted by local board -- Local standards**
2719 **not more stringent than federal or state standards -- Administrative and judicial review**
2720 **of actions.**

2721 (1) (a) Subject to Subsection (1)(g), the board may make standards and regulations:

2722 (i) not in conflict with rules of the [~~Departments of Health and~~] department or the

2723 Department of Environmental Quality; and

2724 (ii) necessary for the promotion of public health, environmental health quality, injury
2725 control, and the prevention of outbreaks and spread of communicable and infectious diseases.

2726 (b) The standards and regulations under Subsection (1)(a):

2727 (i) supersede existing local standards, regulations, and ordinances pertaining to similar
2728 subject matter; and

2729 (ii) ~~[except as provided under Subsection (1)(c) and]~~ except where specifically allowed
2730 by federal law or state statute, may not be more stringent than those established by federal law,
2731 state statute, or administrative rules adopted by the ~~[Department of Health]~~ department in
2732 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2733 ~~[(c) (i) The board may make standards and regulations more stringent than
2734 corresponding federal law, state statute, or state administrative rules for the purposes described
2735 in Subsection (1)(a), only if the board makes a written finding after public comment and
2736 hearing and based on evidence in the record, that corresponding federal laws, state statutes, or
2737 state administrative rules are not adequate to protect public health and the environment of the
2738 state.]~~

2739 ~~[(ii) The findings shall address the public health information and studies contained in
2740 the record, which form the basis for the board's conclusion.]~~

2741 ~~[(d)]~~ (c) The board shall provide public hearings prior to the adoption of any regulation
2742 or standard.

2743 (d) Notice of any public hearing shall be published at least twice throughout the county
2744 or counties served by the local health department. The publication may be in one or more
2745 newspapers, if the notice is provided in accordance with this Subsection (1)(d).

2746 (e) The hearings may be conducted by the board at a regular or special meeting, or the
2747 board may appoint hearing officers who may conduct hearings in the name of the board at a
2748 designated time and place.

2749 (f) A record or summary of the proceedings of a hearing shall be taken and filed with
2750 the board.

2751 (g) (i) During a declared public health emergency declared under this chapter or under
2752 Title 26, Chapter 23b, Detection of Public Health Emergencies Act:

2753 (A) except as provided in Subsection (1)(h), a local health department may not issue an

2754 order of constraint without approval of the chief executive officer of the relevant county;

2755 (B) the Legislature may at any time terminate by joint resolution an order of constraint
2756 issued by a local health department in response to a declared public health emergency that has
2757 been in effect for more than 30 days; and

2758 (C) a county governing body may at any time terminate, by majority vote of the
2759 governing body, an order of constraint issued by a local health department in response to a
2760 declared public health emergency.

2761 (ii) (A) For a local health department that serves more than one county, the approval
2762 described in Subsection (1)(g)(i)(A) is required for the chief executive officer for which the
2763 order of constraint is applicable.

2764 (B) For a local health department that serves more than one county, a county governing
2765 body may only terminate an order of constraint as described in Subsection (1)(g)(i)(C) for the
2766 county served by the county governing body.

2767 (h) (i) Notwithstanding Subsection (1)(g)(i)(A), a local health department may issue an
2768 order of constraint without approval of the chief executive officer of the relevant county if the
2769 passage of time necessary to obtain approval of the chief executive officer of the relevant
2770 county as required in Subsection (1)(g)(i)(A) would substantially increase the likelihood of loss
2771 of life due to an imminent threat.

2772 (ii) If a local health department issues an order of constraint as described in Subsection
2773 (1)(h)(i), the local health department shall notify the chief executive officer of the relevant
2774 county before issuing the order of constraint.

2775 (iii) The chief executive officer of the relevant county may terminate an order of
2776 constraint issued as described in Subsection (1)(h)(i) within 72 hours of issuance of the order
2777 of constraint.

2778 (i) (i) During a public health emergency declared as described in this title:

2779 (A) a local health department may not impose an order of constraint on a public
2780 gathering that applies to a religious gathering differently than the order of constraint applies to
2781 any other relevantly similar gathering; and

2782 (B) an individual, while acting or purporting to act within the course and scope of the
2783 individual's official local health department capacity, may not prevent a religious gathering that
2784 is held in a manner consistent with any order of constraint issued pursuant to this title, or

2785 impose a penalty for a previous religious gathering that was held in a manner consistent with
2786 any order of constraint issued pursuant to this title.

2787 (ii) Upon proper grounds, a court of competent jurisdiction may grant an injunction to
2788 prevent the violation of this Subsection (1)(i).

2789 (iii) During a public health emergency declared as described in this title, the
2790 department or a local health department shall not issue a public health order or impose or
2791 implement a regulation that substantially burdens an individual's exercise of religion unless the
2792 department or local health department demonstrates that the application of the burden to the
2793 individual:

2794 (A) is in furtherance of a compelling government interest; and

2795 (B) is the least restrictive means of furthering that compelling government interest.

2796 (iv) Notwithstanding Subsections (1)(i)(i) and (ii), the department or a local health
2797 department shall allow reasonable accommodations for an individual to perform or participate
2798 in a religious practice or rite.

2799 (j) If a local health department declares a public health emergency as described in this
2800 chapter, and the local health department finds that the public health emergency conditions
2801 warrant an extension of the public health emergency beyond the 30-day term or another date
2802 designated by the local legislative body, the local health department shall provide written
2803 notice to the local legislative body at least 10 days before the expiration of the public health
2804 emergency.

2805 (2) (a) A person aggrieved by an action or inaction of the local health department
2806 relating to the public health shall have an opportunity for a hearing with the local health officer
2807 or a designated representative of the local health department. The board shall grant a
2808 subsequent hearing to the person upon the person's written request.

2809 (b) In an adjudicative hearing, a member of the board or the hearing officer may
2810 administer oaths, examine witnesses, and issue notice of the hearings or subpoenas in the name
2811 of the board requiring the testimony of witnesses and the production of evidence relevant to a
2812 matter in the hearing. The local health department shall make a written record of the hearing,
2813 including findings of facts and conclusions of law.

2814 (c) Judicial review of a final determination of the local board may be secured by a
2815 person adversely affected by the final determination, or by the ~~[Departments of Health or]~~

2816 department or the Department of Environmental Quality, by filing a petition in the district court
2817 within 30 days after receipt of notice of the board's final determination.

2818 (d) The petition shall be served upon the secretary of the board and shall state the
2819 grounds upon which review is sought.

2820 (e) The board's answer shall certify and file with the court all documents and papers
2821 and a transcript of all testimony taken in the matter together with the board's findings of fact,
2822 conclusions of law, and order.

2823 (f) The appellant and the board are parties to the appeal.

2824 (g) The [~~Departments of Health~~] department and the Department of Environmental
2825 Quality may become a party by intervention as in a civil action upon showing cause.

2826 (h) A further appeal may be taken to the Court of Appeals under Section [78A-4-103](#).

2827 (3) Nothing in the provisions of Subsection (1)(b)(ii) or (c), shall limit the ability of a
2828 local health department board to make standards and regulations in accordance with Subsection
2829 (1)(a) for:

2830 (a) emergency rules made in accordance with Section [63G-3-304](#); or

2831 (b) items not regulated under federal law, state statute, or state administrative rule.

2832 Section 42. Section **26B-1-102** is amended to read:

2833 **TITLE 26B. UTAH HEALTH AND HUMAN SERVICES CODE**

2834 **CHAPTER 1. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

2835 **Part 1. General Provisions**

2836 **26B-1-102. Definitions.**

2837 As used in this title:

2838 (1) "Department" means the Department of Health and Human Services created in
2839 Section [26B-1-201](#).

2840 [~~(2) "Department of Health" means the Department of Health created in Section~~
2841 ~~[26-1-4](#).]~~

2842 [~~(3) "Department of Human Services" means the Department of Human Services~~
2843 ~~created in Section [62A-1-102](#).]~~

2844 (2) "Stabilization services" means in-home services provided to a child with, or who is
2845 at risk for, complex emotional and behavioral needs, including teaching the child's parent or
2846 guardian skills to improve family functioning.

2847 (3) "Public health authority" means an agency or authority of the United States, a state,
 2848 a territory, a political subdivision of a state or territory, an Indian tribe, or a person acting under
 2849 a grant of authority from or a contract with such an agency, that is responsible for public health
 2850 matters as part of the agency or authority's official mandate.

2851 (4) "System of care" means a broad, flexible array of services and supports that:
 2852 (a) serve a child with or who is at risk for complex emotional and behavioral needs;
 2853 (b) are community based;
 2854 (c) are informed about trauma;
 2855 (d) build meaningful partnerships with families and children;
 2856 (e) integrate service planning, service coordination, and management across state and

2857 local entities;

2858 (f) include individualized case planning;

2859 (g) provide management and policy infrastructure that supports a coordinated network
 2860 of interdepartmental service providers, contractors, and service providers who are outside of
 2861 the department; and

2862 (h) are guided by the type and variety of services needed by a child with or who is at
 2863 risk for complex emotional and behavioral needs and by the child's family.

2864 Section 43. Section **26B-1-103** is amended to read:

2865 **26B-1-103. Purpose of title -- Consolidation of functions into single state agency.**

2866 The purpose of this title is to consolidate into a single agency of state government all of
 2867 the functions previously exercised by[:] the Department of Health and the Department of
 2868 Human Services to more efficiently and effectively carry out the responsibilities delegated to
 2869 the department by state law.

2870 ~~[(1) the Department of Health, including all of the powers and duties described in Title~~
 2871 ~~26, Utah Health Code; and]~~

2872 ~~[(2) the Department of Human Services, including all of the powers and duties~~
 2873 ~~described in Title 62A, Utah Human Services Code.]~~

2874 Section 44. Section **26B-1-104**, which is renumbered from Section 26-1-32 is
 2875 renumbered and amended to read:

2876 ~~[26-1-32].~~ **26B-1-104. Severability of code provisions.**

2877 If ~~[any]~~ a provision of this [code] title or Title 26, Utah Health Code, or the application

2878 of any such provision to any person or circumstance is held invalid, the invalidity does not
2879 affect other provisions or applications of this ~~[code]~~ title or Title 26, Utah Health Code, which
2880 can be given effect without the invalid provision or application, and to this end the provisions
2881 of this ~~[code]~~ title or Title 26, Utah Health Code, are declared to be severable.

2882 Section 45. Section **26B-1-105**, which is renumbered from Section 26-1-33 is
2883 renumbered and amended to read:

2884 ~~[26-1-33]~~. **26B-1-105. Individual rights protected.**

2885 Nothing in this title ~~[shall prohibit]~~ prohibits an individual from choosing the diet,
2886 therapy, or mode of treatment to be administered to an individual or an individual's family.

2887 Section 46. Section **26B-1-201** is amended to read:

2888 **Part 2. General Organization and Duties**

2889 **26B-1-201. Department of Health and Human Services -- Creation -- Duties.**

2890 (1) There is created within state government the Department of Health and Human
2891 Services, which has all of the policymaking functions, regulatory and enforcement powers,
2892 rights, duties, and responsibilities outlined in this title and previously vested in the Department
2893 of Health and the Department of Human Services.

2894 (2) Subject to the limitation and grants of authority in state law, the department shall
2895 serve as the health, health planning, medical assistance, and social services authority of the
2896 state, and for administration of federally assisted state programs or plans is designated as the
2897 sole state agency for:

2898 (a) social service block grants;

2899 (b) alcohol, drug, and mental health programs, including block grants;

2900 (c) child welfare;

2901 (d) state programs supported under the Older Americans Act, 42 U.S.C. Sec. 3001, et

2902 seq.;

2903 (e) public health;

2904 (f) health planning;

2905 (g) maternal and child health;

2906 (h) services for individuals with a disability; and

2907 (i) medical assistance.

2908 (3) A state plan or program administered by the department:

2909 (a) shall be developed in the appropriate divisions or offices of the department in
 2910 accordance with applicable requirements of state and federal law; and

2911 (b) may be amended by the executive director to achieve coordination, efficiency, or
 2912 economy.

2913 ~~[(2)] (4)~~ In addition to Subsection (1), ~~[during the transition period described in~~
 2914 ~~Section 26B-1-201.1;]~~ from July 1, 2022, through June 30, 2023, the Department of Health and
 2915 Human Services ~~[may exercise any of]~~ shall exercise the policymaking functions, regulatory
 2916 and enforcement powers, rights, duties, and responsibilities of the Department of Health and
 2917 the Department of Human Services under ~~[the joint direction of]:~~

2918 ~~[(a) the executive director of the Department of Health; and]~~

2919 ~~[(b) the executive director of the Department of Human Services.]~~

2920 (a) Title 26, Utah Health Code; and

2921 (b) Title 62A, Utah Human Services Code.

2922 Section 47. Section **26B-1-201.1** is amended to read:

2923 **26B-1-201.1. Transition to single state agency -- Transition plan.**

2924 (1) As used in this section:

2925 (a) "Transition agencies" means the:

2926 (i) Department of Health; and

2927 (ii) Department of Human Services.

2928 (b) "Transition period" means the period of time:

2929 (i) during which the transition of the department to the Department of Health and
 2930 Human Services takes place; and

2931 (ii) beginning on ~~[the effective date of the bill;]~~ March 23, 2021, and ending on July 1,
 2932 2022.

2933 ~~[(2) On or before December 1, 2021, the transition agencies shall develop a written~~
 2934 ~~transition plan for merging the functions of the transition agencies into the Department of~~
 2935 ~~Health and Human Services on July 1, 2022, in order to:]~~

2936 ~~[(a) more efficiently and effectively manage health and human services programs that~~
 2937 ~~are the responsibility of the state;]~~

2938 ~~[(b) establish a health and human services policy for the state; and]~~

2939 ~~[(c) promote health and the quality of life in the health and human services field.]~~

2940 ~~[(3) The written transition plan described in Subsection (2) shall describe:]~~
2941 ~~[(a) the tasks that need to be completed before the move on July 1, 2022, including a~~
2942 ~~description of:]~~
2943 ~~[(i) how the transition agencies solicited comment from stakeholders, including:]~~
2944 ~~[(A) employees of the transition agencies;]~~
2945 ~~[(B) clients and partners of the transition agencies;]~~
2946 ~~[(C) members of the public;]~~
2947 ~~[(D) the Legislature; and]~~
2948 ~~[(E) the executive office of the governor;]~~
2949 ~~[(ii) the proposed organizational structure of the department, including the transition of~~
2950 ~~responsibilities of employees, by job title and classification, under the newly proposed~~
2951 ~~organizational structure and a plan for these transitions;]~~
2952 ~~[(iii) office space and infrastructure requirements related to the transition;]~~
2953 ~~[(iv) any work site location changes for transitioning employees;]~~
2954 ~~[(v) the transition of service delivery sites;]~~
2955 ~~[(vi) amendments needed to existing contracts, including grants;]~~
2956 ~~[(vii) legislative changes needed to implement the transition described in this section;]~~
2957 ~~[(viii) how the transition agencies will coordinate agency rules;]~~
2958 ~~[(ix) procedures for the transfer and reconciliation of budgeting and funding of the~~
2959 ~~department as the transition agencies transition into the department; and]~~
2960 ~~[(x) the transition of technology services to the department;]~~
2961 ~~[(b) the tasks that may need to be completed after the transition on July 1, 2022; and]~~
2962 ~~[(c) how the transition to the department will be funded, including details of:]~~
2963 ~~[(i) how expenses associated with the transition will be managed;]~~
2964 ~~[(ii) how funding for services provided by the transition agencies will be managed to~~
2965 ~~ensure services will be provided by the transition agencies and the department without~~
2966 ~~interruption; and]~~
2967 ~~[(iii) how federal funds will be used by or transferred between the transition agencies~~
2968 ~~and the department to ensure services will be provided by the transition agencies and the~~
2969 ~~department without interruption.]~~
2970 ~~[(4) The written transition plan described in Subsection (2) shall:]~~

2971 ~~[(a) include a detailed timeline for the completion of the tasks described in Subsection~~
 2972 ~~(3)(a);]~~

2973 ~~[(b) be updated at least one time in every two week period until the transition is~~
 2974 ~~complete;]~~

2975 ~~[(c) describe how information will be provided to clients of the transition agencies and~~
 2976 ~~the department regarding any changes to where services will be provided and the hours services~~
 2977 ~~will be provided;]~~

2978 ~~[(d) be provided to the:]~~

2979 ~~[(i) Health and Human Services Interim Committee;]~~
 2980 ~~[(ii) Social Services Appropriations Subcommittee;]~~
 2981 ~~[(iii) the executive office of the governor;]~~
 2982 ~~[(iv) Division of Finance; and]~~
 2983 ~~[(v) Division of Technology Services; and]~~
 2984 ~~[(e) be made available to employees that are transitioning or may potentially be~~
 2985 ~~transitioned.]~~

2986 ~~[(5)]~~ (2) The transition agencies shall publish information that provides a full overview
 2987 of ~~[the written transition plan and]~~ how the move may affect client services offered by the
 2988 transition agencies on the transition agencies' respective websites, including regular updates
 2989 regarding:

2990 (a) how the move may affect client services offered by the transition agencies;
 2991 (b) information regarding the location where services are provided and the hours
 2992 services are provided; and
 2993 (c) contact information so that clients of the transition agencies can contact
 2994 transitioning employees and obtain information regarding client services.

2995 ~~[(6)]~~ (3) The transition agencies may, separately or collectively, enter into a
 2996 memorandum of understanding regarding how costs and responsibilities will be shared to:

2997 (a) ensure that services provided under agreements with the federal government,
 2998 including new and ongoing grant programs, are fulfilled;
 2999 (b) ensure that commitments made by the transition agencies are met;
 3000 (c) provide ongoing or shared services as needed, including the provision of payments
 3001 to the department from the transition agencies; and

3002 (d) ensure that money from the Department of Health and Human Services Transition
3003 Restricted Account created in~~[Subsection (8)]~~ Section 26B-1-305 is used appropriately by the
3004 transition agencies and the department.

3005 ~~[(7)]~~ (4) In implementing the written transition plan described in this section, the
3006 transition agencies and the department shall protect existing services, programs, and access to
3007 services provided by the transition agencies.

3008 ~~[(8) (a) There is created a restricted account within the General Fund known as the~~
3009 ~~"Department of Health and Human Services Transition Restricted Account."]~~

3010 ~~[(b) The restricted account shall consist of appropriations made by the Legislature.]~~

3011 ~~[(c) Subject to appropriation, the transition agencies and the department may spend~~
3012 ~~money from the restricted account to pay for expenses related to moving the transition agencies~~
3013 ~~into the department, including staff and legal services.]~~

3014 (5) (a) The department shall provide a written update to the entities described in
3015 Subsection (5)(b):

3016 (i) at least one time after September 1, 2022, but before November 1, 2022;

3017 (ii) if the executive director adjusts the organizational structure of the department
3018 under Subsection 26B-1-204(5) in a manner that conflicts with the organizational structure
3019 described in statute; or

3020 (iii) at the request of one or more of the entities described in Subsection (5)(b).

3021 (b) The update described in Subsection (5)(a) shall be provided to:

3022 (i) the Health and Human Services Interim Committee;

3023 (ii) the Social Services Appropriations Subcommittee; and

3024 (iii) the executive office of the governor.

3025 (6) Before November 30 of each year from 2022 through 2025, the department shall
3026 report to the Social Services Appropriations Subcommittee:

3027 (a) efficiencies and savings identified by the department as a result of the merger of the
3028 transition agencies; and

3029 (b) programs to which the department recommends reinvesting savings identified under
3030 Subsection (6)(a).

3031 Section 48. Section **26B-1-202**, which is renumbered from Section 62A-1-111 is
3032 renumbered and amended to read:

3033 ~~[62A-1-111]~~. 26B-1-202. **Department authority and duties.**

3034 The department may, subject to applicable restrictions in state law and in addition to all
3035 other authority and responsibility granted to the department by law:

3036 (1) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
3037 Rulemaking Act, and not inconsistent with law, as the department may consider necessary or
3038 desirable for providing health and social services to the people of this state;

3039 (2) establish and manage client trust accounts in the department's institutions and
3040 community programs, at the request of the client or the client's legal guardian or representative,
3041 or in accordance with federal law;

3042 (3) purchase, as authorized or required by law, services that the department is
3043 responsible to provide for legally eligible persons;

3044 (4) conduct adjudicative proceedings for clients and providers in accordance with the
3045 procedures of Title 63G, Chapter 4, Administrative Procedures Act;

3046 (5) establish eligibility standards for ~~[its]~~ the department's programs, not inconsistent
3047 with state or federal law or regulations;

3048 (6) take necessary steps, including legal action, to recover money or the monetary value
3049 of services provided to a recipient who was not eligible;

3050 (7) set and collect fees for the department's services;

3051 (8) license agencies, facilities, and programs, except as otherwise allowed, prohibited,
3052 or limited by law;

3053 (9) acquire, manage, and dispose of any real or personal property needed or owned by
3054 the department, not inconsistent with state law;

3055 (10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or
3056 the proceeds thereof, may be credited to the program designated by the donor, and may be used
3057 for the purposes requested by the donor, as long as the request conforms to state and federal
3058 policy; all donated funds shall be considered private, nonlapsing funds and may be invested
3059 under guidelines established by the state treasurer;

3060 (11) accept and employ volunteer labor or services; the department is authorized to
3061 reimburse volunteers for necessary expenses, when the department considers that
3062 reimbursement to be appropriate;

3063 (12) carry out the responsibility assigned in the workforce services plan by the State

3064 Workforce Development Board;

3065 ~~[(13) carry out the responsibility assigned by Section 35A-8-602 with respect to~~

3066 ~~coordination of services for the homeless;]~~

3067 [(14)] (13) carry out the responsibility assigned by Section 62A-5a-105 with respect to

3068 coordination of services for students with a disability;

3069 [(15)] (14) provide training and educational opportunities for the department's staff;

3070 [(16)] (15) collect child support payments and any other money due to the department;

3071 [(17)] (16) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to

3072 parents whose child lives out of the home in a department licensed or certified setting;

3073 [(18)] (17) establish policy and procedures, within appropriations authorized by the

3074 Legislature, in cases where the Division of Child and Family Services or the Division of

3075 Juvenile Justice Services is given custody of a minor by the juvenile court under Title 80, Utah

3076 Juvenile Code, or the department is ordered to prepare an attainment plan for a minor found not

3077 competent to proceed under Section 80-6-403~~[- any policy and procedures shall include],~~

3078 including:

3079 (a) designation of interagency teams for each juvenile court district in the state;

3080 (b) delineation of assessment criteria and procedures;

3081 (c) minimum requirements, and timeframes, for the development and implementation

3082 of a collaborative service plan for each minor placed in department custody; and

3083 (d) provisions for submittal of the plan and periodic progress reports to the court;

3084 [(19)] (18) carry out the responsibilities assigned to the department by statute;

3085 [(20)] (19) examine and audit the expenditures of any public funds provided to a local

3086 substance abuse ~~[authorities,]~~ authority, a local mental health ~~[authorities,]~~ authority, a local

3087 area ~~[agencies]~~ agency on aging, and any person, agency, or organization that contracts with or

3088 receives funds from those authorities or agencies. Those local authorities, area agencies, and

3089 any person or entity that contracts with or receives funds from those authorities or area

3090 agencies, shall provide the department with any information the department considers

3091 necessary. The department is further authorized to issue directives resulting from any

3092 examination or audit to a local ~~[authorities, area agencies]~~ authority, an area agency, and

3093 persons or entities that contract with or receive funds from those authorities with regard to any

3094 public funds. If the department determines that it is necessary to withhold funds from a local

3095 mental health authority or local substance abuse authority based on failure to comply with state
3096 or federal law, policy, or contract provisions, [it] the department may take steps necessary to
3097 ensure continuity of services. For purposes of this Subsection [~~(20)~~] (19) "public funds" means
3098 the same as that term is defined in Section [62A-15-102](#);

3099 [~~(21)~~] (20) [~~pursuant to~~] in accordance with Subsection [62A-2-106\(1\)\(d\)](#), accredit one
3100 or more agencies and persons to provide intercountry adoption services;

3101 [~~(22)~~] (21) within legislative appropriations [~~authorized by the Legislature~~], promote
3102 and develop a system of care and stabilization services:

3103 (a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

3104 (b) that encompasses the department, department contractors, and the divisions,
3105 offices, or institutions within the department, to:

3106 (i) navigate services, funding resources, and relationships to the benefit of the children
3107 and families whom the department serves;

3108 (ii) centralize department operations, including procurement and contracting;

3109 (iii) develop policies that govern business operations and that facilitate a system of care
3110 approach to service delivery;

3111 (iv) allocate resources that may be used for the children and families served by the
3112 department or the divisions, offices, or institutions within the department, subject to the
3113 restrictions in Section [63J-1-206](#);

3114 (v) create performance-based measures for the provision of services; and

3115 (vi) centralize other business operations, including data matching and sharing among
3116 the department's divisions, offices, and institutions;

3117 [~~(23)~~] (22) ensure that any training or certification required of a public official or
3118 public employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G,
3119 Chapter 22, State Training and Certification Requirements, if the training or certification is
3120 required:

3121 (a) under this title;

3122 (b) by the department; or

3123 (c) by an agency or division within the department; [~~and~~]

3124 [~~(24) reallocate unexpended funds as provided in Section [62A-1-111.6](#).]~~

3125 (23) enter into cooperative agreements with the Department of Environmental Quality

3126 to delineate specific responsibilities to assure that assessment and management of risk to
3127 human health from the environment are properly administered;

3128 (24) consult with the Department of Environmental Quality and enter into cooperative
3129 agreements, as needed, to ensure efficient use of resources and effective response to potential
3130 health and safety threats from the environment, and to prevent gaps in protection from potential
3131 risks from the environment to specific individuals or population groups;

3132 (25) to the extent authorized under state law or required by federal law, promote and
3133 protect the health and wellness of the people within the state;

3134 (26) establish, maintain, and enforce rules authorized under state law or required by
3135 federal law to promote and protect the public health or to prevent disease and illness;

3136 (27) investigate the causes of epidemic, infectious, communicable, and other diseases
3137 affecting the public health;

3138 (28) provide for the detection and reporting of communicable, infectious, acute,
3139 chronic, or any other disease or health hazard which the department considers to be dangerous,
3140 important, or likely to affect the public health;

3141 (29) collect and report information on causes of injury, sickness, death, and disability
3142 and the risk factors that contribute to the causes of injury, sickness, death, and disability within
3143 the state;

3144 (30) collect, prepare, publish, and disseminate information to inform the public
3145 concerning the health and wellness of the population, specific hazards, and risks that may affect
3146 the health and wellness of the population and specific activities which may promote and protect
3147 the health and wellness of the population;

3148 (31) abate nuisances when necessary to eliminate sources of filth and infectious and
3149 communicable diseases affecting the public health;

3150 (32) make necessary sanitary and health investigations and inspections in cooperation
3151 with local health departments as to any matters affecting the public health;

3152 (33) establish laboratory services necessary to support public health programs and
3153 medical services in the state;

3154 (34) establish and enforce standards for laboratory services which are provided by any
3155 laboratory in the state when the purpose of the services is to protect the public health;

3156 (35) cooperate with the Labor Commission to conduct studies of occupational health

3157 hazards and occupational diseases arising in and out of employment in industry, and make
3158 recommendations for elimination or reduction of the hazards;

3159 (36) cooperate with the local health departments, the Department of Corrections, the
3160 Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime
3161 Victim Reparations and Assistance Board to conduct testing for HIV infection of alleged
3162 sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

3163 (37) investigate the causes of maternal and infant mortality;

3164 (38) establish, maintain, and enforce a procedure requiring the blood of adult
3165 pedestrians and drivers of motor vehicles killed in highway accidents be examined for the
3166 presence and concentration of alcohol, and provide the Commissioner of Public Safety with
3167 monthly statistics reflecting the results of these examinations, with necessary safeguards so that
3168 information derived from the examinations is not used for a purpose other than the compilation
3169 of these statistics;

3170 (39) establish qualifications for individuals permitted to draw blood under Subsection
3171 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
3172 issue permits to individuals the department finds qualified, which permits may be terminated or
3173 revoked by the department;

3174 (40) establish a uniform public health program throughout the state which includes
3175 continuous service, employment of qualified employees, and a basic program of disease
3176 control, vital and health statistics, sanitation, public health nursing, and other preventive health
3177 programs necessary or desirable for the protection of public health;

3178 (41) conduct health planning for the state;

3179 (42) monitor the costs of health care in the state and foster price competition in the
3180 health care delivery system;

3181 (43) establish methods or measures for health care providers, public health entities, and
3182 health care insurers to coordinate among themselves to verify the identity of the individuals the
3183 providers serve;

3184 (44) designate Alzheimer's disease and related dementia as a public health issue and,
3185 within budgetary limitations, implement a state plan for Alzheimer's disease and related
3186 dementia by incorporating the plan into the department's strategic planning and budgetary
3187 process; and

3188 (45) coordinate with other state agencies and other organizations to implement the state
3189 plan for Alzheimer's disease and related dementia;

3190 (46) ensure that any training or certification required of a public official or public
3191 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter
3192 22, State Training and Certification Requirements, if the training or certification is required by
3193 the agency or under this title, Title 26, Utah Health Code or Title 62A, Utah Human Services
3194 Code; and

3195 (47) oversee public education vision screening as described in Section 53G-9-404.
3196 Section 49. Section **26B-1-203**, which is renumbered from Section 62A-1-108 is
3197 renumbered and amended to read:

3198 **[62A-1-108]. 26B-1-203. Executive director -- Appointment --**
3199 **Compensation -- Qualifications -- Deputy directors required -- Responsibilities.**

3200 (1) (a) The chief administrative officer of the department is the executive director, who
3201 shall be appointed by the governor with the advice and consent of the Senate.

3202 (b) The executive director may be removed at the will of the governor.

3203 (c) The executive director shall receive a salary established by the governor within the
3204 salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

3205 (2) The executive director shall be experienced in administration, management, and
3206 coordination of complex organizations.

3207 (3) If the executive director is not a physician, the executive director or a deputy
3208 director shall:

3209 (a) be informed and experienced in public health;

3210 (b) have successfully completed at least a master's degree of public health or public
3211 administration from an accredited school of public health or from an accredited program of
3212 public health or public administration; and

3213 (c) (i) have at least five years of professional full-time experience, of which at least two
3214 years have been in public health in a senior level administrative capacity; or

3215 (ii) have at least five years of professional full-time experience in public health
3216 programs, of which at least three years have been in a senior level administrative capacity.

3217 (4) The executive director shall appoint a deputy director of the department who:

3218 (a) shall have successfully completed at least one year's graduate work in an accredited

3219 school of public health or an accredited program of public health;

3220 (b) shall have at least five years of professional full-time experience in public health
3221 programs; and

3222 (c) is a physician licensed to practice medicine in the state with experience in public
3223 health.

3224 ~~[(2)]~~ (5) The executive director is responsible for:

3225 (a) administration and supervision of the department;

3226 (b) coordination of policies and program activities conducted through the boards,
3227 divisions, and offices of the department;

3228 (c) approval of the proposed budget of each board, division, and office within the
3229 department; and

3230 (d) ~~[such]~~ other duties as the Legislature or governor shall assign to ~~[him]~~ the
3231 executive director.

3232 ~~[(3)]~~ (6) The executive director may appoint deputy or assistant directors to assist
3233 ~~[him]~~ the executive director in carrying out the department's responsibilities.

3234 Section 50. Section **26B-1-204**, which is renumbered from Section 62A-1-105 is
3235 renumbered and amended to read:

3236 ~~[62A-1-105].~~ **26B-1-204. Creation of boards, divisions, and offices --**
3237 **Power to organize department.**

3238 (1) The executive director shall make rules in accordance with Title 63G, Chapter 3,
3239 Utah Administrative Rulemaking Act, and not inconsistent with law for:

3240 (a) the administration and government of the department;

3241 (b) the conduct of the department's employees; and

3242 (c) the custody use and preservation of the records, papers, books, documents, and
3243 property of the department.

3244 ~~[(1)]~~ (2) The following policymaking boards, councils, and committees are created
3245 within the Department of Health and Human Services:

3246 (a) ~~[the]~~ Board of Aging and Adult Services; ~~[and]~~

3247 (b) ~~[the]~~ Utah State Developmental Center Board[-];

3248 (c) Health Advisory Council;

3249 (d) Health Facility Committee;

- 3250 (e) State Emergency Medical Services Committee;
- 3251 (f) Air Ambulance Committee;
- 3252 (g) Health Data Committee;
- 3253 (h) Utah Health Care Workforce Financial Assistance Program Advisory Committee;
- 3254 (i) Residential Child Care Licensing Advisory Committee;
- 3255 (j) Child Care Center Licensing Committee;
- 3256 (k) Primary Care Grant Committee;
- 3257 (l) Adult Autism Treatment Program Advisory Committee;
- 3258 (m) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee;
- 3259 and
- 3260 (n) any boards, councils, or committees that are created by statute in:
- 3261 (i) this title;
- 3262 (ii) Title 26, Utah Health Code; or
- 3263 (iii) Title 62A, Utah Human Services Code.
- 3264 [~~2~~] (3) The following divisions are created within the Department of Health and
- 3265 Human Services:
- 3266 (a) relating to operations:
- 3267 (i) the Division of Finance and Administration;
- 3268 (ii) the Division of Licensing and Background Checks;
- 3269 (iii) the Division of Customer Experience;
- 3270 (iv) the Division of Data, Systems, and Evaluation; and
- 3271 (v) the Division of Continuous Quality Improvement;
- 3272 (b) relating to healthcare administration:
- 3273 (i) the Division of Integrated Healthcare, which shall include responsibility for:
- 3274 (A) the state's medical assistance programs; and
- 3275 (B) behavioral health programs described in Title 62A, Chapter 15, Substance Abuse
- 3276 and Mental Health Act;
- 3277 (ii) the Division of Aging and Adult Services; and
- 3278 (iii) the Division for Services for People with Disabilities; and
- 3279 (c) relating to community health and well-being:
- 3280 (i) the Division of Child and Family Services;

- 3281 (ii) the Division of Family Health;
- 3282 (iii) the Division of Population Health;
- 3283 (iv) the Division of Juvenile Justice and Youth Services; and
- 3284 (v) the Office of Recovery Services.

3285 (4) The executive director may establish offices and bureaus to facilitate management
 3286 of the department as required by, and in accordance, with:

- 3287 (a) this title;
- 3288 (b) Title 26, Utah Health Code; and
- 3289 (c) Title 62A, Utah Human Services Code.

3290 (5) From July 1, 2022, through June 30, 2023, the executive director may adjust the
 3291 organizational structure relating to the department, including the organization of the
 3292 department's divisions and offices, notwithstanding the organizational structure described in:

- 3293 (a) this title;
- 3294 (b) Title 26, Utah Health Code; or
- 3295 (c) Title 62A, Utah Human Services Code.

- 3296 [~~(a) the Division of Aging and Adult Services;~~]
- 3297 [~~(b) the Division of Child and Family Services;~~]
- 3298 [~~(c) the Division of Services for People with Disabilities;~~]
- 3299 [~~(d) the Division of Substance Abuse and Mental Health; and]~~
- 3300 [~~(e) the Division of Juvenile Justice Services.]~~

3301 [~~(3) The following offices are created within the Department of Human Services:]~~

- 3302 [~~(a) the Office of Licensing;]~~
- 3303 [~~(b) the Office of Public Guardian;]~~
- 3304 [~~(c) the Office of Recovery Services; and]~~
- 3305 [~~(d) the Office of Quality and Design.]~~

3306 Section 51. Section **26B-1-205**, which is renumbered from Section 62A-1-109 is
 3307 renumbered and amended to read:

3308 **[~~62A-1-109~~]. 26B-1-205. Division directors -- Appointment --**
 3309 **Compensation -- Qualifications.**

3310 (1) (a) The executive director of the department has administrative jurisdiction over
 3311 each division and office director.

3312 (b) The executive director may make changes in personnel and service functions in the
3313 divisions and offices under the executive director's administrative jurisdiction, and authorize
3314 designees to perform appropriate responsibilities, to effectuate greater efficiency and economy
3315 in the operations of the department.

3316 (c) The executive director may establish offices and bureaus to perform functions such
3317 as budgeting, planning, data processing, and personnel administration, to facilitate management
3318 of the department.

3319 [(H)] (2) The chief officer of each division and office enumerated in Section
3320 [62A-1-105] 26B-1-204 shall be a director who shall serve as the executive and administrative
3321 head of the division or office.

3322 [(2)] (3) [~~Each division director shall be appointed by the~~] The executive director shall
3323 appoint each division director with the concurrence of the division's board, if the division has a
3324 board.

3325 [(3)] (4) The director of any division may be removed from that position at the will of
3326 the executive director after consultation with that division's board, if the division has a board.

3327 [(4) ~~Each office director shall be appointed by the executive director.~~]

3328 [(5)] (5) Directors of divisions and offices shall receive compensation as provided by
3329 Title 63A, Chapter 17, Utah State Personnel Management Act.

3330 [(6)] (6) The director of each division and office shall be experienced in administration
3331 and possess such additional qualifications as determined by the executive director, and as
3332 provided by law.

3333 Section 52. Section **26B-1-206**, which is renumbered from Section 62A-1-107.5 is
3334 renumbered and amended to read:

3335 [~~62A-1-107.5~~]. **26B-1-206. Limitation on establishment of advisory bodies.**

3336 [(1) ~~Department divisions and boards:~~]

3337 (1) A department division or board:

3338 (a) may not establish permanent, ongoing advisory groups unless otherwise specifically
3339 created in federal or state statute; and

3340 (b) shall comply with the provisions of this section [~~with regard to any advisory groups~~
3341 ~~created prior to or after July 1, 2003~~].

3342 (2) (a) [~~Divisions and boards~~] A division or board may establish subject-limited and

3343 time-limited ad hoc advisory groups to provide input necessary to carry out ~~[their]~~ the
 3344 division's or board's assigned responsibilities.

3345 (b) When establishing such an advisory group, the board ~~[must]~~ shall establish in
 3346 writing a specific charge and time limit.

3347 (3) The department shall consolidate an advisory group or committee with another
 3348 committee or advisory group as appropriate to create greater efficiencies and budgetary savings
 3349 for the department.

3350 ~~[(3)]~~ (4) ~~[Members]~~ A member of any ad hoc advisory group shall receive no
 3351 compensation or benefits for their service.

3352 ~~[(4)]~~ (5) The provision of staffing and support to any ad hoc advisory group ~~[will be]~~ is
 3353 contingent on availability of human and financial resources.

3354 Section 53. Section **26B-1-207**, which is renumbered from Section 26-1-4 is
 3355 renumbered and amended to read:

3356 ~~[26-1-4].~~ **26B-1-207. Policymaking responsibilities -- Regulations for local**
 3357 **health departments prescribed by department -- Local standards not more stringent than**
 3358 **federal or state standards -- Consultation with local health departments -- Committee to**
 3359 **evaluate health policies and to review federal grants.**

3360 ~~[(1) There is created the Department of Health, which has all of the policymaking~~
 3361 ~~functions, regulatory and enforcement powers, rights, duties, and responsibilities of the~~
 3362 ~~Division of Health, the Board of Health, the State Health Planning Development Agency, and~~
 3363 ~~the Office of Health Care Financing. Unless otherwise specifically provided, when reference is~~
 3364 ~~made in any statute of this state to the Board of Health, the Division of Health, the State Health~~
 3365 ~~Planning Development Agency, or the Office of Health Care Financing, it refers to the~~
 3366 ~~department. The department shall assume all of the policymaking functions, powers, rights,~~
 3367 ~~duties, and responsibilities over the division, agency, and office previously vested in the~~
 3368 ~~Department of Human Services and its executive director.]~~

3369 ~~[(2)]~~ (1) In establishing public health policy, the department shall consult with the local
 3370 health departments established under Title 26A, Chapter 1, Local Health Departments.

3371 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
 3372 the department may prescribe by administrative rule made in accordance with Title 63G,
 3373 Chapter 3, Utah Administrative Rulemaking Act, reasonable requirements not inconsistent

3374 with law for a local health department as defined in Section [26A-1-102](#).

3375 (b) Except where specifically allowed by federal law or state statute, a local health
3376 department, as defined in Section [26A-1-102](#), may not establish standards or regulations that
3377 are more stringent than those established by federal law, state statute, or administrative rule
3378 adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3379 (c) Nothing in this Subsection (2), limits the ability of a local health department to
3380 make standards and regulations in accordance with Subsection [26A-1-121\(1\)\(a\)](#) for:

3381 (i) emergency rules made in accordance with Section [63G-3-304](#); or

3382 (ii) items not regulated under federal law, state statute, or state administrative rule.

3383 (3) (a) As used in this Subsection (3):

3384 (i) "Committee" means the committee established under Subsection (3)(b).

3385 (ii) "Exempt application" means an application for a federal grant that meets the
3386 criteria established under Subsection (3)(c)(iii).

3387 (iii) "Expedited application" means an application for a federal grant that meets the
3388 criteria established under Subsection (3)(c)(iv).

3389 (iv) "Federal grant" means a grant from the federal government that could provide
3390 funds for local health departments to help them fulfill their duties and responsibilities.

3391 (v) "Reviewable application" means an application for a federal grant that is not an
3392 exempt application.

3393 (b) The department shall establish a committee consisting of:

3394 (i) the executive director, or the executive director's designee;

3395 (ii) two representatives of the department, appointed by the executive director; and

3396 (iii) three representatives of local health departments, appointed by all local health
3397 departments.

3398 (c) The committee shall:

3399 (i) evaluate:

3400 (A) the allocation of public health resources between the department and local health
3401 departments; and

3402 (B) policies that affect local health departments;

3403 (ii) consider policy changes proposed by the department or local health departments;

3404 (iii) establish criteria by which an application for a federal grant may be judged to

3405 determine whether it should be exempt from the requirements under Subsection (3)(d); and
3406 (iv) establish criteria by which an application for a federal grant may be judged to
3407 determine whether committee review under Subsection (3)(d)(i) should be delayed until after
3408 the application is submitted because the application is required to be submitted under a
3409 timetable that makes committee review before it is submitted impracticable if the submission
3410 deadline is to be met.

3411 (d) (i) The committee shall review the goals and budget for each reviewable
3412 application:

3413 (A) before the application is submitted, except for an expedited application; and

3414 (B) for an expedited application, after the application is submitted but before funds
3415 from the federal grant for which the application was submitted are disbursed or encumbered.

3416 (ii) Funds from a federal grant [~~pursuant to~~] under a reviewable application may not be
3417 disbursed or encumbered before the goals and budget for the federal grant are established by:

3418 (A) a two-thirds vote of the committee, following the committee review under
3419 Subsection (3)(d)(i); or

3420 (B) if two-thirds of the committee cannot agree on the goals and budget, the chair of
3421 the health advisory council, after consultation with the committee in a manner that the
3422 committee determines.

3423 (e) An exempt application is exempt from the requirements of Subsection (3)(d).

3424 (f) The department may use money from a federal grant to pay administrative costs
3425 incurred in implementing this Subsection (3).

3426 Section 54. Section **26B-1-208**, which is renumbered from Section 62A-1-112 is
3427 renumbered and amended to read:

3428 ~~[62A-1-112]~~. **26B-1-208. Participation in federal programs -- Federal**
3429 **grants -- Authority of executive director.**

3430 (1) The executive director may, by following the procedures and requirements of Title
3431 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in
3432 federal programs.

3433 (2) Wherever state law authorizes a board, director, division, or office of the
3434 department to accept any grant, fund, or service which is to be advanced or contributed in
3435 whole or in part by the federal government, that acceptance shall be subject to the approval or

3436 disapproval of the executive director.

3437 (3) All applications for federal grants or other federal financial assistance for the
3438 support of any department program is subject to the approval of the executive director.

3439 [~~(3)~~] (4) If any executive or legislative provision of the federal government so requires,
3440 as a condition to participation by this state in any fund, property, or service, the executive
3441 director, with the governor's approval, shall expend whatever funds are necessary out of the
3442 money provided by the Legislature for use and disbursement by that department.

3443 Section 55. Section **26B-1-209**, which is renumbered from Section 26-1-6 is
3444 renumbered and amended to read:

3445 [~~26-1-6~~]. **26B-1-209. Fee schedule adopted by department.**

3446 (1) The department may adopt a schedule of fees that may be assessed for services
3447 rendered by the department, provided that the fees are:

3448 (a) reasonable and fair; and

3449 (b) submitted to the Legislature as part of the department's annual appropriations
3450 request.

3451 (2) When the department submits a fee schedule to the Legislature, the Legislature, in
3452 accordance with Section **63J-1-504**, may:

3453 (a) approve the fee;

3454 (b) increase or decrease and approve the fee; or

3455 (c) reject any fee submitted to it.

3456 (3) Fees approved by the Legislature [~~pursuant to~~] under this section shall be paid into
3457 the state treasury.

3458 Section 56. Section **26B-1-210**, which is renumbered from Section 62A-1-113 is
3459 renumbered and amended to read:

3460 [~~62A-1-113~~]. **26B-1-210. Department budget -- Reports from divisions.**

3461 (1) The department shall prepare and submit to the governor, for inclusion in [~~his~~] the
3462 governor's budget to be submitted to the Legislature, a budget of the department's financial
3463 requirements needed to carry out [~~its~~] the department's responsibilities, as provided by law
3464 during the fiscal year following the Legislature's next Annual General Session.

3465 (2) The executive director shall require a report from each of the divisions and offices
3466 of the department, to aid in preparation of the departmental budget.

3467 Section 57. Section **26B-1-211**, which is renumbered from Section 26-1-17.1 is
3468 renumbered and amended to read:

3469 ~~[26-1-17.1]~~. **26B-1-211. Background checks for employees -- Access to abuse**
3470 **and neglect information to screen employees and volunteers.**

3471 (1) As used in this section, "bureau" means the Bureau of Criminal Identification
3472 created in Section [53-10-201](#).

3473 (2) Beginning July 1, 2018, the department may require a fingerprint-based local,
3474 regional, and national criminal history background check and ongoing monitoring of:

3475 (a) all staff, contracted employees, and volunteers who:

3476 (i) have access to protected health information or personal identifying information;

3477 (ii) have direct ~~[contact with]~~ access to patients, children, or vulnerable adults as
3478 defined in Section ~~[62A-2-120]~~ [62A-2-101](#);

3479 (iii) work in areas of privacy and data security;

3480 (iv) handle financial information, including receipt of funds, reviewing invoices,
3481 making payments, and other types of financial information; and

3482 (v) perform audit functions, whether internal or external, on behalf of the department;
3483 and

3484 (b) job applicants who have been offered a position with the department and the job
3485 requirements include those described in Subsection (2)(a).

3486 (3) Beginning July 1, 2022, for the purposes described in Subsection (2), the
3487 department may also access:

3488 (a) the department's Management Information System created in Section [62A-4a-1003](#);

3489 (b) the department's Licensing Information System created in Section [62A-4a-1006](#);

3490 (c) the statewide database of the Division of Aging and Adult Services created by
3491 Section [62A-3-311.1](#); and

3492 (d) juvenile court records under Subsection [80-3-404\(6\)](#).

3493 ~~[(3)]~~ (4) Each individual in a position listed in Subsection (2) shall provide a
3494 completed fingerprint card to the department upon request.

3495 ~~[(4)]~~ (5) The department shall require that an individual required to submit to a
3496 background check under Subsection ~~[(3)]~~ (4) provide a signed waiver on a form provided by
3497 the department that meets the requirements of Subsection [53-10-108\(4\)](#).

3498 [~~(5)~~] (6) For a noncriminal justice background search and registration in accordance
3499 with Subsection 53-10-108(13), the department shall submit to the bureau:

3500 (a) the applicant's personal identifying information and fingerprints for a criminal
3501 history search of applicable local, regional, and national databases; and

3502 (b) a request for all information received as a result of the local, regional, and
3503 nationwide background check.

3504 [~~(6)~~] (7) The department is responsible for the payment of all fees required by
3505 Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of
3506 Investigation by the bureau.

3507 [~~(7)~~] (8) The department may make rules in accordance with Title 63G, Chapter 3,
3508 Utah Administrative Rulemaking Act, that:

3509 (a) determine how the department will assess the employment status of an individual
3510 upon receipt of background information;

3511 (b) determine [~~the type of crimes and the severity that would disqualify~~] when an
3512 individual would be disqualified from holding a position[~~;~~ and] based on:

3513 (i) the type of crimes and the severity of those crimes; or

3514 (ii) one or more substantiated or supported findings of abuse, neglect, or exploitation;
3515 and

3516 (c) identify the appropriate privacy risk mitigation strategy to be used in accordance
3517 with Subsection 53-10-108(13)(b).

3518 Section 58. Section **26B-1-212**, which is renumbered from Section 26-1-17.5 is
3519 renumbered and amended to read:

3520 [~~26-1-17.5~~]. **26B-1-212. Confidential records.**

3521 (1) A record classified as confidential under this title shall remain confidential, and be
3522 released according to the provisions of this title, notwithstanding Section 63G-2-310.

3523 (2) In addition to [~~those persons~~] a person granted access to a private record described
3524 in Subsection 63G-2-302(1)(b), [~~schools, school districts, and local and state health~~
3525 ~~departments and the state Department of Human Services~~] a school, school district, local health
3526 department, and the department may share an immunization record as defined in Section
3527 53G-9-301 or any other record relating to a vaccination or immunization as necessary to ensure
3528 compliance with Title 53G, Chapter 8, Part 3, Physical Restraint of Students, and to prevent,

3529 investigate, and control the causes of epidemic, infectious, communicable, and other diseases
3530 affecting the public health.

3531 Section 59. Section **26B-1-213**, which is renumbered from Section 26-1-5 is
3532 renumbered and amended to read:

3533 ~~[26-1-5]~~. **26B-1-213. Department and committee rules and proceedings.**

3534 (1) (a) Except in areas subject to concurrence between the department and a committee
3535 created under this title, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code,
3536 the department shall have the power to adopt, amend, or rescind rules necessary to carry out the
3537 provisions of this title.

3538 (b) If the adoption of rules under a provision of this title is subject to concurrence
3539 between the department and a committee created under this title and no concurrence can be
3540 reached, the department has final authority to adopt, amend, or rescind rules necessary to carry
3541 out the provisions of this title.

3542 (c) When the provisions of this title require concurrence between the department and a
3543 committee created under this title:

3544 (i) the department shall report to and update the committee on a regular basis related to
3545 matters requiring concurrence; and

3546 (ii) the committee shall review the report submitted by the department under this
3547 Subsection (1)(c) and shall:

3548 (A) concur with the report; or

3549 (B) provide a reason for not concurring with the report and provide an alternative
3550 recommendation to the department.

3551 (2) Rules shall have the force and effect of law and may deal with matters which
3552 materially affect the security of health or the preservation and improvement of public health in
3553 the state, and any matters as to which jurisdiction is conferred upon the department by this title.

3554 (3) Every rule adopted by the department, or by the concurrence of the department and
3555 a committee established under Section ~~[26-1-7 or 26-1-7.5, shall be]~~ 26B-1-204, is subject to
3556 Title 63G, Chapter 3, Utah Administrative Rulemaking Act and ~~[shall become]~~ is effective at
3557 the time and in the manner provided in that act.

3558 (4) If, at the next general session of the Legislature following the filing of a rule with
3559 the legislative research director, the Legislature passes a bill disapproving such rule, the rule

3560 shall be null and void.

3561 (5) The department or the department in concurrence with a committee created under
3562 Section [~~26-1-7~~ or ~~26-1-7.5~~] 26B-1-204, may not adopt a rule identical to a rule disapproved
3563 under Subsection (4) of this section before the beginning of the next general session of the
3564 Legislature following the general session at which the rule was disapproved.

3565 (6) The department and all committees, boards, divisions, and offices created under
3566 this title, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code, shall comply
3567 with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act,
3568 in any adjudicative proceedings.

3569 (7) (a) The department may hold hearings, administer oaths, subpoena witnesses, and
3570 take testimony in matters relating to the exercise and performance of the powers and duties
3571 vested in or imposed upon the department.

3572 (b) The department may, at the department's sole discretion, contract with any other
3573 agency or department of the state to conduct hearings in the name of the department.

3574 Section 60. Section **26B-1-301**, which is renumbered from Section 26-1-16 is
3575 renumbered and amended to read:

3576 **Part 3. Funds and Accounts**

3577 [~~26-1-16~~]. **26B-1-301. Executive director -- Power to accept funds and gifts.**

3578 The executive director may accept and receive such other funds and gifts as may be
3579 made available from private and public groups for the purposes of promoting and protecting
3580 the public health or for the provision of health services to the people of the state and shall
3581 expend the same as appropriated by the [~~legislature~~] Legislature.

3582 Section 61. Section **26B-1-302**, which is renumbered from Section 62A-1-202 is
3583 renumbered and amended to read:

3584 [~~62A-1-202~~]. **26B-1-302. National Professional Men's Basketball Team**
3585 **Support of Women and Children Issues Restricted Account.**

3586 (1) There is created in the General Fund a restricted account known as the "National
3587 Professional Men's Basketball Team Support of Women and Children Issues Restricted
3588 Account."

3589 (2) The account shall be funded by:

3590 (a) contributions deposited into the account in accordance with Section 41-1a-422;

3591 (b) private contributions; and
3592 (c) donations or grants from public or private entities.
3593 (3) Upon appropriation by the Legislature, the department shall distribute funds in the
3594 account to one or more charitable organizations that:
3595 (a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;
3596 (b) are selected by the owners that, either on an individual or joint basis, own a
3597 controlling interest in a legal entity that is a franchised member of the internationally
3598 recognized national governing body for professional men's basketball in the United States;
3599 (c) are headquartered within the state;
3600 (d) create or support programs that focus on issues affecting women and children
3601 within the state, with an emphasis on health and education; and
3602 (e) have a board of directors that disperses all funds of the organization.
3603 (4) (a) An organization described in Subsection (3) may apply to the department to
3604 receive a distribution in accordance with Subsection (3).
3605 (b) An organization that receives a distribution from the department in accordance with
3606 Subsection (3) shall expend the distribution only to:
3607 (i) create or support programs that focus on issues affecting women and children, with
3608 an emphasis on health and education;
3609 (ii) create or sponsor programs that will benefit residents within the state; and
3610 (iii) pay the costs of issuing or reordering National Professional Men's Basketball
3611 Team Support of Women and Children Issues support special group license plate decals.
3612 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3613 department may make rules providing procedures for an organization to apply to the
3614 department to receive a distribution under this Subsection (4).
3615 (5) In accordance with Section [63J-1-602.1](#), appropriations from the account are
3616 nonlapsing.
3617 Section 62. Section **26B-1-303**, which is renumbered from Section 62A-1-119 is
3618 renumbered and amended to read:
3619 ~~[62A-1-119].~~ **26B-1-303. Respite Care Assistance Fund -- Use of money --**
3620 **Restrictions.**
3621 (1) There is created an expendable special revenue fund known as the Respite Care

3622 Assistance Fund.

3623 (2) The fund shall consist of:

3624 (a) gifts, grants, devises, donations, and bequests of real property, personal property, or
3625 services, from any source, made to the fund; and

3626 (b) any additional amounts as appropriated by the Legislature.

3627 (3) The fund shall be administered by the director of the Utah Developmental
3628 Disabilities Council.

3629 (4) The fund money shall be used for the following activities:

3630 (a) to support a respite care information and referral system;

3631 (b) to educate and train caregivers and respite care providers; and

3632 (c) to provide grants to caregivers.

3633 (5) An individual who receives services paid for from the fund shall:

3634 (a) be a resident of Utah; and

3635 (b) be a primary care giver for:

3636 (i) an aging individual; or

3637 (ii) an individual with a cognitive, mental, or physical disability.

3638 (6) The fund money may not be used for:

3639 (a) administrative expenses that are normally provided for by legislative appropriation;

3640 or

3641 (b) direct services or support mechanisms that are available from or provided by
3642 another government or private agency.

3643 (7) All interest and other earnings derived from the fund money shall be deposited into
3644 the fund.

3645 (8) The state treasurer shall invest the money in the fund under Title 51, Chapter 7,
3646 State Money Management Act.

3647 Section 63. Section **26B-1-304**, which is renumbered from Section 26-1-34 is
3648 renumbered and amended to read:

3649 ~~[26-1-34]~~. **26B-1-304**. **Restricted account created to fund drug testing for law**
3650 **enforcement agencies.**

3651 (1) There is created within the General Fund a restricted account known as the State
3652 Laboratory Drug Testing Account.

3653 (2) The account consists of a specified portion of fees generated under Subsection
3654 53-3-106(5) from the reinstatement of certain licenses, which shall be deposited in this
3655 account.

3656 (3) The [~~Department of Health~~] department shall use funds in this account solely for
3657 the costs of performing drug and alcohol analysis tests for state and local law enforcement
3658 agencies, and may not assess any charge or fee to the law enforcement agencies for whom the
3659 analysis tests are performed.

3660 Section 64. Section **26B-1-305** is enacted to read:

3661 **26B-1-305. Department of Health and Human Services Transition Restricted**
3662 **Account.**

3663 (1) There is created a restricted account within the General Fund known as the
3664 "Department of Health and Human Services Transition Restricted Account."

3665 (2) The restricted account shall consist of appropriations made by the Legislature.

3666 (3) Subject to appropriation, the transition agencies and the department may spend
3667 money from the restricted account to pay for expenses related to moving the transition agencies
3668 into the department, including staff and legal services.

3669 Section 65. Section **26B-2-101** is enacted to read:

3670 **26B-2-101. Clinical services -- Reserved.**

3671 Reserved

3672 Section 66. Section **26B-3-101** is enacted to read:

3673 **26B-3-101. Licensing and oversight -- Reserved.**

3674 Reserved

3675 Section 67. Section **26B-4-101** is enacted to read:

3676 **26B-4-101. Health care administration -- Reserved.**

3677 Reserved

3678 Section 68. Section **26B-5-101** is enacted to read:

3679 **26B-5-101. Health care services -- Reserved.**

3680 Reserved

3681 Section 69. Section **26B-6-101** is enacted to read:

3682 **26B-6-101. Long-term services and supports -- Reserved.**

3683 Reserved

3684 Section 70. Section **26B-7-101** is enacted to read:

3685 **26B-7-101. Public health, prevention, and epidemiology -- Reserved.**

3686 Reserved

3687 Section 71. Section **26B-8-101** is enacted to read:

3688 **26B-8-101. Children, youth, and families -- Reserved.**

3689 Reserved

3690 Section 72. Section **26B-9-101** is enacted to read:

3691 **26B-9-101. Miscellaneous provisions -- Reserved.**

3692 Reserved

3693 Section 73. Section **32B-2-308** is amended to read:

3694 **32B-2-308. Drinking while pregnant prevention media and education campaign**
3695 **restricted account.**

3696 [~~(1) As used in this section:~~]

3697 [~~(a) "Department of Health" means the Department of Health created in Section~~
3698 ~~26-1-4.~~]

3699 [~~(b) "Restricted account" means the Drinking While Pregnant Prevention Media and~~
3700 ~~Education Campaign Restricted Account created in this section.~~]

3701 [(2)(a)] There is created a restricted account within the General Fund known as the
3702 "Drinking While Pregnant Prevention Media and Education Campaign Restricted Account[;]"
3703 which shall consist of:

3704 [~~(b) The restricted account consists of:~~]

3705 [(i)] (1) money the Legislature appropriates to the restricted account; and

3706 [(ii)] (2) interest earned on the restricted account.

3707 Section 74. Section **32B-2-402** is amended to read:

3708 **32B-2-402. Definitions -- Calculations.**

3709 (1) As used in this part:

3710 (a) "Account" means the Alcoholic Beverage and Substance Abuse Enforcement and
3711 Treatment Restricted Account created in Section **32B-2-403**.

3712 (b) "Advisory council" means the Utah Substance Use and Mental Health Advisory
3713 Council created in Section **63M-7-301**.

3714 (c) "Alcohol-related offense" means:

- 3715 (i) a violation of:
- 3716 (A) Section [41-6a-502](#); or
- 3717 (B) an ordinance that complies with the requirements of:
- 3718 (I) Subsection [41-6a-510](#)(1); or
- 3719 (II) Section [76-5-207](#); or
- 3720 (ii) an offense involving the illegal:
- 3721 (A) sale of an alcoholic product;
- 3722 (B) consumption of an alcoholic product;
- 3723 (C) distribution of an alcoholic product;
- 3724 (D) transportation of an alcoholic product; or
- 3725 (E) possession of an alcoholic product.
- 3726 (d) "Annual conviction time period" means the time period that:
- 3727 (i) begins on July 1 and ends on June 30; and
- 3728 (ii) immediately precedes the fiscal year for which an appropriation under this part is
- 3729 made.
- 3730 (e) "Municipality" means:
- 3731 (i) a city;
- 3732 (ii) a town; or
- 3733 (iii) a metro township.
- 3734 (f) (i) "Prevention" is as defined by rule, in accordance with Title 63G, Chapter 3, Utah
- 3735 Administrative Rulemaking Act, by the Division of [~~Substance Abuse and Mental Health~~]
- 3736 Integrated Healthcare within the Department of Health and Human Services.
- 3737 (ii) In defining the term "prevention," the Division of Substance Abuse and Mental
- 3738 Health shall:
- 3739 (A) include only evidence-based or evidence-informed programs; and
- 3740 (B) provide for coordination with local substance abuse authorities designated to
- 3741 provide substance abuse services in accordance with Section [17-43-201](#).
- 3742 (2) For purposes of Subsection [32B-2-404](#)(1)(b)(iii), the number of premises located
- 3743 within the limits of a municipality or county:
- 3744 (a) is the number determined by the department to be so located;
- 3745 (b) includes the aggregate number of premises of the following:

- 3746 (i) a state store;
- 3747 (ii) a package agency; and
- 3748 (iii) a retail licensee; and
- 3749 (c) for a county, consists only of the number located within an unincorporated area of
- 3750 the county.
- 3751 (3) The department shall determine:
- 3752 (a) a population figure according to the most current population estimate prepared by
- 3753 the Utah Population Committee;
- 3754 (b) a county's population for the 25% distribution to municipalities and counties under
- 3755 Subsection [32B-2-404\(1\)\(b\)\(i\)](#) only with reference to the population in the unincorporated
- 3756 areas of the county; and
- 3757 (c) a county's population for the 25% distribution to counties under Subsection
- 3758 [32B-2-404\(1\)\(b\)\(iv\)](#) only with reference to the total population in the county, including that of
- 3759 a municipality.
- 3760 (4) (a) A conviction occurs in the municipality or county that actually prosecutes the
- 3761 offense to judgment.
- 3762 (b) If a conviction is based upon a guilty plea, the conviction is considered to occur in
- 3763 the municipality or county that, except for the guilty plea, would have prosecuted the offense.
- 3764 Section 75. Section **35A-3-103 (Effective 07/01/22)** is amended to read:
- 3765 **35A-3-103 (Effective 07/01/22). Department responsibilities.**
- 3766 The department shall:
- 3767 (1) administer public assistance programs assigned by the Legislature and the
- 3768 governor;
- 3769 (2) determine eligibility for public assistance programs in accordance with the
- 3770 requirements of this chapter;
- 3771 (3) cooperate with the federal government in the administration of public assistance
- 3772 programs;
- 3773 (4) administer state employment services;
- 3774 (5) provide for the compilation of necessary or desirable information, statistics, and
- 3775 reports;
- 3776 (6) perform other duties and functions required by law;

- 3777 (7) monitor the application of eligibility policy;
- 3778 (8) develop personnel training programs for effective and efficient operation of the
- 3779 programs administered by the department;
- 3780 (9) provide refugee resettlement services in accordance with Section 35A-3-701;
- 3781 (10) provide child care assistance for children in accordance with Part 2, Office of
- 3782 Child Care;
- 3783 (11) provide services that enable an applicant or recipient to qualify for affordable
- 3784 housing in cooperation with:
- 3785 (a) the Utah Housing Corporation;
- 3786 (b) the Housing and Community Development Division; and
- 3787 (c) local housing authorities;
- 3788 [~~(12) in accordance with 42 C.F.R. Sec. 431.10, develop non-clinical eligibility policy~~
- 3789 ~~and procedures to implement the eligibility state plan, waivers, and administrative rules~~
- 3790 ~~developed and issued by the Department of Health and Human Services for medical assistance~~
- 3791 ~~under:]~~
- 3792 [~~(a) Title 26, Chapter 18, Medical Assistance Act; and]~~
- 3793 [~~(b) Title 26, Chapter 40, Utah Children's Health Insurance Act;]~~
- 3794 [(13)] (12) administer the Medicaid Eligibility Quality Control function in accordance
- 3795 with 42 C.F.R. Sec. 431.812; and
- 3796 [(14)] (13) conduct non-clinical eligibility hearings and issue final decisions in
- 3797 adjudicative proceedings, including expedited appeals as defined in 42 C.F.R. Sec. 431.224, for
- 3798 medical assistance eligibility under:
- 3799 (a) Title 26, Chapter 18, Medical Assistance Act; or
- 3800 (b) Title 26, Chapter 40, Utah Children's Health Insurance Act.
- 3801 Section 76. Section **41-1a-422** is amended to read:
- 3802 **41-1a-422. Support special group license plates -- Contributor -- Voluntary**
- 3803 **contribution collection procedures.**
- 3804 (1) As used in this section:
- 3805 (a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who has
- 3806 donated or in whose name at least \$25 has been donated to:
- 3807 (A) a scholastic scholarship fund of a single named institution;

- 3808 (B) the Department of Veterans and Military Affairs for veterans programs;
- 3809 (C) the Division of Wildlife Resources for the Wildlife Resources Account created in
- 3810 Section [23-14-13](#), for conservation of wildlife and the enhancement, preservation, protection,
- 3811 access, and management of wildlife habitat;
- 3812 (D) the Department of Agriculture and Food for the benefit of conservation districts;
- 3813 (E) the Division of Recreation for the benefit of snowmobile programs;
- 3814 (F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with
- 3815 the donation evenly divided between the two;
- 3816 (G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America
- 3817 council as specified by the contributor;
- 3818 (H) No More Homeless Pets in Utah for distribution to organizations or individuals
- 3819 that provide spay and neuter programs that subsidize the sterilization of domestic animals;
- 3820 (I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth
- 3821 development programs;
- 3822 (J) the Utah Association of Public School Foundations to support public education;
- 3823 (K) the Utah Housing Opportunity Restricted Account created in Section [61-2-204](#) to
- 3824 assist people who have severe housing needs;
- 3825 (L) the Public Safety Honoring Heroes Restricted Account created in Section [53-1-118](#)
- 3826 to support the families of fallen Utah Highway Patrol troopers and other Department of Public
- 3827 Safety employees;
- 3828 (M) the Division of State Parks for distribution to organizations that provide support
- 3829 for Zion National Park;
- 3830 (N) the Firefighter Support Restricted Account created in Section [53-7-109](#) to support
- 3831 firefighter organizations;
- 3832 (O) the Share the Road Bicycle Support Restricted Account created in Section
- 3833 [72-2-127](#) to support bicycle operation and safety awareness programs;
- 3834 (P) the Cancer Research Restricted Account created in Section [26-21a-302](#) to support
- 3835 cancer research programs;
- 3836 (Q) Autism Awareness Restricted Account created in Section [53F-9-401](#) to support
- 3837 autism awareness programs;
- 3838 (R) Humanitarian Service and Educational and Cultural Exchange Restricted Account

3839 created in Section 9-17-102 to support humanitarian service and educational and cultural
3840 programs;

3841 (S) Upon renewal of a prostate cancer support special group license plate, to the Cancer
3842 Research Restricted Account created in Section 26-21a-302 to support cancer research
3843 programs;

3844 (T) the Choose Life Adoption Support Restricted Account created in Section
3845 62A-4a-608 to support programs that promote adoption;

3846 (U) the National Professional Men's Basketball Team Support of Women and Children
3847 Issues Restricted Account created in Section [~~62A-1-202~~] 26B-1-302;

3848 (V) the Utah Law Enforcement Memorial Support Restricted Account created in
3849 Section 53-1-120;

3850 (W) the Children with Cancer Support Restricted Account created in Section
3851 26-21a-304 for programs that provide assistance to children with cancer;

3852 (X) the National Professional Men's Soccer Team Support of Building Communities
3853 Restricted Account created in Section 9-19-102;

3854 (Y) the Children with Heart Disease Support Restricted Account created in Section
3855 26-58-102;

3856 (Z) the Utah Intracurricular Student Organization Support for Agricultural Education
3857 and Leadership Restricted Account created in Section 4-42-102;

3858 (AA) the Division of Wildlife Resources for the Support for State-Owned Shooting
3859 Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and
3860 operation and maintenance of existing, state-owned firearm shooting ranges;

3861 (BB) the Utah State Historical Society to further the mission and purpose of the Utah
3862 State Historical Society;

3863 (CC) the Motorcycle Safety Awareness Support Restricted Account created in Section
3864 72-2-130;

3865 (DD) the Transportation of Veterans to Memorials Support Restricted Account created
3866 in Section 71-14-102;

3867 (EE) clean air support causes, with half of the donation deposited into the Clean Air
3868 Support Restricted Account created in Section 19-1-109, and half of the donation deposited
3869 into the Clean Air Fund created in Section 59-10-1319;

3870 (FF) the Latino Community Support Restricted Account created in Section 13-1-16;
3871 (GG) the Allyson Gamble Organ Donation Contribution Fund created in Section
3872 26-18b-101; or

3873 (HH) public education on behalf of the Kiwanis International clubs, with the amount of
3874 the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support
3875 special group plates, as determined by the State Tax Commission, deposited into the Kiwanis
3876 Education Support Fund created in Section 53F-9-403, and all remaining donation amounts
3877 deposited into the Education Fund.

3878 (ii) (A) For a veterans special group license plate described in Subsection
3879 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose
3880 name at least a \$25 donation at the time of application and \$10 annual donation thereafter has
3881 been made.

3882 (B) For a Utah Housing Opportunity special group license plate, "contributor" means a
3883 person who:

3884 (I) has donated or in whose name at least \$30 has been donated at the time of
3885 application and annually after the time of application; and

3886 (II) is a member of a trade organization for real estate licensees that has more than
3887 15,000 Utah members.

3888 (C) For an Honoring Heroes special group license plate, "contributor" means a person
3889 who has donated or in whose name at least \$35 has been donated at the time of application and
3890 annually thereafter.

3891 (D) For a firefighter support special group license plate, "contributor" means a person
3892 who:

3893 (I) has donated or in whose name at least \$15 has been donated at the time of
3894 application and annually after the time of application; and

3895 (II) is a currently employed, volunteer, or retired firefighter.

3896 (E) For a cancer research special group license plate, "contributor" means a person who
3897 has donated or in whose name at least \$35 has been donated at the time of application and
3898 annually after the time of application.

3899 (F) For a Utah Law Enforcement Memorial Support special group license plate,
3900 "contributor" means a person who has donated or in whose name at least \$35 has been donated

3901 at the time of application and annually thereafter.

3902 (b) "Institution" means a state institution of higher education as defined under Section
3903 [53B-3-102](#) or a private institution of higher education in the state accredited by a regional or
3904 national accrediting agency recognized by the United States Department of Education.

3905 (2) (a) An applicant for original or renewal collegiate special group license plates under
3906 Subsection (1)(a)(i) must be a contributor to the institution named in the application and
3907 present the original contribution verification form under Subsection (2)(b) or make a
3908 contribution to the division at the time of application under Subsection (3).

3909 (b) An institution with a support special group license plate shall issue to a contributor
3910 a verification form designed by the commission containing:

3911 (i) the name of the contributor;

3912 (ii) the institution to which a donation was made;

3913 (iii) the date of the donation; and

3914 (iv) an attestation that the donation was for a scholastic scholarship.

3915 (c) The state auditor may audit each institution to verify that the money collected by the
3916 institutions from contributors is used for scholastic scholarships.

3917 (d) After an applicant has been issued collegiate license plates or renewal decals, the
3918 commission shall charge the institution whose plate was issued, a fee determined in accordance
3919 with Section [63J-1-504](#) for management and administrative expenses incurred in issuing and
3920 renewing the collegiate license plates.

3921 (e) If the contribution is made at the time of application, the contribution shall be
3922 collected, treated, and deposited as provided under Subsection (3).

3923 (3) (a) An applicant for original or renewal support special group license plates under
3924 this section must be a contributor to the sponsoring organization associated with the license
3925 plate.

3926 (b) This contribution shall be:

3927 (i) unless collected by the named institution under Subsection (2), collected by the
3928 division;

3929 (ii) considered a voluntary contribution for the funding of the activities specified under
3930 this section and not a motor vehicle registration fee;

3931 (iii) deposited into the appropriate account less actual administrative costs associated

3932 with issuing the license plates; and
3933 (iv) for a firefighter special group license plate, deposited into the appropriate account
3934 less:
3935 (A) the costs of reordering firefighter special group license plate decals; and
3936 (B) the costs of replacing recognition special group license plates with new license
3937 plates under Subsection 41-1a-1211(13).
3938 (c) The donation described in Subsection (1)(a) must be made in the 12 months prior to
3939 registration or renewal of registration.
3940 (d) The donation described in Subsection (1)(a) shall be a one-time donation made to
3941 the division when issuing original:
3942 (i) snowmobile license plates; or
3943 (ii) conservation license plates.
3944 (4) Veterans license plates shall display one of the symbols representing the Army,
3945 Navy, Air Force, Marines, Coast Guard, or American Legion.
3946 Section 77. Section 53-3-106 is amended to read:
3947 **53-3-106. Disposition of revenues under this chapter -- Restricted account created**
3948 **-- Uses as provided by appropriation -- Nonlapsing.**
3949 (1) There is created within the Transportation Fund a restricted account known as the
3950 "Department of Public Safety Restricted Account."
3951 (2) The account consists of money generated from the following revenue sources:
3952 (a) all money received under this chapter;
3953 (b) administrative fees received according to the fee schedule authorized under this
3954 chapter and Section 63J-1-504;
3955 (c) beginning on January 1, 2013, money received in accordance with Section
3956 41-1a-1201; and
3957 (d) any appropriations made to the account by the Legislature.
3958 (3) (a) The account shall earn interest.
3959 (b) All interest earned on account money shall be deposited in the account.
3960 (4) The expenses of the department in carrying out this chapter shall be provided for by
3961 legislative appropriation from this account.
3962 (5) The amount in excess of \$45 of the fees collected under Subsection 53-3-105(25)

3963 shall be appropriated by the Legislature from this account to the department to implement the
3964 provisions of Section 53-1-117, except that of the amount in excess of \$45, \$100 shall be
3965 deposited in the State Laboratory Drug Testing Account created in Section [26-1-34]
3966 26B-1-304.

3967 (6) All money received under Subsection 41-6a-1406(6)(b)(ii) shall be appropriated by
3968 the Legislature from this account to the department to implement the provisions of Section
3969 53-1-117.

3970 (7) Beginning in fiscal year 2009-10, the Legislature shall appropriate \$100,000
3971 annually from the account to the state medical examiner appointed under Section 26-4-4 for
3972 use in carrying out duties related to highway crash deaths under Subsection 26-4-7(1).

3973 (8) The division shall remit the fees collected under Subsection 53-3-105(31) to the
3974 Bureau of Criminal Identification to cover the costs for the services the Bureau of Criminal
3975 Identification provides under Section 53-3-205.5.

3976 (9) (a) Beginning on January 1, 2013, the Legislature shall appropriate all money
3977 received in the account under Section 41-1a-1201 to the Utah Highway Patrol Division for
3978 field operations.

3979 (b) The Legislature may appropriate additional money from the account to the Utah
3980 Highway Patrol Division for law enforcement purposes.

3981 (10) Appropriations to the department from the account are nonlapsing.

3982 (11) The department shall report to the Department of Health and Human Services, on
3983 or before December 31, the amount the department expects to collect under Subsection
3984 53-3-105(25) in the next fiscal year.

3985 Section 78. Section 53-5-707.6 is amended to read:

3986 **53-5-707.6. Concealed firearm permit renewal -- Firearm safety and suicide**
3987 **prevention video.**

3988 (1) The bureau, in conjunction with the Division of [~~Substance Abuse and Mental~~
3989 ~~Health created in Section 62A-15-103~~] Integrated Healthcare created in Section 26B-1-204,
3990 shall create a firearm safety and suicide prevention video that:

3991 (a) is web-accessible;

3992 (b) is no longer than 10 minutes in length; and

3993 (c) includes information about:

3994 (i) safe handling, storage, and use of firearms in a home environment;
3995 (ii) at-risk individuals and individuals who are legally prohibited from possessing
3996 firearms; and
3997 (iii) suicide prevention awareness.
3998 (2) Before renewing a firearm permit, an individual shall view the firearm safety and
3999 suicide prevention video and submit proof in the form required by the bureau.
4000 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4001 bureau shall make rules that establish procedures for:
4002 (a) producing and distributing the firearm safety and suicide prevention video; and
4003 (b) providing access to the video to an applicant seeking renewal of a firearm permit.
4004 Section 79. Section **53-10-108** is amended to read:
4005 **53-10-108. Restrictions on access, use, and contents of division records -- Limited**
4006 **use of records for employment purposes -- Challenging accuracy of records -- Usage fees**
4007 **-- Missing children records -- Penalty for misuse of records.**
4008 (1) As used in this section:
4009 (a) "FBI Rap Back System" means the rap back system maintained by the Federal
4010 Bureau of Investigation.
4011 (b) "Qualifying child care entity" means:
4012 (i) the Office of Licensing within the Department of Health and Human Services,
4013 created in Section [62A-2-103](#);
4014 (ii) the State Board of Education described in Section [53E-3-201](#); or
4015 (iii) the Department of Health and Human Services created in Section [~~26-1-4~~]
4016 [26B-1-201](#).
4017 (c) "Rap back system" means a system that enables authorized entities to receive
4018 ongoing status notifications of any criminal history reported on individuals whose fingerprints
4019 are registered in the system.
4020 (d) "WIN Database" means the Western Identification Network Database that consists
4021 of eight western states sharing one electronic fingerprint database.
4022 (2) Except as provided in Subsection (17), dissemination of information from a criminal
4023 history record, including information obtained from a fingerprint background check, name
4024 check, warrant of arrest information, or information from division files, is limited to:

4025 (a) criminal justice agencies for purposes of administration of criminal justice and for
4026 employment screening by criminal justice agencies;

4027 (b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice
4028 agency to provide services required for the administration of criminal justice;

4029 (ii) the agreement shall specifically authorize access to data, limit the use of the data to
4030 purposes for which given, and ensure the security and confidentiality of the data;

4031 (c) a qualifying entity for employment background checks for their own employees and
4032 persons who have applied for employment with the qualifying entity;

4033 (d) noncriminal justice agencies or individuals for any purpose authorized by statute,
4034 executive order, court rule, court order, or local ordinance;

4035 (e) agencies or individuals for the purpose of obtaining required clearances connected
4036 with foreign travel or obtaining citizenship;

4037 (f) agencies or individuals for the purpose of a preplacement adoptive study, in
4038 accordance with the requirements of Sections [78B-6-128](#) and [78B-6-130](#);

4039 (g) private security agencies through guidelines established by the commissioner for
4040 employment background checks for their own employees and prospective employees;

4041 (h) state agencies for the purpose of conducting a background check for the following
4042 individuals:

4043 (i) employees;

4044 (ii) applicants for employment;

4045 (iii) volunteers; and

4046 (iv) contract employees;

4047 (i) governor's office for the purpose of conducting a background check on the
4048 following individuals:

4049 (i) cabinet members;

4050 (ii) judicial applicants; and

4051 (iii) members of boards, committees, and commissions appointed by the governor;

4052 (j) the office of the lieutenant governor for the purpose of conducting a background
4053 check on an individual applying to be a notary public under Section [46-1-3](#);

4054 (k) agencies and individuals as the commissioner authorizes for the express purpose of
4055 research, evaluative, or statistical activities pursuant to an agreement with a criminal justice

4056 agency; and

4057 (1) other agencies and individuals as the commissioner authorizes and finds necessary
4058 for protection of life and property and for offender identification, apprehension, and
4059 prosecution pursuant to an agreement.

4060 (3) An agreement under Subsection (2)(k) shall specifically authorize access to data,
4061 limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of
4062 individuals to whom the information relates, and ensure the confidentiality and security of the
4063 data.

4064 (4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state
4065 agency, or other agency or individual described in Subsections (2)(d) through (j) shall obtain a
4066 signed waiver from the person whose information is requested.

4067 (b) The waiver shall notify the signee:

4068 (i) that a criminal history background check will be conducted;

4069 (ii) who will see the information; and

4070 (iii) how the information will be used.

4071 (c) A qualifying entity under Subsection (2)(c), state agency, or other agency or
4072 individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal
4073 justice name based background check of local databases to the bureau shall provide to the
4074 bureau:

4075 (i) personal identifying information for the subject of the background check; and

4076 (ii) the fee required by Subsection (15).

4077 (d) A qualifying entity under Subsection (2)(c), state agency, or other agency or
4078 individual described in Subsections (2)(d) through (g) that submits a request for a WIN
4079 database check and a nationwide background check shall provide to the bureau:

4080 (i) personal identifying information for the subject of the background check;

4081 (ii) a fingerprint card for the subject of the background check; and

4082 (iii) the fee required by Subsection (15).

4083 (e) Information received by a qualifying entity under Subsection (2)(c), state agency, or
4084 other agency or individual described in Subsections (2)(d) through (j) may only be:

4085 (i) available to individuals involved in the hiring or background investigation of the job
4086 applicant, employee, or notary applicant;

4087 (ii) used for the purpose of assisting in making an employment appointment, selection,
4088 or promotion decision or for considering a notary applicant under Section 46-1-3; and

4089 (iii) used for the purposes disclosed in the waiver signed in accordance with Subsection
4090 (4)(b).

4091 (f) An individual who disseminates or uses information obtained from the division
4092 under Subsections (2)(c) through (j) for purposes other than those specified under Subsection
4093 (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

4094 (g) A qualifying entity under Subsection (2)(c), state agency, or other agency or
4095 individual described in Subsections (2)(d) through (j) that obtains background check
4096 information shall provide the subject of the background check an opportunity to:

- 4097 (i) review the information received as provided under Subsection (9); and
- 4098 (ii) respond to any information received.

4099 (h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4100 division may make rules to implement this Subsection (4).

4101 (i) The division or its employees are not liable for defamation, invasion of privacy,
4102 negligence, or any other claim in connection with the contents of information disseminated
4103 under Subsections (2)(c) through (j).

4104 (5) (a) Any criminal history record information obtained from division files may be
4105 used only for the purposes for which it was provided and may not be further disseminated,
4106 except under Subsection (5)(b), (c), or (d).

4107 (b) A criminal history provided to an agency pursuant to Subsection (2)(f) may be
4108 provided by the agency to the individual who is the subject of the history, another licensed
4109 child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an
4110 adoption.

4111 (c) A criminal history of a defendant provided to a criminal justice agency under
4112 Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel,
4113 upon request during the discovery process, for the purpose of establishing a defense in a
4114 criminal case.

4115 (d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public
4116 Transit District Act, that is under contract with a state agency to provide services may, for the
4117 purposes of complying with Subsection 62A-5-103.5(5), provide a criminal history record to

4118 the state agency or the agency's designee.

4119 (6) The division may not disseminate criminal history record information to qualifying
4120 entities under Subsection (2)(c) regarding employment background checks if the information is
4121 related to charges:

4122 (a) that have been declined for prosecution;

4123 (b) that have been dismissed; or

4124 (c) regarding which a person has been acquitted.

4125 (7) (a) This section does not preclude the use of the division's central computing
4126 facilities for the storage and retrieval of criminal history record information.

4127 (b) This information shall be stored so it cannot be modified, destroyed, or accessed by
4128 unauthorized agencies or individuals.

4129 (8) Direct access through remote computer terminals to criminal history record
4130 information in the division's files is limited to those agencies authorized by the commissioner
4131 under procedures designed to prevent unauthorized access to this information.

4132 (9) (a) The commissioner shall establish procedures to allow an individual right of
4133 access to review and receive a copy of the individual's criminal history report.

4134 (b) A processing fee for the right of access service, including obtaining a copy of the
4135 individual's criminal history report under Subsection (9)(a) shall be set in accordance with
4136 Section [63J-1-504](#).

4137 (c) (i) The commissioner shall establish procedures for an individual to challenge the
4138 completeness and accuracy of criminal history record information contained in the division's
4139 computerized criminal history files regarding that individual.

4140 (ii) These procedures shall include provisions for amending any information found to
4141 be inaccurate or incomplete.

4142 (10) The private security agencies as provided in Subsection (2)(g):

4143 (a) shall be charged for access; and

4144 (b) shall be registered with the division according to rules made by the division under
4145 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

4146 (11) Before providing information requested under this section, the division shall give
4147 priority to criminal justice agencies needs.

4148 (12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access,

4149 use, disclose, or disseminate a record created, maintained, or to which access is granted by the
4150 division or any information contained in a record created, maintained, or to which access is
4151 granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or
4152 policy of a governmental entity.

4153 (b) A person who discovers or becomes aware of any unauthorized use of records
4154 created or maintained, or to which access is granted by the division shall inform the
4155 commissioner and the director of the Utah Bureau of Criminal Identification of the
4156 unauthorized use.

4157 (13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in
4158 Subsection (2) may request that the division register fingerprints taken for the purpose of
4159 conducting current and future criminal background checks under this section with:

- 4160 (i) the WIN Database rap back system, or any successor system;
- 4161 (ii) the FBI Rap Back System; or
- 4162 (iii) a system maintained by the division.

4163 (b) A qualifying entity or an entity described in Subsection (2) may only make a
4164 request under Subsection (13)(a) if the entity:

- 4165 (i) has the authority through state or federal statute or federal executive order;
- 4166 (ii) obtains a signed waiver from the individual whose fingerprints are being registered;

4167 and

- 4168 (iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives
4169 notifications for individuals with whom the entity maintains an authorizing relationship.

4170 (14) The division is authorized to submit fingerprints to the FBI Rap Back System to
4171 be retained in the FBI Rap Back System for the purpose of being searched by future
4172 submissions to the FBI Rap Back System, including latent fingerprint searches.

4173 (15) (a) The division shall impose fees set in accordance with Section [63J-1-504](#) for
4174 the applicant fingerprint card, name check, and to register fingerprints under Subsection
4175 (13)(a).

4176 (b) Funds generated under this Subsection (15) shall be deposited into the General
4177 Fund as a dedicated credit by the department to cover the costs incurred in providing the
4178 information.

4179 (c) The division may collect fees charged by an outside agency for services required

4180 under this section.

4181 (16) For the purposes of conducting a criminal background check authorized under
4182 Subsection (2)(h), (i), or (j), the Division of Human Resource Management, in accordance with
4183 Title 63A, Chapter 17, Utah State Personnel Management Act, and the governor's office shall
4184 have direct access to criminal background information maintained under Title 53, Chapter 10,
4185 Part 2, Bureau of Criminal Identification.

4186 (17) (a) Except as provided in Subsection (18), if an individual has an active FBI Rap
4187 Back System subscription with a qualifying child care entity, the division may, upon request
4188 from another qualifying child care entity, transfer the subscription to the requesting qualifying
4189 child care entity if:

4190 (i) the requesting qualifying child care entity requests the transfer for the purpose of
4191 evaluating whether the individual should be permitted to obtain or retain a license for, or serve
4192 as an employee or volunteer in a position where the individual is responsible for, the care,
4193 custody, or control of children;

4194 (ii) the requesting qualifying child care entity is expressly authorized by statute to
4195 obtain criminal history record information for the individual who is the subject of the request;

4196 (iii) before requesting the transfer, the requesting qualifying child care entity obtains a
4197 signed waiver, containing the information described in Subsection (4)(b), from the individual
4198 who is the subject of the request;

4199 (iv) the requesting qualifying child care entity or the individual pays any applicable
4200 fees set by the division in accordance with Section [63J-1-504](#); and

4201 (v) the requesting qualifying child care entity complies with the requirements described
4202 in Subsection (4)(g).

4203 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4204 division may make rules regulating the process described in this Subsection (17).

4205 (18) (a) Subsection (17) does not apply unless the Federal Bureau of Investigation
4206 approves the use of the FBI Rap Back System for the purpose described in Subsection
4207 (17)(a)(i) under the conditions described in Subsection (17).

4208 (b) Subsection (17) does not apply to the extent that implementation of the provisions
4209 of Subsection (17) are contrary to the requirements of the Child Care and Development Block
4210 Grant, 42 U.S.C. Secs. 9857-9858r or any other federal grant.

4211 (19) (a) Information received by a qualifying child care entity under Subsection (17)
4212 may only be disclosed and used as described in Subsection (4)(e).

4213 (b) A person who disseminates or uses information received under Subsection (17) for
4214 a purpose other than those described in Subsection (4)(e) is subject to the penalties described in
4215 this section and is also subject to civil liability.

4216 (c) A qualifying child care entity is not liable for defamation, invasion of privacy,
4217 negligence, or any other claim in connection with the contents of information disseminated
4218 under Subsection (17).

4219 Section 80. Section **53G-9-301** is amended to read:

4220 **53G-9-301. Definitions.**

4221 As used in this part:

4222 (1) "Department" means the Department of Health[;] and Human Services created in
4223 Section [~~26-1-4~~] 26B-1-201.

4224 (2) "Health official" means an individual designated by a local health department from
4225 within the local health department to consult and counsel parents and licensed health care
4226 providers, in accordance with Subsection **53G-9-304(2)(a)**.

4227 (3) "Health official designee" means a licensed health care provider designated by a
4228 local health department, in accordance with Subsection **53G-9-304(2)(b)**, to consult with
4229 parents, licensed health care professionals, and school officials.

4230 (4) "Immunization" or "immunize" means a process through which an individual
4231 develops an immunity to a disease, through vaccination or natural exposure to the disease.

4232 (5) "Immunization record" means a record relating to a student that includes:

4233 (a) information regarding each required vaccination that the student has received,
4234 including the date each vaccine was administered, verified by:

4235 (i) a licensed health care provider;

4236 (ii) an authorized representative of a local health department;

4237 (iii) an authorized representative of the department;

4238 (iv) a registered nurse; or

4239 (v) a pharmacist;

4240 (b) information regarding each disease against which the student has been immunized
4241 by previously contracting the disease; and

4242 (c) an exemption form identifying each required vaccination from which the student is
4243 exempt, including all required supporting documentation described in Section 53G-9-303.

4244 (6) "Legally responsible individual" means:

4245 (a) a student's parent;

4246 (b) the student's legal guardian;

4247 (c) an adult brother or sister of a student who has no legal guardian; or

4248 (d) the student, if the student:

4249 (i) is an adult; or

4250 (ii) is a minor who may consent to treatment under Section 26-10-9.

4251 (7) "Licensed health care provider" means a health care provider who is licensed under

4252 Title 58, Occupations and Professions, as:

4253 (a) a medical doctor;

4254 (b) an osteopathic doctor;

4255 (c) a physician assistant; or

4256 (d) an advanced practice registered nurse.

4257 (8) "Local health department" means the same as that term is defined in Section

4258 26A-1-102.

4259 (9) "Required vaccines" means vaccines required by department rule described in

4260 Section 53G-9-305.

4261 (10) "School" means any public or private:

4262 (a) elementary or secondary school through grade 12;

4263 (b) preschool;

4264 (c) child care program, as that term is defined in Section 26-39-102;

4265 (d) nursery school; or

4266 (e) kindergarten.

4267 (11) "Student" means an individual who attends a school.

4268 (12) "Vaccinating" or "vaccination" means the administration of a vaccine.

4269 (13) "Vaccination exemption form" means a form, described in Section 53G-9-304,

4270 that documents and verifies that a student is exempt from the requirement to receive one or
4271 more required vaccines.

4272 (14) "Vaccine" means the substance licensed for use by the United States Food and

4273 Drug Administration that is injected into or otherwise administered to an individual to
4274 immunize the individual against a communicable disease.

4275 Section 81. Section **53G-9-309** is amended to read:

4276 **53G-9-309. School record of students' immunization status -- Confidentiality.**

4277 (1) Each school shall maintain a current list of all enrolled students, noting each
4278 student:

4279 (a) for whom the school has received a valid and complete immunization record;

4280 (b) who is exempt from receiving a required vaccine; and

4281 (c) who is allowed to attend school under Section [53G-9-308](#).

4282 (2) Each school shall ensure that the list described in Subsection (1) specifically
4283 identifies each disease against which a student is not immunized.

4284 (3) Upon the request of an official from a local health department in the case of a
4285 disease outbreak, a school principal or administrator shall:

4286 (a) notify the legally responsible individual of any student who is not immune to the
4287 outbreak disease, providing information regarding steps the legally responsible individual may
4288 take to protect students;

4289 (b) identify each student who is not immune to the outbreak disease; and

4290 (c) for a period determined by the local health department not to exceed the duration of
4291 the disease outbreak, do one of the following at the discretion of the school principal or
4292 administrator after obtaining approval from the local health department:

4293 (i) provide a separate educational environment for the students described in Subsection
4294 (3)(b) that ensures the protection of the students described in Subsection (3)(b) as well as the
4295 protection of the remainder of the student body; or

4296 (ii) prevent each student described in Subsection (3)(b) from attending school.

4297 (4) A name appearing on the list described in Subsection (1) is subject to
4298 confidentiality requirements described in Section ~~[26-1-17.5]~~ [26B-1-212](#) and Section
4299 [53E-9-202](#).

4300 Section 82. Section **58-1-601** is amended to read:

4301 **58-1-601. Suicide prevention video -- Primary care providers.**

4302 (1) As used in this section:

4303 (a) "Nurse practitioner" means an individual who is licensed to practice as an advanced

4304 practice registered nurse under Chapter 31b, Nurse Practice Act.

4305 (b) "Physician" means an individual licensed to practice as a physician or osteopath
4306 under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical
4307 Practice Act.

4308 (c) "Physician assistant" means an individual who is licensed to practice as a physician
4309 assistant under Chapter 70a, Utah Physician Assistant Act.

4310 (d) "Primary care provider" means a nurse practitioner, physician, or physician
4311 assistant.

4312 (2) The division, in conjunction with the Division of [~~Substance Abuse and Mental~~
4313 ~~Health created in Section 62A-15-103~~] Integrated Healthcare created in Section 26B-1-204,
4314 shall:

4315 (a) create a series of suicide prevention videos that:

4316 (i) are web-accessible;

4317 (ii) are each no longer than 20 minutes in length; and

4318 (iii) include information about:

4319 (A) individuals at-risk for suicide; and

4320 (B) suicide prevention and intervention; and

4321 (b) provide, on the division's website, educational materials or courses that relate to
4322 suicide prevention that a primary care provider may complete at no cost and apply toward
4323 continuing competency requirements required by division rule.

4324 (3) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative
4325 Rulemaking Act, make rules that establish procedures for:

4326 (a) producing the suicide prevention videos described in Subsection (2); and

4327 (b) providing access to the videos to each primary care provider.

4328 Section 83. Section **58-17b-620** is amended to read:

4329 **58-17b-620. Prescriptions issued within the public health system.**

4330 (1) As used in this section:

4331 (a) "Department of Health and Human Services" means the [state] Department of
4332 Health and Human Services created in Section [~~26-1-4~~] 26B-1-201.

4333 (b) "Health department" means either the Department of Health and Human Services or
4334 a local health department.

4335 (c) "Local health departments" mean the local health departments created in Title 26A,
4336 Chapter 1, Local Health Departments.

4337 (2) When it is necessary to treat a reportable disease or non-emergency condition that
4338 has a direct impact on public health, a health department may implement the prescription
4339 procedure described in Subsection (3) for a prescription drug that is not a controlled substance
4340 for use in:

4341 (a) a clinic; or

4342 (b) a remote or temporary off-site location, including a triage facility established in the
4343 community, that provides:

4344 (i) treatment for sexually transmitted infections;

4345 (ii) fluoride treatment;

4346 (iii) travel immunization;

4347 (iv) preventative treatment for an individual with latent tuberculosis infection;

4348 (v) preventative treatment for an individual at risk for an infectious disease that has a
4349 direct impact on public health when the treatment is indicated to prevent the spread of disease
4350 or to mitigate the seriousness of infection in the exposed individual; or

4351 (vi) other treatment as defined by the Department of Health ~~[rule]~~ and Human Services
4352 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

4353 (3) In a circumstance described in Subsection (2), an individual with prescriptive
4354 authority may write a prescription for each contact, as defined in Section 26-6-2, of a patient of
4355 the individual with prescriptive authority without a face-to-face exam, if:

4356 (a) the individual with prescriptive authority is treating the patient for a reportable
4357 disease or non-emergency condition having a direct impact on public health; and

4358 (b) the contact's condition is the same as the patient of the individual with prescriptive
4359 authority.

4360 (4) The following prescription procedure shall be carried out in accordance with the
4361 requirements of Subsection (5) and may be used only in the circumstances described under
4362 Subsections (2) and (3):

4363 (a) a physician writes and signs a prescription for a prescription drug, other than a
4364 controlled substance, without the name and address of the patient and without the date the
4365 prescription is provided to the patient; and

4366 (b) the physician authorizes a registered nurse employed by the health department to
4367 complete the prescription written under this Subsection (4) by inserting the patient's name and
4368 address, and the date the prescription is provided to the patient, in accordance with the
4369 physician's standing written orders and a written health department protocol approved by the
4370 physician and the medical director of the state Department of Health and Human Services.

4371 (5) A physician assumes responsibility for all prescriptions issued under this section in
4372 the physician's name.

4373 (6) (a) All prescription forms to be used by a physician and health department in
4374 accordance with this section shall be serially numbered according to a numbering system
4375 assigned to that health department.

4376 (b) All prescriptions issued shall contain all information required under this chapter
4377 and rules adopted under this chapter.

4378 Section 84. Section **58-17b-627** is amended to read:

4379 **58-17b-627. Prescription of drugs or devices by a pharmacist.**

4380 (1) Beginning January 1, 2022, a pharmacist may prescribe a prescription drug or
4381 device if:

4382 (a) prescribing the prescription drug or device is within the scope of the pharmacist's
4383 training and experience;

4384 (b) the prescription drug or device is designated by the division by rule under
4385 Subsection (3)(a); and

4386 (c) the prescription drug or device is not a controlled substance that is included in
4387 Schedules I, II, III, or IV of:

4388 (i) Section **58-37-4**; or

4389 (ii) the federal Controlled Substances Act, Title II, P.L. 91-513.

4390 (2) Nothing in this section requires a pharmacist to issue a prescription for a
4391 prescription drug or device.

4392 (3) The division shall make rules in accordance with Title 63G, Chapter 3, Utah
4393 Administrative Rulemaking Act, to:

4394 (a) designate the prescription drugs or devices that may be prescribed by a pharmacist
4395 under this section, beginning with prescription drugs or devices that address a public health
4396 concern that is designated by the Department of Health and Human Services, including:

- 4397 (i) post-exposure HIV prophylaxis;
- 4398 (ii) pre-exposure HIV prophylaxis;
- 4399 (iii) self-administered hormonal contraceptives;
- 4400 (iv) smoking cessation; and
- 4401 (v) naloxone;
- 4402 (b) create guidelines that a pharmacist must follow when prescribing a prescription
- 4403 drug or device, including guidelines:
- 4404 (i) for notifying the patient's primary care or other health care provider about the
- 4405 prescription; and
- 4406 (ii) to prevent the over-prescription of drugs or devices including but not limited to
- 4407 antibiotics;
- 4408 (c) address when a pharmacist should refer the patient to an appropriate health care
- 4409 provider or otherwise encourage the patient to seek further medical care; and
- 4410 (d) implement the provisions of this section.
- 4411 (4) The division shall make rules under Subsection (3) in collaboration with:
- 4412 (a) individuals representing pharmacies and pharmacists;
- 4413 (b) individuals representing physicians and advanced practice clinicians; and
- 4414 (c) (i) if the executive director of the Department of Health and Human Services is a
- 4415 physician, the executive director of the Department of Health and Human Services;
- 4416 (ii) if the executive director of the Department of Health and Human Services is not a
- 4417 physician, a deputy director who is a physician in accordance with Subsection [~~26-1-9(4)~~]
- 4418 26B-1-203(4); or
- 4419 (iii) a designee of the individual described in [~~Subsection (4)(c)(i) or (ii)] Section~~
- 4420 26B-1-203.
- 4421 (5) Before November 1 of each year, the division, in consultation with the individuals
- 4422 described in Subsection (4), shall:
- 4423 (a) develop recommendations for statutory changes to improve patient access to
- 4424 prescribed drugs in the state; and
- 4425 (b) report the recommendations developed under Subsection (5)(a) to the Health and
- 4426 Human Services Interim Committee.
- 4427 Section 85. Section **58-17b-902** is amended to read:

4428 **58-17b-902. Definitions.**

4429 As used in this part:

4430 (1) "Assisted living facility" means the same as that term is defined in Section [26-21-2](#).

4431 (2) "Cancer drug" means a drug that controls or kills neoplastic cells and includes a
4432 drug used in chemotherapy to destroy cancer cells.

4433 (3) "Charitable clinic" means a charitable nonprofit corporation that:

4434 (a) holds a valid exemption from federal income taxation issued under Section 501(a),
4435 Internal Revenue Code;

4436 (b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue
4437 Code;

4438 (c) provides, on an outpatient basis, for a period of less than 24 consecutive hours, to
4439 an individual not residing or confined at a facility owned or operated by the charitable
4440 nonprofit corporation:

4441 (i) advice;

4442 (ii) counseling;

4443 (iii) diagnosis;

4444 (iv) treatment;

4445 (v) surgery; or

4446 (vi) care or services relating to the preservation or maintenance of health; and

4447 (d) has a licensed outpatient pharmacy.

4448 (4) "Charitable pharmacy" means an eligible pharmacy that is operated by a charitable
4449 clinic.

4450 (5) "County health department" means the same as that term is defined in Section
4451 [26A-1-102](#).

4452 (6) "Donated prescription drug" means a prescription drug that an eligible donor or
4453 individual donates to an eligible pharmacy under the program.

4454 (7) "Eligible donor" means a donor that donates a prescription drug from within the
4455 state and is:

4456 (a) a nursing care facility;

4457 (b) an assisted living facility;

4458 (c) a licensed intermediate care facility for people with an intellectual disability;

- 4459 (d) a manufacturer;
- 4460 (e) a pharmaceutical wholesale distributor;
- 4461 (f) an eligible pharmacy; or
- 4462 (g) a physician's office.
- 4463 (8) "Eligible pharmacy" means a pharmacy that:
- 4464 (a) is registered by the division as eligible to participate in the program; and
- 4465 (b) (i) is licensed in the state as a Class A retail pharmacy; or
- 4466 (ii) is operated by:
- 4467 (A) a county;
- 4468 (B) a county health department;
- 4469 (C) a pharmacy under contract with a county health department;
- 4470 (D) the Department of Health[;] and Human Services created in Section ~~[26-1-4]~~
- 4471 26B-1-201; or
- 4472 ~~[(E) the Division of Substance Abuse and Mental Health, created in Section~~
- 4473 ~~62A-15-103; or]~~
- 4474 ~~[(F)]~~ (E) a charitable clinic.
- 4475 (9) "Eligible prescription drug" means a prescription drug, described in Section
- 4476 58-17b-904, that is not:
- 4477 (a) a controlled substance; or
- 4478 (b) a drug that can only be dispensed to a patient registered with the drug's
- 4479 manufacturer in accordance with federal Food and Drug Administration requirements.
- 4480 (10) "Licensed intermediate care facility for people with an intellectual disability"
- 4481 means the same as that term is defined in Section 58-17b-503.
- 4482 (11) "Medically indigent individual" means an individual who:
- 4483 (a) (i) does not have health insurance; and
- 4484 (ii) lacks reasonable means to purchase prescribed medications; or
- 4485 (b) (i) has health insurance; and
- 4486 (ii) lacks reasonable means to pay the insured's portion of the cost of the prescribed
- 4487 medications.
- 4488 (12) "Nursing care facility" means the same as that term is defined in Section
- 4489 26-18-501.

4490 (13) "Physician's office" means a fixed medical facility that:

4491 (a) is staffed by a physician, physician's assistant, nurse practitioner, or registered
4492 nurse, licensed under Title 58, Occupations and Professions; and

4493 (b) treats an individual who presents at, or is transported to, the facility.

4494 (14) "Program" means the Charitable Prescription Drug Recycling Program created in
4495 Section 58-17b-903.

4496 (15) "Unit pack" means the same as that term is defined in Section 58-17b-503.

4497 (16) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
4498 and 58-17b-501.

4499 (17) "Unprofessional conduct" means the same as that term is defined in Sections
4500 58-1-501 and 58-17b-502.

4501 Section 86. Section 58-17b-907 is amended to read:

4502 **58-17b-907. Rules made by the division.**

4503 The rules made by the division under Subsection 58-17b-903(2)(b) shall include:

4504 (1) registration requirements to establish the eligibility of a pharmacy to participate in
4505 the program;

4506 (2) a formulary that includes all eligible prescription drugs approved by the federal
4507 Food and Drug Administration;

4508 (3) standards and procedures for:

4509 (a) verifying whether a pharmacy or pharmacist participating in the program is licensed
4510 and in good standing with the board;

4511 (b) handling of an eligible prescription drug transferred in accordance with Subsection
4512 58-17b-903(2) to an eligible pharmacy or a physician's office, including:

4513 (i) acceptance;

4514 (ii) identification, including redundant criteria for verification;

4515 (iii) documentation, under 21 U.S.C. Sec. 360eee-1, of transaction information, history,
4516 and statements;

4517 (iv) safe storage;

4518 (v) security;

4519 (vi) inspection;

4520 (vii) transfer; and

- 4521 (viii) dispensing;
- 4522 (c) a pharmacist, pharmacy intern, or licensed pharmacy technician:
- 4523 (i) working in or consulting with a participating eligible donor; or
- 4524 (ii) assisting an individual donating the eligible prescription drug;
- 4525 (d) disposition of a donated prescription drug that is a controlled substance;
- 4526 (e) record keeping regarding:
- 4527 (i) the individual or eligible donor that transferred an eligible prescription drug under
- 4528 Subsection [58-17b-903\(2\)\(a\)](#);
- 4529 (ii) the identification and evaluation of a donated prescription drug by a pharmacist or
- 4530 licensed pharmacy technician; and
- 4531 (iii) the dispensing or disposition of a prescription drug;
- 4532 (f) determining the status of a medically indigent individual;
- 4533 (g) labeling requirements to:
- 4534 (i) ensure compliance with patient privacy laws relating to:
- 4535 (A) an individual who receives an eligible prescription drug; and
- 4536 (B) patient information that may appear on a donated prescription drug;
- 4537 (ii) clearly identify an eligible prescription drug dispensed under the program; and
- 4538 (iii) communicate necessary information regarding the manufacturer's recommended
- 4539 expiration date or the beyond use date; and
- 4540 (h) ensuring compliance with the requirements of this part;
- 4541 (4) a process for seeking input from~~[(a)]~~ the Department of Health~~[,]~~ and Human
- 4542 Services created in Section ~~[[26-1-4](#), to]~~ [26B-1-201](#) to:
- 4543 (a) establish program standards and procedures for assisted living facilities and nursing
- 4544 care facilities; and
- 4545 (b) ~~[the Division of Substance Abuse and Mental Health, created in Section~~
- 4546 [62A-15-103](#), to] establish program standards and procedures for mental health and substance
- 4547 abuse clients; and
- 4548 (5) the creation of a special training program that a pharmacist and a licensed pharmacy
- 4549 technician at an eligible pharmacy must complete before participating in the program.
- 4550 Section 87. Section **62A-1-104** is amended to read:
- 4551 **62A-1-104. Definitions.**

- 4552 (1) As used in this title:
- 4553 (a) "Competency evaluation" means the same as that term is defined in Section
- 4554 [77-15-2](#).
- 4555 (b) "Concurrence of the board" means agreement by a majority of the members of a
- 4556 board.
- 4557 (c) "Department" means the Department of Health and Human Services [~~established in~~
- 4558 ~~Section [62A-1-102](#)~~] created in Section [26B-1-201](#).
- 4559 (d) "Executive director" means the executive director of the department, appointed
- 4560 under Section [~~[62A-1-108](#)~~] [26B-1-203](#).
- 4561 (e) "Forensic evaluator" means the same as that term is defined in Section [77-15-2](#).
- 4562 (f) "Stabilization services" means in-home services provided to a child with, or who is
- 4563 at risk for, complex emotional and behavioral needs, including teaching the child's parent or
- 4564 guardian skills to improve family functioning.
- 4565 (g) "System of care" means a broad, flexible array of services and supports that:
- 4566 (i) serves a child with or who is at risk for complex emotional and behavioral needs;
- 4567 (ii) is community based;
- 4568 (iii) is informed about trauma;
- 4569 (iv) builds meaningful partnerships with families and children;
- 4570 (v) integrates service planning, service coordination, and management across state and
- 4571 local entities;
- 4572 (vi) includes individualized case planning;
- 4573 (vii) provides management and policy infrastructure that supports a coordinated
- 4574 network of interdepartmental service providers, contractors, and service providers who are
- 4575 outside of the department; and
- 4576 (viii) is guided by the type and variety of services needed by a child with or who is at
- 4577 risk for complex emotional and behavioral needs and by the child's family.
- 4578 (2) The definitions provided in Subsection (1) are to be applied in addition to
- 4579 definitions contained throughout this title that are applicable to specified chapters or parts.
- 4580 Section 88. Section **62A-1-107** is amended to read:
- 4581 **62A-1-107. Board of Aging and Adult Services -- Members, appointment, terms,**
- 4582 **vacancies, chairperson, compensation, meetings, quorum.**

4583 (1) The Board of Aging and Adult Services [~~described in Subsection 62A-1-105(1)(a)~~]
4584 created in Section 26B-1-204 shall have seven members who are appointed by the governor
4585 with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2,
4586 Vacancies.

4587 (2) (a) Except as required by Subsection (2)(b), each member shall be appointed for a
4588 term of four years, and is eligible for one reappointment.

4589 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the
4590 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
4591 board members are staggered so that approximately half of the board is appointed every two
4592 years.

4593 (c) Board members shall continue in office until the expiration of their terms and until
4594 their successors are appointed, which may not exceed 90 days after the formal expiration of a
4595 term.

4596 (d) When a vacancy occurs in the membership for any reason, the replacement shall be
4597 appointed for the unexpired term.

4598 (3) No more than four members of the board may be from the same political party.
4599 The board shall have diversity of gender, ethnicity, and culture; and members shall be chosen
4600 on the basis of their active interest, experience, and demonstrated ability to deal with issues
4601 related to the Board of Aging and Adult Services.

4602 (4) The board shall annually elect a chairperson from the board's membership. The
4603 board shall hold meetings at least once every three months. Within budgetary constraints,
4604 meetings may be held from time to time on the call of the chairperson or of the majority of the
4605 members of the board. Four members of the board are necessary to constitute a quorum at any
4606 meeting, and, if a quorum exists, the action of the majority of members present shall be the
4607 action of the board.

4608 (5) A member may not receive compensation or benefits for the member's service, but,
4609 at the executive director's discretion, may receive per diem and travel expenses in accordance
4610 with:

4611 (a) Section 63A-3-106;

4612 (b) Section 63A-3-107; and

4613 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

4614 63A-3-107.

4615 (6) The board shall adopt bylaws governing its activities. Bylaws shall include
4616 procedures for removal of a board member who is unable or unwilling to fulfill the
4617 requirements of the board member's appointment.

4618 (7) The board has program policymaking authority for the division over which the
4619 board presides.

4620 (8) A member of the board shall comply with the conflict of interest provisions
4621 described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

4622 Section 89. Section 62A-2-121 is amended to read:

4623 **62A-2-121. Access to abuse and neglect information.**

4624 (1) As used in this section:

4625 (a) "Direct service worker" means the same as that term is defined in Section
4626 62A-5-101.

4627 (b) "Personal care attendant" means the same as that term is defined in Section
4628 62A-3-101.

4629 (2) With respect to a licensee, a direct service worker, or a personal care attendant, the
4630 department may access only the Licensing Information System of the Division of Child and
4631 Family Services created by Section 62A-4a-1006 and juvenile court records under Subsection
4632 80-3-404(6), for the purpose of:

4633 (a) (i) determining whether a person associated with a licensee, with direct access to
4634 children:

4635 (A) is listed in the Licensing Information System; or

4636 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
4637 neglect under Subsections 80-3-404(1) and (2); and

4638 (ii) informing a licensee that a person associated with the licensee:

4639 (A) is listed in the Licensing Information System; or

4640 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
4641 neglect under Subsections 80-3-404(1) and (2);

4642 (b) (i) determining whether a direct service worker:

4643 (A) is listed in the Licensing Information System; or

4644 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or

4645 neglect under Subsections 80-3-404(1) and (2); and
4646 (ii) informing a direct service worker or the direct service worker's employer that the
4647 direct service worker:
4648 (A) is listed in the Licensing Information System; or
4649 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
4650 neglect under Subsections 80-3-404(1) and (2); or
4651 (c) (i) determining whether a personal care attendant:
4652 (A) is listed in the Licensing Information System; or
4653 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
4654 neglect under Subsections 80-3-404(1) and (2); and
4655 (ii) informing a person described in Subsections 62A-3-101(9)(a)(i) through (iv) that a
4656 personal care attendant:
4657 (A) is listed in the Licensing Information System; or
4658 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
4659 neglect under Subsections 80-3-404(1) and (2).
4660 (3) Notwithstanding Subsection (2), the department may access the Division of Child
4661 and Family Services' Management Information System under Section 62A-4a-1003:
4662 (a) for the purpose of licensing and monitoring foster parents;
4663 (b) for the purposes described in Subsection 62A-4a-1003(1)(d); and
4664 (c) for the purpose described in Section [~~62A-1-118~~] 26B-1-211.
4665 (4) The department shall receive and process personal identifying information under
4666 Subsection 62A-2-120(1) for the purposes described in Subsection (2).
4667 (5) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative
4668 Rulemaking Act, consistent with this chapter, defining the circumstances under which a person
4669 may have direct access or provide services to children when:
4670 (a) the person is listed in the Licensing Information System of the Division of Child
4671 and Family Services created by Section 62A-4a-1006; or
4672 (b) juvenile court records show that a court made a substantiated finding under Section
4673 80-3-404, that the person committed a severe type of child abuse or neglect.
4674 Section 90. Section 62A-4a-412 is amended to read:
4675 **62A-4a-412. Reports, information, and referrals confidential.**

4676 (1) Except as otherwise provided in this chapter, reports made under this part, as well
4677 as any other information in the possession of the division obtained as the result of a report are
4678 private, protected, or controlled records under Title 63G, Chapter 2, Government Records
4679 Access and Management Act, and may only be made available to:

4680 (a) a police or law enforcement agency investigating a report of known or suspected
4681 abuse or neglect, including members of a child protection team;

4682 (b) a physician who reasonably believes that a child may be the subject of abuse or
4683 neglect;

4684 (c) an agency that has responsibility or authority to care for, treat, or supervise a minor
4685 who is the subject of a report;

4686 (d) a contract provider that has a written contract with the division to render services to
4687 a minor who is the subject of a report;

4688 (e) a subject of the report, the natural parents of the child, and the guardian ad litem;

4689 (f) a court, upon a finding that access to the records may be necessary for the
4690 determination of an issue before the court, provided that in a divorce, custody, or related
4691 proceeding between private parties, the record alone is:

4692 (i) limited to objective or undisputed facts that were verified at the time of the
4693 investigation; and

4694 (ii) devoid of conclusions drawn by the division or any of the division's workers on the
4695 ultimate issue of whether or not an individual's acts or omissions constituted any level of abuse
4696 or neglect of another individual;

4697 (g) an office of the public prosecutor or its deputies in performing an official duty;

4698 (h) a person authorized by a Children's Justice Center, for the purposes described in
4699 Section [67-5b-102](#);

4700 (i) a person engaged in bona fide research, when approved by the director of the
4701 division, if the information does not include names and addresses;

4702 (j) the State Board of Education, acting on behalf of itself or on behalf of a local
4703 education agency, as defined in Section [63J-5-102](#), for the purpose of evaluating whether an
4704 individual should be permitted to obtain or retain a license as an educator or serve as an
4705 employee or volunteer in a school, limited to information with substantiated or supported
4706 findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug

4707 offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against
4708 the Person, and with the understanding that the office must provide the subject of a report
4709 received under Subsection (1)(k) with an opportunity to respond to the report before making a
4710 decision concerning licensure or employment;

4711 (k) any individual identified in the report as a perpetrator or possible perpetrator of
4712 abuse or neglect, after being advised of the screening prohibition in Subsection (2);

4713 (l) a person filing a petition for a child protective order on behalf of a child who is the
4714 subject of the report;

4715 (m) a licensed child-placing agency or person who is performing a preplacement
4716 adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and
4717 78B-6-130;

4718 (n) an Indian tribe to:

4719 (i) certify or license a foster home;

4720 (ii) render services to a subject of a report; or

4721 (iii) investigate an allegation of abuse, neglect, or dependency; or

4722 (o) the [~~Division of Substance Abuse and Mental Health, the Department of Health,~~]

4723 department or a local substance abuse authority, described in Section 17-43-201, for the
4724 purpose of providing substance abuse treatment to a pregnant woman or a parent of a newborn
4725 child, or the services described in Subsection 62A-15-103(2)(o).

4726 (2) (a) A person, unless listed in Subsection (1), may not request another person to
4727 obtain or release a report or any other information in the possession of the division obtained as
4728 a result of the report that is available under Subsection (1)(k) to screen for potential
4729 perpetrators of abuse or neglect.

4730 (b) A person who requests information knowing that the request is a violation of
4731 Subsection (2)(a) is subject to the criminal penalty in Subsection (4).

4732 (3) (a) Except as provided in Section 62A-4a-1007, the division and law enforcement
4733 officials shall ensure the anonymity of the person or persons making the initial report and any
4734 others involved in the division's or law enforcement officials' subsequent investigation.

4735 (b) Notwithstanding any other provision of law, excluding Section 80-3-107, but
4736 including this chapter and Title 63G, Chapter 2, Government Records Access and Management
4737 Act, when the division makes a report or other information in the division's possession

4738 available under Subsection (1)(e) to a subject of the report or a parent of a child, the division
4739 shall remove from the report or other information only the names, addresses, and telephone
4740 numbers of individuals or specific information that could:

- 4741 (i) identify the referent;
- 4742 (ii) impede a criminal investigation; or
- 4743 (iii) endanger an individual's safety.

4744 (4) Any person who willfully permits, or aides and abets the release of data or
4745 information obtained as a result of this part, in the possession of the division or contained on
4746 any part of the Management Information System, in violation of this part or Sections
4747 [62A-4a-1003](#) through [62A-4a-1007](#), is guilty of a class C misdemeanor.

4748 (5) (a) As used in this Subsection (5), "physician" means an individual licensed to
4749 practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical
4750 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

4751 (b) The physician-patient privilege does not:

- 4752 (i) excuse a physician from reporting suspected abuse, neglect, fetal alcohol syndrome,
4753 or fetal drug dependency under this part; and
- 4754 (ii) constitute grounds for excluding evidence regarding a child's injuries, or the cause
4755 of the child's injuries, in any judicial or administrative proceeding resulting from a report under
4756 this part.

4757 (6) A child-placing agency or person who receives a report in connection with a
4758 preplacement adoptive evaluation under Sections [78B-6-128](#) and [78B-6-130](#):

- 4759 (a) may provide this report to the person who is the subject of the report; and
- 4760 (b) may provide this report to a person who is performing a preplacement adoptive
4761 evaluation in accordance with the requirement of Sections [78B-6-128](#) and [78B-6-130](#), or to a
4762 licensed child-placing agency or to an attorney seeking to facilitate an adoption.

4763 (7) A member of a child protection team may, before the day on which the child is
4764 removed, share case-specific information obtained from the division under this section with
4765 other members of the child protection team.

4766 (8) (a) Except as provided in Subsection (8)(b), in a divorce, custody, or related
4767 proceeding between private parties, a court may not receive into evidence a report that:

- 4768 (i) is provided to the court:

- 4769 (A) under Subsection (1)(f); or
4770 (B) by a parent of the child after the record is made available to the parent under
4771 Subsection (1)(e);
4772 (ii) describes a parent of the child as the alleged perpetrator; and
4773 (iii) is found to be unsubstantiated, unsupported, or without merit.
4774 (b) (i) After a motion to admit the report described in Subsection (8)(a) is made, the
4775 court shall allow sufficient time for all subjects of the record to respond before making a
4776 finding on the motion.
4777 (ii) After considering the motion described in Subsection (8)(b), the court may receive
4778 the report into evidence upon a finding on the record of good cause.

4779 Section 91. Section **62A-14-108** is amended to read:

4780 **62A-14-108. Office volunteers.**

4781 (1) A person who desires to be an office volunteer shall:

4782 (a) possess demonstrated personal characteristics of honesty, integrity, compassion,
4783 and concern for incapacitated persons; and

4784 (b) upon request, submit information for a background check pursuant to Section
4785 [~~62A-1-118~~] [26B-1-211](#).

4786 (2) An office volunteer may not receive compensation or benefits, but may be
4787 reimbursed by the office for expenses actually and reasonably incurred, consistent with Title
4788 67, Chapter 20, Volunteer Government Workers Act.

4789 (3) An office volunteer is immune from civil liability pursuant to Title 63G, Chapter 8,
4790 Immunity for Persons Performing Voluntary Services Act.

4791 Section 92. Section **62A-15-102** is amended to read:

4792 **62A-15-102. Definitions.**

4793 As used in this chapter:

4794 (1) "Criminal risk factors" means a person's characteristics and behaviors that:

4795 (a) affect the person's risk of engaging in criminal behavior; and

4796 (b) are diminished when addressed by effective treatment, supervision, and other
4797 support resources, resulting in reduced risk of criminal behavior.

4798 (2) "Director" means the director [~~of the Division of Substance Abuse and Mental~~
4799 ~~Health~~] [appointed under Section 62A-15-104](#).

4800 (3) "Division" means the Division of [~~Substance Abuse and Mental Health established~~
4801 ~~in Section 62A-15-103~~] Integrated Healthcare created in Section 26B-1-202.

4802 (4) "Local mental health authority" means a county legislative body.

4803 (5) "Local substance abuse authority" means a county legislative body.

4804 (6) "Mental health crisis" means:

4805 (a) a mental health condition that manifests in an individual by symptoms of sufficient
4806 severity that a prudent layperson who possesses an average knowledge of mental health issues
4807 could reasonably expect the absence of immediate attention or intervention to result in:

4808 (i) serious danger to the individual's health or well-being; or

4809 (ii) a danger to the health or well-being of others; or

4810 (b) a mental health condition that, in the opinion of a mental health therapist or the
4811 therapist's designee, requires direct professional observation or intervention.

4812 (7) "Mental health crisis response training" means community-based training that
4813 educates laypersons and professionals on the warning signs of a mental health crisis and how to
4814 respond.

4815 (8) "Mental health crisis services" means an array of services provided to an individual
4816 who experiences a mental health crisis, which may include:

4817 (a) direct mental health services;

4818 (b) on-site intervention provided by a mobile crisis outreach team;

4819 (c) the provision of safety and care plans;

4820 (d) prolonged mental health services for up to 90 days after the day on which an
4821 individual experiences a mental health crisis;

4822 (e) referrals to other community resources;

4823 (f) local mental health crisis lines; and

4824 (g) the statewide mental health crisis line.

4825 (9) "Mental health therapist" means the same as that term is defined in Section
4826 58-60-102.

4827 (10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and
4828 mental health professionals that, in coordination with local law enforcement and emergency
4829 medical service personnel, provides mental health crisis services.

4830 (11) (a) "Public funds" means federal money received from the [~~Department of Human~~

4831 ~~Services or the Department of Health]~~ department, and state money appropriated by the
4832 Legislature to the [~~Department of Human Services, the Department of Health]~~ department, a
4833 county governing body, or a local substance abuse authority, or a local mental health authority
4834 for the purposes of providing substance abuse or mental health programs or services.

4835 (b) "Public funds" include federal and state money that has been transferred by a local
4836 substance abuse authority or a local mental health authority to a private provider under an
4837 annual or otherwise ongoing contract to provide comprehensive substance abuse or mental
4838 health programs or services for the local substance abuse authority or local mental health
4839 authority. The money maintains the nature of "public funds" while in the possession of the
4840 private entity that has an annual or otherwise ongoing contract with a local substance abuse
4841 authority or a local mental health authority to provide comprehensive substance abuse or
4842 mental health programs or services for the local substance abuse authority or local mental
4843 health authority.

4844 (c) Public funds received for the provision of services [~~pursuant to~~] under substance
4845 abuse or mental health service plans may not be used for any other purpose except those
4846 authorized in the contract between the local mental health or substance abuse authority and
4847 provider for the provision of plan services.

4848 (12) "Severe mental disorder" means schizophrenia, major depression, bipolar
4849 disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by
4850 the division.

4851 (13) "Statewide mental health crisis line" means the same as that term is defined in
4852 Section [62A-15-1301](#).

4853 Section 93. Section **62A-15-103** is amended to read:

4854 **62A-15-103. Division -- Responsibilities.**

4855 (1) (a) [~~There is created~~] The division shall exercise responsibility over the
4856 policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities
4857 outlined in state law that were previously vested in the Division of [~~Substance Abuse and~~
4858 ~~Mental Health]~~ Integrated Healthcare within the department, under the administration and
4859 general supervision of the executive director.

4860 (b) The division is the substance abuse authority and the mental health authority for
4861 this state.

- 4862 (2) The division shall:
- 4863 (a) (i) educate the general public regarding the nature and consequences of substance
- 4864 abuse by promoting school and community-based prevention programs;
- 4865 (ii) render support and assistance to public schools through approved school-based
- 4866 substance abuse education programs aimed at prevention of substance abuse;
- 4867 (iii) promote or establish programs for the prevention of substance abuse within the
- 4868 community setting through community-based prevention programs;
- 4869 (iv) cooperate with and assist treatment centers, recovery residences, and other
- 4870 organizations that provide services to individuals recovering from a substance abuse disorder,
- 4871 by identifying and disseminating information about effective practices and programs;
- 4872 (v) except as provided in Section 62A-15-103.5, make rules in accordance with Title
- 4873 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public
- 4874 and private programs, minimum standards for public and private providers of substance abuse
- 4875 and mental health programs licensed by the department under [~~Title 62A,~~] Chapter 2, Licensure
- 4876 of Programs and Facilities;
- 4877 (vi) promote integrated programs that address an individual's substance abuse, mental
- 4878 health, physical health, and criminal risk factors;
- 4879 (vii) establish and promote an evidence-based continuum of screening, assessment,
- 4880 prevention, treatment, and recovery support services in the community for individuals with
- 4881 substance use disorder and mental illness that addresses criminal risk factors;
- 4882 (viii) evaluate the effectiveness of programs described in this Subsection (2);
- 4883 (ix) consider the impact of the programs described in this Subsection (2) on:
- 4884 (A) emergency department utilization;
- 4885 (B) jail and prison populations;
- 4886 (C) the homeless population; and
- 4887 (D) the child welfare system; and
- 4888 (x) promote or establish programs for education and certification of instructors to
- 4889 educate individuals convicted of driving under the influence of alcohol or drugs or driving with
- 4890 any measurable controlled substance in the body;
- 4891 (b) (i) collect and disseminate information pertaining to mental health;
- 4892 (ii) provide direction over the state hospital including approval of the state hospital's

4893 budget, administrative policy, and coordination of services with local service plans;
4894 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
4895 Rulemaking Act, to educate families concerning mental illness and promote family
4896 involvement, when appropriate, and with patient consent, in the treatment program of a family
4897 member; and

4898 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
4899 Rulemaking Act, to direct that an individual receiving services through a local mental health
4900 authority or the Utah State Hospital be informed about and, if desired by the individual,
4901 provided assistance in the completion of a declaration for mental health treatment in
4902 accordance with Section [62A-15-1002](#);

4903 (c) (i) consult and coordinate with local substance abuse authorities and local mental
4904 health authorities regarding programs and services;

4905 (ii) provide consultation and other assistance to public and private agencies and groups
4906 working on substance abuse and mental health issues;

4907 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
4908 medical and social agencies, public health authorities, law enforcement agencies, education and
4909 research organizations, and other related groups;

4910 (iv) promote or conduct research on substance abuse and mental health issues, and
4911 submit to the governor and the Legislature recommendations for changes in policy and
4912 legislation;

4913 (v) receive, distribute, and provide direction over public funds for substance abuse and
4914 mental health services;

4915 (vi) monitor and evaluate programs provided by local substance abuse authorities and
4916 local mental health authorities;

4917 (vii) examine expenditures of local, state, and federal funds;

4918 (viii) monitor the expenditure of public funds by:

4919 (A) local substance abuse authorities;

4920 (B) local mental health authorities; and

4921 (C) in counties where they exist, a private contract provider that has an annual or
4922 otherwise ongoing contract to provide comprehensive substance abuse or mental health
4923 programs or services for the local substance abuse authority or local mental health authority;

4924 (ix) contract with local substance abuse authorities and local mental health authorities
4925 to provide a comprehensive continuum of services that include community-based services for
4926 individuals involved in the criminal justice system, in accordance with division policy, contract
4927 provisions, and the local plan;

4928 (x) contract with private and public entities for special statewide or nonclinical
4929 services, or services for individuals involved in the criminal justice system, according to
4930 division rules;

4931 (xi) review and approve each local substance abuse authority's plan and each local
4932 mental health authority's plan in order to ensure:

4933 (A) a statewide comprehensive continuum of substance abuse services;

4934 (B) a statewide comprehensive continuum of mental health services;

4935 (C) services result in improved overall health and functioning;

4936 (D) a statewide comprehensive continuum of community-based services designed to
4937 reduce criminal risk factors for individuals who are determined to have substance abuse or
4938 mental illness conditions or both, and who are involved in the criminal justice system;

4939 (E) compliance, where appropriate, with the certification requirements in Subsection
4940 (2)(j); and

4941 (F) appropriate expenditure of public funds;

4942 (xii) review and make recommendations regarding each local substance abuse
4943 authority's contract with the local substance abuse authority's provider of substance abuse
4944 programs and services and each local mental health authority's contract with the local mental
4945 health authority's provider of mental health programs and services to ensure compliance with
4946 state and federal law and policy;

4947 (xiii) monitor and ensure compliance with division rules and contract requirements;
4948 and

4949 (xiv) withhold funds from local substance abuse authorities, local mental health
4950 authorities, and public and private providers for contract noncompliance, failure to comply
4951 with division directives regarding the use of public funds, or for misuse of public funds or
4952 money;

4953 (d) ensure that the requirements of this part are met and applied uniformly by local
4954 substance abuse authorities and local mental health authorities across the state;

4955 (e) require each local substance abuse authority and each local mental health authority,
4956 in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to
4957 the division on or before May 15 of each year;

4958 (f) conduct an annual program audit and review of each local substance abuse authority
4959 and each local substance abuse authority's contract provider, and each local mental health
4960 authority and each local mental health authority's contract provider, including:

4961 (i) a review and determination regarding whether:

4962 (A) public funds allocated to the local substance abuse authority or the local mental
4963 health authorities are consistent with services rendered by the authority or the authority's
4964 contract provider, and with outcomes reported by the authority's contract provider; and

4965 (B) each local substance abuse authority and each local mental health authority is
4966 exercising sufficient oversight and control over public funds allocated for substance use
4967 disorder and mental health programs and services; and

4968 (ii) items determined by the division to be necessary and appropriate;

4969 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,
4970 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

4971 (h) (i) train and certify an adult as a peer support specialist, qualified to provide peer
4972 supports services to an individual with:

4973 (A) a substance use disorder;

4974 (B) a mental health disorder; or

4975 (C) a substance use disorder and a mental health disorder;

4976 (ii) certify a person to carry out, as needed, the division's duty to train and certify an
4977 adult as a peer support specialist;

4978 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
4979 Rulemaking Act, that:

4980 (A) establish training and certification requirements for a peer support specialist;

4981 (B) specify the types of services a peer support specialist is qualified to provide;

4982 (C) specify the type of supervision under which a peer support specialist is required to
4983 operate; and

4984 (D) specify continuing education and other requirements for maintaining or renewing
4985 certification as a peer support specialist; and

4986 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
4987 Rulemaking Act, that:

4988 (A) establish the requirements for a person to be certified to carry out, as needed, the
4989 division's duty to train and certify an adult as a peer support specialist; and

4990 (B) specify how the division shall provide oversight of a person certified to train and
4991 certify a peer support specialist;

4992 (i) except as provided in Section 62A-15-103.5, establish by rule, in accordance with
4993 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and
4994 requirements for the provision of substance use disorder and mental health treatment to an
4995 individual who is incarcerated or who is required to participate in treatment by a court or by the
4996 Board of Pardons and Parole, including:

4997 (i) collaboration with the Department of Corrections and the Utah Substance Use and
4998 Mental Health Advisory Council to develop and coordinate the standards, including standards
4999 for county and state programs serving individuals convicted of class A and class B
5000 misdemeanors;

5001 (ii) determining that the standards ensure available treatment, including the most
5002 current practices and procedures demonstrated by recognized scientific research to reduce
5003 recidivism, including focus on the individual's criminal risk factors; and

5004 (iii) requiring that all public and private treatment programs meet the standards
5005 established under this Subsection (2)(i) in order to receive public funds allocated to the
5006 division, the Department of Corrections, or the State Commission on Criminal and Juvenile
5007 Justice for the costs of providing screening, assessment, prevention, treatment, and recovery
5008 support;

5009 (j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with
5010 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures
5011 for the certification of licensed public and private providers, including individuals licensed by
5012 the Division of Occupational and Professional Licensing, programs licensed by the department,
5013 and health care facilities licensed by the [~~Department of Health~~] department, who provide, as
5014 part of their practice, substance use disorder and mental health treatment to an individual
5015 involved in the criminal justice system, including:

5016 (i) collaboration with the Department of Corrections, the Utah Substance Use and

5017 Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate,
5018 and implement the certification process;

5019 (ii) basing the certification process on the standards developed under Subsection (2)(i)
5020 for the treatment of an individual involved in the criminal justice system; and

5021 (iii) the requirement that a public or private provider of treatment to an individual
5022 involved in the criminal justice system shall obtain certification on or before July 1, 2016, and
5023 shall renew the certification every two years, in order to qualify for funds allocated to the
5024 division, the Department of Corrections, or the State Commission on Criminal and Juvenile
5025 Justice on or after July 1, 2016;

5026 (k) collaborate with the State Commission on Criminal and Juvenile Justice to analyze
5027 and provide recommendations to the Legislature regarding:

5028 (i) pretrial services and the resources needed to reduce recidivism;

5029 (ii) county jail and county behavioral health early-assessment resources needed for an
5030 offender convicted of a class A or class B misdemeanor; and

5031 (iii) the replacement of federal dollars associated with drug interdiction law
5032 enforcement task forces that are reduced;

5033 (l) (i) establish performance goals and outcome measurements for all treatment
5034 programs for which minimum standards are established under Subsection (2)(i), including
5035 recidivism data and data regarding cost savings associated with recidivism reduction and the
5036 reduction in the number of inmates, that are obtained in collaboration with the Administrative
5037 Office of the Courts and the Department of Corrections; and

5038 (ii) collect data to track and determine whether the goals and measurements are being
5039 attained and make this information available to the public;

5040 (m) in the division's discretion, use the data to make decisions regarding the use of
5041 funds allocated to the division, the Administrative Office of the Courts, and the Department of
5042 Corrections to provide treatment for which standards are established under Subsection (2)(i);

5043 (n) annually, on or before August 31, submit the data collected under Subsection (2)(k)
5044 to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings
5045 based on the data and provide the report to the Judiciary Interim Committee, the Health and
5046 Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim
5047 Committee, and the related appropriations subcommittees; and

5048 (o) consult and coordinate with [~~the Department of Health and~~] the Division of Child
5049 and Family Services to develop and manage the operation of a program designed to reduce
5050 substance abuse during pregnancy and by parents of a newborn child that includes:

5051 (i) providing education and resources to health care providers and individuals in the
5052 state regarding prevention of substance abuse during pregnancy;

5053 (ii) providing training to health care providers in the state regarding screening of a
5054 pregnant woman or pregnant minor to identify a substance abuse disorder; and

5055 (iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn
5056 child in need of substance abuse treatment services to a facility that has the capacity to provide
5057 the treatment services.

5058 (3) In addition to the responsibilities described in Subsection (2), the division shall,
5059 within funds appropriated by the Legislature for this purpose, implement and manage the
5060 operation of a firearm safety and suicide prevention program, in consultation with the Bureau
5061 of Criminal Identification created in Section [53-10-201](#), including:

5062 (a) coordinating with [~~the Department of Health,~~] local mental health and substance
5063 abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a
5064 Utah-based nonprofit organization with expertise in the field of firearm use and safety that
5065 represents firearm owners, to:

5066 (i) produce and periodically review and update a firearm safety brochure and other
5067 educational materials with information about the safe handling and use of firearms that
5068 includes:

5069 (A) information on safe handling, storage, and use of firearms in a home environment;

5070 (B) information about at-risk individuals and individuals who are legally prohibited
5071 from possessing firearms;

5072 (C) information about suicide prevention awareness; and

5073 (D) information about the availability of firearm safety packets;

5074 (ii) procure cable-style gun locks for distribution under this section;

5075 (iii) produce a firearm safety packet that includes the firearm safety brochure and the
5076 cable-style gun lock described in this Subsection (3); and

5077 (iv) create a suicide prevention education course that:

5078 (A) provides information for distribution regarding firearm safety education;

- 5079 (B) incorporates current information on how to recognize suicidal behaviors and
5080 identify individuals who may be suicidal; and
- 5081 (C) provides information regarding crisis intervention resources;
- 5082 (b) distributing, free of charge, the firearm safety packet to the following persons, who
5083 shall make the firearm safety packet available free of charge:
- 5084 (i) health care providers, including emergency rooms;
5085 (ii) mobile crisis outreach teams;
5086 (iii) mental health practitioners;
5087 (iv) other public health suicide prevention organizations;
5088 (v) entities that teach firearm safety courses;
5089 (vi) school districts for use in the seminar, described in Section 53G-9-702, for parents
5090 of students in the school district; and
- 5091 (vii) firearm dealers to be distributed in accordance with Section 76-10-526;
- 5092 (c) creating and administering a rebate program that includes a rebate that offers
5093 between \$10 and \$200 off the purchase price of a firearm safe from a participating firearms
5094 dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;
- 5095 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5096 making rules that establish procedures for:
- 5097 (i) producing and distributing the suicide prevention education course and the firearm
5098 safety brochures and packets;
- 5099 (ii) procuring the cable-style gun locks for distribution; and
5100 (iii) administering the rebate program; and
- 5101 (e) reporting to the Health and Human Services Interim Committee regarding
5102 implementation and success of the firearm safety program and suicide prevention education
5103 course at or before the November meeting each year.
- 5104 (4) (a) The division may refuse to contract with and may pursue legal remedies against
5105 any local substance abuse authority or local mental health authority that fails, or has failed, to
5106 expend public funds in accordance with state law, division policy, contract provisions, or
5107 directives issued in accordance with state law.
- 5108 (b) The division may withhold funds from a local substance abuse authority or local
5109 mental health authority if the authority's contract provider of substance abuse or mental health

5110 programs or services fails to comply with state and federal law or policy.

5111 (5) (a) Before reissuing or renewing a contract with any local substance abuse authority
5112 or local mental health authority, the division shall review and determine whether the local
5113 substance abuse authority or local mental health authority is complying with the oversight and
5114 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and
5115 17-43-309.

5116 (b) Nothing in this Subsection (5) may be used as a defense to the responsibility and
5117 liability described in Section 17-43-303 and to the responsibility and liability described in
5118 Section 17-43-203.

5119 (6) In carrying out the division's duties and responsibilities, the division may not
5120 duplicate treatment or educational facilities that exist in other divisions or departments of the
5121 state, but shall work in conjunction with those divisions and departments in rendering the
5122 treatment or educational services that those divisions and departments are competent and able
5123 to provide.

5124 (7) The division may accept in the name of and on behalf of the state donations, gifts,
5125 devises, or bequests of real or personal property or services to be used as specified by the
5126 donor.

5127 (8) The division shall annually review with each local substance abuse authority and
5128 each local mental health authority the authority's statutory and contract responsibilities
5129 regarding:

- 5130 (a) use of public funds;
- 5131 (b) oversight of public funds; and
- 5132 (c) governance of substance use disorder and mental health programs and services.

5133 (9) The Legislature may refuse to appropriate funds to the division upon the division's
5134 failure to comply with the provisions of this part.

5135 (10) If a local substance abuse authority contacts the division under Subsection
5136 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant
5137 minor, the division shall:

5138 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
5139 capacity to provide the treatment services; or

5140 (b) otherwise ensure that treatment services are made available to the pregnant woman

5141 or pregnant minor.

5142 (11) The division shall employ a school-based mental health specialist to be housed at
5143 the State Board of Education who shall work with the State Board of Education to:

5144 (a) provide coordination between a local education agency and local mental health
5145 authority;

5146 (b) recommend evidence-based and evidence informed mental health screenings and
5147 intervention assessments for a local education agency; and

5148 (c) coordinate with the local community, including local departments of health, to
5149 enhance and expand mental health related resources for a local education agency.

5150 Section 94. Section **62A-15-104** is amended to read:

5151 **62A-15-104. Director -- Qualifications.**

5152 (1) The [~~director of the division shall be appointed by the~~] executive director shall
5153 appoint an individual to carry out all or part of the duties and responsibilities of the director
5154 described in this part.

5155 (2) The director appointed under Subsection (1) shall have a bachelor's degree from an
5156 accredited university or college, be experienced in administration, and be knowledgeable in
5157 matters concerning substance abuse and mental health.

5158 [~~(3) The director is the administrative head of the division.~~]

5159 Section 95. Section **63A-13-102** is amended to read:

5160 **63A-13-102. Definitions.**

5161 As used in this chapter:

5162 (1) "Abuse" means:

5163 (a) an action or practice that:

5164 (i) is inconsistent with sound fiscal, business, or medical practices; and

5165 (ii) results, or may result, in unnecessary Medicaid related costs; or

5166 (b) reckless or negligent upcoding.

5167 (2) "Claimant" means a person that:

5168 (a) provides a service; and

5169 (b) submits a claim for Medicaid reimbursement for the service.

5170 (3) "Department" means the Department of Health[;] and Human Services created in

5171 Section [~~26-1-4~~] 26B-1-201.

5172 (4) "Division" means the Division of Medicaid and Health Financing, created in
5173 Section [26-18-2.1](#).

5174 (5) "Extrapolation" means a method of using a mathematical formula that takes the
5175 audit results from a small sample of Medicaid claims and projects those results over a much
5176 larger group of Medicaid claims.

5177 (6) "Fraud" means intentional or knowing:

5178 (a) deception, misrepresentation, or upcoding in relation to Medicaid funds, costs, a
5179 claim, reimbursement, or services; or

5180 (b) a violation of a provision of Sections [26-20-3](#) through [26-20-7](#).

5181 (7) "Fraud unit" means the Medicaid Fraud Control Unit of the attorney general's
5182 office.

5183 (8) "Health care professional" means a person licensed under:

5184 (a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

5185 (b) Title 58, Chapter 16a, Utah Optometry Practice Act;

5186 (c) Title 58, Chapter 17b, Pharmacy Practice Act;

5187 (d) Title 58, Chapter 24b, Physical Therapy Practice Act;

5188 (e) Title 58, Chapter 31b, Nurse Practice Act;

5189 (f) Title 58, Chapter 40, Recreational Therapy Practice Act;

5190 (g) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act;

5191 (h) Title 58, Chapter 42a, Occupational Therapy Practice Act;

5192 (i) Title 58, Chapter 44a, Nurse Midwife Practice Act;

5193 (j) Title 58, Chapter 49, Dietitian Certification Act;

5194 (k) Title 58, Chapter 60, Mental Health Professional Practice Act;

5195 (l) Title 58, Chapter 67, Utah Medical Practice Act;

5196 (m) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

5197 (n) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;

5198 (o) Title 58, Chapter 70a, Utah Physician Assistant Act; and

5199 (p) Title 58, Chapter 73, Chiropractic Physician Practice Act.

5200 (9) "Inspector general" means the inspector general of the office, appointed under
5201 Section [63A-13-201](#).

5202 (10) "Office" means the Office of Inspector General of Medicaid Services, created in

5203 Section [63A-13-201](#).

5204 (11) "Provider" means a person that provides:

5205 (a) medical assistance, including supplies or services, in exchange, directly or
5206 indirectly, for Medicaid funds; or

5207 (b) billing or recordkeeping services relating to Medicaid funds.

5208 (12) "Upcoding" means assigning an inaccurate billing code for a service that is
5209 payable or reimbursable by Medicaid funds, if the correct billing code for the service, taking
5210 into account reasonable opinions derived from official published coding definitions, would
5211 result in a lower Medicaid payment or reimbursement.

5212 (13) (a) "Waste" means the act of using or expending a resource carelessly,
5213 extravagantly, or to no purpose.

5214 (b) "Waste" includes an activity that:

5215 (i) does not constitute abuse or necessarily involve a violation of law; and

5216 (ii) relates primarily to mismanagement, an inappropriate action, or inadequate
5217 oversight.

5218 Section 96. Section **63I-1-226** is amended to read:

5219 **63I-1-226. Repeal dates, Title 26.**

5220 [~~(1) Subsection [26-1-7](#)(1)(f), related to the Residential Child Care Licensing Advisory
5221 Committee, is repealed July 1, 2024.]~~

5222 [~~(2) Subsection [26-1-7](#)(1)(h), related to the Primary Care Grant Committee, is repealed
5223 July 1, 2025.]~~

5224 [~~(3)~~] (1) Section [26-1-7.5](#), which creates the Utah Health Advisory Council, is repealed
5225 July 1, 2025.

5226 [~~(4)~~] (2) Section [26-1-40](#) is repealed July 1, 2022.

5227 [~~(5)~~] (3) Section [26-1-41](#) is repealed July 1, 2026.

5228 [~~(6)~~] (4) Section [26-7-10](#) is repealed July 1, 2025.

5229 [~~(7)~~] (5) Subsection [26-7-11](#)(5), regarding reports to the Legislature, is repealed July 1,
5230 2028.

5231 [~~(8)~~] (6) Section [26-7-14](#) is repealed December 31, 2027.

5232 [~~(9)~~] (7) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed
5233 July 1, 2025.

5234 [~~(10)~~] (8) Subsection [26-10-6\(5\)](#), which creates the Newborn Hearing Screening
5235 Committee, is repealed July 1, 2026.

5236 [~~(11)~~] (9) Section [26-10b-106](#), which creates the Primary Care Grant Committee, is
5237 repealed July 1, 2025.

5238 [~~(12)~~] (10) Subsection [26-15c-104\(3\)](#), relating to a limitation on the number of
5239 microenterprise home kitchen permits that may be issued, is repealed on July 1, 2022.

5240 [~~(13)~~] (11) Subsection [26-18-2.6\(9\)](#), which addresses reimbursement for dental
5241 hygienists, is repealed July 1, 2028.

5242 [~~(14)~~] (12) Section [26-18-27](#) is repealed July 1, 2025.

5243 [~~(15)~~] (13) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed
5244 July 1, 2027.

5245 [~~(16)~~] (14) Subsection [26-18-418\(2\)](#), the language that states "and the Behavioral
5246 Health Crisis Response Commission created in Section [63C-18-202](#)" is repealed July 1, 2023.

5247 [~~(17)~~] (15) Section [26-33a-117](#) is repealed on December 31, 2023.

5248 [~~(18)~~] (16) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1,
5249 2024.

5250 [~~(19)~~] (17) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July
5251 1, 2024.

5252 [~~(20)~~] (18) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is
5253 repealed July 1, 2024.

5254 [~~(21)~~] (19) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July
5255 1, 2024.

5256 [~~(22)~~] (20) Section [26-39-201](#), which creates the Residential Child Care Licensing
5257 Advisory Committee, is repealed July 1, 2024.

5258 [~~(23)~~] (21) Section [26-40-104](#), which creates the Utah Children's Health Insurance
5259 Program Advisory Council, is repealed July 1, 2025.

5260 [~~(24)~~] (22) Section [26-50-202](#), which creates the Traumatic Brain Injury Advisory
5261 Committee, is repealed July 1, 2025.

5262 [~~(25)~~] (23) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and
5263 Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

5264 [~~(26)~~] (24) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is

5265 repealed July 1, 2026.

5266 ~~[(27)]~~ (25) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed
5267 July 1, 2026.

5268 ~~[(28)]~~ (26) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July
5269 1, 2024.

5270 (27) Subsection [26B-1-204\(2\)\(i\)](#), related to the Residential Child Care Licensing
5271 Advisory Committee, is repealed July 1, 2024.

5272 (28) Subsection [26B-1-204\(2\)\(k\)](#), related to the Primary Care Grant Committee, is
5273 repealed July 1, 2025.

5274 Section 97. Section **63I-2-226** is amended to read:

5275 **63I-2-226. Repeal dates -- Titles 26 through 26B.**

5276 ~~[(1) Subsection [26-1-7\(1\)\(c\)](#), in relation to the Air Ambulance Committee, is repealed
5277 July 1, 2024.]~~

5278 ~~[(2) Section [26-4-6.1](#) is repealed January 1, 2022.]~~

5279 ~~[(3) Section [26-6-41](#), in relation to termination of public health emergency powers
5280 pertaining to COVID-19, is repealed on July 1, 2021.]~~

5281 ~~[(4)]~~ (1) Subsection [26-7-8\(3\)](#) is repealed January 1, 2027.

5282 ~~[(5)]~~ (2) Section [26-8a-107](#) is repealed July 1, 2024.

5283 ~~[(6)]~~ (3) Subsection [26-8a-203\(3\)\(a\)\(i\)](#) is repealed January 1, 2023.

5284 ~~[(7)]~~ (4) Section [26-8a-211](#) is repealed July 1, 2023.

5285 ~~[(8)]~~ (5) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection
5286 [26-8a-602\(1\)\(a\)](#) is amended to read:

5287 "(a) provide the patient or the patient's representative with the following information
5288 before contacting an air medical transport provider:

5289 (i) which health insurers in the state the air medical transport provider contracts with;

5290 (ii) if sufficient data is available, the average charge for air medical transport services
5291 for a patient who is uninsured or out of network; and

5292 (iii) whether the air medical transport provider balance bills a patient for any charge
5293 not paid by the patient's health insurer; and".

5294 ~~[(9)]~~ (6) Subsection [26-18-2.4\(3\)\(e\)](#) is repealed January 1, 2023.

5295 ~~[(10)]~~ (7) Subsection [26-18-411\(8\)](#), related to reporting on the health coverage

5296 improvement program, is repealed January 1, 2023.

5297 ~~[(11)]~~ (8) Subsection [26-18-420\(5\)](#), related to reporting on coverage for in vitro
5298 fertilization and genetic testing, is repealed July 1, 2030.

5299 ~~[(12)]~~ (9) In relation to the Air Ambulance Committee, July 1, 2024, Subsection
5300 [26-21-32\(1\)\(a\)](#) is amended to read:

5301 "(a) provide the patient or the patient's representative with the following information
5302 before contacting an air medical transport provider:

5303 (i) which health insurers in the state the air medical transport provider contracts with;

5304 (ii) if sufficient data is available, the average charge for air medical transport services
5305 for a patient who is uninsured or out of network; and

5306 (iii) whether the air medical transport provider balance bills a patient for any charge
5307 not paid by the patient's health insurer; and".

5308 ~~[(13)]~~ (10) Subsection [26-33a-106.1\(2\)\(a\)](#) is repealed January 1, 2023.

5309 ~~[(14)]~~ (11) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance
5310 Program, is repealed July 1, 2027.

5311 ~~[(15)]~~ (12) Subsection [26-61-202\(4\)\(b\)](#) is repealed January 1, 2022.

5312 ~~[(16)]~~ (13) Subsection [26-61-202\(5\)](#) is repealed January 1, 2022.

5313 ~~[(17)]~~ Section [26A-1-130](#), in relation to termination of public health emergency powers
5314 pertaining to COVID-19, is repealed on July 1, 2021.]

5315 ~~[(18)]~~ Section [26B-1-201.1](#) is repealed July 1, 2022.]

5316 (14) Subsection [26B-1-204\(2\)\(f\)](#), relating to the Air Ambulance Committee, is
5317 repealed July 1, 2024.

5318 Section 98. Section **63J-1-315** is amended to read:

5319 **63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account --**

5320 **Transfers of Medicaid growth savings -- Base budget adjustments.**

5321 (1) As used in this section:

5322 (a) "Department" means the Department of Health and Human Services created in
5323 Section ~~[26-1-4]~~ [26B-1-201](#).

5324 (b) "Division" means the Division of Medicaid and Health Financing created in Section
5325 [26-18-2.1](#).

5326 (c) "General Fund revenue surplus" means a situation where actual General Fund

5327 revenues collected in a completed fiscal year exceed the estimated revenues for the General
5328 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the
5329 Legislature.

5330 (d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid
5331 program expenditures, if Medicaid program expenditures are less than the Medicaid growth
5332 target.

5333 (e) "Medicaid growth target" means Medicaid program expenditures for the previous
5334 year multiplied by 1.08.

5335 (f) "Medicaid program" is as defined in Section 26-18-2.

5336 (g) "Medicaid program expenditures" means total state revenue expended for the
5337 Medicaid program from the General Fund, including restricted accounts within the General
5338 Fund, during a fiscal year.

5339 (h) "Medicaid program expenditures for the previous year" means total state revenue
5340 expended for the Medicaid program from the General Fund, including restricted accounts
5341 within the General Fund, during the fiscal year immediately preceding a fiscal year for which
5342 Medicaid program expenditures are calculated.

5343 (i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund
5344 balance in the General Fund is less than zero.

5345 (j) "State revenue" means revenue other than federal revenue.

5346 (k) "State revenue expended for the Medicaid program" includes money transferred or
5347 appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the
5348 extent the money is appropriated for the Medicaid program by the Legislature.

5349 (2) There is created within the General Fund a restricted account to be known as the
5350 Medicaid Growth Reduction and Budget Stabilization Account.

5351 (3) (a) (i) Except as provided in Subsection (6), if, at the end of a fiscal year, there is a
5352 General Fund revenue surplus, the Division of Finance shall transfer an amount equal to
5353 Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and
5354 Budget Stabilization Account.

5355 (ii) If the amount transferred is reduced to prevent an operating deficit, as provided in
5356 Subsection (6), the Legislature shall include, to the extent revenue is available, an amount
5357 equal to the reduction as an appropriation from the General Fund to the account in the base

5358 budget for the second fiscal year following the fiscal year for which the reduction was made.

5359 (b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the
5360 Legislature shall include, to the extent revenue is available, an amount equal to Medicaid
5361 growth savings as an appropriation from the General Fund to the account in the base budget for
5362 the second fiscal year following the fiscal year for which the reduction was made.

5363 (c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department
5364 implements the proposal developed under Section 26-18-405 to reduce the long-term growth in
5365 state expenditures for the Medicaid program, and to each fiscal year after that year.

5366 (4) The Division of Finance shall calculate the amount to be transferred under
5367 Subsection (3):

5368 (a) before transferring revenue from the General Fund revenue surplus to:

5369 (i) the General Fund Budget Reserve Account under Section 63J-1-312;

5370 (ii) the Wildland Fire Suppression Fund created in Section 65A-8-204, as described in
5371 Section 63J-1-314; and

5372 (iii) the State Disaster Recovery Restricted Account under Section 63J-1-314;

5373 (b) before earmarking revenue from the General Fund revenue surplus to the Industrial
5374 Assistance Account under Section 63N-3-106; and

5375 (c) before making any other year-end contingency appropriations, year-end set-asides,
5376 or other year-end transfers required by law.

5377 (5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay
5378 additional debt service for any bonded debt authorized by the Legislature, the Division of
5379 Finance may hold back from any General Fund revenue surplus money sufficient to pay the
5380 additional debt service requirements resulting from issuance of bonded debt that was
5381 authorized by the Legislature.

5382 (b) The Division of Finance may not spend the hold back amount for debt service
5383 under Subsection (5)(a) unless and until it is appropriated by the Legislature.

5384 (c) If, after calculating the amount for transfer under Subsection (3), the remaining
5385 General Fund revenue surplus is insufficient to cover the hold back for debt service required by
5386 Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth
5387 Reduction and Budget Stabilization Account by the amount necessary to cover the debt service
5388 hold back.

5389 (d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back
5390 the General Fund balance for debt service authorized by this Subsection (5) before making any
5391 transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other
5392 designation or allocation of General Fund revenue surplus.

5393 (6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division
5394 of Finance determines that an operating deficit exists and that holding back earmarks to the
5395 Industrial Assistance Account under Section 63N-3-106, transfers to the Wildland Fire
5396 Suppression Fund and State Disaster Recovery Restricted Account under Section 63J-1-314,
5397 transfers to the General Fund Budget Reserve Account under Section 63J-1-312, or earmarks
5398 and transfers to more than one of those accounts, in that order, does not eliminate the operating
5399 deficit, the Division of Finance may reduce the transfer to the Medicaid Growth Reduction and
5400 Budget Stabilization Account by the amount necessary to eliminate the operating deficit.

5401 (7) The Legislature may appropriate money from the Medicaid Growth Reduction and
5402 Budget Stabilization Account only:

5403 (a) if Medicaid program expenditures for the fiscal year for which the appropriation is
5404 made are estimated to be 108% or more of Medicaid program expenditures for the previous
5405 year; and

5406 (b) for the Medicaid program.

5407 (8) The Division of Finance shall deposit interest or other earnings derived from
5408 investment of Medicaid Growth Reduction and Budget Stabilization Account money into the
5409 General Fund.

5410 Section 99. Section 63J-1-602.1 is amended to read:

5411 **63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**

5412 Appropriations made from the following accounts or funds are nonlapsing:

5413 (1) The Utah Intracurricular Student Organization Support for Agricultural Education
5414 and Leadership Restricted Account created in Section 4-42-102.

5415 (2) The Native American Repatriation Restricted Account created in Section 9-9-407.

5416 (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in
5417 Section 9-18-102.

5418 (4) The National Professional Men's Soccer Team Support of Building Communities
5419 Restricted Account created in Section 9-19-102.

- 5420 (5) Funds collected for directing and administering the C-PACE district created in
5421 Section [11-42a-106](#).
- 5422 (6) Money received by the Utah Inland Port Authority, as provided in Section
5423 [11-58-105](#).
- 5424 (7) The "Latino Community Support Restricted Account" created in Section [13-1-16](#).
- 5425 (8) The Clean Air Support Restricted Account created in Section [19-1-109](#).
- 5426 (9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in
5427 Section [19-2a-106](#).
- 5428 (10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in
5429 Section [19-5-126](#).
- 5430 (11) The "Support for State-Owned Shooting Ranges Restricted Account" created in
5431 Section [23-14-13.5](#).
- 5432 (12) Award money under the State Asset Forfeiture Grant Program, as provided under
5433 Section [24-4-117](#).
- 5434 (13) Funds collected from the program fund for local health department expenses
5435 incurred in responding to a local health emergency under Section [26-1-38](#).
- 5436 (14) The Children with Cancer Support Restricted Account created in Section
5437 [26-21a-304](#).
- 5438 (15) State funds for matching federal funds in the Children's Health Insurance Program
5439 as provided in Section [26-40-108](#).
- 5440 (16) The Children with Heart Disease Support Restricted Account created in Section
5441 [26-58-102](#).
- 5442 (17) The Nurse Home Visiting Restricted Account created in Section [26-63-601](#).
- 5443 (18) The Technology Development Restricted Account created in Section [31A-3-104](#).
- 5444 (19) The Criminal Background Check Restricted Account created in Section
5445 [31A-3-105](#).
- 5446 (20) The Captive Insurance Restricted Account created in Section [31A-3-304](#), except
5447 to the extent that Section [31A-3-304](#) makes the money received under that section free revenue.
- 5448 (21) The Title Licensee Enforcement Restricted Account created in Section
5449 [31A-23a-415](#).
- 5450 (22) The Health Insurance Actuarial Review Restricted Account created in Section

- 5451 [31A-30-115](#).
- 5452 (23) The Insurance Fraud Investigation Restricted Account created in Section
- 5453 [31A-31-108](#).
- 5454 (24) The Underage Drinking Prevention Media and Education Campaign Restricted
- 5455 Account created in Section [32B-2-306](#).
- 5456 (25) The School Readiness Restricted Account created in Section [35A-15-203](#).
- 5457 (26) Money received by the Utah State Office of Rehabilitation for the sale of certain
- 5458 products or services, as provided in Section [35A-13-202](#).
- 5459 (27) The Oil and Gas Administrative Penalties Account created in Section [40-6-11](#).
- 5460 (28) The Oil and Gas Conservation Account created in Section [40-6-14.5](#).
- 5461 (29) The Division of Oil, Gas, and Mining Restricted account created in Section
- 5462 [40-6-23](#).
- 5463 (30) The Electronic Payment Fee Restricted Account created by Section [41-1a-121](#) to
- 5464 the Motor Vehicle Division.
- 5465 (31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account
- 5466 created by Section [41-3-110](#) to the State Tax Commission.
- 5467 (32) The Utah Law Enforcement Memorial Support Restricted Account created in
- 5468 Section [53-1-120](#).
- 5469 (33) The State Disaster Recovery Restricted Account to the Division of Emergency
- 5470 Management, as provided in Section [53-2a-603](#).
- 5471 (34) The Department of Public Safety Restricted Account to the Department of Public
- 5472 Safety, as provided in Section [53-3-106](#).
- 5473 (35) The Utah Highway Patrol Aero Bureau Restricted Account created in Section
- 5474 [53-8-303](#).
- 5475 (36) The DNA Specimen Restricted Account created in Section [53-10-407](#).
- 5476 (37) The Canine Body Armor Restricted Account created in Section [53-16-201](#).
- 5477 (38) The Technical Colleges Capital Projects Fund created in Section [53B-2a-118](#).
- 5478 (39) The Higher Education Capital Projects Fund created in Section [53B-22-202](#).
- 5479 (40) A certain portion of money collected for administrative costs under the School
- 5480 Institutional Trust Lands Management Act, as provided under Section [53C-3-202](#).
- 5481 (41) The Public Utility Regulatory Restricted Account created in Section [54-5-1.5](#),

5482 subject to Subsection [54-5-1.5\(4\)\(d\)](#).

5483 (42) Funds collected from a surcharge fee to provide certain licensees with access to an
5484 electronic reference library, as provided in Section [58-3a-105](#).

5485 (43) Certain fines collected by the Division of Occupational and Professional Licensing
5486 for violation of unlawful or unprofessional conduct that are used for education and enforcement
5487 purposes, as provided in Section [58-17b-505](#).

5488 (44) Funds collected from a surcharge fee to provide certain licensees with access to an
5489 electronic reference library, as provided in Section [58-22-104](#).

5490 (45) Funds collected from a surcharge fee to provide certain licensees with access to an
5491 electronic reference library, as provided in Section [58-55-106](#).

5492 (46) Funds collected from a surcharge fee to provide certain licensees with access to an
5493 electronic reference library, as provided in Section [58-56-3.5](#).

5494 (47) Certain fines collected by the Division of Occupational and Professional Licensing
5495 for use in education and enforcement of the Security Personnel Licensing Act, as provided in
5496 Section [58-63-103](#).

5497 (48) The Relative Value Study Restricted Account created in Section [59-9-105](#).

5498 (49) The Cigarette Tax Restricted Account created in Section [59-14-204](#).

5499 (50) Funds paid to the Division of Real Estate for the cost of a criminal background
5500 check for a mortgage loan license, as provided in Section [61-2c-202](#).

5501 (51) Funds paid to the Division of Real Estate for the cost of a criminal background
5502 check for principal broker, associate broker, and sales agent licenses, as provided in Section
5503 [61-2f-204](#).

5504 (52) Certain funds donated to the Department of Health and Human Services, as
5505 provided in Section [~~62A-1-111~~] [26B-1-202](#).

5506 (53) The National Professional Men's Basketball Team Support of Women and
5507 Children Issues Restricted Account created in Section [~~62A-1-202~~] [26B-1-302](#).

5508 (54) Certain funds donated to the Division of Child and Family Services, as provided
5509 in Section [62A-4a-110](#).

5510 (55) The Choose Life Adoption Support Restricted Account created in Section
5511 [62A-4a-608](#).

5512 (56) Funds collected by the Office of Administrative Rules for publishing, as provided

- 5513 in Section [63G-3-402](#).
- 5514 (57) The Immigration Act Restricted Account created in Section [63G-12-103](#).
- 5515 (58) Money received by the military installation development authority, as provided in
- 5516 Section [63H-1-504](#).
- 5517 (59) The Computer Aided Dispatch Restricted Account created in Section [63H-7a-303](#).
- 5518 (60) The Unified Statewide 911 Emergency Service Account created in Section
- 5519 [63H-7a-304](#).
- 5520 (61) The Utah Statewide Radio System Restricted Account created in Section
- 5521 [63H-7a-403](#).
- 5522 (62) The Utah Capital Investment Restricted Account created in Section [63N-6-204](#).
- 5523 (63) The Motion Picture Incentive Account created in Section [63N-8-103](#).
- 5524 (64) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission,
- 5525 as provided under Section [63N-10-301](#).
- 5526 (65) Funds collected by the housing of state probationary inmates or state parole
- 5527 inmates, as provided in Subsection [64-13e-104\(2\)](#).
- 5528 (66) Certain forestry and fire control funds utilized by the Division of Forestry, Fire,
- 5529 and State Lands, as provided in Section [65A-8-103](#).
- 5530 (67) The Transportation of Veterans to Memorials Support Restricted Account created
- 5531 in Section [71-14-102](#).
- 5532 (68) The Amusement Ride Safety Restricted Account, as provided in Section
- 5533 [72-16-204](#).
- 5534 (69) Certain funds received by the Office of the State Engineer for well drilling fines or
- 5535 bonds, as provided in Section [73-3-25](#).
- 5536 (70) The Water Resources Conservation and Development Fund, as provided in
- 5537 Section [73-23-2](#).
- 5538 (71) Funds donated or paid to a juvenile court by private sources, as provided in
- 5539 Subsection [78A-6-203\(1\)\(c\)](#).
- 5540 (72) Fees for certificate of admission created under Section [78A-9-102](#).
- 5541 (73) Funds collected for adoption document access as provided in Sections [78B-6-141](#),
- 5542 [78B-6-144](#), and [78B-6-144.5](#).
- 5543 (74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4,

5544 Utah Indigent Defense Commission.

5545 (75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in
5546 Section [79-3-403](#).

5547 (76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State
5548 Park, and Green River State Park, as provided under Section [79-4-403](#).

5549 (77) Certain funds received by the Division of State Parks from the sale or disposal of
5550 buffalo, as provided under Section [79-4-1001](#).

5551 (78) The Drinking While Pregnant Prevention Media and Education Campaign
5552 Restricted Account created in Section [32B-2-308](#).

5553 Section 100. Section **63M-7-301** is amended to read:

5554 **63M-7-301. Definitions -- Creation of council -- Membership -- Terms.**

5555 (1) (a) As used in this part, "council" means the Utah Substance Use and Mental Health
5556 Advisory Council created in this section.

5557 (b) There is created within the governor's office the Utah Substance Use and Mental
5558 Health Advisory Council.

5559 (2) The council shall be comprised of the following voting members:

5560 (a) the attorney general or the attorney general's designee;

5561 (b) one elected county official appointed by the Utah Association of Counties;

5562 (c) the commissioner of public safety or the commissioner's designee;

5563 (d) the director of the Division of [~~Substance Abuse and Mental Health~~] Integrated
5564 Healthcare or the director's designee;

5565 (e) the state superintendent of public instruction or the superintendent's designee;

5566 (f) the executive director of the Department of Health and Human Services or the
5567 executive director's designee;

5568 (g) the executive director of the Commission on Criminal and Juvenile Justice or the
5569 executive director's designee;

5570 (h) the executive director of the Department of Corrections or the executive director's
5571 designee;

5572 (i) the director of the Division of Juvenile Justice Services or the director's designee;

5573 (j) the director of the Division of Child and Family Services or the director's designee;

5574 (k) the chair of the Board of Pardons and Parole or the chair's designee;

- 5575 (l) the director of the Office of Multicultural Affairs or the director's designee;
- 5576 (m) the director of the Division of Indian Affairs or the director's designee;
- 5577 (n) the state court administrator or the state court administrator's designee;
- 5578 (o) one district court judge who presides over a drug court and who is appointed by the
- 5579 chief justice of the Utah Supreme Court;
- 5580 (p) one district court judge who presides over a mental health court and who is
- 5581 appointed by the chief justice of the Utah Supreme Court;
- 5582 (q) one juvenile court judge who presides over a drug court and who is appointed by the
- 5583 chief justice of the Utah Supreme Court;
- 5584 (r) one prosecutor appointed by the Statewide Association of Prosecutors;
- 5585 (s) the chair or co-chair of each committee established by the council;
- 5586 (t) the chair or co-chair of the Statewide Suicide Prevention Coalition created under
- 5587 Subsection [62A-15-1101\(2\)](#);
- 5588 (u) one representative appointed by the Utah League of Cities and Towns to serve a
- 5589 four-year term;
- 5590 (v) the following members appointed by the governor to serve four-year terms:
- 5591 (i) one resident of the state who has been personally affected by a substance use or
- 5592 mental health disorder; and
- 5593 (ii) one citizen representative; and
- 5594 (w) in addition to the voting members described in Subsections (2)(a) through (v), the
- 5595 following voting members appointed by a majority of the members described in Subsections
- 5596 (2)(a) through (v) to serve four-year terms:
- 5597 (i) one resident of the state who represents a statewide advocacy organization for
- 5598 recovery from substance use disorders;
- 5599 (ii) one resident of the state who represents a statewide advocacy organization for
- 5600 recovery from mental illness;
- 5601 (iii) one resident of the state who represents a statewide advocacy organization for
- 5602 protection of rights of individuals with a disability;
- 5603 (iv) one resident of the state who represents prevention professionals;
- 5604 (v) one resident of the state who represents treatment professionals;
- 5605 (vi) one resident of the state who represents the physical health care field;

- 5606 (vii) one resident of the state who is a criminal defense attorney;
- 5607 (viii) one resident of the state who is a military servicemember or military veteran
- 5608 under Section [53B-8-102](#);
- 5609 (ix) one resident of the state who represents local law enforcement agencies;
- 5610 (x) one representative of private service providers that serve youth with substance use
- 5611 disorders or mental health disorders; and
- 5612 (xi) one resident of the state who is certified by the Division of [~~Substance Abuse and~~
- 5613 ~~Mental Health~~] Integrated Healthcare as a peer support specialist as described in Subsection
- 5614 [62A-15-103](#)(2)(h).
- 5615 (3) An individual other than an individual described in Subsection (2) may not be
- 5616 appointed as a voting member of the council.
- 5617 Section 101. Section **67-3-11** is amended to read:
- 5618 **67-3-11. Health care price transparency tool -- Transparency tool requirements.**
- 5619 (1) The state auditor shall create a health care price transparency tool:
- 5620 (a) subject to appropriations from the Legislature and any available funding from
- 5621 third-party sources;
- 5622 (b) with technical support from the Public Employees' Benefit and Insurance Program
- 5623 created in Section [49-20-103](#), the Department of Health and Human Services, and the
- 5624 Insurance Department; and
- 5625 (c) in accordance with the requirements in Subsection (2).
- 5626 (2) A health care price transparency tool created by the state auditor under this section
- 5627 shall:
- 5628 (a) present health care price information for consumers in a manner that is clear and
- 5629 accurate;
- 5630 (b) be available to the public in a user-friendly manner;
- 5631 (c) incorporate existing data collected under Section [26-33a-106.1](#);
- 5632 (d) incorporate data collected under Section [26-61a-106](#), regarding fees for qualified
- 5633 medical providers recommending medical cannabis, as those terms are defined in Section
- 5634 [26-61a-102](#);
- 5635 (e) group billing codes for common health care procedures;
- 5636 (f) be updated on a regular basis; and

5637 (g) be created and operated in accordance with all applicable state and federal laws.

5638 (3) The state auditor may make the health care pricing data from the health care price
5639 transparency tool available to the public through an application program interface format if the
5640 data meets state and federal data privacy requirements.

5641 (4) (a) Before making a health care price transparency tool available to the public, the
5642 state auditor shall:

5643 (i) seek input from the Health Data Committee created in Section [~~26-1-7~~] [26B-1-204](#)
5644 on the overall accuracy and effectiveness of the reports provided by the health care price
5645 transparency tool; and

5646 (ii) establish procedures to give data providers a 30-day period to review pricing
5647 information before the state auditor publishes the information on the health care price
5648 transparency tool.

5649 (b) If the state auditor complies with the requirements of Subsection (4)(a), the health
5650 care price transparency tool is not subject to the requirements of Section [26-33a-107](#).

5651 (5) Each year in which a health care price transparency tool is operational, the state
5652 auditor shall report to the Health and Human Services Interim Committee before November 1
5653 of that year:

5654 (a) the utilization of the health care price transparency tool; and

5655 (b) policy options for improving access to health care price transparency data.

5656 Section 102. Section **76-5-413** is amended to read:

5657 **76-5-413. Custodial sexual relations or misconduct with youth receiving state**
5658 **services -- Definitions -- Penalties -- Defenses.**

5659 (1) As used in this section:

5660 (a) "Actor" means:

5661 (i) an individual employed by the Department of Health and Human Services[~~as~~]
5662 created in Section [~~62A-1-102~~] [26B-1-201](#), or an employee of a private provider or contractor;
5663 or

5664 (ii) an individual employed by the juvenile court of the state, or an employee of a
5665 private provider or contractor.

5666 (b) "Department" means the Department of Health and Human Services created in
5667 Section [~~62A-1-102~~] [26B-1-201](#).

5668 (c) "Juvenile court" means the juvenile court of the state created in Section 78A-6-102.

5669 (d) "Private provider or contractor" means any individual or entity that contracts with
5670 the:

5671 (i) department to provide services or functions that are part of the operation of the
5672 department; or

5673 (ii) juvenile court to provide services or functions that are part of the operation of the
5674 juvenile court.

5675 (e) "Youth receiving state services" means an individual:

5676 (i) younger than 18 years old, except as provided under Subsection (1)(e)(ii), who is:

5677 (A) in the custody of the department under Section 80-6-703; or

5678 (B) receiving services from any division of the department if any portion of the costs of
5679 these services is covered by public money; or

5680 (ii) younger than 21 years old:

5681 (A) who is in the custody of the Division of Juvenile Justice Services, or the Division
5682 of Child and Family Services; or

5683 (B) whose case is under the jurisdiction of the juvenile court.

5684 (2) (a) An actor commits custodial sexual relations with a youth receiving state
5685 services if the actor commits any of the acts under Subsection (3):

5686 (i) under circumstances not amounting to commission of, or an attempt to commit, an
5687 offense under Subsection (6); and

5688 (ii) (A) the actor knows that the individual is a youth receiving state services; or

5689 (B) a reasonable person in the actor's position should have known under the
5690 circumstances that the individual was a youth receiving state services.

5691 (b) A violation of Subsection (2)(a) is a third degree felony, but if the youth receiving
5692 state services is younger than 18 years old, a violation of Subsection (2)(a) is a second degree
5693 felony.

5694 (c) If the act committed under this Subsection (2) amounts to an offense subject to a
5695 greater penalty under another provision of state law than is provided under this Subsection (2),
5696 this Subsection (2) does not prohibit prosecution and sentencing for the more serious offense.

5697 (3) Acts referred to in Subsection (2)(a) are:

5698 (a) having sexual intercourse with a youth receiving state services;

5699 (b) engaging in any sexual act with a youth receiving state services involving the
5700 genitals of one individual and the mouth or anus of another individual, regardless of the sex of
5701 either participant; or

5702 (c) causing the penetration, however slight, of the genital or anal opening of a youth
5703 receiving state services by any foreign object, substance, instrument, or device, including a part
5704 of the human body, with the intent to cause substantial emotional or bodily pain to any
5705 individual, regardless of the sex of any participant or with the intent to arouse or gratify the
5706 sexual desire of any individual, regardless of the sex of any participant.

5707 (4) (a) An actor commits custodial sexual misconduct with a youth receiving state
5708 services if the actor commits any of the acts under Subsection (5):

5709 (i) under circumstances not amounting to commission of, or an attempt to commit, an
5710 offense under Subsection (6); and

5711 (ii) (A) the actor knows that the individual is a youth receiving state services; or
5712 (B) a reasonable person in the actor's position should have known under the
5713 circumstances that the individual was a youth receiving state services.

5714 (b) A violation of Subsection (4)(a) is a class A misdemeanor, but if the youth
5715 receiving state services is younger than 18 years old, a violation of Subsection (4)(a) is a third
5716 degree felony.

5717 (c) If the act committed under this Subsection (4) amounts to an offense subject to a
5718 greater penalty under another provision of state law than is provided under this Subsection (4),
5719 this Subsection (4) does not prohibit prosecution and sentencing for the more serious offense.

5720 (5) Acts referred to in Subsection (4)(a) are the following acts when committed with
5721 the intent to cause substantial emotional or bodily pain to any individual or with the intent to
5722 arouse or gratify the sexual desire of any individual, regardless of the sex of any participant:

5723 (a) touching the anus, buttocks, pubic area, or any part of the genitals of a youth
5724 receiving state services;

5725 (b) touching the breast of a female youth receiving state services; or

5726 (c) otherwise taking indecent liberties with a youth receiving state services.

5727 (6) The offenses referred to in Subsections (2)(a)(i) and (4)(a)(i) are:

5728 (a) Section 76-5-401, unlawful sexual activity with a minor;

5729 (b) Section 76-5-402, rape;

- 5730 (c) Section 76-5-402.1, rape of a child;
- 5731 (d) Section 76-5-402.2, object rape;
- 5732 (e) Section 76-5-402.3, object rape of a child;
- 5733 (f) Section 76-5-403, forcible sodomy;
- 5734 (g) Section 76-5-403.1, sodomy on a child;
- 5735 (h) Section 76-5-404, forcible sexual abuse;
- 5736 (i) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child; or
- 5737 (j) Section 76-5-405, aggravated sexual assault.

5738 (7) (a) It is not a defense to the commission of the offense of custodial sexual relations
5739 with a youth receiving state services under Subsection (2) or custodial sexual misconduct with
5740 a youth receiving state services under Subsection (4), or an attempt to commit either of these
5741 offenses, if the youth receiving state services is younger than 18 years old, that the actor:

5742 (i) mistakenly believed the youth receiving state services to be 18 years old or older at
5743 the time of the alleged offense; or

5744 (ii) was unaware of the true age of the youth receiving state services.

5745 (b) Consent of the youth receiving state services is not a defense to any violation or
5746 attempted violation of Subsection (2) or (4).

5747 (8) It is a defense that the commission by the actor of an act under Subsection (2) or (4)
5748 is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

5749 Section 103. Section 76-5-501 is amended to read:

5750 **76-5-501. Definitions.**

5751 For purposes of this part:

5752 (1) "Alleged sexual offender" means a person or a minor regarding whom an
5753 indictment, petition, or an information has been filed or an arrest has been made alleging the
5754 commission of a sexual offense or an attempted sexual offense under Title 76, Chapter 5, Part
5755 4, Sexual Offenses, and regarding which:

5756 (a) a judge has signed an accompanying arrest warrant, pickup order, or any other order
5757 based upon probable cause regarding the alleged offense; and

5758 (b) the judge has found probable cause to believe that the alleged victim has been
5759 exposed to conduct or activities that may result in an HIV infection as a result of the alleged
5760 offense.

5761 (2) "Department of Health and Human Services" means the [state] Department of
5762 Health [~~as defined in Section 26-1-2~~] and Human Services created in Section 26B-1-201.

5763 (3) "HIV infection" means an indication of Human Immunodeficiency Virus (HIV)
5764 infection determined by current medical standards and detected by any of the following:

5765 (a) presence of antibodies to HIV, verified by a positive "confirmatory" test, such as
5766 Western blot or other method approved by the Utah State Health Laboratory. Western blot
5767 interpretation will be based on criteria currently recommended by the Association of State and
5768 Territorial Public Health Laboratory Directors;

5769 (b) presence of HIV antigen;

5770 (c) isolation of HIV; or

5771 (d) demonstration of HIV proviral DNA.

5772 (4) "HIV positive individual" means a person who is HIV positive as determined by the
5773 State Health Laboratory.

5774 (5) "Local department of health" means [~~the~~] a local health department as defined in
5775 [~~Subsection 26A-1-102(5)~~] Section 26A-1-102.

5776 (6) "Minor" means a person younger than 18 years [~~of age~~] old.

5777 (7) "Positive" means an indication of the HIV infection as defined in Subsection (3).

5778 (8) "Sexual offense" means a violation of state law prohibiting a sexual offense under
5779 Title 76, Chapter 5, Part 4, Sexual Offenses.

5780 (9) "Test" or "testing" means a test or tests for HIV infection conducted by and in
5781 accordance with standards recommended by the Department of Health and Human Services.

5782 Section 104. Section **78B-5-902** is amended to read:

5783 **78B-5-902. Definitions.**

5784 As used in this part:

5785 (1) "Communication" means an oral statement, written statement, note, record, report,
5786 or document made during, or arising out of, a meeting between a law enforcement officer,
5787 firefighter, emergency medical service provider, or rescue provider and a peer support team
5788 member.

5789 (2) "Behavioral emergency services technician" means an individual who is licensed
5790 under Section 26-8a-302 as:

5791 (a) a behavioral emergency services technician; or

5792 (b) an advanced behavioral emergency services technician.

5793 (3) "Emergency medical service provider or rescue unit peer support team member"

5794 means a person who is:

5795 (a) an emergency medical service provider as defined in Section 26-8a-102, a regular
5796 or volunteer member of a rescue unit acting as an emergency responder as defined in Section
5797 53-2a-502, or another person who has been trained in peer support skills; and

5798 (b) designated by the chief executive of an emergency medical service agency or the
5799 chief of a rescue unit as a member of an emergency medical service provider's peer support
5800 team or as a member of a rescue unit's peer support team.

5801 (4) "Law enforcement or firefighter peer support team member" means a person who
5802 is:

5803 (a) a peace officer, law enforcement dispatcher, civilian employee, or volunteer
5804 member of a law enforcement agency, a regular or volunteer member of a fire department, or
5805 another person who has been trained in peer support skills; and

5806 (b) designated by the commissioner of the Department of Public Safety, the executive
5807 director of the Department of Corrections, a sheriff, a police chief, or a fire chief as a member
5808 of a law enforcement agency's peer support team or a fire department's peer support team.

5809 (5) "Trained" means a person who has successfully completed a peer support training
5810 program approved by the Peace Officer Standards and Training Division, the State Fire
5811 Marshal's Office, or the [Health] Department of Health and Human Services, as applicable.

5812 Section 105. Section 78B-5-903 is amended to read:

5813 **78B-5-903. Creation -- Training -- Communications -- Exclusions.**

5814 (1) A law enforcement agency, fire department, emergency medical service agency, or
5815 rescue unit:

5816 (a) may create a peer support team; and

5817 (b) if a peer support team is created, shall develop guidelines for the peer support team
5818 and its members.

5819 (2) A peer support team member shall complete a peer support training program
5820 approved by the Peace Officer Standards and Training Division, the State Fire Marshal's
5821 Office, or the [Health] Department of Health and Human Services, as applicable.

5822 (3) In accordance with the Utah Rules of Evidence, a peer support team member may

5823 refuse to disclose communications made by a person participating in peer support services,
5824 including group therapy sessions.

5825 (4) Subsection (3) applies only to communications made during individual interactions
5826 conducted by a peer support team member who is:

5827 (a) acting in the member's capacity as a law enforcement or firefighter peer support
5828 team member or an emergency medical service provider or rescue unit peer support team
5829 member; and

5830 (b) functioning within the written peer support guidelines that are in effect for the
5831 member's respective law enforcement agency, fire department, emergency medical service
5832 agency, or rescue unit.

5833 (5) This part does not apply if:

5834 (a) a law enforcement or firefighter peer support team member or emergency medical
5835 service provider or rescue unit peer support team member was a witness or a party to the
5836 incident that prompted the delivery of peer support services;

5837 (b) information received by a peer support team member is indicative of actual or
5838 suspected child abuse, or actual or suspected child neglect;

5839 (c) the person receiving peer support is a clear and immediate danger to the person's
5840 self or others;

5841 (d) communication to a peer support team member establishes reasonable cause for the
5842 peer support team member to believe that the person receiving peer support services is mentally
5843 or emotionally unfit for duty; or

5844 (e) communication to the peer support team member provides evidence that the person
5845 who is receiving the peer support services has committed a crime, plans to commit a crime, or
5846 intends to conceal a crime.

5847 Section 106. Section **80-1-102** is amended to read:

5848 **80-1-102. Juvenile code definitions.**

5849 As used in this title:

5850 (1) (a) "Abuse" means:

5851 (i) (A) nonaccidental harm of a child;

5852 (B) threatened harm of a child;

5853 (C) sexual exploitation;

- 5854 (D) sexual abuse; or
- 5855 (E) human trafficking of a child in violation of Section [76-5-308.5](#); or
- 5856 (ii) that a child's natural parent:
- 5857 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
- 5858 child;
- 5859 (B) is identified by a law enforcement agency as the primary suspect in an investigation
- 5860 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
- 5861 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
- 5862 recklessly causing the death of another parent of the child.
- 5863 (b) "Abuse" does not include:
- 5864 (i) reasonable discipline or management of a child, including withholding privileges;
- 5865 (ii) conduct described in Section [76-2-401](#); or
- 5866 (iii) the use of reasonable and necessary physical restraint or force on a child:
- 5867 (A) in self-defense;
- 5868 (B) in defense of others;
- 5869 (C) to protect the child; or
- 5870 (D) to remove a weapon in the possession of a child for any of the reasons described in
- 5871 Subsections (1)(b)(iii)(A) through (C).
- 5872 (2) "Abused child" means a child who has been subjected to abuse.
- 5873 (3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the
- 5874 facts alleged in the petition have been proved.
- 5875 (b) "Adjudication" does not mean a finding of not competent to proceed in accordance
- 5876 with Section [80-6-402](#).
- 5877 (4) (a) "Adult" means an individual who is 18 years old or older.
- 5878 (b) "Adult" does not include an individual:
- 5879 (i) who is 18 years old or older; and
- 5880 (ii) who is a minor.
- 5881 (5) "Attorney guardian ad litem" means the same as that term is defined in Section
- 5882 [78A-2-801](#).
- 5883 (6) "Board" means the Board of Juvenile Court Judges.
- 5884 (7) "Child" means an individual who is under 18 years old.

5885 (8) "Child and family plan" means a written agreement between a child's parents or
5886 guardian and the Division of Child and Family Services as described in Section [62A-4a-205](#).

5887 (9) "Child placement agency" means:

5888 (a) a private agency licensed to receive a child for placement or adoption under this
5889 code; or

5890 (b) a private agency that receives a child for placement or adoption in another state,
5891 which is licensed or approved where such license or approval is required by law.

5892 (10) "Clandestine laboratory operation" means the same as that term is defined in
5893 Section [58-37d-3](#).

5894 (11) "Commit" or "committed" means, unless specified otherwise:

5895 (a) with respect to a child, to transfer legal custody; and

5896 (b) with respect to a minor who is at least 18 years old, to transfer custody.

5897 (12) "Community-based program" means a nonsecure residential or nonresidential
5898 program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least
5899 restrictive setting, consistent with public safety, and operated by or under contract with the
5900 Division of Juvenile Justice Services.

5901 (13) "Community placement" means placement of a minor in a community-based
5902 program described in Section [80-5-402](#).

5903 (14) "Correctional facility" means:

5904 (a) a county jail; or

5905 (b) a secure correctional facility as defined in Section [64-13-1](#).

5906 (15) "Criminogenic risk factors" means evidence-based factors that are associated with
5907 a minor's likelihood of reoffending.

5908 (16) "Department" means the Department of Health and Human Services created in
5909 Section [~~[62A-1-102](#)~~] [26B-1-201](#).

5910 (17) "Dependent child" or "dependency" means a child who is without proper care
5911 through no fault of the child's parent, guardian, or custodian.

5912 (18) "Deprivation of custody" means transfer of legal custody by the juvenile court
5913 from a parent or a previous custodian to another person, agency, or institution.

5914 (19) "Detention" means home detention or secure detention.

5915 (20) "Detention risk assessment tool" means an evidence-based tool established under

5916 Section 80-5-203 that:

5917 (a) assesses a minor's risk of failing to appear in court or reoffending before
5918 adjudication; and

5919 (b) is designed to assist in making a determination of whether a minor shall be held in
5920 detention.

5921 (21) "Developmental immaturity" means incomplete development in one or more
5922 domains that manifests as a functional limitation in the minor's present ability to:

5923 (a) consult with counsel with a reasonable degree of rational understanding; and

5924 (b) have a rational as well as factual understanding of the proceedings.

5925 (22) "Disposition" means an order by a juvenile court, after the adjudication of a
5926 minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

5927 (23) "Educational neglect" means that, after receiving a notice of compulsory education
5928 violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to
5929 ensure that the child receives an appropriate education.

5930 (24) "Educational series" means an evidence-based instructional series:

5931 (a) obtained at a substance abuse program that is approved by the Division of
5932 [~~Substance Abuse and Mental Health~~] Integrated Healthcare in accordance with Section
5933 62A-15-105; and

5934 (b) designed to prevent substance use or the onset of a mental health disorder.

5935 (25) "Emancipated" means the same as that term is defined in Section 80-7-102.

5936 (26) "Evidence-based" means a program or practice that has had multiple randomized
5937 control studies or a meta-analysis demonstrating that the program or practice is effective for a
5938 specific population or has been rated as effective by a standardized program evaluation tool.

5939 (27) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

5940 (28) "Formal probation" means a minor is:

5941 (a) supervised in the community by, and reports to, a juvenile probation officer or an
5942 agency designated by the juvenile court; and

5943 (b) subject to return to the juvenile court in accordance with Section 80-6-607.

5944 (29) "Group rehabilitation therapy" means psychological and social counseling of one
5945 or more individuals in the group, depending upon the recommendation of the therapist.

5946 (30) "Guardian" means a person appointed by a court to make decisions regarding a

5947 minor, including the authority to consent to:

5948 (a) marriage;

5949 (b) enlistment in the armed forces;

5950 (c) major medical, surgical, or psychiatric treatment; or

5951 (d) legal custody, if legal custody is not vested in another individual, agency, or
5952 institution.

5953 (31) "Guardian ad litem" means the same as that term is defined in Section [78A-2-801](#).

5954 (32) "Harm" means:

5955 (a) physical or developmental injury or damage;

5956 (b) emotional damage that results in a serious impairment in the child's growth,
5957 development, behavior, or psychological functioning;

5958 (c) sexual abuse; or

5959 (d) sexual exploitation.

5960 (33) "Home detention" means placement of a minor:

5961 (a) if prior to a disposition, in the minor's home, or in a surrogate home with the
5962 consent of the minor's parent, guardian, or custodian, under terms and conditions established by
5963 the Division of Juvenile Justice Services or the juvenile court; or

5964 (b) if after a disposition, and in accordance with Section [78A-6-353](#) or [80-6-704](#), in the
5965 minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or
5966 custodian, under terms and conditions established by the Division of Juvenile Justice Services
5967 or the juvenile court.

5968 (34) (a) "Incest" means engaging in sexual intercourse with an individual whom the
5969 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,
5970 nephew, niece, or first cousin.

5971 (b) "Incest" includes:

5972 (i) blood relationships of the whole or half blood, without regard to legitimacy;

5973 (ii) relationships of parent and child by adoption; and

5974 (iii) relationships of stepparent and stepchild while the marriage creating the
5975 relationship of a stepparent and stepchild exists.

5976 (35) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

5977 (36) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

5978 (37) "Indigent defense service provider" means the same as that term is defined in
5979 Section [78B-22-102](#).

5980 (38) "Indigent defense services" means the same as that term is defined in Section
5981 [78B-22-102](#).

5982 (39) "Indigent individual" means the same as that term is defined in Section
5983 [78B-22-102](#).

5984 (40) (a) "Intake probation" means a minor is:

5985 (i) monitored by a juvenile probation officer; and

5986 (ii) subject to return to the juvenile court in accordance with Section [80-6-607](#).

5987 (b) "Intake probation" does not include formal probation.

5988 (41) "Intellectual disability" means a significant subaverage general intellectual
5989 functioning existing concurrently with deficits in adaptive behavior that constitutes a
5990 substantial limitation to the individual's ability to function in society.

5991 (42) "Juvenile offender" means:

5992 (a) a serious youth offender; or

5993 (b) a youth offender.

5994 (43) "Juvenile probation officer" means a probation officer appointed under Section
5995 [78A-6-205](#).

5996 (44) "Juvenile receiving center" means a nonsecure, nonresidential program established
5997 by the Division of Juvenile Justice Services, or under contract with the Division of Juvenile
5998 Justice Services, that is responsible for minors taken into temporary custody under Section
5999 [80-6-201](#).

6000 (45) "Legal custody" means a relationship embodying:

6001 (a) the right to physical custody of the minor;

6002 (b) the right and duty to protect, train, and discipline the minor;

6003 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
6004 medical care;

6005 (d) the right to determine where and with whom the minor shall live; and

6006 (e) the right, in an emergency, to authorize surgery or other extraordinary care.

6007 (46) "Mental illness" means:

6008 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,

6009 behavioral, or related functioning; or

6010 (b) the same as that term is defined in:

6011 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
6012 published by the American Psychiatric Association; or

6013 (ii) the current edition of the International Statistical Classification of Diseases and
6014 Related Health Problems.

6015 (47) "Minor" means, except as provided in Sections [80-6-501](#), [80-6-901](#), and [80-7-102](#):

6016 (a) a child; or

6017 (b) an individual:

6018 (i) (A) who is at least 18 years old and younger than 21 years old; and

6019 (B) for whom the Division of Child and Family Services has been specifically ordered
6020 by the juvenile court to provide services because the individual was an abused, neglected, or
6021 dependent child or because the individual was adjudicated for an offense; or

6022 (ii) (A) who is at least 18 years old and younger than 25 years old; and

6023 (B) whose case is under the continuing jurisdiction of the juvenile court under Chapter
6024 6, Juvenile Justice.

6025 (48) "Mobile crisis outreach team" means the same as that term is defined in Section
6026 [62A-15-102](#).

6027 (49) "Molestation" means that an individual, with the intent to arouse or gratify the
6028 sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,
6029 or the breast of a female child, or takes indecent liberties with a child as defined in Section
6030 [76-5-416](#).

6031 (50) (a) "Natural parent" means a minor's biological or adoptive parent.

6032 (b) "Natural parent" includes the minor's noncustodial parent.

6033 (51) (a) "Neglect" means action or inaction causing:

6034 (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe
6035 Relinquishment of a Newborn Child;

6036 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,
6037 guardian, or custodian;

6038 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary
6039 subsistence or medical care, or any other care necessary for the child's health, safety, morals, or

6040 well-being;

6041 (iv) a child to be at risk of being neglected or abused because another child in the same
6042 home is neglected or abused;

6043 (v) abandonment of a child through an unregulated custody transfer; or

6044 (vi) educational neglect.

6045 (b) "Neglect" does not include:

6046 (i) a parent or guardian legitimately practicing religious beliefs and who, for that
6047 reason, does not provide specified medical treatment for a child;

6048 (ii) a health care decision made for a child by the child's parent or guardian, unless the
6049 state or other party to a proceeding shows, by clear and convincing evidence, that the health
6050 care decision is not reasonable and informed;

6051 (iii) a parent or guardian exercising the right described in Section 80-3-304; or

6052 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
6053 maturity to avoid harm or unreasonable risk of harm, to engage in independent activities,
6054 including:

6055 (A) traveling to and from school, including by walking, running, or bicycling;

6056 (B) traveling to and from nearby commercial or recreational facilities;

6057 (C) engaging in outdoor play;

6058 (D) remaining in a vehicle unattended, except under the conditions described in
6059 Subsection 76-10-2202(2);

6060 (E) remaining at home unattended; or

6061 (F) engaging in a similar independent activity.

6062 (52) "Neglected child" means a child who has been subjected to neglect.

6063 (53) "Nonjudicial adjustment" means closure of the case by the assigned juvenile
6064 probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the
6065 consent in writing of:

6066 (a) the assigned juvenile probation officer; and

6067 (b) (i) the minor; or

6068 (ii) the minor and the minor's parent, legal guardian, or custodian.

6069 (54) "Not competent to proceed" means that a minor, due to a mental illness,
6070 intellectual disability or related condition, or developmental immaturity, lacks the ability to:

6071 (a) understand the nature of the proceedings against the minor or of the potential
6072 disposition for the offense charged; or

6073 (b) consult with counsel and participate in the proceedings against the minor with a
6074 reasonable degree of rational understanding.

6075 (55) "Parole" means a conditional release of a juvenile offender from residency in
6076 secure care to live outside of secure care under the supervision of the Division of Juvenile
6077 Justice Services, or another person designated by the Division of Juvenile Justice Services.

6078 (56) "Physical abuse" means abuse that results in physical injury or damage to a child.

6079 (57) (a) "Probation" means a legal status created by court order, following an
6080 adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's
6081 home under prescribed conditions.

6082 (b) "Probation" includes intake probation or formal probation.

6083 (58) "Prosecuting attorney" means:

6084 (a) the attorney general and any assistant attorney general;

6085 (b) any district attorney or deputy district attorney;

6086 (c) any county attorney or assistant county attorney; and

6087 (d) any other attorney authorized to commence an action on behalf of the state.

6088 (59) "Protective custody" means the shelter of a child by the Division of Child and
6089 Family Services from the time the child is removed from the home until the earlier of:

6090 (a) the day on which the shelter hearing is held under Section 80-3-301; or

6091 (b) the day on which the child is returned home.

6092 (60) "Protective supervision" means a legal status created by court order, following an
6093 adjudication on the ground of abuse, neglect, or dependency, whereby:

6094 (a) the minor is permitted to remain in the minor's home; and

6095 (b) supervision and assistance to correct the abuse, neglect, or dependency is provided
6096 by an agency designated by the juvenile court.

6097 (61) (a) "Related condition" means a condition that:

6098 (i) is found to be closely related to intellectual disability;

6099 (ii) results in impairment of general intellectual functioning or adaptive behavior
6100 similar to that of an intellectually disabled individual;

6101 (iii) is likely to continue indefinitely; and

6102 (iv) constitutes a substantial limitation to the individual's ability to function in society.

6103 (b) "Related condition" does not include mental illness, psychiatric impairment, or
6104 serious emotional or behavioral disturbance.

6105 (62) (a) "Residual parental rights and duties" means the rights and duties remaining
6106 with a parent after legal custody or guardianship, or both, have been vested in another person or
6107 agency, including:

6108 (i) the responsibility for support;

6109 (ii) the right to consent to adoption;

6110 (iii) the right to determine the child's religious affiliation; and

6111 (iv) the right to reasonable parent-time unless restricted by the court.

6112 (b) If no guardian has been appointed, "residual parental rights and duties" includes the
6113 right to consent to:

6114 (i) marriage;

6115 (ii) enlistment; and

6116 (iii) major medical, surgical, or psychiatric treatment.

6117 (63) "Runaway" means a child, other than an emancipated child, who willfully leaves
6118 the home of the child's parent or guardian, or the lawfully prescribed residence of the child,
6119 without permission.

6120 (64) "Secure care" means placement of a minor, who is committed to the Division of
6121 Juvenile Justice Services for rehabilitation, in a facility operated by, or under contract with, the
6122 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement of the
6123 minor.

6124 (65) "Secure care facility" means a facility, established in accordance with Section
6125 [80-5-503](#), for juvenile offenders in secure care.

6126 (66) "Secure detention" means temporary care of a minor who requires secure custody
6127 in a physically restricting facility operated by, or under contract with, the Division of Juvenile
6128 Justice Services:

6129 (a) before disposition of an offense that is alleged to have been committed by the
6130 minor; or

6131 (b) under Section [80-6-704](#).

6132 (67) "Serious youth offender" means an individual who:

- 6133 (a) is at least 14 years old, but under 25 years old;
- 6134 (b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction
6135 of the juvenile court was extended over the individual's case until the individual was 25 years
6136 old in accordance with Section 80-6-605; and
- 6137 (c) is committed by the juvenile court to the Division of Juvenile Justice Services for
6138 secure care under Sections 80-6-703 and 80-6-705.
- 6139 (68) "Severe abuse" means abuse that causes or threatens to cause serious harm to a
6140 child.
- 6141 (69) "Severe neglect" means neglect that causes or threatens to cause serious harm to a
6142 child.
- 6143 (70) "Sexual abuse" means:
- 6144 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
6145 adult directed towards a child;
- 6146 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
6147 committed by a child towards another child if:
- 6148 (i) there is an indication of force or coercion;
- 6149 (ii) the children are related, as described in Subsection (34), including siblings by
6150 marriage while the marriage exists or by adoption;
- 6151 (iii) there have been repeated incidents of sexual contact between the two children,
6152 unless the children are 14 years old or older; or
- 6153 (iv) there is a disparity in chronological age of four or more years between the two
6154 children;
- 6155 (c) engaging in any conduct with a child that would constitute an offense under any of
6156 the following, regardless of whether the individual who engages in the conduct is actually
6157 charged with, or convicted of, the offense:
- 6158 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the
6159 alleged perpetrator of an offense described in Section 76-5-401 is a minor;
- 6160 (ii) child bigamy, Section 76-7-101.5;
- 6161 (iii) incest, Section 76-7-102;
- 6162 (iv) lewdness, Section 76-9-702;
- 6163 (v) sexual battery, Section 76-9-702.1;

- 6164 (vi) lewdness involving a child, Section [76-9-702.5](#); or
6165 (vii) voyeurism, Section [76-9-702.7](#); or
6166 (d) subjecting a child to participate in or threatening to subject a child to participate in
6167 a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural
6168 marriage.
- 6169 (71) "Sexual exploitation" means knowingly:
6170 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
6171 (i) pose in the nude for the purpose of sexual arousal of any individual; or
6172 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,
6173 filming, recording, or displaying in any way the sexual or simulated sexual conduct;
6174 (b) displaying, distributing, possessing for the purpose of distribution, or selling
6175 material depicting a child:
6176 (i) in the nude, for the purpose of sexual arousal of any individual; or
6177 (ii) engaging in sexual or simulated sexual conduct; or
6178 (c) engaging in any conduct that would constitute an offense under Section [76-5b-201](#),
6179 sexual exploitation of a minor, regardless of whether the individual who engages in the conduct
6180 is actually charged with, or convicted of, the offense.
- 6181 (72) "Shelter" means the temporary care of a child in a physically unrestricted facility
6182 pending a disposition or transfer to another jurisdiction.
- 6183 (73) "Shelter facility" means the same as that term is defined in Section [62A-4a-101](#).
- 6184 (74) "Single criminal episode" means the same as that term is defined in Section
6185 [76-1-401](#).
- 6186 (75) "Status offense" means an offense that would not be an offense but for the age of
6187 the offender.
- 6188 (76) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or
6189 substances.
- 6190 (77) "Substantiated" means the same as that term is defined in Section [62A-4a-101](#).
- 6191 (78) "Supported" means the same as that term is defined in Section [62A-4a-101](#).
- 6192 (79) "Termination of parental rights" means the permanent elimination of all parental
6193 rights and duties, including residual parental rights and duties, by court order.
- 6194 (80) "Therapist" means:

6195 (a) an individual employed by a state division or agency for the purpose of conducting
6196 psychological treatment and counseling of a minor in the division's or agency's custody; or

6197 (b) any other individual licensed or approved by the state for the purpose of conducting
6198 psychological treatment and counseling.

6199 (81) "Threatened harm" means actions, inactions, or credible verbal threats, indicating
6200 that the child is at an unreasonable risk of harm or neglect.

6201 (82) "Ungovernable" means a child in conflict with a parent or guardian, and the
6202 conflict:

6203 (a) results in behavior that is beyond the control or ability of the child, or the parent or
6204 guardian, to manage effectively;

6205 (b) poses a threat to the safety or well-being of the child, the child's family, or others;
6206 or

6207 (c) results in the situations described in Subsections (82)(a) and (b).

6208 (83) "Unregulated custody transfer" means the placement of a child:

6209 (a) with an individual who is not the child's parent, step-parent, grandparent, adult
6210 sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with
6211 whom the child is familiar, or a member of the child's federally recognized tribe;

6212 (b) with the intent of severing the child's existing parent-child or guardian-child
6213 relationship; and

6214 (c) without taking:

6215 (i) reasonable steps to ensure the safety of the child and permanency of the placement;
6216 and

6217 (ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or
6218 guardianship to the individual taking custody of the child.

6219 (84) "Unsupported" means the same as that term is defined in Section [62A-4a-101](#).

6220 (85) "Unsubstantiated" means the same as that term is defined in Section [62A-4a-101](#).

6221 (86) "Validated risk and needs assessment" means an evidence-based tool that assesses
6222 a minor's risk of reoffending and a minor's criminogenic needs.

6223 (87) "Without merit" means the same as that term is defined in Section [62A-4a-101](#).

6224 (88) "Youth offender" means an individual who is:

6225 (a) at least 12 years old, but under 21 years old; and

6226 (b) committed by the juvenile court to the Division of Juvenile Justice Services for
6227 secure care under Sections 80-6-703 and 80-6-705.

6228 Section 107. Section 80-3-404 is amended to read:

6229 **80-3-404. Finding of severe child abuse or neglect -- Petition for removal from**
6230 **Licensing Information System -- Court records.**

6231 (1) Upon the filing with the juvenile court of an abuse, neglect, or dependency petition
6232 that informs the juvenile court that the division has made a supported finding that an individual
6233 committed a severe type of child abuse or neglect as defined in Section 62A-4a-1002, the
6234 juvenile court shall:

- 6235 (a) make a finding of substantiated, unsubstantiated, or without merit;
- 6236 (b) include the finding described in Subsection (1)(a) in a written order; and
- 6237 (c) deliver a certified copy of the order described in Subsection (1)(b) to the division.

6238 (2) The juvenile court shall make the finding described in Subsection (1):

- 6239 (a) as part of the adjudication hearing;
- 6240 (b) at the conclusion of the adjudication hearing; or
- 6241 (c) as part of a court order entered pursuant to a written stipulation of the parties.

6242 (3) (a) An individual described in Subsection 62A-4a-1010(1) may at any time file with
6243 the juvenile court a petition for removal of the individual's name from the Licensing
6244 Information System.

6245 (b) At the conclusion of the hearing on the petition described in Subsection (3), the
6246 juvenile court shall:

- 6247 (i) make a finding of substantiated, unsubstantiated, or without merit;
- 6248 (ii) include the finding described in Subsection (1)(a) in a written order; and
- 6249 (iii) deliver a certified copy of the order described in Subsection (1)(b) to the division.

6250 (4) A proceeding for adjudication of a supported finding under this section of a type of
6251 abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined
6252 in the juvenile court with an adjudication of a severe type of child abuse or neglect.

6253 (5) If an individual whose name appears on the Licensing Information System before
6254 May 6, 2002, files a petition under Subsection (3) during the time that an alleged perpetrator's
6255 application for clearance to work with children or vulnerable adults is pending, the juvenile
6256 court shall hear the matter and enter a final decision no later than 60 days after the day on

6257 which the petition is filed.

6258 (6) For the purposes of licensing under Sections 26-39-402, [62A-1-118] 26B-1-211,
6259 and 62A-2-120, and for the purposes described in Sections 26-8a-310 and 62A-2-121 and Title
6260 26, Chapter 21, Part 2, Clearance for Direct Patient Access:

6261 (a) the juvenile court shall make available records of the juvenile court's findings under
6262 Subsections (1) and (2):

6263 (i) for those purposes; and

6264 (ii) only to a person with statutory authority to access the Licensing Information
6265 System created under Section 62A-4a-1006; and

6266 (b) any appellate court shall make available court records of appeals from juvenile
6267 court decisions under Subsections (1), (2), (3), and (4):

6268 (i) for those purposes; and

6269 (ii) only to a person with statutory authority to also access the Licensing Information
6270 System.

6271 Section 108. Section 80-5-102 is amended to read:

6272 **80-5-102. Definitions.**

6273 As used in this chapter:

6274 (1) "Account" means the Juvenile Justice Reinvestment Restricted Account created in
6275 Section 80-5-302.

6276 (2) (a) "Adult" means an individual who is 18 years old or older.

6277 (b) "Adult" does not include a juvenile offender.

6278 (3) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R.
6279 1351.1.

6280 (4) "Authority" means the Youth Parole Authority created in Section 80-5-701.

6281 (5) "Control" means the authority to detain, restrict, and supervise a juvenile offender
6282 in a manner consistent with public safety and the well-being of the juvenile offender and
6283 division employees.

6284 (6) "Director" means the director of the Division of Juvenile Justice Services.

6285 (7) "Discharge" means the same as that term is defined in Section 80-6-102.

6286 (8) "Division" means the Division of Juvenile Justice Services created in Section
6287 80-5-103.

- 6288 (9) "Homeless youth" means a child, other than an emancipated minor:
- 6289 (a) who is a runaway; or
- 6290 (b) who is:
- 6291 (i) not accompanied by the child's parent or guardian; and
- 6292 (ii) without care, as defined in Section 80-5-602.
- 6293 (10) "Observation and assessment program" means a nonresidential service program
- 6294 operated or purchased by the division that is responsible only for diagnostic assessment of
- 6295 minors, including for substance use disorder, mental health, psychological, and sexual behavior
- 6296 risk assessments.
- 6297 (11) "Performance based contracting" means a system of contracting with service
- 6298 providers for the provision of residential or nonresidential services that:
- 6299 (a) provides incentives for the implementation of evidence-based juvenile justice
- 6300 programs or programs rated as effective for reducing recidivism by a standardized tool in
- 6301 accordance with Section 63M-7-208; and
- 6302 (b) provides a premium rate allocation for a minor who receives the evidence-based
- 6303 dosage of treatment and successfully completes the program within three months.
- 6304 (12) "Rescission" means the same as that term is defined in Section 80-6-102.
- 6305 (13) "Restitution" means the same as that term is defined in Section 80-6-102.
- 6306 (14) "Revocation" means the same as that term is defined in Section 80-6-102.
- 6307 (15) "Temporary custody" means the same as that term is defined in Section 80-6-102.
- 6308 (16) "Temporary homeless youth shelter" means a facility that:
- 6309 (a) provides temporary shelter to homeless youth; and
- 6310 (b) is licensed by the [~~Office of Licensing, created under Section 62A-1-105;~~
- 6311 Department of Health and Human Services, created in Section 26B-1-201, as a residential
- 6312 support program.
- 6313 (17) "Termination" means the same as that term is defined in Section 80-6-102.
- 6314 (18) "Victim" means the same as that term is defined in Section 80-6-102.
- 6315 (19) "Work program" means a nonresidential public or private service work project
- 6316 established and administered by the division for juvenile offenders for the purpose of
- 6317 rehabilitation, education, and restitution to victims.
- 6318 (20) (a) "Youth services" means services provided in an effort to resolve family

6319 conflict:

- 6320 (i) for families in crisis when a minor is ungovernable or a runaway; or
- 6321 (ii) involving a minor and the minor's parent or guardian.
- 6322 (b) "Youth services" include efforts to:
- 6323 (i) resolve family conflict;
- 6324 (ii) maintain or reunite minors with the minors' families; and
- 6325 (iii) divert minors from entering or escalating in the juvenile justice system.

6326 (c) "Youth services" may provide:

- 6327 (i) crisis intervention;
- 6328 (ii) short-term shelter;
- 6329 (iii) time-out placement; and
- 6330 (iv) family counseling.

6331 (21) "Youth services center" means a center established by, or under contract with, the
6332 division to provide youth services.

6333 Section 109. **Repealer.**

6334 This bill repeals:

6335 Section 26-1-1, Title cited as "Utah Health Code."

6336 Section 26-1-3, Purpose of title -- Consolidation of health functions into single state
6337 agency.

6338 Section 26-1-4.1, Department procedures -- Adjudicative proceedings.

6339 Section 26-1-7, Committees within department.

6340 Section 26-1-7.1, Committee procedures -- Adjudicative proceedings.

6341 Section 26-1-8, Executive director -- Appointment -- Compensation.

6342 Section 26-1-9, Executive director -- Qualifications.

6343 Section 26-1-13, Executive director -- Power to organize department.

6344 Section 26-1-14, Executive director -- Appointment, removal, and compensation of
6345 division directors.

6346 Section 26-1-15, Executive director -- Power to accept federal aid.

6347 Section 26-1-17, Executive director -- Power to prescribe rules for administration
6348 and government of department.

6349 Section 26-1-18, Authority of department generally.

- 6350 Section [26-1-20](#), **Advisory committees created by department.**
- 6351 Section [26-1-21](#), **Disposal of property by department.**
- 6352 Section [26-1-22](#), **Budget preparation and submission to governor.**
- 6353 Section [26-1-23](#), **Regulations for local health departments prescribed by**
- 6354 **department -- Local standards not more stringent than federal or state standards --**
- 6355 **Exceptions for written findings.**
- 6356 Section [26-1-24](#), **Hearings conducted by department.**
- 6357 Section [26-1-25](#), **Principal and branch offices of department.**
- 6358 Section [26-1-30](#), **Powers and duties of department.**
- 6359 Section [26B-1-101](#), **Title.**
- 6360 Section [62A-1-101](#), **Short title.**
- 6361 Section [62A-1-102](#), **Department of Human Services -- Creation.**
- 6362 Section [62A-1-106](#), **Adjudicative proceedings.**
- 6363 Section [62A-1-110](#), **Executive director -- Jurisdiction over division and office**
- 6364 **directors -- Authority.**
- 6365 Section [62A-1-114](#), **Department is state agency for specified federal programs --**
- 6366 **Development of state plans and programs.**
- 6367 Section [62A-1-118](#), **Access to abuse and neglect information to screen employees**
- 6368 **and volunteers.**
- 6369 Section [62A-5-304](#), **Limited admission of persons convicted of felony offenses.**
- 6370 Section 110. **Effective date.**
- 6371 This bill takes effect on July 1, 2022.
- 6372 Section 111. **Revisor instructions.**
- 6373 The Legislature intends that the Office of Legislative Research and General Counsel, in
- 6374 preparing the Utah Code database for publication, on July 1, 2022:
- 6375 (1) replace "Department of Health" or "Department of Human Services" with
- 6376 "Department of Health and Human Services" in any new language added to the Utah Code by
- 6377 legislation passed during the 2022 General Session, except for the references to "Department of
- 6378 Health" and "Department of Human Services" in:
- 6379 (a) Section [26B-1-103](#);
- 6380 (b) Section [26B-1-201](#); and

- 6381 (c) Section [26B-1-201.1](#); and
6382 (2) replace "Division of Substance Abuse and Mental Health" with "Division of
6383 Integrated Healthcare."