

SB0045S03 compared with SB0045S02

~~text~~ shows text that was in SB0045S02 but was deleted in SB0045S03.

text shows text that was not in SB0045S02 but was inserted into SB0045S03.

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Senator Jacob L. Anderegg proposes the following substitute bill:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: ~~text~~ 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;

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- ▶ 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.

Utah Code Sections Affected:

AMENDS:

- 10-8-41.6, as last amended by Laws of Utah 2021, Chapter 348
- 17-43-102, as last amended by Laws of Utah 2009, Chapter 75
- 17-43-201, as last amended by Laws of Utah 2018, Chapter 68
- 17-43-301, as last amended by Laws of Utah 2020, Chapter 303
- 17-50-333, as last amended by Laws of Utah 2021, Chapter 348
- 26-1-2, as last amended by Laws of Utah 2012, Chapter 391
- 26-1-10, as last amended by Laws of Utah 2021, Chapter 437
- 26-1-11, as last amended by Laws of Utah 2011, Chapter 297
- 26-2-12.5, as last amended by Laws of Utah 2010, Chapter 278
- 26-2-12.6, as last amended by Laws of Utah 2021, Chapter 284
- 26-4-17, as last amended by Laws of Utah 2020, Chapter 201
- 26-7-10, as enacted by Laws of Utah 2020, Chapter 347
- 26-8a-102, as last amended by Laws of Utah 2021, Chapters 208, 237, and 265
- 26-8a-103, as last amended by Laws of Utah 2021, Chapters 208 and 237
- 26-8a-107, as last amended by Laws of Utah 2019, Chapter 262
- 26-8a-208, as last amended by Laws of Utah 2017, Chapter 326
- 26-8a-302, as last amended by Laws of Utah 2021, Chapters 208 and 237
- 26-8a-310, as last amended by Laws of Utah 2021, Chapters 237 and 262
- 26-9f-103, as last amended by Laws of Utah 2020, Chapter 352
- 26-10-6, as last amended by Laws of Utah 2018, Chapter 415
- 26-10b-101, as last amended by Laws of Utah 2014, Chapter 384
- 26-10b-106, as last amended by Laws of Utah 2016, Chapter 74

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

26-21-2, as last amended by Laws of Utah 2020, Chapter 222

26-21-3, as last amended by Laws of Utah 2021, Chapter 64

26-23b-102, as last amended by Laws of Utah 2021, Chapter 437

26-25-1, as last amended by Laws of Utah 2008, Chapter 3

26-33a-102, as last amended by Laws of Utah 2019, Chapter 349

26-33a-103, as last amended by Laws of Utah 2020, Chapters 352 and 373

26-39-102, as last amended by Laws of Utah 2015, Chapter 220

26-39-200, as last amended by Laws of Utah 2020, Chapters 154 and 352

26-39-201, as last amended by Laws of Utah 2020, Chapter 154

26-39-301, as last amended by Laws of Utah 2018, Chapter 58

26-39-402, as last amended by Laws of Utah 2018, Chapter 415

26-49-102, as last amended by Laws of Utah 2021, Chapter 188

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

26-60-104, as enacted by Laws of Utah 2017, Chapter 241

26-67-102, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

26-67-202, as enacted by Laws of Utah 2020, Chapter 169

26A-1-102, as last amended by Laws of Utah 2021, Chapter 437

26A-1-121, as last amended by Laws of Utah 2021, Chapter 437

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

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

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

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

32B-2-308, as enacted by Laws of Utah 2020, Chapter 186

32B-2-402, as last amended by Laws of Utah 2018, Chapter 330

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

41-1a-422, as last amended by Laws of Utah 2021, Chapters 219, 280, and 378

53-3-106, as last amended by Laws of Utah 2018, Chapter 417

53-5-707.6, as enacted by Laws of Utah 2019, Chapter 440

53-10-108, as last amended by Laws of Utah 2021, Chapters 344 and 357

53G-9-301, as last amended by Laws of Utah 2019, Chapter 293

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53G-9-309, as renumbered and amended by Laws of Utah 2018, Chapter 3
58-1-601, as enacted by Laws of Utah 2019, Chapter 447
58-17b-620, as last amended by Laws of Utah 2012, Chapter 150
58-17b-627, as enacted by Laws of Utah 2021, Chapter 127
58-17b-902, as last amended by Laws of Utah 2021, Chapter 397
58-17b-907, as last amended by Laws of Utah 2021, Chapter 397
62A-1-104, as last amended by Laws of Utah 2020, Chapter 303
62A-1-107, as last amended by Laws of Utah 2020, Chapters 352 and 373
62A-2-121, as last amended by Laws of Utah 2021, Chapter 262
62A-4a-412, as last amended by Laws of Utah 2021, Chapters 29, 231, 262, and 419
62A-14-108, as last amended by Laws of Utah 2008, Chapter 382
62A-15-102, as last amended by Laws of Utah 2020, Chapter 303
62A-15-103, as last amended by Laws of Utah 2021, Chapters 231 and 277
62A-15-104, as last amended by Laws of Utah 2009, Chapter 75
63A-13-102, as last amended by Laws of Utah 2019, Chapters 286 and 393
63I-1-226, as last amended by Laws of Utah 2021, Chapters 13, 50, 64, 163, 182, 234,
and 417
63I-2-226, as last amended by Laws of Utah 2021, Chapters 277, 422, and 433
63J-1-315, as last amended by Laws of Utah 2019, Chapter 393
63J-1-602.1, as last amended by Laws of Utah 2021, Chapters 280, 382, 401, and 438
63M-7-301, as last amended by Laws of Utah 2020, Chapter 304
67-3-11, as last amended by Laws of Utah 2021, Chapter 337
76-5-413, as last amended by Laws of Utah 2021, Chapter 262
76-5-501, as last amended by Laws of Utah 2015, Chapter 39
78B-5-902, as last amended by Laws of Utah 2021, Chapter 208
78B-5-903, as enacted by Laws of Utah 2018, Chapter 109
80-1-102, as last amended by Laws of Utah 2021, First Special Session, Chapter 2
80-3-404, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-5-102, as enacted by Laws of Utah 2021, Chapter 261

ENACTS:

26B-1-305, Utah Code Annotated 1953

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26B-2-101, Utah Code Annotated 1953

26B-3-101, Utah Code Annotated 1953

26B-4-101, Utah Code Annotated 1953

26B-5-101, Utah Code Annotated 1953

26B-6-101, Utah Code Annotated 1953

26B-7-101, Utah Code Annotated 1953

26B-8-101, Utah Code Annotated 1953

26B-9-101, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

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

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

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

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

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

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

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

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

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

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

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

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

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

26B-1-213, (Renumbered from 26-1-5, as last amended by Laws of Utah 2016, Chapter 74)

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

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

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

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

REPEALS:

26-1-1, as enacted by Laws of Utah 1981, Chapter 126

26-1-3, as last amended by Laws of Utah 1991, Chapter 112

26-1-4.1, as last amended by Laws of Utah 2008, Chapter 382

26-1-7, as last amended by Laws of Utah 2020, Chapters 169 and 347

26-1-7.1, as last amended by Laws of Utah 2008, Chapter 382

26-1-8, as last amended by Laws of Utah 2020, Chapter 352

26-1-9, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 16

26-1-13, as enacted by Laws of Utah 1981, Chapter 126

26-1-14, as last amended by Laws of Utah 1988, Chapter 169

26-1-15, as enacted by Laws of Utah 1981, Chapter 126

26-1-17, as enacted by Laws of Utah 1981, Chapter 126

26-1-18, as last amended by Laws of Utah 2011, Chapter 366

26-1-20, as enacted by Laws of Utah 1981, Chapter 126

26-1-21, as last amended by Laws of Utah 2011, Chapter 207

26-1-22, as enacted by Laws of Utah 1981, Chapter 126

26-1-23, as last amended by Laws of Utah 2012, Chapter 307

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26-1-24, as enacted by Laws of Utah 1981, Chapter 126

26-1-25, as last amended by Laws of Utah 2011, Chapter 297

26-1-30, as last amended by Laws of Utah 2021, Chapters 378 and 437

26B-1-101, as enacted by Laws of Utah 2021, Chapter 422

62A-1-101, as last amended by Laws of Utah 1992, Chapter 30

62A-1-102, as last amended by Laws of Utah 1990, Chapter 183

62A-1-106, as last amended by Laws of Utah 2008, Chapter 382

62A-1-110, as last amended by Laws of Utah 1991, Chapter 292

62A-1-114, as last amended by Laws of Utah 1997, Chapter 375

62A-1-118, as last amended by Laws of Utah 2019, Chapter 335

62A-5-304, as last amended by Laws of Utah 2011, Chapter 366

Utah Code Sections Affected by Revisor Instructions:

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

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

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

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

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

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

(1) As used in this section:

(a) "Community location" means:

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

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

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

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

(ix) a public recreational facility;

(x) a public arcade; or

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

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

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

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

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

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

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

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

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

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

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

(iv) the commercial establishment:

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

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

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

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

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

(j) "Tobacco product" means:

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

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

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

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

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

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

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

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

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

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

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

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

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electronic cigarette product or a nicotine product.

(6) (a) Nothing in this section:

(i) requires a municipality to issue a retail tobacco specialty business license; or

(ii) prohibits a municipality from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

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

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

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

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

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

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

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

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

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

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

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

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

(iii) the retail tobacco specialty business does not substantially change the business

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premises or business operation; and

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

- (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;
- (B) zoning ordinances;
- (C) building codes; and
- (D) the requirements of the license described in Subsection (7)(a)(i).

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

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

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

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

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

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

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

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

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

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

- (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;
- (B) zoning ordinances;
- (C) building codes; and
- (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

(e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:

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

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

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

17-43-102. Definitions.

As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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authorities;

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

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

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

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

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

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

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

(5) Each local substance abuse authority shall:

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

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

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

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

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

(d) appoint directly or by contract a full or part time director for substance abuse programs, and prescribe the director's duties;

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

(f) establish and require contract providers to establish administrative, clinical, procurement, personnel, financial, and management policies regarding substance abuse services and facilities, in accordance with the rules of the division, and state and federal law;

(g) establish mechanisms allowing for direct citizen input;

(h) annually contract with the division to provide substance abuse programs and services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

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

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

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

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

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

- (i) a screening;
- (ii) an assessment;
- (iii) an educational series; and
- (iv) substance abuse treatment; and

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

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

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

- (i) the division;
- (ii) the local substance abuse authority director;
- (iii) (A) the county treasurer and county or district attorney; or
(B) if two or more counties jointly provide substance abuse services under an agreement under Subsection (2), the designated treasurer and the designated legal officer;
- (iv) the county legislative body; and
- (v) in a county with a county executive that is separate from the county legislative body, the county executive;

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

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

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

(8) (a) As used in this section, "public funds" means the same as that term is defined in

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Section 17-43-203.

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

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

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

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

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

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

(iii) may include:

(A) counseling;

(B) case management; or

(C) a support group; and

(iv) shall include a referral for:

(A) prenatal care; and

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) create a united local health department that combines substance abuse treatment

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services, mental health services, and local health department services in accordance with Subsection (4).

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

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

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

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

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

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

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

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

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

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

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

(4) A county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities,

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and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local mental health authority that joins with a united local health department shall comply with this part.

(5) (a) Each local mental health authority is accountable to the department ~~and the Department of Health,~~ and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

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

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

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

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

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

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

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

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

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

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services

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and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

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

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

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

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

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

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

(i) inpatient care and services;

(ii) residential care and services;

(iii) outpatient care and services;

(iv) 24-hour crisis care and services;

(v) psychotropic medication management;

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

(vii) case management;

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

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

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

(7) (a) If a local mental health authority provides for a local mental health crisis line

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under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall:

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

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

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

(B) meets the standards of care and practice established by the Division of ~~Substance Abuse and Mental Health~~ Integrated Healthcare, in accordance with Section 62A-15-1302; and

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

(A) waiting on hold; or

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

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

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

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

(i) the division;

(ii) the local mental health authority director;

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

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

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(iv) the county legislative body; and

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

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

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

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

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

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

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

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

(1) As used in this section:

(a) "Community location" means:

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

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

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

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

(ix) a public recreational facility;

(x) a public arcade; or

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

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

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

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

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

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

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

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

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

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

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

(iv) the commercial establishment:

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

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

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

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

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

(j) "Tobacco product" means:

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

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

(2) The regulation of a retail tobacco specialty business is an exercise of the police

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powers of the state by the state or by the delegation of the state's police power to other governmental entities.

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

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

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

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

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

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

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

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

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

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(6) (a) Nothing in this section:

(i) requires a county to issue a retail tobacco specialty business license; or

(ii) prohibits a county from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;
- (B) zoning ordinances;
- (C) building codes; and
- (D) the requirements of the license described in Subsection (7)(a)(i).

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

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

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

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

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

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

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

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

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

(v) the retail tobacco specialty business maintains the right to operate under the terms

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of other applicable laws, including:

- (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;
- (B) zoning ordinances;
- (C) building codes; and
- (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

(e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:

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

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

Section ~~41~~6. Section **26-1-2** is amended to read:

26-1-2. Definitions.

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

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

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

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

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

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

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

Subject to the restrictions in this title and to the extent permitted by state law, the executive director is empowered to issue orders to enforce state laws and rules established by

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the department except where the enforcement power is given to a committee created ~~pursuant to Section 26-1-7~~ under Section 26B-1-204.

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

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

The executive director pursuant to the requirements of the Administrative Rulemaking Act may amend, modify, or rescind any rule of any committee created ~~pursuant to Section 26-1-7~~ under Section 26B-1-204 if the rule creates a clear present hazard or clear potential hazard to the public health except that the executive director may not act until after discussion with the appropriate committee.

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

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

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

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

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

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

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

- (a) the individual requesting the certified copy of the birth certificate; and
- (b) (i) homeless, as defined in Section 26-18-411;
- (ii) a person who is homeless, as defined in Section 35A-5-302;
- (iii) an individual whose primary nighttime residence is a location that is not designed for or ordinarily used as a sleeping accommodation for an individual;
- (iv) a homeless service provider as verified by the Department of Workforce Services;

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or

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

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

(a) a homeless shelter, as defined in Section 10-9a-526;

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

(c) the Department of Workforce Services;

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

or

(e) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

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

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

(1) The medical examiner shall maintain complete, original records for the medical examiner record, which shall:

(a) be properly indexed, giving the name, if known, or otherwise identifying every individual whose death is investigated;

(b) indicate the place where the body was found;

(c) indicate the date of death;

(d) indicate the cause and manner of death;

(e) indicate the occupation of the decedent, if available;

(f) include all other relevant information concerning the death; and

(g) include a full report and detailed findings of the autopsy or report of the investigation.

(2) (a) Upon written request from an individual described in Subsections (2)(a)(i) through (iv), the medical examiner shall provide a copy of the medical examiner's final report of examination for the decedent, including the autopsy report, toxicology report, lab reports, and investigative reports to any of the following:

(i) a decedent's immediate relative;

(ii) a decedent's legal representative;

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(iii) a physician or physician assistant who attended the decedent during the year before the decedent's death; or

(iv) a county attorney, a district attorney, a criminal defense attorney, or other law enforcement official with jurisdiction, as necessary for the performance of the attorney or official's professional duties.

(b) Upon written request from the director or a designee of the director of an entity described in Subsections (2)(b)(i) through (iv), the medical examiner may provide a copy of the of the medical examiner's final report of examination for the decedent, including any other reports described in Subsection (2)(a), to any of the following entities as necessary for performance of the entity's official purposes:

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

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

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

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

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

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

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

- (i) the researcher's sponsoring organization; and

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- (ii) the Utah Department of Health and Human Services Institutional Review Board.
- (5) Records provided under Subsection (4) may not include a third party record, unless:
 - (a) a court has ordered disclosure of the third party record; and
 - (b) disclosure is conducted in compliance with state and federal law.
- (6) A person who obtains a medical examiner record under Subsection (4) shall:
 - (a) maintain the confidentiality of the medical examiner record by removing personally identifying information about a decedent or the decedent's family and any other information that may be used to identify a decedent before using the medical examiner record in research;
 - (b) conduct any research within and under the supervision of the Office of the Medical Examiner, if the medical examiner record contains a third party record with personally identifiable information;
 - (c) limit the use of a medical examiner record to the purpose for which the person requested the medical examiner record;
 - (d) destroy a medical examiner record and the data abstracted from the medical examiner record at the conclusion of the research for which the person requested the medical examiner record;
 - (e) reimburse the medical examiner, as provided in Section ~~[26-1-6]~~ 26B-1-209, for any costs incurred by the medical examiner in providing a medical examiner record;
 - (f) allow the medical examiner to review, before public release, a publication in which data from a medical examiner record is referenced or analyzed; and
 - (g) provide the medical examiner access to the researcher's database containing data from a medical examiner record, until the day on which the researcher permanently destroys the medical examiner record and all data obtained from the medical examiner record.
- (7) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consideration of applicable state and federal law, to establish permissible uses and disclosures of a medical examiner record or other record obtained under this section.
- (8) Except as provided in this chapter or ordered by a court, the medical examiner may not disclose any part of a medical examiner record.
- (9) A person who obtains a medical examiner record under Subsection (4) is guilty of a class B misdemeanor, if the person fails to comply with the requirements of Subsections (6)(a)

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through (d).

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

26-7-10. Youth Electronic Cigarette, Marijuana, and Other Drug Prevention

Program.

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

(iii) implementing the provisions of the program.

(b) The executive director shall:

(i) appoint members of the committee; and

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

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

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

(ii) one designee from the department;

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

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

(v) one representative from the education community.

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

(i) Section 63A-3-106;

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

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(e) The department shall provide staff support to the committee.

(4) On or before October 31 of each year, the department shall report to:

(a) the Health and Human Services Interim Committee regarding:

(i) the use of funds appropriated to the program;

(ii) the impact and results of the program, including the effectiveness of each program funded under Subsection (2)(b)(iii), during the previous fiscal year;

(iii) a summary of the impacts and results on reducing youth use of electronic cigarettes and nicotine products by entities represented by members of the committee, including those entities who receive funding through the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account created in Section 59-14-807; and

(iv) any recommendations for legislation; and

(b) the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301, regarding:

(i) the effectiveness of each program funded under Subsection (2)(b)(iii) in preventing youth use of electronic cigarettes, nicotine products, marijuana, and other drugs; and

(ii) any collaborative efforts and partnerships established by the program with public and private entities to prevent youth use of electronic cigarettes, marijuana, and other drugs.

Section 13. Section 26-8a-102 is amended to read:

26-8a-102. Definitions.

As used in this chapter:

(1) (a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

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(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic services" does not mean a seven or ~~ten~~ 10 digit telephone call received directly by an ambulance provider licensed under this chapter.

(2) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 26-8a-304 to operate in the state.

(3) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(4) (a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.

(b) "Behavioral emergency services" does not include engaging in the:

(i) practice of mental health therapy as defined in Section 58-60-102;

(ii) practice of psychology as defined in Section 58-61-102;

(iii) practice of clinical social work as defined in Section 58-60-202;

(iv) practice of certified social work as defined in Section 58-60-202;

(v) practice of marriage and family therapy as defined in Section 58-60-302; ~~or~~

(vi) practice of clinical mental health counseling as defined in Section 58-60-402;

~~and~~ or

(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.

(5) "Committee" means the State Emergency Medical Services Committee created by Section ~~26-1-7~~ 26B-1-204.

(6) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26-8a-302.

(7) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity,

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including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

- (i) placing the individual's health in serious jeopardy;
- (ii) serious impairment to bodily functions; or
- (iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 26-8a-302 during transport.

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

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

(9) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

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

(c) emergency medical service personnel.

(10) "Emergency medical services" means:

(a) medical services;

(b) transportation services;

(c) behavioral emergency services; or

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

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

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

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

(12) "Governing body":

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

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

(13) "Interested party" means:

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

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

(14) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

(15) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

(16) "Nonemergency secured behavioral health transport" means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section 26-8a-305; and

(ii) requires behavioral health observation during transport between any of the

following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section 26-8a-303.

(17) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(18) "Patient" means an individual who, as the result of illness, injury, or a behavioral emergency condition, meets any of the criteria in Section 26-8a-305.

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(19) "Political subdivision" means:

(a) a city, town, or metro township;

(b) a county;

(c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9);

(d) a local district created under Title 17B, Limited Purpose Local Government Entities - Local Districts, for the purpose of providing fire protection, paramedic, and emergency services;

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

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

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

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

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

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

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

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

(a) direct the care of patients; and

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

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

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

Expenses.

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

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

- (i) one surgeon who actively provides trauma care at a hospital;
- (ii) one rural physician involved in emergency medical care;
- (iii) two physicians who practice in the emergency department of a general acute hospital; and
- (iv) one pediatrician who practices in the emergency department or critical care unit of a general acute hospital or a children's specialty hospital;

(b) two representatives from private ambulance providers;

(c) one representative from an ambulance provider that is neither privately owned nor operated by a fire department;

(d) two chief officers from fire agencies operated by the following classes of licensed or designated emergency medical services providers: municipality, county, and fire district, provided that no class of medical services providers may have more than one representative under this Subsection (1)(d);

(e) one director of a law enforcement agency that provides emergency medical services;

(f) one hospital administrator;

(g) one emergency care nurse;

(h) one paramedic in active field practice;

(i) one emergency medical technician in active field practice;

(j) one certified emergency medical dispatcher affiliated with an emergency medical dispatch center;

(k) one licensed mental health professional with experience as a first responder;

(l) one licensed behavioral emergency services technician; and

(m) one consumer.

(2) (a) Except as provided in Subsection (2)(b), members shall be appointed to a four-year term beginning July 1.

(b) Notwithstanding Subsection (2)(a), the governor:

(i) shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the

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committee is appointed every two years;

(ii) may not reappoint a member for more than two consecutive terms; and

(iii) shall:

(A) initially appoint the second member under Subsection (1)(b) from a different private provider than the private provider currently serving under Subsection (1)(b); and

(B) thereafter stagger each replacement of a member in Subsection (1)(b) so that the member positions under Subsection (1)(b) are not held by representatives of the same private provider.

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

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

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

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

(ii) The chair may call special meetings.

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

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

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

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

(a) Section 63A-3-106;

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

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

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

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

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

(1) The Air Ambulance Committee created by Section ~~[26-1-7]~~ 26B-1-204 shall be

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composed of the following members:

- (a) the state emergency medical services medical director;
 - (b) one physician who:
 - (i) is licensed under:
 - (A) Title 58, Chapter 67, Utah Medical Practice Act;
 - (B) Title 58, Chapter 67b, Interstate Medical Licensure Compact; or
 - (C) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
 - (ii) actively provides trauma or emergency care at a Utah hospital; and
 - (iii) has experience and is actively involved in state and national air medical transport issues;
 - (c) one member from each level 1 and level 2 trauma center in the state of Utah, selected by the trauma center the member represents;
 - (d) one registered nurse who:
 - (i) is licensed under Title 58, Chapter 31b, Nurse Practice Act; and
 - (ii) currently works as a flight nurse for an air medical transport provider in the state of Utah;
 - (e) one paramedic who:
 - (i) is licensed under ~~Title 26, Chapter 8a, Utah Emergency Medical Services System Act~~ this chapter; and
 - (ii) currently works for an air medical transport provider in the state of Utah; and
 - (f) two members, each from a different for-profit air medical transport company operating in the state of Utah.
- (2) The state emergency medical services medical director shall appoint the physician member under Subsection (1)(b), and the physician shall serve as the chair of the Air Ambulance Committee.
- (3) The chair of the Air Ambulance Committee shall:
- (a) appoint the Air Ambulance Committee members under Subsections (1)(c) through (f);
 - (b) designate the member of the Air Ambulance Committee to serve as the vice chair of the committee; and
 - (c) set the agenda for Air Ambulance Committee meetings.

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(4) (a) Except as provided in Subsection (4)(b), members shall be appointed to a two-year term.

(b) Notwithstanding Subsection (4)(a), the Air Ambulance Committee chair shall, at the time of appointment or reappointment, adjust the length of the terms of committee members to ensure that the terms of the committee members are staggered so that approximately half of the committee is reappointed every two years.

(5) (a) A majority of the members of the Air Ambulance Committee constitutes a quorum.

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

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

(a) air medical transport provider licensure and accreditation;

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

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

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

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

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

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

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

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

(ii) any other differences between air medical transport service providers that may

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substantially affect the cost of the air medical transport service, as determined by the committee.

(c) The department shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) To promote the availability of comprehensive emergency medical services

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throughout the state, the committee shall establish:

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

- (i) paramedic;
- (ii) medical director;
- (iii) emergency medical service instructor;
- (iv) behavioral emergency services technician;
- (v) advanced behavioral emergency services technician; and
- (vi) except emergency medical dispatchers, other types of emergency medical service

personnel as the committee considers necessary;

(b) a method to monitor the certification status and continuing medical education hours for emergency medical dispatchers; and

(c) guidelines for giving credit for out-of-state training and experience.

(2) The department shall, based on the requirements established in Subsection (1):

(a) develop, conduct, and authorize training and testing for emergency medical service personnel;

(b) issue a license and license renewals to emergency medical service personnel other than emergency medical dispatchers; and

(c) verify the certification of emergency medical dispatchers.

(3) The department shall coordinate with ~~the Department of Human Services established in Section 62A-1-102, and~~ local mental health authorities described in Section 17-43-301~~;~~ to develop and authorize initial and ongoing licensure and training requirements for licensure as a:

- (a) behavioral emergency services technician; and
- (b) advanced behavioral emergency services technician.

(4) As provided in Section 26-8a-502, an individual issued a license or certified under this section may only provide emergency medical services to the extent allowed by the license or certification.

(5) An individual may not be issued or retain a license under this section unless the individual obtains and retains background clearance under Section 26-8a-310.

(6) An individual may not be issued or retain a certification under this section unless

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the individual obtains and retains background clearance in accordance with Section 26-8a-310.5.

Section ~~{2}~~18. Section **26-8a-310** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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- (ii) the applicant:
 - (A) is over 28 years old; and
 - (B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor;
 - (c) juvenile court arrest, adjudication, and disposition records, other than those under Subsection (5)(b), as allowed under Section 78A-6-209;
 - (d) child abuse or neglect findings described in Section 80-3-404;
 - (e) the [~~Department of Human Services' Division of Child and Family Services~~] department's Licensing Information System described in Section 62A-4a-1006;
 - (f) the [~~Department of Human Services' Division of Aging and Adult Services~~] department's database of reports of vulnerable adult abuse, neglect, or exploitation, described in Section 62A-3-311.1;
 - (g) Division of Occupational and Professional Licensing records of licensing and certification under Title 58, Occupations and Professions;
 - (h) records in other federal criminal background databases available to the state; and
 - (i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance, pending diversion agreements, or dispositions.
- (6) Except for the Department of Public Safety, an agency may not charge the department for information accessed under Subsection (5).
- (7) When evaluating information under Subsection (3), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.
- (8) The department shall adopt measures to protect the security of information the department accesses under Subsection (5), which shall include limiting access by department employees to those responsible for acquiring, evaluating, or otherwise processing the information.
- (9) The department may disclose personal identification information the department receives under Subsection (1) to the [~~Department of Human Services~~] department to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (5)(d) through (f).
- (10) The department may charge fees, in accordance with Section 63J-1-504, to pay

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for:

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

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

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

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

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

(i) a warrant for arrest;

(ii) an arrest;

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

(iv) a pending diversion agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) representatives of the health insurance industry;

(vi) telehealth digital health service consumer advocates; and

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

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

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

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

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

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

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

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

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

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

(a) Section 63A-3-106;

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

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

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

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

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

26-10-6. Testing of newborn infants.

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

(a) phenylketonuria (PKU);

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

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

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

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

and

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

(d) critical congenital heart defects using pulse oximetry.

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

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

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

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(c) laboratory analyses by the department of tests conducted under Subsection (1); and
(d) the administrative cost of follow-up contacts with the parents or guardians of tested infants.

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

- (a) auditory brainstem response;
- (b) automated auditory brainstem response; and
- (c) evoked otoacoustic emissions.

(4) Results of tests for hearing loss described in Subsection (1) shall be reported to:

- (a) the department; and
- (b) when results of tests for hearing loss under Subsection (1) suggest that additional

diagnostic procedures or medical interventions are necessary:

- (i) a parent or guardian of the infant;
- (ii) an early intervention program administered by the department in accordance with Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1431 et seq.; and
- (iii) the Utah Schools for the Deaf and the Blind, created in Section 53E-8-201.

(5) (a) There is established the Newborn Hearing Screening Committee.

(b) The committee shall advise the department on:

- (i) the validity and cost of newborn infant hearing loss testing procedures; and
- (ii) rules promulgated by the department to implement this section.

(c) The committee shall be composed of at least 11 members appointed by the executive director, including:

- (i) one representative of the health insurance industry;
- (ii) one pediatrician;
- (iii) one family practitioner;
- (iv) one ear, nose, and throat specialist nominated by the Utah Medical Association;
- (v) two audiologists nominated by the Utah Speech-Language-Hearing Association;
- (vi) one representative of hospital neonatal nurseries;
- (vii) one representative of the Early Intervention Baby Watch Program administered by

the department;

- (viii) one public health nurse;

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(ix) one consumer; and

(x) the executive director or the executive director's designee.

(d) Of the initial members of the committee, the executive director shall appoint as nearly as possible half to two-year terms and half to four-year terms. Thereafter, appointments shall be for four-year terms except:

(i) for those members who have been appointed to complete an unexpired term; and

(ii) as necessary to ensure that as nearly as possible the terms of half the appointments expire every two years.

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

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

(g) The committee shall meet at least quarterly.

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

(i) Section 63A-3-106;

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

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

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

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

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

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

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

26-10b-101. Definitions.

As used in this chapter:

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

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(2) "Community based organization":

(a) means a private entity; and

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

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

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

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

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

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

(8) "Primary care grant" means a grant awarded by the department under Subsection 26-10b-102(1).

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

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

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

(b) "Primary health care" includes:

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

(ii) diagnostic and radiologic services;

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

(iv) emergency medical services;

(v) preventive dental services; and

(vi) pharmaceutical services.

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

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

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

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

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

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

(c) evaluate:

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

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

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

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

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

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

(2) The committee shall consist of:

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

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

(i) four licensed health care professionals; and

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

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

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

(b) for a rational reason.

(4) A committee member may not receive compensation or benefits for the member's

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service, except a committee member who is not an employee of the department may receive per diem and travel expenses in accordance with:

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

Section ~~3~~23. Section **26-18-2.4** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(i) provide either telephone or fax approval or denial of the request within 24 hours of the receipt of a request that is submitted during normal business hours of Monday through

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Friday from 8 a.m. to 5 p.m.;

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

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

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

(i) "Immunosuppressive drug":

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) atypical anti-psychotic;

(ii) anti-depressant;

(iii) anti-convulsant/mood stabilizer;

(iv) anti-anxiety; and

(v) attention deficit hyperactivity disorder stimulant.

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

(c) The department, and a Medicaid accountable care organization that is responsible

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for providing behavioral health, shall:

(i) establish a system to:

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

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

and

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

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

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

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

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

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

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

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

26-21-2. Definitions.

As used in this chapter:

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

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

(a) dressing;

(b) eating;

(c) grooming;

(d) bathing;

(e) toileting;

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- (f) ambulation;
- (g) transferring; and
- (h) self-administration of medication.

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

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

(5) (a) "Assisted living facility" means:

(i) a type I assisted living facility, which is a residential facility that provides assistance with activities of daily living and social care to two or more residents who:

(A) require protected living arrangements; and

(B) are capable of achieving mobility sufficient to exit the facility without the assistance of another person; and

(ii) a type II assisted living facility, which is a residential facility with a home-like setting that provides an array of coordinated supportive personal and health care services available 24 hours per day to residents who have been assessed under department rule to need any of these services.

(b) Each resident in a type I or type II assisted living facility shall have a service plan based on the assessment, which may include:

(i) specified services of intermittent nursing care;

(ii) administration of medication; and

(iii) support services promoting residents' independence and self sufficiency.

(6) "Birthing center" means a facility that:

(a) receives maternal clients and provides care during pregnancy, delivery, and immediately after delivery; and

(b) (i) is freestanding; or

(ii) is not freestanding, but meets the requirements for an alongside midwifery unit described in Subsection 26-21-29(7).

(7) "Committee" means the Health Facility Committee created in Section ~~[26-1-7]~~ 26B-1-204.

(8) "Consumer" means any person not primarily engaged in the provision of health care

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to individuals or in the administration of facilities or institutions in which such care is provided and who does not hold a fiduciary position, or have a fiduciary interest in any entity involved in the provision of health care, and does not receive, either directly or through his spouse, more than 1/10 of his gross income from any entity or activity relating to health care.

(9) "End stage renal disease facility" means a facility which furnishes staff-assisted kidney dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.

(10) "Freestanding" means existing independently or physically separated from another health care facility by fire walls and doors and administered by separate staff with separate records.

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

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

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

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

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

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

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

(ii) is compensated, except for copayments, for the provision of the basic health services listed in Subsection (14)(b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health services are provided and which is fixed

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without regard to the frequency, extent, or kind of health services actually provided; and

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

(15) (a) "Home health agency" means an agency, organization, or facility or a subdivision of an agency, organization, or facility which employs two or more direct care staff persons who provide licensed nursing services, therapeutic services of physical therapy, speech therapy, occupational therapy, medical social services, or home health aide services on a visiting basis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The membership of the committee is:

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

(b) one hospital administrator;

(c) one hospital trustee;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Six members constitute a quorum. A vote of the majority of the members present

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constitutes action of the committee.

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

26-23b-102. Definitions.

As used in this chapter:

(1) "Bioterrorism" means:

(a) the intentional use of any microorganism, virus, infectious substance, or biological product to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence, intimidate, or coerce the conduct of government or a civilian population; and

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

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

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

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

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

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

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

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

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

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

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

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~~[(7)]~~1(6) "Legislative emergency response committee" means the same as that term is defined in Section 53-2a-203.

~~[(8)]~~1(7) (a) "Order of constraint" means an order, rule, or regulation issued in response to a declared public health emergency under this chapter, that:

(i) applies to all or substantially all:

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

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

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

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

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

(C) exercises physical control over property or individuals;

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

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

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

~~[(9)]~~1(8) "Public health emergency" means an occurrence or imminent credible threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such illness or health condition includes an illness or health condition resulting from a natural disaster.

~~[(10)]~~1(9) "Reportable emergency illness and health condition" includes the diseases, conditions, or syndromes designated by the ~~Department of Health~~ department.

~~[(11)]~~1(10) "Stay-at-home order" means an order of constraint that:

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

(b) may include exceptions for certain essential tasks.

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

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

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

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

(b) interviews;

(c) reports;

(d) statements;

(e) memoranda;

(f) familial information; and

(g) other data relating to the condition and treatment of any person.

(2) The information described in Subsection (1) may be provided to:

(a) the department and local health departments;

(b) the Division of ~~Substance Abuse and Mental Health~~ Integrated Healthcare within the Department of Health and Human Services;

(c) scientific and health care research organizations affiliated with institutions of higher education;

(d) the Utah Medical Association or any of its allied medical societies;

(e) peer review committees;

(f) professional review organizations;

(g) professional societies and associations; and

(h) any health facility's in-house staff committee for the uses described in Subsection

(3).

(3) The information described in Subsection (1) may be provided for the following purposes:

(a) study and advancing medical research, with the purpose of reducing the incidence of disease, morbidity, or mortality; or

(b) the evaluation and improvement of hospital and health care rendered by hospitals, health facilities, or health care providers.

(4) Any person may, without incurring liability, provide information, interviews, reports, statements, memoranda, or other information relating to the ethical conduct of any health care provider to peer review committees, professional societies and associations, or any

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in-hospital staff committee to be used for purposes of intraprofessional society or association discipline.

(5) No liability may arise against any person or organization as a result of:

(a) providing information or material authorized in this section;

(b) releasing or publishing findings and conclusions of groups referred to in this

section to advance health research and health education; or

(c) releasing or publishing a summary of these studies in accordance with this chapter.

(6) As used in this chapter:

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

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

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

26-33a-102. Definitions.

As used in this chapter:

(1) "Committee" means the Health Data Committee created by Section ~~[26-1-7]~~

26B-1-204.

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

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

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

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

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

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

~~[(7)]~~ (6) "Health care provider" means any person, partnership, association, corporation, or other facility or institution that renders or causes to be rendered health care or

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professional services as a physician, physician assistant, registered nurse, licensed practical nurse, nurse-midwife, dentist, dental hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, podiatric physician, psychologist, chiropractic physician, naturopathic physician, osteopathic physician, osteopathic physician and surgeon, audiologist, speech pathologist, certified social worker, social service worker, social service aide, marriage and family counselor, or practitioner of obstetrics, and others rendering similar care and services relating to or arising out of the health needs of persons or groups of persons, and officers, employees, or agents of any of the above acting in the course and scope of their employment.

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

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

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

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

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

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

- (a) describing the group characteristics of individuals or organizations;
 - (b) analyzing the noncompliance among the various characteristics of individuals or organizations;
 - (c) conducting statistical procedures or studies to improve the quality of health data;
 - (d) designing sample surveys and selecting samples of individuals or organizations;
- and
- (e) preparing and publishing reports describing these matters.

~~[(14)]~~[(12)] "Self-funded employer" means an employer who provides for the payment of health care services for employees directly from the employer's funds, thereby assuming the

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financial risks rather than passing them on to an outside insurer through premium payments.

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

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

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

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

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

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

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

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

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

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

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

(2) (a) One member shall be:

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

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

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

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

(a) be knowledgeable regarding the health care system and the characteristics and use

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of health data;

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

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

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

(i) who are licensed to practice in this state;

(ii) who actively practice medicine in this state;

(iii) who are trained in or have experience with the collection, analysis, and use of health care data; and

(iv) one of whom is selected by the Utah Medical Association;

(e) include three persons:

(i) who are:

(A) employed by or otherwise associated with a business that supplies health care insurance to its employees; and

(B) knowledgeable about the collection and use of health care data; and

(ii) at least one of whom represents an employer employing 50 or fewer employees;

(f) include three persons representing health insurers:

(i) at least one of whom is employed by or associated with a third-party payor that is not licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(ii) at least one of whom is employed by or associated with a third party payer that is licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans; and

(iii) who are trained in, or experienced with the collection, analysis, and use of health care data;

(g) include two consumer representatives:

(i) from organized consumer or employee associations; and

(ii) knowledgeable about the collection and use of health care data;

(h) include one person:

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(i) representative of a neutral, non-biased entity that can demonstrate that it has the broad support of health care payers and health care providers; and

(ii) who is knowledgeable about the collection, analysis, and use of health care data; and

(i) include two persons representing public health who are trained in, or experienced with the collection, use, and analysis of health care data.

(4) (a) Except as required by Subsection (4)(b), as terms of current committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.

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

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

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

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

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

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

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

(a) Section 63A-3-106;

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

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

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

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

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

26-39-102. Definitions.

As used in this chapter:

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

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

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

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

(ii) a facility or program exempt under Section 26-39-403.

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

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

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

(c) for direct or indirect compensation.

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

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

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

(7) "Public school" means:

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

(i) is directly funded at public expense; and

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

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

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

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

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

(a) (i) under the age of 13 years old; or

(ii) under the age of 18 years old, if the person has a disability; and

(b) a child of:

(i) a person other than the person providing care to the child;

(ii) a licensed or certified residential child care provider, if the child is under the age of four; or

(iii) an employee or owner of a licensed child care center, if the child is under the age of four.

(9) "Residential child care" means child care provided in the home of a provider.

Section 31. Section 26-39-200 is amended to read:

26-39-200. Child Care Center Licensing Committee.

(1) (a) The ~~[Child Care Center Licensing Committee created in Section 26-1-7]~~ licensing committee shall be comprised of seven members appointed by the governor and approved by the Senate in accordance with this subsection.

(b) The governor shall appoint three members who:

(i) have at least five years of experience as an owner in or director of a for profit or not-for-profit center based child care; and

(ii) hold an active license as a child care center from the department to provide center based child care.

(c) (i) The governor shall appoint one member to represent each of the following:

(A) a parent with a child in center based child care;

(B) a child development expert from the state system of higher education;

(C) except as provided in Subsection (1)(e), a pediatrician licensed in the state; and

(D) an architect licensed in the state.

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(ii) Except as provided in Subsection (1)(c)(i)(B), a member appointed under Subsection (1)(c)(i) may not be an employee of the state or a political subdivision of the state.

(d) At least one member described in Subsection (1)(b) shall at the time of appointment reside in a county that is not a county of the first class.

(e) For the appointment described in Subsection (1)(c)(i)(C), the governor may appoint a health care professional who specializes in pediatric health if:

(i) the health care professional is licensed under:

(A) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice nurse practitioner; or

(B) Title 58, Chapter 70a, Utah Physician Assistant Act; and

(ii) before appointing a health care professional under this Subsection (1)(e), the governor:

(A) sends a notice to a professional physician organization in the state regarding the opening for the appointment described in Subsection (1)(c)(i)(C); and

(B) receives no applications from a pediatrician who is licensed in the state for the appointment described in Subsection (1)(c)(i)(C) within 90 days after the day on which the governor sends the notice described in Subsection (1)(e)(ii)(A).

(2) (a) Except as required by Subsection (2)(b), as terms of current members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the licensing committee is appointed every two years.

(c) Upon the expiration of the term of a member of the licensing committee, the member shall continue to hold office until a successor is appointed and qualified.

(d) A member may not serve more than two consecutive terms.

(e) Members of the licensing committee shall annually select one member to serve as chair who shall establish the agenda for licensing committee meetings.

(3) When a vacancy occurs in the membership for any reason, the governor, with the advice and consent of the Senate, shall appoint a replacement for the unexpired term.

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(4) (a) The licensing committee shall meet at least every two months.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more members.

(5) Three members of the licensing committee constitute a quorum for the transaction of business.

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

(a) Section 63A-3-106;

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

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

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

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

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

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

(i) two child care consumers;

(ii) three licensed residential child care providers;

(iii) one certified residential child care provider;

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

(v) two health care providers.

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

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

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

(3) The advisory committee shall meet at least quarterly, or more frequently as

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determined by the executive director, the chair, or three or more members of the committee.

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

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

(a) Section 63A-3-106;

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

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

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

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

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

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

(i) adequate facilities and equipment; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) Notwithstanding the definition of "qualifying child" in Section 26-39-102, the licensing committee and the department shall count children through age 12 and children with disabilities through age 18 toward the minimum square footage requirement for indoor and outdoor areas, including the child of:

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

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

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

(8) (a) A child care center constructed prior to January 1, 2004, and licensed and operated as a child care center continuously since January 1, 2004, is exempt from the licensing

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committee's and the department's group size restrictions, if the child to caregiver ratios are maintained, and adequate square footage is maintained for specific classrooms.

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

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

(10) The department shall set and collect licensing and other fees in accordance with Section ~~[26-1-6]~~ 26-1-209.

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

Section 34. Section 26-39-402 is amended to read:

26-39-402. Residential child care certificate.

(1) A residential child care provider of five to eight qualifying children shall obtain a Residential Child Care Certificate from the department, unless Section 26-39-403 applies.

(2) The minimum qualifications for a Residential Child Care Certificate are:

(a) the submission of:

(i) an application in the form prescribed by the department;

(ii) a certification and criminal background fee established in accordance with Section ~~[26-1-6]~~ 26B-1-209; and

(iii) in accordance with Section 26-39-404, identifying information for each adult person and each juvenile age 12 through 17 years ~~[of age]~~ old who resides in the provider's home:

(A) for processing by the Department of Public Safety to determine whether any such person has been convicted of a crime;

(B) to screen for a substantiated finding of child abuse or neglect by a juvenile court; and

(C) to discover whether the person is listed in the Licensing Information System described in Section 62A-4a-1006;

(b) an initial and annual inspection of the provider's home within 90 days of sending an intent to inspect notice to:

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(i) check the immunization record, as defined in Section 53G-9-301, of each qualifying child who receives child care in the provider's home;

(ii) identify serious sanitation, fire, and health hazards to qualifying children; and

(iii) make appropriate recommendations; and

(c) annual training consisting of 10 hours of department-approved training as specified by the department by administrative rule, including a current department-approved CPR and first aid course.

(3) If a serious sanitation, fire, or health hazard has been found during an inspection conducted pursuant to Subsection (2)(b), the department shall require corrective action for the serious hazards found and make an unannounced follow up inspection to determine compliance.

(4) In addition to an inspection conducted pursuant to Subsection (2)(b), the department may inspect the home of a residential care provider of five to eight qualifying children in response to a complaint of:

(a) child abuse or neglect;

(b) serious health hazards in or around the provider's home; or

(c) providing residential child care without the appropriate certificate or license.

(5) Notwithstanding this section:

(a) a license under Section 26-39-401 is required of a residential child care provider who cares for nine or more qualifying children;

(b) a certified residential child care provider may not provide care to more than two qualifying children under the age of two; and

(c) an inspection may be required of a residential child care provider in connection with a federal child care program.

(6) With respect to residential child care, the department may only make and enforce rules necessary to implement this section.

Section 35. Section 26-49-102 is amended to read:

26-49-102. Definitions.

As used in this chapter:

[(1) "Department of Health" shall have the meaning provided for in Section 26-1-4.]

[(2)] (1) "Disaster relief organization" means an entity that:

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(a) provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners;

(b) is designated or recognized as a provider of the services described in Subsection ~~[(2)]~~ [(1)](a) under a disaster response and recovery plan adopted by:

(i) an agency of the federal government;

~~[(ii) the state Department of Health; or]~~

[(ii) the department; or]

(iii) a local health department; and

(c) regularly plans and conducts its activities in coordination with:

(i) an agency of the federal government;

~~[(ii) the Department of Health; or]~~

[(ii) the department; or]

(iii) a local health department.

~~[(3)]~~ [(2)] "Emergency" means:

(a) a state of emergency declared by:

(i) the president of the United States;

(ii) the governor in accordance with Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; and

(iii) the chief executive officer of a political subdivision in accordance with Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, for a local emergency; or

(b) a public health emergency declared by:

(i) the executive director through a public health order in accordance with Title 26, Utah Health Code; or

(ii) a local health department for a location under the local health department's jurisdiction.

~~[(4)]~~ [(3)] "Emergency Management Assistance Compact" means the interstate compact approved by Congress by Public Law No. 104-321, 110 Stat. 3877 and adopted by Utah in Title 53, Chapter 2a, Part 4, Emergency Management Assistance Compact.

~~[(5)]~~ [(4)] "Entity" means a person other than an individual.

~~[(6)]~~ [(5)] "Health facility" means an entity licensed under the laws of this or another state to provide health or veterinary services.

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~~[(7)]~~1(6) "Health practitioner" means an individual licensed under Utah law or another state to provide health or veterinary services.

~~[(8)]~~1(7) "Health services" means the provision of treatment, care, advice, guidance, other services, or supplies related to the health or death of individuals or human populations, to the extent necessary to respond to an emergency, including:

(a) the following, concerning the physical or mental condition or functional status of an individual or affecting the structure or function of the body:

(i) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; or
(ii) counseling, assessment, procedures, or other services;

(b) selling or dispensing a drug, a device, equipment, or another item to an individual in accordance with a prescription; and

(c) funeral, cremation, cemetery, or other mortuary services.

~~[(9)]~~1(8) "Host entity":

(a) means an entity operating in Utah that:

(i) uses volunteer health practitioners to respond to an emergency; and

(ii) is responsible during an emergency, for actually delivering health services to individuals or human populations, or veterinary services to animals or animal populations; and

(b) may include disaster relief organizations, hospitals, clinics, emergency shelters, health care provider offices, or any other place where volunteer health practitioners may provide health or veterinary services.

~~[(10)]~~1(9) (a) "License" means authorization by a state to engage in health or veterinary services that are unlawful without authorization.

(b) "License" includes authorization under this title to an individual to provide health or veterinary services based upon a national or state certification issued by a public or private entity.

~~[(11)]~~1(10) "Local emergency" means the same as that term is defined in Section 53-2a-203.

~~[(12)]~~1(11) "Local health department" means the same as that term is defined in Section 26A-1-102.

~~[(13)]~~ "Person" means an individual, corporation, business trust, trust, partnership, limited liability company, association, joint venture, public corporation, government or

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~~governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.~~

~~(14)~~ (12) "Public health emergency" means the same as that term is defined in Section 26-23b-102.

~~(15)~~ (13) "Scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including any conditions imposed by the licensing authority.

~~(16)~~ (14) "State" means:

- (a) a state of the United States;
- (b) the District of Columbia;
- (c) Puerto Rico;
- (d) the United States Virgin Islands; or
- (e) any territory or insular possession subject to the jurisdiction of the United States.

~~(17)~~ (15) "Veterinary services" shall have the meaning provided for in Subsection 58-28-102(11).

~~(18)~~ (16) (a) "Volunteer health practitioner" means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services.

(b) "Volunteer health practitioner" does not include a practitioner who receives compensation under a preexisting employment relationship with a host entity or affiliate that requires the practitioner to provide health services in Utah, unless the practitioner is:

- (i) not a Utah resident; and
- (ii) employed by a disaster relief organization providing services in Utah during an emergency.

Section ~~(4)~~ 36. Section **26-54-103** is amended to read:

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

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

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

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- (a) the executive director, or the executive director's designee;
 - (b) two survivors, or family members of a survivor, of a traumatic brain injury appointed by the governor;
 - (c) two survivors, or family members of a survivor, of a traumatic spinal cord injury appointed by the governor;
 - (d) one traumatic brain injury or spinal cord injury professional appointed by the governor who, at the time of appointment and throughout the professional's term on the committee, does not receive a financial benefit from the fund;
 - (e) two parents of a child with a nonprogressive neurological condition appointed by the governor;
 - (f) (i) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act, with experience treating brain and spinal cord injuries, appointed by the governor;
or
(ii) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act, with experience treating brain and spinal cord injuries, appointed by the governor;
 - (g) a member of the House of Representatives appointed by the speaker of the House of Representatives; and
 - (h) a member of the Senate appointed by the president of the Senate.
- (3) (a) The term of advisory committee members shall be four years. If a vacancy occurs in the committee membership for any reason, a replacement shall be appointed for the unexpired term in the same manner as the original appointment.
- (b) The committee shall elect a chairperson from the membership.
 - (c) A majority of the committee constitutes a quorum at any meeting, and, if a quorum is present at an open meeting, the action of the majority of members shall be the action of the advisory committee.
 - (d) The terms of the advisory committee shall be staggered so that members appointed under Subsections (2)(b), (d), and (f) shall serve an initial two-year term and members appointed under Subsections (2)(c), (e), and (g) shall serve four-year terms. Thereafter, members appointed to the advisory committee shall serve four-year terms.
- (4) The advisory committee shall comply with the procedures and requirements of:

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- (a) Title 52, Chapter 4, Open and Public Meetings Act;
- (b) Title 63G, Chapter 2, Government Records Access and Management Act; and
- (c) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

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

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

(6) The advisory committee shall:

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

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

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

(ii) children with nonprogressive neurological conditions through qualified IRC 501(c)(3) charitable clinics, as defined in Section 26-54-102.5; and

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

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

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

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

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

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

- (a) the Spinal Cord and Brain Injury Rehabilitation Fund;
- (b) the Pediatric Neuro-Rehabilitation Fund; or
- (c) both funds.

Section 37. Section 26-60-104 is amended to read:

26-60-104. Enforcement.

(1) The Division of Occupational and Professional Licensing created in Section 58-1-103 is authorized to enforce the provisions of Section 26-60-103 as it relates to providers licensed under Title 58, Occupations and Professions.

(2) The department is authorized to enforce the provisions of:

(a) Section 26-60-103 as it relates to providers licensed under this title~~[-];~~ and

~~[(3) The Department of Human Services created in Section 62A-1-102 is authorized to enforce the provisions of]~~

(b) Section 26-60-103 as it relates to providers licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities.

Section 38. Section 26-67-102 is amended to read:

26-67-102. Definitions.

As used in this chapter:

(1) "Adult Autism Treatment Account" means the Adult Autism Treatment Account created in Section 26-67-205.

(2) "Advisory committee" means the Adult Autism Treatment Program Advisory Committee created in Section ~~[26-1-7]~~ 26B-1-204.

(3) "Applied behavior analysis" means the same as that term is defined in Section 31A-22-642.

(4) "Autism spectrum disorder" means the same as that term is defined in Section 31A-22-642.

(5) "Program" means the Adult Autism Treatment Program created in Section 26-67-201.

(6) "Qualified individual" means an individual who:

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- (a) is at least 22 years old;
- (b) is a resident of the state;
- (c) has been diagnosed by a qualified professional as having:
 - (i) an autism spectrum disorder; or
 - (ii) another neurodevelopmental disorder requiring significant supports through treatment using applied behavior analysis; and
- (d) needs significant supports for a condition described in Subsection (6)(c), as demonstrated by formal assessments of the individual's:
 - (i) cognitive ability;
 - (ii) adaptive ability;
 - (iii) behavior; and
 - (iv) communication ability.
- (7) "Qualified provider" means a provider that is qualified under Section 26-67-202 to provide services for the program.

Section 39. Section 26-67-202 is amended to read:

26-67-202. Adult Autism Treatment Program Advisory Committee --

Membership -- Procedures -- Compensation -- Duties -- Expenses.

(1) The Adult Autism Treatment Advisory Committee created in Section ~~[26-1-7]~~ 26B-1-204 shall consist of six members appointed by the governor to two-year terms as follows:

- (a) one individual who:
 - (i) has a doctorate degree in psychology;
 - (ii) is a licensed behavior analyst practicing in the state; and
 - (iii) has treated adults with an autism spectrum disorder for at least three years;
- (b) one individual who is:
 - (i) employed by the department; and
 - (ii) has professional experience with the treatment of autism spectrum disorder;
- (c) three individuals who have firsthand experience with autism spectrum disorders and the effects, diagnosis, treatment, and rehabilitation of autism spectrum disorders, including:
 - (i) family members of an adult with an autism spectrum disorder;
 - (ii) representatives of an association that advocates for adults with an autism spectrum

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disorder; and

(iii) specialists or professionals who work with adults with an autism spectrum

disorder; and

(d) one individual who is:

(i) a health insurance professional;

(ii) holds a Doctor of Medicine or Doctor of Philosophy degree, with professional experience relating to the treatment of autism spectrum disorder; and

(iii) has a knowledge of autism benefits and therapy that are typically covered by the health insurance industry.

(2) (a) Notwithstanding Subsection (1), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure the terms of members are staggered so that approximately half of the advisory committee is appointed every year.

(b) If a vacancy occurs in the membership of the advisory committee, the governor may appoint a replacement for the unexpired term.

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

(b) A majority of the advisory committee constitutes a quorum at any meeting and, if a quorum exists, the action of the majority of members present is the action of the advisory committee.

(4) The advisory committee shall meet as necessary to:

(a) advise the department regarding implementation of the program;

(b) make recommendations to the department and the Legislature for improving the program; and

(c) before October 1 each year, provide a written report of the advisory committee's activities and recommendations to:

(i) the executive director;

(ii) the Health and Human Services Interim Committee; and

(iii) the Social Services Appropriations Subcommittee.

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

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

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

(6) A member may not receive compensation or benefits for the member's service, but

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may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

63A-3-107.

(7) (a) The department shall staff the advisory committee.

(b) Expenses of the advisory committee, including the cost of advisory committee staff if approved by the executive director, may be paid only with funds from the Adult Autism Treatment Account.

Section ~~5~~40. Section **26A-1-102** is amended to read:

26A-1-102. Definitions.

As used in this part:

(1) "Board" means a local board of health established under Section 26A-1-109.

(2) "County governing body" means one of the types of county government provided for in Title 17, Chapter 52a, Part 2, Forms of County Government.

(3) "County health department" means a local health department that serves a county and municipalities located within that county.

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

(5) "Local health department" means:

- (a) a single county local health department;
- (b) a multicounty local health department;
- (c) a united local health department; or
- (d) a multicounty united local health department.

(6) "Mental health authority" means a local mental health authority created in Section 17-43-301.

(7) "Multicounty local health department" means a local health department that is formed under Section 26A-1-105 and that serves two or more contiguous counties and municipalities within those counties.

(8) "Multicounty united local health department" means a united local health department that is formed under Section 26A-1-105.5 and that serves two or more contiguous

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counties and municipalities within those counties.

(9) (a) "Order of constraint" means an order, rule, or regulation issued by a local health department in response to a declared public health emergency under this chapter that:

(i) applies to all or substantially all:

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

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

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

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

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

(C) exercises physical control over property or individuals;

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

or

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

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

(10) "Public health emergency" means the same as that term is defined in Section 26-23b-102.

(11) "Single county local health department" means a local health department that is created by the governing body of one county to provide services to the county and the municipalities within that county.

(12) "Stay-at-home order" means an order of constraint that:

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

(b) may include exceptions for certain essential tasks.

(13) "Substance abuse authority" means a local substance abuse authority created in Section 17-43-201.

(14) "United local health department":

(a) means a substance abuse authority, a mental health authority, and a local health department that join together under Section 26A-1-105.5; and

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(b) includes a multicounty united local health department.

Section ~~{6}~~41. Section 26A-1-121 is amended to read:

26A-1-121. Standards and regulations adopted by local board -- Local standards not more stringent than federal or state standards -- ~~{Exceptions for written findings -- }Administrative and judicial review of actions.~~

(1) (a) Subject to Subsection (1)(g), the board may make standards and regulations:

(i) not in conflict with rules of the [~~Departments of Health and~~] department or the Department of Environmental Quality; and

(ii) necessary for the promotion of public health, environmental health quality, injury control, and the prevention of outbreaks and spread of communicable and infectious diseases.

(b) The standards and regulations under Subsection (1)(a):

(i) supersede existing local standards, regulations, and ordinances pertaining to similar subject matter; and

(ii) ~~[except as provided under Subsection (1)(c) and]~~ except where specifically allowed by federal law or state statute, may not be more stringent than those established by federal law, state statute, or administrative rules adopted by the [~~Department of Health~~] department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(c) (i) The board may make standards and regulations more stringent than corresponding federal law, state statute, or state administrative rules for the purposes described in Subsection (1)(a), only if the board makes a written finding after public comment and hearing and based on evidence in the record, that corresponding federal laws, state statutes, or state administrative rules are not adequate to protect public health and the environment of the state.]~~

~~[(ii) The findings shall address the public health information and studies contained in the record, which form the basis for the board's conclusion.]~~

~~[(d)]~~ (c) The board shall provide public hearings prior to the adoption of any regulation or standard.

(d) Notice of any public hearing shall be published at least twice throughout the county or counties served by the local health department. The publication may be in one or more newspapers, if the notice is provided in accordance with this Subsection (1)(d).

(e) The hearings may be conducted by the board at a regular or special meeting, or the

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board may appoint hearing officers who may conduct hearings in the name of the board at a designated time and place.

(f) A record or summary of the proceedings of a hearing shall be taken and filed with the board.

(g) (i) During a declared public health emergency declared under this chapter or under Title 26, Chapter 23b, Detection of Public Health Emergencies Act:

(A) except as provided in Subsection (1)(h), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(B) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(C) a county governing body may at any time terminate, by majority vote of the governing body, an order of constraint issued by a local health department in response to a declared public health emergency.

(ii) (A) For a local health department that serves more than one county, the approval described in Subsection (1)(g)(i)(A) is required for the chief executive officer for which the order of constraint is applicable.

(B) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (1)(g)(i)(C) for the county served by the county governing body.

(h) (i) Notwithstanding Subsection (1)(g)(i)(A), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (1)(g)(i)(A) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (1)(h)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (1)(h)(i) within 72 hours of issuance of the order of constraint.

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(i) (i) During a public health emergency declared as described in this title:

(A) a local health department may not impose an order of constraint on a public gathering that applies to a religious gathering differently than the order of constraint applies to any other relevantly similar gathering; and

(B) an individual, while acting or purporting to act within the course and scope of the individual's official local health department capacity, may not prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title, or impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(ii) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (1)(i).

(iii) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(A) is in furtherance of a compelling government interest; and

(B) is the least restrictive means of furthering that compelling government interest.

(iv) Notwithstanding Subsections (1)(i)(i) and (ii), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(j) If a local health department declares a public health emergency as described in this chapter, and the local health department finds that the public health emergency conditions warrant an extension of the public health emergency beyond the 30-day term or another date designated by the local legislative body, the local health department shall provide written notice to the local legislative body at least 10 days before the expiration of the public health emergency.

(2) (a) A person aggrieved by an action or inaction of the local health department relating to the public health shall have an opportunity for a hearing with the local health officer or a designated representative of the local health department. The board shall grant a subsequent hearing to the person upon the person's written request.

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(b) In an adjudicative hearing, a member of the board or the hearing officer may administer oaths, examine witnesses, and issue notice of the hearings or subpoenas in the name of the board requiring the testimony of witnesses and the production of evidence relevant to a matter in the hearing. The local health department shall make a written record of the hearing, including findings of facts and conclusions of law.

(c) Judicial review of a final determination of the local board may be secured by a person adversely affected by the final determination, or by the [~~Departments of Health or~~ department or the Department of Environmental Quality], by filing a petition in the district court within 30 days after receipt of notice of the board's final determination.

(d) The petition shall be served upon the secretary of the board and shall state the grounds upon which review is sought.

(e) The board's answer shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter together with the board's findings of fact, conclusions of law, and order.

(f) The appellant and the board are parties to the appeal.

(g) The [~~Departments of Health~~ department and the Department of Environmental Quality] may become a party by intervention as in a civil action upon showing cause.

(h) A further appeal may be taken to the Court of Appeals under Section 78A-4-103.

(3) Nothing in the provisions of Subsection (1)(b)(ii) or (c), shall limit the ability of a local health department board to make standards and regulations in accordance with Subsection (1)(a) for:

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

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

Section ~~7~~42. Section **26B-1-102** is amended to read:

TITLE 26B. UTAH HEALTH AND HUMAN SERVICES CODE

CHAPTER 1. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Part 1. General Provisions

26B-1-102. Definitions.

As used in this title:

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

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

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

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

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

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

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

(b) are community based;

(c) are informed about trauma;

(d) build meaningful partnerships with families and children;

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

(f) include individualized case planning;

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

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

Section ~~{8}~~43. Section **26B-1-103** is amended to read:

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

The purpose of this title is to consolidate into a single agency of state government all of the functions previously exercised by[:] the Department of Health and the Department of Human Services to more efficiently and effectively carry out the responsibilities delegated to the department by state law.

~~[(1) the Department of Health, including all of the powers and duties described in Title~~

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~~26, Utah Health Code, and]~~

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

Section ~~{9}~~44. Section **26B-1-104**, which is renumbered from Section 26-1-32 is renumbered and amended to read:

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

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

Section ~~{10}~~45. Section **26B-1-105**, which is renumbered from Section 26-1-33 is renumbered and amended to read:

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

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

Section ~~{11}~~46. Section **26B-1-201** is amended to read:

Part 2. General Organization and Duties

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

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

(2) ~~{The}~~ Subject to the limitation and grants of authority in state law, the department ~~{is}~~ shall serve as the health, health planning, medical assistance, and social services authority of the state, and {is the sole state agency} for administration of federally assisted state programs or plans is designated as the sole state agency for:

- (a) social service block grants;
- (b) alcohol, drug, and mental health programs, including block grants;
- (c) child welfare;
- (d) state programs supported under the Older Americans Act, 42 U.S.C. Sec. 3001, et

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seq.:

(e) public health;

(f) health planning;

(g) maternal and child health;

(h) services for individuals with a disability; and

(i) medical assistance.

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

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

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

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

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

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

(a) Title 26, Utah Health Code; and

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

Section ~~{12}~~47. Section **26B-1-201.1** is amended to read:

26B-1-201.1. Transition to single state agency -- Transition plan.

(1) As used in this section:

(a) "Transition agencies" means the:

(i) Department of Health; and

(ii) Department of Human Services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) at least one time after September 1, 2022, but before November 1, 2022;

(ii) if the executive director adjusts the organizational structure of the department under Subsection 26B-1-204(5) in a manner that conflicts with the organizational structure described in statute; or

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

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

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

(6) Before November 30 of each year from 2022 through 2025, the department shall

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report to the Social Services Appropriations Subcommittee:

(a) efficiencies and savings identified by the department as a result of the merger of the transition agencies; and

(b) programs to which the department recommends reinvesting savings identified under Subsection (6)(a).

Section ~~{13}~~48. Section **26B-1-202**, which is renumbered from Section 62A-1-111 is renumbered and amended to read:

~~[62A-1-111].~~ **26B-1-202. Department authority and duties.**

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

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

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

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

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

(5) establish eligibility standards for [its] the department's programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for the department's services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used

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for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

~~[(13) carry out the responsibility assigned by Section 35A-8-602 with respect to coordination of services for the homeless;]~~

~~[(14)]~~ (13) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;

~~[(15)]~~ (14) provide training and educational opportunities for the department's staff;

~~[(16)]~~ (15) collect child support payments and any other money due to the department;

~~[(17)]~~ (16) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

~~[(18)]~~ (17) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the Division of Child and Family Services or the Division of Juvenile Justice Services is given custody of a minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is ordered to prepare an attainment plan for a minor found not competent to proceed under Section 80-6-403~~[- any policy and procedures shall include]~~, including:

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

(b) delineation of assessment criteria and procedures;

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

(d) provisions for submittal of the plan and periodic progress reports to the court;

~~[(19)]~~ (18) carry out the responsibilities assigned to the department by statute;

~~[(20)]~~ (19) examine and audit the expenditures of any public funds provided to a local substance abuse ~~[authorities;]~~ authority, a local mental health ~~[authorities;]~~ authority, a local area ~~[agencies]~~ agency on aging, and any person, agency, or organization that contracts with or

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receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to a local [authorities, area agencies] authority, an area agency, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, [it] the department may take steps necessary to ensure continuity of services. For purposes of this Subsection [~~(20)~~] (19) "public funds" means the same as that term is defined in Section 62A-15-102;

[~~(21)~~] (20) [~~pursuant to~~] in accordance with Subsection 62A-2-106(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

[~~(22)~~] (21) within legislative appropriations [~~authorized by the Legislature~~], promote and develop a system of care and stabilization services:

- (a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and
- (b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:
 - (i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;
 - (ii) centralize department operations, including procurement and contracting;
 - (iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;
 - (iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;
 - (v) create performance-based measures for the provision of services; and
 - (vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions;

[~~(23)~~] (22) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G,

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Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- (a) under this title;
- (b) by the department; or
- (c) by an agency or division within the department; [~~and~~]

~~[(24) reallocate unexpended funds as provided in Section 62A-1-111.6.]~~

(23) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(24) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(25) ~~to the extent authorized under state law or required by federal law,~~ promote and protect the health and wellness of the people within the state;

(26) establish, maintain, and enforce rules ~~{necessary or desirable to carry out the provisions and purposes of this title}~~ ~~authorized under state law or required by federal law~~ to promote and protect the public health or to prevent disease and illness;

(27) investigate ~~{and control}~~ the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

(28) provide for the detection ~~{,}~~ ~~and~~ reporting ~~{, prevention, and control}~~ of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

(29) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;

(30) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

~~{~~ (31) establish and operate programs necessary or desirable for the promotion or

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protection of the public health and the control of disease or which may be necessary to ameliorate the major causes of injury, sickness, death, and disability in the state, except that the programs may not be established if adequate programs exist in the private sector;

— (32) establish, maintain, and enforce isolation and quarantine, and for this purpose only, exercise physical control over property and individuals as the department finds necessary for the protection of the public health;

— (33) close theaters, schools, and other public places and forbid gatherings of people when necessary to protect the public health;

‡ (34)31) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

(35)32) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

(36)33) establish laboratory services necessary to support public health programs and medical services in the state;

(37)34) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;

(38)35) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

(39)36) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations and Assistance Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(40)37) investigate the causes of maternal and infant mortality;

(41)38) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol, and provide the Commissioner of Public Safety with monthly statistics reflecting the results of these examinations, with necessary safeguards so that information derived from the examinations is not used for a purpose other than the compilation of these statistics;

(42)39) establish qualifications for individuals permitted to draw blood under

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Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals the department finds qualified, which permits may be terminated or revoked by the department;

(~~43~~40) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

~~{ (44) adopt rules and enforce minimum sanitary standards as provided in Title 26, Chapter 15, General Sanitation;~~

‡ (~~45~~41) conduct health planning for the state;

(~~46~~42) monitor the costs of health care in the state and foster price competition in the health care delivery system;

~~{ (47) adopt rules for the licensure of health facilities within the state in accordance with Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;~~

~~— (48) license the provision of child care;~~

~~— (49) accept contributions to and administer the funds contained in the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101;~~

~~— (50) serve as the collecting agent, on behalf of the state, for the nursing care facility assessment fee imposed under Title 26, Chapter 35a, Nursing Care Facility Assessment Act, and adopt rules for the enforcement and administration of the nursing facility assessment consistent with the provisions of Title 26, Chapter 35a, Nursing Care Facility Assessment Act;~~

‡ (~~51~~43) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals the providers serve;

(~~52~~44) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process; and

(~~53~~45) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia;

(~~54~~46) ensure that any training or certification required of a public official or public

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employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required by the agency or under this title, Title 26, Utah Health Code or Title 62A, Utah Human Services Code; and

(~~55~~47) oversee public education vision screening as described in Section 53G-9-404.

Section (~~14~~49. Section **26B-1-203**, which is renumbered from Section 62A-1-108 is renumbered and amended to read:

~~[62A-1-108]~~. **26B-1-203. Executive director -- Appointment --**

Compensation -- Qualifications -- Deputy directors required -- Responsibilities.

(1) (a) The chief administrative officer of the department is the executive director, who shall be appointed by the governor with the advice and consent of the Senate.

(b) The executive director may be removed at the will of the governor.

(c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) The executive director shall be experienced in administration, management, and coordination of complex organizations.

(3) If the executive director is not a physician, the executive director or a deputy director shall:

(a) be informed and experienced in public health;

(b) have successfully completed at least a master's degree of public health or public administration from an accredited school of public health or from an accredited program of public health or public administration; and

(c) (i) have at least five years of professional full-time experience, of which at least two years have been in public health in a senior level administrative capacity; or

(ii) have at least five years of professional full-time experience in public health programs, of which at least three years have been in a senior level administrative capacity.

(4) The executive director shall appoint a deputy director of the department who:

(a) shall have successfully completed at least one year's graduate work in an accredited school of public health or an accredited program of public health;

(b) shall have at least five years of professional full-time experience in public health programs; and

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(c) is a physician licensed to practice medicine in the state with experience in public health.

~~[(2)]~~ (5) The executive director is responsible for:

(a) administration and supervision of the department;

(b) coordination of policies and program activities conducted through the boards, divisions, and offices of the department;

(c) approval of the proposed budget of each board, division, and office within the department; and

(d) ~~[such]~~ other duties as the Legislature or governor shall assign to ~~[him]~~ the executive director.

~~[(3)]~~ (6) The executive director may appoint deputy or assistant directors to assist ~~[him]~~ the executive director in carrying out the department's responsibilities.

Section ~~{15}~~50. Section **26B-1-204**, which is renumbered from Section 62A-1-105 is renumbered and amended to read:

~~[62A-1-105].~~ **26B-1-204. Creation of boards, divisions, and offices -- Power to organize department.**

(1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law for:

(a) the administration and government of the department;

(b) the conduct of the department's employees; and

(c) the custody use and preservation of the records, papers, books, documents, and property of the department.

~~[(1)]~~ (2) The following policymaking boards, councils, and committees are created within the Department of Health and Human Services:

(a) ~~[the]~~ Board of Aging and Adult Services; ~~[and]~~

(b) ~~[the]~~ Utah State Developmental Center Board~~[-]~~;

(c) Health Advisory Council;

(d) Health Facility Committee;

(e) State Emergency Medical Services Committee;

(f) Air Ambulance Committee;

(g) Health Data Committee;

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- (h) Utah Health Care Workforce Financial Assistance Program Advisory Committee;
- (i) Residential Child Care Licensing Advisory Committee;
- (j) Child Care Center Licensing Committee;
- (k) Primary Care Grant Committee;
- (l) Adult Autism Treatment Program Advisory Committee;
- (m) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee;

and

(n) any boards, councils, or committees that are created by statute in:

- (i) this title;
- (ii) Title 26, Utah Health Code; or
- (iii) Title 62A, Utah Human Services Code.

[(2)] (3) The following divisions are created within the Department of Health and

Human Services:

(a) relating to operations:

- (i) the Division of Finance and Administration;
- (ii) the Division of Licensing and Background Checks;
- (iii) the Division of Customer Experience;
- (iv) the Division of Data, Systems, and Evaluation; and
- (v) the Division of Continuous Quality Improvement;

(b) relating to healthcare administration:

(i) the Division of Integrated Healthcare, which shall include responsibility for:

- (A) the state's medical assistance programs; and
- (B) behavioral health programs described in Title 62A, Chapter 15, Substance Abuse

and Mental Health Act;

- (ii) the Division of Aging and Adult Services; and
- (iii) the Division for Services for People with Disabilities; and

(c) relating to community health and well-being:

- (i) the Division of Child and Family Services;
- (ii) the Division of Family Health;
- (iii) the Division of Population Health;
- (iv) the Division of Juvenile Justice and Youth Services; and

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(v) the Office of Recovery Services.

(4) The executive director may establish offices and bureaus to facilitate management of the department as required by, and in accordance, with:

(a) this title;

(b) Title 26, Utah Health Code; and

(c) Title 62A, Utah Human Services Code.

(5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in:

(a) this title;

(b) Title 26, Utah Health Code; or

(c) Title 62A, Utah Human Services Code.

~~[(a) the Division of Aging and Adult Services;]~~

~~[(b) the Division of Child and Family Services;]~~

~~[(c) the Division of Services for People with Disabilities;]~~

~~[(d) the Division of Substance Abuse and Mental Health; and]~~

~~[(e) the Division of Juvenile Justice Services;]~~

~~[(3) The following offices are created within the Department of Human Services:]~~

~~[(a) the Office of Licensing;]~~

~~[(b) the Office of Public Guardian;]~~

~~[(c) the Office of Recovery Services; and]~~

~~[(d) the Office of Quality and Design.]~~

Section ~~{16}~~51. Section **26B-1-205**, which is renumbered from Section 62A-1-109 is renumbered and amended to read:

~~[62A-1-109].~~ **26B-1-205. Division directors -- Appointment --**

Compensation -- Qualifications.

(1) (a) The executive director of the department has administrative jurisdiction over each division and office director.

(b) The executive director may make changes in personnel and service functions in the divisions and offices under the executive director's administrative jurisdiction, and authorize designees to perform appropriate responsibilities, to effectuate greater efficiency and economy

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in the operations of the department.

(c) The executive director may establish offices and bureaus to perform functions such as budgeting, planning, data processing, and personnel administration, to facilitate management of the department.

~~[(1)]~~ (2) The chief officer of each division and office enumerated in Section ~~[62A-1-105]~~ 26B-1-204 shall be a director who shall serve as the executive and administrative head of the division or office.

~~[(2)]~~ (3) ~~[Each division director shall be appointed by the]~~ The executive director shall appoint each division director with the concurrence of the division's board, if the division has a board.

~~[(3)]~~ (4) The director of any division may be removed from that position at the will of the executive director after consultation with that division's board, if the division has a board.

~~[(4) Each office director shall be appointed by the executive director.]~~

~~[(5)]~~ (5) Directors of divisions and offices shall receive compensation as provided by Title 63A, Chapter 17, Utah State Personnel Management Act.

~~[(6)]~~ (6) The director of each division and office shall be experienced in administration and possess such additional qualifications as determined by the executive director, and as provided by law.

Section ~~{17}~~52. Section **26B-1-206**, which is renumbered from Section 62A-1-107.5 is renumbered and amended to read:

~~[62A-1-107.5].~~ **26B-1-206. Limitation on establishment of advisory bodies.**

~~[(1) Department divisions and boards:]~~

(1) A department division or board:

(a) may not establish permanent, ongoing advisory groups unless otherwise specifically created in federal or state statute; and

(b) shall comply with the provisions of this section ~~[with regard to any advisory groups created prior to or after July 1, 2003].~~

(2) (a) [Divisions and boards] A division or board may establish subject-limited and time-limited ad hoc advisory groups to provide input necessary to carry out [their] the division's or board's assigned responsibilities.

(b) When establishing such an advisory group, the board [must] shall establish in

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writing a specific charge and time limit.

(3) The department shall consolidate an advisory group or committee with another committee or advisory group as appropriate to create greater efficiencies and budgetary savings for the department.

~~[(3)]~~ (4) ~~[Members]~~ A member of any ad hoc advisory group shall receive no compensation or benefits for their service.

~~[(4)]~~ (5) The provision of staffing and support to any ad hoc advisory group ~~[will be]~~ is contingent on availability of human and financial resources.

Section ~~{18}~~53. Section **26B-1-207**, which is renumbered from Section 26-1-4 is renumbered and amended to read:

~~[26-1-4].~~ **26B-1-207. Policymaking responsibilities -- Regulations for local health departments prescribed by department -- Local standards not more stringent than federal or state standards -- Consultation with local health departments -- Committee to evaluate health policies and to review federal grants.**

~~[(1) There is created the Department of Health, which has all of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities of the Division of Health, the Board of Health, the State Health Planning Development Agency, and the Office of Health Care Financing. Unless otherwise specifically provided, when reference is made in any statute of this state to the Board of Health, the Division of Health, the State Health Planning Development Agency, or the Office of Health Care Financing, it refers to the department. The department shall assume all of the policymaking functions, powers, rights, duties, and responsibilities over the division, agency, and office previously vested in the Department of Human Services and its executive director.]~~

~~[(2)]~~ (1) In establishing public health policy, the department shall consult with the local health departments established under Title 26A, Chapter 1, Local Health Departments.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may prescribe by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, reasonable requirements not inconsistent with law for a local health department as defined in Section 26A-1-102.

(b) Except ~~as provided in Subsection (2)(c), or~~ where specifically allowed by federal law or state statute, a local health department, as defined in Section 26A-1-102, may not

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establish standards or regulations that are more stringent than those established by federal law, state statute, or administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~{ (c) The local health department may make standards and regulations more stringent than corresponding federal law, state statute, or state administrative rules, only if the local health department makes a written finding after public comment and hearing and based on evidence in the record, that corresponding federal laws, state statutes, or state administrative rules are not adequate to protect public health of the state.~~

~~— (d) The findings described in Subsection (2)(c) shall address the public health information and studies contained in the record, which form the basis for the local health department's conclusion.~~

‡ (~~f~~~~e~~~~c~~) Nothing in this Subsection (2), limits the ability of a local health department to make standards and regulations in accordance with Subsection 26A-1-121(1)(a) for:

- (i) emergency rules made in accordance with Section 63G-3-304; or
- (ii) items not regulated under federal law, state statute, or state administrative rule.

(3) (a) As used in this Subsection (3):

(i) "Committee" means the committee established under Subsection (3)(b).

(ii) "Exempt application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(iii).

(iii) "Expedited application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(iv).

(iv) "Federal grant" means a grant from the federal government that could provide funds for local health departments to help them fulfill their duties and responsibilities.

(v) "Reviewable application" means an application for a federal grant that is not an exempt application.

(b) The department shall establish a committee consisting of:

- (i) the executive director, or the executive director's designee;
- (ii) two representatives of the department, appointed by the executive director; and
- (iii) three representatives of local health departments, appointed by all local health departments.

(c) The committee shall:

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(i) evaluate:

(A) the allocation of public health resources between the department and local health departments; and

(B) policies that affect local health departments;

(ii) consider policy changes proposed by the department or local health departments;

(iii) establish criteria by which an application for a federal grant may be judged to determine whether it should be exempt from the requirements under Subsection (3)(d); and

(iv) establish criteria by which an application for a federal grant may be judged to determine whether committee review under Subsection (3)(d)(i) should be delayed until after the application is submitted because the application is required to be submitted under a timetable that makes committee review before it is submitted impracticable if the submission deadline is to be met.

(d) (i) The committee shall review the goals and budget for each reviewable application:

(A) before the application is submitted, except for an expedited application; and

(B) for an expedited application, after the application is submitted but before funds from the federal grant for which the application was submitted are disbursed or encumbered.

(ii) Funds from a federal grant [~~pursuant to~~] under a reviewable application may not be disbursed or encumbered before the goals and budget for the federal grant are established by:

(A) a two-thirds vote of the committee, following the committee review under Subsection (3)(d)(i); or

(B) if two-thirds of the committee cannot agree on the goals and budget, the chair of the health advisory council, after consultation with the committee in a manner that the committee determines.

(e) An exempt application is exempt from the requirements of Subsection (3)(d).

(f) The department may use money from a federal grant to pay administrative costs incurred in implementing this Subsection (3).

Section ~~{19}~~54. Section **26B-1-208**, which is renumbered from Section 62A-1-112 is renumbered and amended to read:

~~[62A-1-112]~~. **26B-1-208. Participation in federal programs -- Federal grants -- Authority of executive director.**

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(1) The executive director may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs.

(2) Wherever state law authorizes a board, director, division, or office of the department to accept any grant, fund, or service which is to be advanced or contributed in whole or in part by the federal government, that acceptance shall be subject to the approval or disapproval of the executive director.

(3) All applications for federal grants or other federal financial assistance for the support of any department program is subject to the approval of the executive director.

~~[(3)]~~ (4) If any executive or legislative provision of the federal government so requires, as a condition to participation by this state in any fund, property, or service, the executive director, with the governor's approval, shall expend whatever funds are necessary out of the money provided by the Legislature for use and disbursement by that department.

Section ~~{20}~~55. Section **26B-1-209**, which is renumbered from Section 26-1-6 is renumbered and amended to read:

~~[26-1-6].~~ **26B-1-209. Fee schedule adopted by department.**

(1) The department may adopt a schedule of fees that may be assessed for services rendered by the department, provided that the fees are:

- (a) reasonable and fair; and
- (b) submitted to the Legislature as part of the department's annual appropriations request.

(2) When the department submits a fee schedule to the Legislature, the Legislature, in accordance with Section 63J-1-504, may:

- (a) approve the fee;
- (b) increase or decrease and approve the fee; or
- (c) reject any fee submitted to it.

(3) Fees approved by the Legislature ~~[pursuant to]~~ under this section shall be paid into the state treasury.

Section ~~{21}~~56. Section **26B-1-210**, which is renumbered from Section 62A-1-113 is renumbered and amended to read:

~~[62A-1-113].~~ **26B-1-210. Department budget -- Reports from divisions.**

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(1) The department shall prepare and submit to the governor, for inclusion in ~~[his]~~ the governor's budget to be submitted to the Legislature, a budget of the department's financial requirements needed to carry out ~~[its]~~ the department's responsibilities, as provided by law during the fiscal year following the Legislature's next Annual General Session.

(2) The executive director shall require a report from each of the divisions and offices of the department, to aid in preparation of the departmental budget.

Section ~~{22}~~57. Section **26B-1-211**, which is renumbered from Section 26-1-17.1 is renumbered and amended to read:

~~[26-1-17.1]~~. **26B-1-211. Background checks for employees -- Access to abuse and neglect information to screen employees and volunteers.**

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(2) Beginning July 1, 2018, the department may require a fingerprint-based local, regional, and national criminal history background check and ongoing monitoring of:

(a) all staff, contracted employees, and volunteers who:

(i) have access to protected health information or personal identifying information;

(ii) have direct ~~[contact with]~~ access to patients, children, or vulnerable adults as defined in Section ~~[62A-2-120]~~ 62A-2-101;

(iii) work in areas of privacy and data security;

(iv) handle financial information, including receipt of funds, reviewing invoices, making payments, and other types of financial information; and

(v) perform audit functions, whether internal or external, on behalf of the department; and

(b) job applicants who have been offered a position with the department and the job requirements include those described in Subsection (2)(a).

(3) Beginning July 1, 2022, for the purposes described in Subsection (2), the department may also access:

(a) the department's Management Information System created in Section 62A-4a-1003;

(b) the department's Licensing Information System created in Section 62A-4a-1006;

(c) the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; and

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(d) juvenile court records under Subsection 80-3-404(6).

~~[(3)]~~ (4) Each individual in a position listed in Subsection (2) shall provide a completed fingerprint card to the department upon request.

~~[(4)]~~ (5) The department shall require that an individual required to submit to a background check under Subsection ~~[(3)]~~ (4) provide a signed waiver on a form provided by the department that meets the requirements of Subsection 53-10-108(4).

~~[(5)]~~ (6) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the department shall submit to the bureau:

(a) the applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(b) a request for all information received as a result of the local, regional, and nationwide background check.

~~[(6)]~~ (7) The department is responsible for the payment of all fees required by Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.

~~[(7)]~~ (8) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) determine how the department will assess the employment status of an individual upon receipt of background information;

(b) determine ~~[the type of crimes and the severity that would disqualify]~~ when an individual would be disqualified from holding a position~~[-and]~~ based on:

(i) the type of crimes and the severity of those crimes; or

(ii) one or more substantiated or supported findings of abuse, neglect, or exploitation;
and

(c) identify the appropriate privacy risk mitigation strategy to be used in accordance with Subsection 53-10-108(13)(b).

Section ~~{23}~~58. Section **26B-1-212**, which is renumbered from Section 26-1-17.5 is renumbered and amended to read:

~~[26-1-17.5].~~ **26B-1-212. Confidential records.**

(1) A record classified as confidential under this title shall remain confidential, and be released according to the provisions of this title, notwithstanding Section 63G-2-310.

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(2) In addition to ~~[those persons]~~ a person granted access to a private record described in Subsection 63G-2-302(1)(b), ~~[schools, school districts, and local and state health departments and the state Department of Human Services]~~ a school, school district, local health department, and the department may share an immunization record as defined in Section 53G-9-301 or any other record relating to a vaccination or immunization as necessary to ensure compliance with Title 53G, Chapter 8, Part 3, Physical Restraint of Students, and to prevent, investigate, and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health.

Section ~~{24}~~59. Section **26B-1-213**, which is renumbered from Section 26-1-5 is renumbered and amended to read:

~~[26-1-5]~~. **26B-1-213. Department and committee rules and proceedings.**

(1) (a) Except in areas subject to concurrence between the department and a committee created under this title, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code, the department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

(b) If the adoption of rules under a provision of this title is subject to concurrence between the department and a committee created under this title and no concurrence can be reached, the department has final authority to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

(c) When the provisions of this title require concurrence between the department and a committee created under this title:

(i) the department shall report to and update the committee on a regular basis related to matters requiring concurrence; and

(ii) the committee shall review the report submitted by the department under this Subsection (1)(c) and shall:

(A) concur with the report; or

(B) provide a reason for not concurring with the report and provide an alternative recommendation to the department.

(2) Rules shall have the force and effect of law and may deal with matters which materially affect the security of health or the preservation and improvement of public health in the state, and any matters as to which jurisdiction is conferred upon the department by this title.

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(3) Every rule adopted by the department, or by the concurrence of the department and a committee established under Section ~~[26-1-7 or 26-1-7.5, {}]~~ shall be 26B-1-204, is subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act and ~~[shall become]~~ is effective at the time and in the manner provided in that act.

(4) If, at the next general session of the Legislature following the filing of a rule with the legislative research director, the Legislature passes a bill disapproving such rule, the rule shall be null and void.

(5) The department or the department in concurrence with a committee created under Section ~~[26-1-7 or 26-1-7.5]~~ 26B-1-204, may not adopt a rule identical to a rule disapproved under Subsection (4) of this section before the beginning of the next general session of the Legislature following the general session at which the rule was disapproved.

(6) The department and all committees, boards, divisions, and offices created under this title, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code, shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in any adjudicative proceedings.

(7) (a) The department may hold hearings, administer oaths, subpoena witnesses, and take testimony in matters relating to the exercise and performance of the powers and duties vested in or imposed upon the department.

(b) The department may, at the department's sole discretion, contract with any other agency or department of the state to conduct hearings in the name of the department.

Section ~~{25}~~60. Section **26B-1-301**, which is renumbered from Section 26-1-16 is renumbered and amended to read:

Part 3. Funds and Accounts

~~[26-1-16].~~ **26B-1-301. Executive director -- Power to accept funds and gifts.**

The executive director may accept and receive such other funds and gifts as may be made available from private and public groups for the purposes of promoting and protecting the public health or for the provision of health services to the people of the state and shall expend the same as appropriated by the ~~[legislature]~~ Legislature.

Section ~~{26}~~61. Section **26B-1-302**, which is renumbered from Section 62A-1-202 is renumbered and amended to read:

~~[62A-1-202].~~ **26B-1-302. National Professional Men's Basketball Team**

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Support of Women and Children Issues Restricted Account.

(1) There is created in the General Fund a restricted account known as the "National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account."

(2) The account shall be funded by:

- (a) contributions deposited into the account in accordance with Section 41-1a-422;
- (b) private contributions; and
- (c) donations or grants from public or private entities.

(3) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that:

- (a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;
- (b) are selected by the owners that, either on an individual or joint basis, own a controlling interest in a legal entity that is a franchised member of the internationally recognized national governing body for professional men's basketball in the United States;
- (c) are headquartered within the state;
- (d) create or support programs that focus on issues affecting women and children within the state, with an emphasis on health and education; and
- (e) have a board of directors that disperses all funds of the organization.

(4) (a) An organization described in Subsection (3) may apply to the department to receive a distribution in accordance with Subsection (3).

(b) An organization that receives a distribution from the department in accordance with Subsection (3) shall expend the distribution only to:

- (i) create or support programs that focus on issues affecting women and children, with an emphasis on health and education;
- (ii) create or sponsor programs that will benefit residents within the state; and
- (iii) pay the costs of issuing or reordering National Professional Men's Basketball Team Support of Women and Children Issues support special group license plate decals.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under this Subsection (4).

(5) In accordance with Section 63J-1-602.1, appropriations from the account are

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nonlapsing.

Section ~~{27}~~62. Section **26B-1-303**, which is renumbered from Section 62A-1-119 is renumbered and amended to read:

~~[62A-1-119]~~. **26B-1-303. Respite Care Assistance Fund -- Use of money -- Restrictions.**

(1) There is created an expendable special revenue fund known as the Respite Care Assistance Fund.

(2) The fund shall consist of:

(a) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, made to the fund; and

(b) any additional amounts as appropriated by the Legislature.

(3) The fund shall be administered by the director of the Utah Developmental Disabilities Council.

(4) The fund money shall be used for the following activities:

(a) to support a respite care information and referral system;

(b) to educate and train caregivers and respite care providers; and

(c) to provide grants to caregivers.

(5) An individual who receives services paid for from the fund shall:

(a) be a resident of Utah; and

(b) be a primary care giver for:

(i) an aging individual; or

(ii) an individual with a cognitive, mental, or physical disability.

(6) The fund money may not be used for:

(a) administrative expenses that are normally provided for by legislative appropriation;

or

(b) direct services or support mechanisms that are available from or provided by another government or private agency.

(7) All interest and other earnings derived from the fund money shall be deposited into the fund.

(8) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act.

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Section ~~{28}~~63. Section 26B-1-304, which is renumbered from Section 26-1-34 is renumbered and amended to read:

~~[26-1-34].~~ **26B-1-304. Restricted account created to fund drug testing for law enforcement agencies.**

(1) There is created within the General Fund a restricted account known as the State Laboratory Drug Testing Account.

(2) The account consists of a specified portion of fees generated under Subsection 53-3-106(5) from the reinstatement of certain licenses, which shall be deposited in this account.

(3) The [~~Department of Health~~] department shall use funds in this account solely for the costs of performing drug and alcohol analysis tests for state and local law enforcement agencies, and may not assess any charge or fee to the law enforcement agencies for whom the analysis tests are performed.

Section ~~{29}~~64. Section 26B-1-305 is enacted to read:

26B-1-305. Department of Health and Human Services Transition Restricted Account.

(1) There is created a restricted account within the General Fund known as the "Department of Health and Human Services Transition Restricted Account."

(2) The restricted account shall consist of appropriations made by the Legislature.

(3) Subject to appropriation, the transition agencies and the department may spend money from the restricted account to pay for expenses related to moving the transition agencies into the department, including staff and legal services.

Section ~~{30}~~65. Section 26B-2-101 is enacted to read:

26B-2-101. Clinical services -- Reserved.

Reserved

Section ~~{31}~~66. Section 26B-3-101 is enacted to read:

26B-3-101. Licensing and oversight -- Reserved.

Reserved

Section ~~{32}~~67. Section 26B-4-101 is enacted to read:

26B-4-101. Health care administration -- Reserved.

Reserved

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Section ~~{33}~~68. Section **26B-5-101** is enacted to read:

26B-5-101. Health care services -- Reserved.

Reserved

Section ~~{34}~~69. Section **26B-6-101** is enacted to read:

26B-6-101. Long-term services and supports -- Reserved.

Reserved

Section ~~{35}~~70. Section **26B-7-101** is enacted to read:

26B-7-101. Public health, prevention, and epidemiology -- Reserved.

Reserved

Section ~~{36}~~71. Section **26B-8-101** is enacted to read:

26B-8-101. Children, youth, and families -- Reserved.

Reserved

Section ~~{37}~~72. Section **26B-9-101** is enacted to read:

26B-9-101. Miscellaneous provisions -- Reserved.

Reserved

Section 73. Section 32B-2-308 is amended to read:

32B-2-308. Drinking while pregnant prevention media and education campaign restricted account.

~~[(1) As used in this section:]~~

~~[(a) "Department of Health" means the Department of Health created in Section 26-1-4.]~~

~~[(b) "Restricted account" means the Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in this section.]~~

~~[(2)(a)]~~ There is created a restricted account within the General Fund known as the "Drinking While Pregnant Prevention Media and Education Campaign Restricted Account~~[-]~~" which shall consist of:

~~[(b) The restricted account consists of:]~~

~~[(i)]~~ (1) money the Legislature appropriates to the restricted account; and

~~[(ii)]~~ (2) interest earned on the restricted account.

Section 74. Section 32B-2-402 is amended to read:

32B-2-402. Definitions -- Calculations.

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(1) As used in this part:

(a) "Account" means the Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account created in Section 32B-2-403.

(b) "Advisory council" means the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301.

(c) "Alcohol-related offense" means:

(i) a violation of:

(A) Section 41-6a-502; or

(B) an ordinance that complies with the requirements of:

(I) Subsection 41-6a-510(1); or

(II) Section 76-5-207; or

(ii) an offense involving the illegal:

(A) sale of an alcoholic product;

(B) consumption of an alcoholic product;

(C) distribution of an alcoholic product;

(D) transportation of an alcoholic product; or

(E) possession of an alcoholic product.

(d) "Annual conviction time period" means the time period that:

(i) begins on July 1 and ends on June 30; and

(ii) immediately precedes the fiscal year for which an appropriation under this part is made.

(e) "Municipality" means:

(i) a city;

(ii) a town; or

(iii) a metro township.

(f) (i) "Prevention" is as defined by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the Division of ~~Substance Abuse and Mental Health~~ Integrated Healthcare within the Department of Health and Human Services.

(ii) In defining the term "prevention," the Division of Substance Abuse and Mental Health shall:

(A) include only evidence-based or evidence-informed programs; and

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(B) provide for coordination with local substance abuse authorities designated to provide substance abuse services in accordance with Section 17-43-201.

(2) For purposes of Subsection 32B-2-404(1)(b)(iii), the number of premises located within the limits of a municipality or county:

(a) is the number determined by the department to be so located;

(b) includes the aggregate number of premises of the following:

(i) a state store;

(ii) a package agency; and

(iii) a retail licensee; and

(c) for a county, consists only of the number located within an unincorporated area of the county.

(3) The department shall determine:

(a) a population figure according to the most current population estimate prepared by the Utah Population Committee;

(b) a county's population for the 25% distribution to municipalities and counties under Subsection 32B-2-404(1)(b)(i) only with reference to the population in the unincorporated areas of the county; and

(c) a county's population for the 25% distribution to counties under Subsection 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of a municipality.

(4) (a) A conviction occurs in the municipality or county that actually prosecutes the offense to judgment.

(b) If a conviction is based upon a guilty plea, the conviction is considered to occur in the municipality or county that, except for the guilty plea, would have prosecuted the offense.

Section 75. Section 35A-3-103 (Effective 07/01/22) is amended to read:

35A-3-103 (Effective 07/01/22). Department responsibilities.

The department shall:

(1) administer public assistance programs assigned by the Legislature and the governor;

(2) determine eligibility for public assistance programs in accordance with the requirements of this chapter;

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(3) cooperate with the federal government in the administration of public assistance programs;

(4) administer state employment services;

(5) provide for the compilation of necessary or desirable information, statistics, and reports;

(6) perform other duties and functions required by law;

(7) monitor the application of eligibility policy;

(8) develop personnel training programs for effective and efficient operation of the programs administered by the department;

(9) provide refugee resettlement services in accordance with Section 35A-3-701;

(10) provide child care assistance for children in accordance with Part 2, Office of Child Care;

(11) provide services that enable an applicant or recipient to qualify for affordable housing in cooperation with:

(a) the Utah Housing Corporation;

(b) the Housing and Community Development Division; and

(c) local housing authorities;

[(12) in accordance with 42 C.F.R. Sec. 431.10, develop non-clinical eligibility policy and procedures to implement the eligibility state plan, waivers, and administrative rules developed and issued by the Department of Health and Human Services for medical assistance under.]

[(a) Title 26, Chapter 18, Medical Assistance Act; and]

[(b) Title 26, Chapter 40, Utah Children's Health Insurance Act;]

[(13)] (12) administer the Medicaid Eligibility Quality Control function in accordance with 42 C.F.R. Sec. 431.812; and

[(14)] (13) conduct non-clinical eligibility hearings and issue final decisions in adjudicative proceedings, including expedited appeals as defined in 42 C.F.R. Sec. 431.224, for medical assistance eligibility under:

(a) Title 26, Chapter 18, Medical Assistance Act; or

(b) Title 26, Chapter 40, Utah Children's Health Insurance Act.

Section 76. Section ~~41-1a-422~~ is amended to read:

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41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least \$25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of State Parks for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section

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72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section ~~62A-1-202~~ 26B-1-302;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section

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72-2-130;

(DD) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102;

(EE) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319;

(FF) the Latino Community Support Restricted Account created in Section 13-1-16;

(GG) the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101; or

(HH) public education on behalf of the Kiwanis International clubs, with the amount of the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support special group plates, as determined by the State Tax Commission, deposited into the Kiwanis Education Support Fund created in Section 53F-9-403, and all remaining donation amounts deposited into the Education Fund.

(ii) (A) For a veterans special group license plate described in Subsection 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose name at least a \$25 donation at the time of application and \$10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$15 has been donated at the time of application and annually after the time of application; and

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(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

- (i) the name of the contributor;
- (ii) the institution to which a donation was made;
- (iii) the date of the donation; and
- (iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

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(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 77. Section 53-3-106 is amended to read:

53-3-106. Disposition of revenues under this chapter -- Restricted account created -- Uses as provided by appropriation -- Nonlapsing.

(1) There is created within the Transportation Fund a restricted account known as the "Department of Public Safety Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) all money received under this chapter;

(b) administrative fees received according to the fee schedule authorized under this chapter and Section 63J-1-504;

(c) beginning on January 1, 2013, money received in accordance with Section 41-1a-1201; and

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(d) any appropriations made to the account by the Legislature.

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

(4) The expenses of the department in carrying out this chapter shall be provided for by legislative appropriation from this account.

(5) The amount in excess of \$45 of the fees collected under Subsection 53-3-105(25) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117, except that of the amount in excess of \$45, \$100 shall be deposited in the State Laboratory Drug Testing Account created in Section ~~26-1-34~~ 26B-1-304.

(6) All money received under Subsection 41-6a-1406(6)(b)(ii) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117.

(7) Beginning in fiscal year 2009-10, the Legislature shall appropriate \$100,000 annually from the account to the state medical examiner appointed under Section 26-4-4 for use in carrying out duties related to highway crash deaths under Subsection 26-4-7(1).

(8) The division shall remit the fees collected under Subsection 53-3-105(31) to the Bureau of Criminal Identification to cover the costs for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(9) (a) Beginning on January 1, 2013, the Legislature shall appropriate all money received in the account under Section 41-1a-1201 to the Utah Highway Patrol Division for field operations.

(b) The Legislature may appropriate additional money from the account to the Utah Highway Patrol Division for law enforcement purposes.

(10) Appropriations to the department from the account are nonlapsing.

(11) The department shall report to the Department of Health and Human Services, on or before December 31, the amount the department expects to collect under Subsection 53-3-105(25) in the next fiscal year.

Section 78. Section 53-5-707.6 is amended to read:

53-5-707.6. Concealed firearm permit renewal -- Firearm safety and suicide prevention video.

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(1) The bureau, in conjunction with the Division of ~~[Substance Abuse and Mental Health created in Section 62A-15-103]~~ Integrated Healthcare created in Section 26B-1-204, shall create a firearm safety and suicide prevention video that:

- (a) is web-accessible;
- (b) is no longer than 10 minutes in length; and
- (c) includes information about:
 - (i) safe handling, storage, and use of firearms in a home environment;
 - (ii) at-risk individuals and individuals who are legally prohibited from possessing firearms; and
 - (iii) suicide prevention awareness.

(2) Before renewing a firearm permit, an individual shall view the firearm safety and suicide prevention video and submit proof in the form required by the bureau.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the bureau shall make rules that establish procedures for:

- (a) producing and distributing the firearm safety and suicide prevention video; and
- (b) providing access to the video to an applicant seeking renewal of a firearm permit.

Section 79. Section 53-10-108 is amended to read:

53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.

(1) As used in this section:

(a) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.

(b) "Qualifying child care entity" means:

(i) the Office of Licensing within the Department of Health and Human Services, created in Section 62A-2-103;

(ii) the State Board of Education described in Section 53E-3-201; or

(iii) the Department of Health and Human Services created in Section ~~[26-1-4]~~ 26B-1-201.

(c) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints

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are registered in the system.

(d) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

(2) Except as provided in Subsection (17), dissemination of information from a criminal history record, including information obtained from a fingerprint background check, name check, warrant of arrest information, or information from division files, is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice;

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(c) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity;

(d) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(e) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(f) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(g) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(h) state agencies for the purpose of conducting a background check for the following individuals:

(i) employees;

(ii) applicants for employment;

(iii) volunteers; and

(iv) contract employees;

(i) governor's office for the purpose of conducting a background check on the following individuals:

(i) cabinet members;

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(ii) judicial applicants; and

(iii) members of boards, committees, and commissions appointed by the governor;

(j) the office of the lieutenant governor for the purpose of conducting a background check on an individual applying to be a notary public under Section 46-1-3;

(k) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(l) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(3) An agreement under Subsection (2)(k) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) shall obtain a signed waiver from the person whose information is requested.

(b) The waiver shall notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal justice name based background check of local databases to the bureau shall provide to the bureau:

(i) personal identifying information for the subject of the background check; and

(ii) the fee required by Subsection (15).

(d) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a WIN database check and a nationwide background check shall provide to the bureau:

(i) personal identifying information for the subject of the background check;

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(ii) a fingerprint card for the subject of the background check; and

(iii) the fee required by Subsection (15).

(e) Information received by a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) may only be:

(i) available to individuals involved in the hiring or background investigation of the job applicant, employee, or notary applicant;

(ii) used for the purpose of assisting in making an employment appointment, selection, or promotion decision or for considering a notary applicant under Section 46-1-3; and

(iii) used for the purposes disclosed in the waiver signed in accordance with Subsection (4)(b).

(f) An individual who disseminates or uses information obtained from the division under Subsections (2)(c) through (j) for purposes other than those specified under Subsection (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

(g) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) that obtains background check information shall provide the subject of the background check an opportunity to:

(i) review the information received as provided under Subsection (9); and

(ii) respond to any information received.

(h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).

(i) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsections (2)(c) through (j).

(5) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsection (5)(b), (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection (2)(f) may be provided by the agency to the individual who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under

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Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5(5), provide a criminal history record to the state agency or the agency's designee.

(6) The division may not disseminate criminal history record information to qualifying entities under Subsection (2)(c) regarding employment background checks if the information is related to charges:

- (a) that have been declined for prosecution;
- (b) that have been dismissed; or
- (c) regarding which a person has been acquitted.

(7) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(9) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) shall be set in accordance with Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(10) The private security agencies as provided in Subsection (2)(g):

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(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

(12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

(13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:

- (i) the WIN Database rap back system, or any successor system;
- (ii) the FBI Rap Back System; or
- (iii) a system maintained by the division.

(b) A qualifying entity or an entity described in Subsection (2) may only make a request under Subsection (13)(a) if the entity:

- (i) has the authority through state or federal statute or federal executive order;
- (ii) obtains a signed waiver from the individual whose fingerprints are being registered;

and

(iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.

(15) (a) The division shall impose fees set in accordance with Section 63J-1-504 for

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the applicant fingerprint card, name check, and to register fingerprints under Subsection (13)(a).

(b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(c) The division may collect fees charged by an outside agency for services required under this section.

(16) For the purposes of conducting a criminal background check authorized under Subsection (2)(h), (i), or (j), the Division of Human Resource Management, in accordance with Title 63A, Chapter 17, Utah State Personnel Management Act, and the governor's office shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(17) (a) Except as provided in Subsection (18), if an individual has an active FBI Rap Back System subscription with a qualifying child care entity, the division may, upon request from another qualifying child care entity, transfer the subscription to the requesting qualifying child care entity if:

(i) the requesting qualifying child care entity requests the transfer for the purpose of evaluating whether the individual should be permitted to obtain or retain a license for, or serve as an employee or volunteer in a position where the individual is responsible for, the care, custody, or control of children;

(ii) the requesting qualifying child care entity is expressly authorized by statute to obtain criminal history record information for the individual who is the subject of the request;

(iii) before requesting the transfer, the requesting qualifying child care entity obtains a signed waiver, containing the information described in Subsection (4)(b), from the individual who is the subject of the request;

(iv) the requesting qualifying child care entity or the individual pays any applicable fees set by the division in accordance with Section 63J-1-504; and

(v) the requesting qualifying child care entity complies with the requirements described in Subsection (4)(g).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules regulating the process described in this Subsection (17).

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(18) (a) Subsection (17) does not apply unless the Federal Bureau of Investigation approves the use of the FBI Rap Back System for the purpose described in Subsection (17)(a)(i) under the conditions described in Subsection (17).

(b) Subsection (17) does not apply to the extent that implementation of the provisions of Subsection (17) are contrary to the requirements of the Child Care and Development Block Grant, 42 U.S.C. Secs. 9857-9858r or any other federal grant.

(19) (a) Information received by a qualifying child care entity under Subsection (17) may only be disclosed and used as described in Subsection (4)(e).

(b) A person who disseminates or uses information received under Subsection (17) for a purpose other than those described in Subsection (4)(e) is subject to the penalties described in this section and is also subject to civil liability.

(c) A qualifying child care entity is not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (17).

Section 80. Section 53G-9-301 is amended to read:

53G-9-301. Definitions.

As used in this part:

(1) "Department" means the Department of Health~~[5]~~ and Human Services created in Section ~~[26-1-4]~~ 26B-1-201.

(2) "Health official" means an individual designated by a local health department from within the local health department to consult and counsel parents and licensed health care providers, in accordance with Subsection 53G-9-304(2)(a).

(3) "Health official designee" means a licensed health care provider designated by a local health department, in accordance with Subsection 53G-9-304(2)(b), to consult with parents, licensed health care professionals, and school officials.

(4) "Immunization" or "immunize" means a process through which an individual develops an immunity to a disease, through vaccination or natural exposure to the disease.

(5) "Immunization record" means a record relating to a student that includes:

(a) information regarding each required vaccination that the student has received, including the date each vaccine was administered, verified by:

(i) a licensed health care provider;

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- (ii) an authorized representative of a local health department;
- (iii) an authorized representative of the department;
- (iv) a registered nurse; or
- (v) a pharmacist;
- (b) information regarding each disease against which the student has been immunized by previously contracting the disease; and

(c) an exemption form identifying each required vaccination from which the student is exempt, including all required supporting documentation described in Section 53G-9-303.

(6) "Legally responsible individual" means:

- (a) a student's parent;
- (b) the student's legal guardian;
- (c) an adult brother or sister of a student who has no legal guardian; or
- (d) the student, if the student:
 - (i) is an adult; or
 - (ii) is a minor who may consent to treatment under Section 26-10-9.

(7) "Licensed health care provider" means a health care provider who is licensed under Title 58, Occupations and Professions, as:

- (a) a medical doctor;
- (b) an osteopathic doctor;
- (c) a physician assistant; or
- (d) an advanced practice registered nurse.

(8) "Local health department" means the same as that term is defined in Section 26A-1-102.

(9) "Required vaccines" means vaccines required by department rule described in Section 53G-9-305.

(10) "School" means any public or private:

- (a) elementary or secondary school through grade 12;
- (b) preschool;
- (c) child care program, as that term is defined in Section 26-39-102;
- (d) nursery school; or
- (e) kindergarten.

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(11) "Student" means an individual who attends a school.

(12) "Vaccinating" or "vaccination" means the administration of a vaccine.

(13) "Vaccination exemption form" means a form, described in Section 53G-9-304, that documents and verifies that a student is exempt from the requirement to receive one or more required vaccines.

(14) "Vaccine" means the substance licensed for use by the United States Food and Drug Administration that is injected into or otherwise administered to an individual to immunize the individual against a communicable disease.

Section 81. Section 53G-9-309 is amended to read:

53G-9-309. School record of students' immunization status -- Confidentiality.

(1) Each school shall maintain a current list of all enrolled students, noting each student:

- (a) for whom the school has received a valid and complete immunization record;
- (b) who is exempt from receiving a required vaccine; and
- (c) who is allowed to attend school under Section 53G-9-308.

(2) Each school shall ensure that the list described in Subsection (1) specifically identifies each disease against which a student is not immunized.

(3) Upon the request of an official from a local health department in the case of a disease outbreak, a school principal or administrator shall:

(a) notify the legally responsible individual of any student who is not immune to the outbreak disease, providing information regarding steps the legally responsible individual may take to protect students;

(b) identify each student who is not immune to the outbreak disease; and

(c) for a period determined by the local health department not to exceed the duration of the disease outbreak, do one of the following at the discretion of the school principal or administrator after obtaining approval from the local health department:

(i) provide a separate educational environment for the students described in Subsection (3)(b) that ensures the protection of the students described in Subsection (3)(b) as well as the protection of the remainder of the student body; or

(ii) prevent each student described in Subsection (3)(b) from attending school.

(4) A name appearing on the list described in Subsection (1) is subject to

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confidentiality requirements described in Section ~~[26-1-17.5]~~ 26B-1-212 and Section 53E-9-202.

Section 82. Section 58-1-601 is amended to read:

58-1-601. Suicide prevention video -- Primary care providers.

(1) As used in this section:

(a) "Nurse practitioner" means an individual who is licensed to practice as an advanced practice registered nurse under Chapter 31b, Nurse Practice Act.

(b) "Physician" means an individual licensed to practice as a physician or osteopath under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act.

(c) "Physician assistant" means an individual who is licensed to practice as a physician assistant under Chapter 70a, Utah Physician Assistant Act.

(d) "Primary care provider" means a nurse practitioner, physician, or physician assistant.

(2) The division, in conjunction with the Division of ~~[Substance Abuse and Mental Health created in Section 62A-15-103]~~ Integrated Healthcare created in Section 26B-1-204, shall:

(a) create a series of suicide prevention videos that:

(i) are web-accessible;

(ii) are each no longer than 20 minutes in length; and

(iii) include information about:

(A) individuals at-risk for suicide; and

(B) suicide prevention and intervention; and

(b) provide, on the division's website, educational materials or courses that relate to suicide prevention that a primary care provider may complete at no cost and apply toward continuing competency requirements required by division rule.

(3) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish procedures for:

(a) producing the suicide prevention videos described in Subsection (2); and

(b) providing access to the videos to each primary care provider.

Section 83. Section 58-17b-620 is amended to read:

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58-17b-620. Prescriptions issued within the public health system.

(1) As used in this section:

(a) "Department of Health and Human Services" means the [state] Department of Health and Human Services created in Section [26-1-4] 26B-1-201.

(b) "Health department" means either the Department of Health and Human Services or a local health department.

(c) "Local health departments" mean the local health departments created in Title 26A, Chapter 1, Local Health Departments.

(2) When it is necessary to treat a reportable disease or non-emergency condition that has a direct impact on public health, a health department may implement the prescription procedure described in Subsection (3) for a prescription drug that is not a controlled substance for use in:

(a) a clinic; or

(b) a remote or temporary off-site location, including a triage facility established in the community, that provides:

(i) treatment for sexually transmitted infections;

(ii) fluoride treatment;

(iii) travel immunization;

(iv) preventative treatment for an individual with latent tuberculosis infection;

(v) preventative treatment for an individual at risk for an infectious disease that has a direct impact on public health when the treatment is indicated to prevent the spread of disease or to mitigate the seriousness of infection in the exposed individual; or

(vi) other treatment as defined by the Department of Health [rule] and Human Services by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) In a circumstance described in Subsection (2), an individual with prescriptive authority may write a prescription for each contact, as defined in Section 26-6-2, of a patient of the individual with prescriptive authority without a face-to-face exam, if:

(a) the individual with prescriptive authority is treating the patient for a reportable disease or non-emergency condition having a direct impact on public health; and

(b) the contact's condition is the same as the patient of the individual with prescriptive authority.

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(4) The following prescription procedure shall be carried out in accordance with the requirements of Subsection (5) and may be used only in the circumstances described under Subsections (2) and (3):

(a) a physician writes and signs a prescription for a prescription drug, other than a controlled substance, without the name and address of the patient and without the date the prescription is provided to the patient; and

(b) the physician authorizes a registered nurse employed by the health department to complete the prescription written under this Subsection (4) by inserting the patient's name and address, and the date the prescription is provided to the patient, in accordance with the physician's standing written orders and a written health department protocol approved by the physician and the medical director of the state Department of Health and Human Services.

(5) A physician assumes responsibility for all prescriptions issued under this section in the physician's name.

(6) (a) All prescription forms to be used by a physician and health department in accordance with this section shall be serially numbered according to a numbering system assigned to that health department.

(b) All prescriptions issued shall contain all information required under this chapter and rules adopted under this chapter.

Section 84. Section 58-17b-627 is amended to read:

58-17b-627. Prescription of drugs or devices by a pharmacist.

(1) Beginning January 1, 2022, a pharmacist may prescribe a prescription drug or device if:

(a) prescribing the prescription drug or device is within the scope of the pharmacist's training and experience;

(b) the prescription drug or device is designated by the division by rule under Subsection (3)(a); and

(c) the prescription drug or device is not a controlled substance that is included in Schedules I, II, III, or IV of:

(i) Section 58-37-4; or

(ii) the federal Controlled Substances Act, Title II, P.L. 91-513.

(2) Nothing in this section requires a pharmacist to issue a prescription for a

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prescription drug or device.

(3) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) designate the prescription drugs or devices that may be prescribed by a pharmacist under this section, beginning with prescription drugs or devices that address a public health concern that is designated by the Department of Health and Human Services, including:

- (i) post-exposure HIV prophylaxis;
- (ii) pre-exposure HIV prophylaxis;
- (iii) self-administered hormonal contraceptives;
- (iv) smoking cessation; and
- (v) naloxone;

(b) create guidelines that a pharmacist must follow when prescribing a prescription drug or device, including guidelines:

(i) for notifying the patient's primary care or other health care provider about the prescription; and

(ii) to prevent the over-prescription of drugs or devices including but not limited to antibiotics;

(c) address when a pharmacist should refer the patient to an appropriate health care provider or otherwise encourage the patient to seek further medical care; and

(d) implement the provisions of this section.

(4) The division shall make rules under Subsection (3) in collaboration with:

(a) individuals representing pharmacies and pharmacists;

(b) individuals representing physicians and advanced practice clinicians; and

(c) (i) if the executive director of the Department of Health and Human Services is a physician, the executive director of the Department of Health and Human Services;

(ii) if the executive director of the Department of Health and Human Services is not a physician, a deputy director who is a physician in accordance with Subsection ~~[26-1-9(4)]~~ 26B-1-203(4); or

(iii) a designee of the individual described in ~~[Subsection (4)(c)(i) or (ii)]~~ Section 26B-1-203.

(5) Before November 1 of each year, the division, in consultation with the individuals

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described in Subsection (4), shall:

(a) develop recommendations for statutory changes to improve patient access to prescribed drugs in the state; and

(b) report the recommendations developed under Subsection (5)(a) to the Health and Human Services Interim Committee.

Section 85. Section 58-17b-902 is amended to read:

58-17b-902. Definitions.

As used in this part:

(1) "Assisted living facility" means the same as that term is defined in Section 26-21-2.

(2) "Cancer drug" means a drug that controls or kills neoplastic cells and includes a drug used in chemotherapy to destroy cancer cells.

(3) "Charitable clinic" means a charitable nonprofit corporation that:

(a) holds a valid exemption from federal income taxation issued under Section 501(a), Internal Revenue Code;

(b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(c) provides, on an outpatient basis, for a period of less than 24 consecutive hours, to an individual not residing or confined at a facility owned or operated by the charitable nonprofit corporation:

(i) advice;

(ii) counseling;

(iii) diagnosis;

(iv) treatment;

(v) surgery; or

(vi) care or services relating to the preservation or maintenance of health; and

(d) has a licensed outpatient pharmacy.

(4) "Charitable pharmacy" means an eligible pharmacy that is operated by a charitable clinic.

(5) "County health department" means the same as that term is defined in Section 26A-1-102.

(6) "Donated prescription drug" means a prescription drug that an eligible donor or

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individual donates to an eligible pharmacy under the program.

(7) "Eligible donor" means a donor that donates a prescription drug from within the state and is:

- (a) a nursing care facility;
- (b) an assisted living facility;
- (c) a licensed intermediate care facility for people with an intellectual disability;
- (d) a manufacturer;
- (e) a pharmaceutical wholesale distributor;
- (f) an eligible pharmacy; or
- (g) a physician's office.

(8) "Eligible pharmacy" means a pharmacy that:

- (a) is registered by the division as eligible to participate in the program; and
- (b) (i) is licensed in the state as a Class A retail pharmacy; or
- (ii) is operated by:
 - (A) a county;
 - (B) a county health department;
 - (C) a pharmacy under contract with a county health department;
 - (D) the Department of Health~~;~~ and Human Services created in Section ~~[26-1-4]~~

26B-1-201; or

~~[(E) the Division of Substance Abuse and Mental Health, created in Section 62A-15-103; or]~~

~~[(F)]~~ [(E)] a charitable clinic.

(9) "Eligible prescription drug" means a prescription drug, described in Section 58-17b-904, that is not:

- (a) a controlled substance; or
- (b) a drug that can only be dispensed to a patient registered with the drug's manufacturer in accordance with federal Food and Drug Administration requirements.

(10) "Licensed intermediate care facility for people with an intellectual disability" means the same as that term is defined in Section 58-17b-503.

(11) "Medically indigent individual" means an individual who:

- (a) (i) does not have health insurance; and

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(ii) lacks reasonable means to purchase prescribed medications; or

(b) (i) has health insurance; and

(ii) lacks reasonable means to pay the insured's portion of the cost of the prescribed medications.

(12) "Nursing care facility" means the same as that term is defined in Section 26-18-501.

(13) "Physician's office" means a fixed medical facility that:

(a) is staffed by a physician, physician's assistant, nurse practitioner, or registered nurse, licensed under Title 58, Occupations and Professions; and

(b) treats an individual who presents at, or is transported to, the facility.

(14) "Program" means the Charitable Prescription Drug Recycling Program created in Section 58-17b-903.

(15) "Unit pack" means the same as that term is defined in Section 58-17b-503.

(16) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

(17) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-502.

Section 86. Section 58-17b-907 is amended to read:

58-17b-907. Rules made by the division.

The rules made by the division under Subsection 58-17b-903(2)(b) shall include:

(1) registration requirements to establish the eligibility of a pharmacy to participate in the program;

(2) a formulary that includes all eligible prescription drugs approved by the federal Food and Drug Administration;

(3) standards and procedures for:

(a) verifying whether a pharmacy or pharmacist participating in the program is licensed and in good standing with the board;

(b) handling of an eligible prescription drug transferred in accordance with Subsection 58-17b-903(2) to an eligible pharmacy or a physician's office, including:

(i) acceptance;

(ii) identification, including redundant criteria for verification;

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(iii) documentation, under 21 U.S.C. Sec. 360eee-1, of transaction information, history, and statements;

(iv) safe storage;

(v) security;

(vi) inspection;

(vii) transfer; and

(viii) dispensing;

(c) a pharmacist, pharmacy intern, or licensed pharmacy technician:

(i) working in or consulting with a participating eligible donor; or

(ii) assisting an individual donating the eligible prescription drug;

(d) disposition of a donated prescription drug that is a controlled substance;

(e) record keeping regarding:

(i) the individual or eligible donor that transferred an eligible prescription drug under Subsection 58-17b-903(2)(a);

(ii) the identification and evaluation of a donated prescription drug by a pharmacist or licensed pharmacy technician; and

(iii) the dispensing or disposition of a prescription drug;

(f) determining the status of a medically indigent individual;

(g) labeling requirements to:

(i) ensure compliance with patient privacy laws relating to:

(A) an individual who receives an eligible prescription drug; and

(B) patient information that may appear on a donated prescription drug;

(ii) clearly identify an eligible prescription drug dispensed under the program; and

(iii) communicate necessary information regarding the manufacturer's recommended expiration date or the beyond use date; and

(h) ensuring compliance with the requirements of this part;

(4) a process for seeking input from ~~the~~

~~the~~ ~~(a)~~ ~~(f)~~ the Department of Health ~~and~~ and Human Services created in Section ~~26-1-4,~~ to 26B-1-201 to:

(a) establish program standards and procedures for assisted living facilities and nursing care facilities; and

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(b) ~~[the Division of Substance Abuse and Mental Health, created in Section 62A-15-103, to]~~ establish program standards and procedures for mental health and substance abuse clients; and

(5) the creation of a special training program that a pharmacist and a licensed pharmacy technician at an eligible pharmacy must complete before participating in the program.

Section 87. Section 62A-1-104 is amended to read:

62A-1-104. Definitions.

(1) As used in this title:

(a) "Competency evaluation" means the same as that term is defined in Section 77-15-2.

(b) "Concurrence of the board" means agreement by a majority of the members of a board.

(c) "Department" means the Department of Health and Human Services [established in Section 62A-1-102] created in Section 26B-1-201.

(d) "Executive director" means the executive director of the department, appointed under Section [62A-1-108] 26B-1-203.

(e) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(f) "Stabilization services" means in-home services provided to a child with, or who is at risk for, complex emotional and behavioral needs, including teaching the child's parent or guardian skills to improve family functioning.

(g) "System of care" means a broad, flexible array of services and supports that:

(i) serves a child with or who is at risk for complex emotional and behavioral needs;

(ii) is community based;

(iii) is informed about trauma;

(iv) builds meaningful partnerships with families and children;

(v) integrates service planning, service coordination, and management across state and local entities;

(vi) includes individualized case planning;

(vii) provides management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and

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(viii) is guided by the type and variety of services needed by a child with or who is at risk for complex emotional and behavioral needs and by the child's family.

(2) The definitions provided in Subsection (1) are to be applied in addition to definitions contained throughout this title that are applicable to specified chapters or parts.

Section 88. Section 62A-1-107 is amended to read:

62A-1-107. Board of Aging and Adult Services -- Members, appointment, terms, vacancies, chairperson, compensation, meetings, quorum.

(1) The Board of Aging and Adult Services ~~[described in Subsection 62A-1-105(1)(a)]~~ created in Section 26B-1-204 shall have seven members who are appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) (a) Except as required by Subsection (2)(b), each member shall be appointed for a term of four years, and is eligible for one reappointment.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Board members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 90 days after the formal expiration of a term.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) No more than four members of the board may be from the same political party. The board shall have diversity of gender, ethnicity, and culture; and members shall be chosen on the basis of their active interest, experience, and demonstrated ability to deal with issues related to the Board of Aging and Adult Services.

(4) The board shall annually elect a chairperson from the board's membership. The board shall hold meetings at least once every three months. Within budgetary constraints, meetings may be held from time to time on the call of the chairperson or of the majority of the members of the board. Four members of the board are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the

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action of the board.

(5) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The board shall adopt bylaws governing its activities. Bylaws shall include procedures for removal of a board member who is unable or unwilling to fulfill the requirements of the board member's appointment.

(7) The board has program policymaking authority for the division over which the board presides.

(8) A member of the board shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 89. Section 62A-2-121 is amended to read:

62A-2-121. Access to abuse and neglect information.

(1) As used in this section:

(a) "Direct service worker" means the same as that term is defined in Section 62A-5-101.

(b) "Personal care attendant" means the same as that term is defined in Section 62A-3-101.

(2) With respect to a licensee, a direct service worker, or a personal care attendant, the department may access only the Licensing Information System of the Division of Child and Family Services created by Section 62A-4a-1006 and juvenile court records under Subsection 80-3-404(6), for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to children:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); and

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- (ii) informing a licensee that a person associated with the licensee:
 - (A) is listed in the Licensing Information System; or
 - (B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2);
- (b) (i) determining whether a direct service worker:
 - (A) is listed in the Licensing Information System; or
 - (B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); and
- (ii) informing a direct service worker or the direct service worker's employer that the direct service worker:
 - (A) is listed in the Licensing Information System; or
 - (B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); or
- (c) (i) determining whether a personal care attendant:
 - (A) is listed in the Licensing Information System; or
 - (B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); and
- (ii) informing a person described in Subsections 62A-3-101(9)(a)(i) through (iv) that a personal care attendant:
 - (A) is listed in the Licensing Information System; or
 - (B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2).
- (3) Notwithstanding Subsection (2), the department may access the Division of Child and Family Services' Management Information System under Section 62A-4a-1003:
 - (a) for the purpose of licensing and monitoring foster parents;
 - (b) for the purposes described in Subsection 62A-4a-1003(1)(d); and
 - (c) for the purpose described in Section ~~[62A-1-118]~~ 26B-1-211.
- (4) The department shall receive and process personal identifying information under Subsection 62A-2-120(1) for the purposes described in Subsection (2).
- (5) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with this chapter, defining the circumstances under which a person

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may have direct access or provide services to children when:

(a) the person is listed in the Licensing Information System of the Division of Child and Family Services created by Section 62A-4a-1006; or

(b) juvenile court records show that a court made a substantiated finding under Section 80-3-404, that the person committed a severe type of child abuse or neglect.

Section 90. Section 62A-4a-412 is amended to read:

62A-4a-412. Reports, information, and referrals confidential.

(1) Except as otherwise provided in this chapter, reports made under this part, as well as any other information in the possession of the division obtained as the result of a report are private, protected, or controlled records under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection team;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) a subject of the report, the natural parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not an individual's acts or omissions constituted any level of abuse or neglect of another individual;

(g) an office of the public prosecutor or its deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

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(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any individual identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(n) an Indian tribe to:

(i) certify or license a foster home;

(ii) render services to a subject of a report; or

(iii) investigate an allegation of abuse, neglect, or dependency; or

(o) the ~~Division of Substance Abuse and Mental Health, the Department of Health,~~ department or a local substance abuse authority, described in Section 17-43-201, for the purpose of providing substance abuse treatment to a pregnant woman or a parent of a newborn child, or the services described in Subsection 62A-15-103(2)(o).

(2) (a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that the request is a violation of

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Subsection (2)(a) is subject to the criminal penalty in Subsection (4).

(3) (a) Except as provided in Section 62A-4a-1007, the division and law enforcement officials shall ensure the anonymity of the person or persons making the initial report and any others involved in the division's or law enforcement officials' subsequent investigation.

(b) Notwithstanding any other provision of law, excluding Section 80-3-107, but including this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, when the division makes a report or other information in the division's possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

- (i) identify the referent;
- (ii) impede a criminal investigation; or
- (iii) endanger an individual's safety.

(4) Any person who willfully permits, or aides and abets the release of data or information obtained as a result of this part, in the possession of the division or contained on any part of the Management Information System, in violation of this part or Sections 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

(5) (a) As used in this Subsection (5), "physician" means an individual licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The physician-patient privilege does not:

- (i) excuse a physician from reporting suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency under this part; and
- (ii) constitute grounds for excluding evidence regarding a child's injuries, or the cause of the child's injuries, in any judicial or administrative proceeding resulting from a report under this part.

(6) A child-placing agency or person who receives a report in connection with a preplacement adoptive evaluation under Sections 78B-6-128 and 78B-6-130:

- (a) may provide this report to the person who is the subject of the report; and
- (b) may provide this report to a person who is performing a preplacement adoptive evaluation in accordance with the requirement of Sections 78B-6-128 and 78B-6-130, or to a

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licensed child-placing agency or to an attorney seeking to facilitate an adoption.

(7) A member of a child protection team may, before the day on which the child is removed, share case-specific information obtained from the division under this section with other members of the child protection team.

(8) (a) Except as provided in Subsection (8)(b), in a divorce, custody, or related proceeding between private parties, a court may not receive into evidence a report that:

(i) is provided to the court:

(A) under Subsection (1)(f); or

(B) by a parent of the child after the record is made available to the parent under Subsection (1)(e);

(ii) describes a parent of the child as the alleged perpetrator; and

(iii) is found to be unsubstantiated, unsupported, or without merit.

(b) (i) After a motion to admit the report described in Subsection (8)(a) is made, the court shall allow sufficient time for all subjects of the record to respond before making a finding on the motion.

(ii) After considering the motion described in Subsection (8)(b), the court may receive the report into evidence upon a finding on the record of good cause.

Section 91. Section 62A-14-108 is amended to read:

62A-14-108. Office volunteers.

(1) A person who desires to be an office volunteer shall:

(a) possess demonstrated personal characteristics of honesty, integrity, compassion, and concern for incapacitated persons; and

(b) upon request, submit information for a background check pursuant to Section ~~62A-1-118~~ 26B-1-211.

(2) An office volunteer may not receive compensation or benefits, but may be reimbursed by the office for expenses actually and reasonably incurred, consistent with Title 67, Chapter 20, Volunteer Government Workers Act.

(3) An office volunteer is immune from civil liability pursuant to Title 63G, Chapter 8, Immunity for Persons Performing Voluntary Services Act.

Section 92. Section 62A-15-102 is amended to read:

~~{63A-13-102}~~ 62A-15-102. Definitions.

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As used in this chapter:

- (1) "Criminal risk factors" means a person's characteristics and behaviors that:
 - (a) affect the person's risk of engaging in criminal behavior; and
 - (b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.
- (2) "Director" means the director [of the Division of Substance Abuse and Mental Health] appointed under Section 62A-15-104.
- (3) "Division" means the Division of [Substance Abuse and Mental Health established in Section 62A-15-103] Integrated Healthcare created in Section 26B-1-202.
- (4) "Local mental health authority" means a county legislative body.
- (5) "Local substance abuse authority" means a county legislative body.
- (6) "Mental health crisis" means:
 - (a) a mental health condition that manifests in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:
 - (i) serious danger to the individual's health or well-being; or
 - (ii) a danger to the health or well-being of others; or
 - (b) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or intervention.
- (7) "Mental health crisis response training" means community-based training that educates laypersons and professionals on the warning signs of a mental health crisis and how to respond.
- (8) "Mental health crisis services" means an array of services provided to an individual who experiences a mental health crisis, which may include:
 - (a) direct mental health services;
 - (b) on-site intervention provided by a mobile crisis outreach team;
 - (c) the provision of safety and care plans;
 - (d) prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis;
 - (e) referrals to other community resources;
 - (f) local mental health crisis lines; and

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(g) the statewide mental health crisis line.

(9) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.

(11) (a) "Public funds" means federal money received from the [Department of Human Services or the Department of Health] department, and state money appropriated by the Legislature to the [Department of Human Services, the Department of Health] department, a county governing body, or a local substance abuse authority, or a local mental health authority for the purposes of providing substance abuse or mental health programs or services.

(b) "Public funds" include federal and state money that has been transferred by a local substance abuse authority or a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority. The money maintains the nature of "public funds" while in the possession of the private entity that has an annual or otherwise ongoing contract with a local substance abuse authority or a local mental health authority to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority.

(c) Public funds received for the provision of services [pursuant to] under substance abuse or mental health service plans may not be used for any other purpose except those authorized in the contract between the local mental health or substance abuse authority and provider for the provision of plan services.

(12) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.

(13) "Statewide mental health crisis line" means the same as that term is defined in Section 62A-15-1301.

Section 93. Section 62A-15-103 is amended to read:

62A-15-103. Division -- Responsibilities.

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(1) (a) [There is created] The division shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of [Substance Abuse and Mental Health] Integrated Healthcare within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

(iii) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;

(v) except as provided in Section 62A-15-103.5, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private programs, minimum standards for public and private providers of substance abuse and mental health programs licensed by the department under [Title 62A,] Chapter 2, Licensure of Programs and Facilities;

(vi) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;

(vii) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance use disorder and mental illness that addresses criminal risk factors;

(viii) evaluate the effectiveness of programs described in this Subsection (2);

(ix) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

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(C) the homeless population; and

(D) the child welfare system; and

(x) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

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(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance abuse services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(j); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance abuse programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements;

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and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate;

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

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Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance use disorder and mental health treatment to an individual who is incarcerated or who is required to participate in treatment by a court or by the Board of Pardons and Parole, including:

(i) collaboration with the Department of Corrections and the Utah Substance Use and Mental Health Advisory Council to develop and coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;

(ii) determining that the standards ensure available treatment, including the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and

(iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(i) in order to receive public funds allocated to the division, the Department of Corrections, or the State Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;

(j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with

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Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers, including individuals licensed by the Division of Occupational and Professional Licensing, programs licensed by the department, and health care facilities licensed by the [Department of Health] department, who provide, as part of their practice, substance use disorder and mental health treatment to an individual involved in the criminal justice system, including:

(i) collaboration with the Department of Corrections, the Utah Substance Use and Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;

(ii) basing the certification process on the standards developed under Subsection (2)(i) for the treatment of an individual involved in the criminal justice system; and

(iii) the requirement that a public or private provider of treatment to an individual involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the State Commission on Criminal and Juvenile Justice on or after July 1, 2016;

(k) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an offender convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(l) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(i), including recidivism data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; and

(ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;

(m) in the division's discretion, use the data to make decisions regarding the use of

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funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(i):

(n) annually, on or before August 31, submit the data collected under Subsection (2)(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees; and

(o) consult and coordinate with [the Department of Health and] the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance abuse during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance abuse during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance abuse disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance abuse treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with [the Department of Health,] local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

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- (C) information about suicide prevention awareness; and
- (D) information about the availability of firearm safety packets;
- (ii) procure cable-style gun locks for distribution under this section;
- (iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and
- (iv) create a suicide prevention education course that:
 - (A) provides information for distribution regarding firearm safety education;
 - (B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and
 - (C) provides information regarding crisis intervention resources;
- (b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:
 - (i) health care providers, including emergency rooms;
 - (ii) mobile crisis outreach teams;
 - (iii) mental health practitioners;
 - (iv) other public health suicide prevention organizations;
 - (v) entities that teach firearm safety courses;
 - (vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and
 - (vii) firearm dealers to be distributed in accordance with Section 76-10-526;
- (c) creating and administering a rebate program that includes a rebate that offers between \$10 and \$200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;
- (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:
 - (i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;
 - (ii) procuring the cable-style gun locks for distribution; and
 - (iii) administering the rebate program; and
 - (e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education

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course at or before the November meeting each year.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's

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failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 94. Section 62A-15-104 is amended to read:

62A-15-104. Director -- Qualifications.

(1) The [director of the division shall be appointed by the] executive director shall appoint an individual to carry out all or part of the duties and responsibilities of the director described in this part.

(2) The director appointed under Subsection (1) shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in matters concerning substance abuse and mental health.

[~~(3) The director is the administrative head of the division.~~]

Section 95. Section 63A-13-102 is amended to read:

63A-13-102. Definitions.

As used in this chapter:

(1) "Abuse" means:

(a) an action or practice that:

(i) is inconsistent with sound fiscal, business, or medical practices; and

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- (ii) results, or may result, in unnecessary Medicaid related costs; or
- (b) reckless or negligent upcoding.
- (2) "Claimant" means a person that:
 - (a) provides a service; and
 - (b) submits a claim for Medicaid reimbursement for the service.
- (3) "Department" means the Department of Health~~;~~ and Human Services created in Section ~~26-1-4~~ 26B-1-201.
- (4) "Division" means the Division of Medicaid and Health Financing, created in Section 26-18-2.1.
- (5) "Extrapolation" means a method of using a mathematical formula that takes the audit results from a small sample of Medicaid claims and projects those results over a much larger group of Medicaid claims.
- (6) "Fraud" means intentional or knowing:
 - (a) deception, misrepresentation, or upcoding in relation to Medicaid funds, costs, a claim, reimbursement, or services; or
 - (b) a violation of a provision of Sections 26-20-3 through 26-20-7.
- (7) "Fraud unit" means the Medicaid Fraud Control Unit of the attorney general's office.
- (8) "Health care professional" means a person licensed under:
 - (a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;
 - (b) Title 58, Chapter 16a, Utah Optometry Practice Act;
 - (c) Title 58, Chapter 17b, Pharmacy Practice Act;
 - (d) Title 58, Chapter 24b, Physical Therapy Practice Act;
 - (e) Title 58, Chapter 31b, Nurse Practice Act;
 - (f) Title 58, Chapter 40, Recreational Therapy Practice Act;
 - (g) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act;
 - (h) Title 58, Chapter 42a, Occupational Therapy Practice Act;
 - (i) Title 58, Chapter 44a, Nurse Midwife Practice Act;
 - (j) Title 58, Chapter 49, Dietitian Certification Act;
 - (k) Title 58, Chapter 60, Mental Health Professional Practice Act;
 - (l) Title 58, Chapter 67, Utah Medical Practice Act;

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- (m) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
- (n) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;
- (o) Title 58, Chapter 70a, Utah Physician Assistant Act; and
- (p) Title 58, Chapter 73, Chiropractic Physician Practice Act.

(9) "Inspector general" means the inspector general of the office, appointed under Section 63A-13-201.

(10) "Office" means the Office of Inspector General of Medicaid Services, created in Section 63A-13-201.

(11) "Provider" means a person that provides:

(a) medical assistance, including supplies or services, in exchange, directly or indirectly, for Medicaid funds; or

(b) billing or recordkeeping services relating to Medicaid funds.

(12) "Upcoding" means assigning an inaccurate billing code for a service that is payable or reimbursable by Medicaid funds, if the correct billing code for the service, taking into account reasonable opinions derived from official published coding definitions, would result in a lower Medicaid payment or reimbursement.

(13) (a) "Waste" means the act of using or expending a resource carelessly, extravagantly, or to no purpose.

(b) "Waste" includes an activity that:

(i) does not constitute abuse or necessarily involve a violation of law; and

(ii) relates primarily to mismanagement, an inappropriate action, or inadequate oversight.

Section 96. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

~~[(1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.]~~

~~[(2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed July 1, 2025.]~~

~~[(3)]~~ [(1)] Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

~~[(4)]~~ [(2)] Section 26-1-40 is repealed July 1, 2022.

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~~[(5)]~~1(3) Section 26-1-41 is repealed July 1, 2026.

~~[(6)]~~1(4) Section 26-7-10 is repealed July 1, 2025.

~~[(7)]~~1(5) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

~~[(8)]~~1(6) Section 26-7-14 is repealed December 31, 2027.

~~[(9)]~~1(7) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

~~[(10)]~~1(8) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

~~[(11)]~~1(9) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

~~[(12)]~~1(10) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed on July 1, 2022.

~~[(13)]~~1(11) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

~~[(14)]~~1(12) Section 26-18-27 is repealed July 1, 2025. ~~{ }~~

~~[(15)]~~1(13) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

~~[(16)]~~1(14) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

~~[(17)]~~1(15) Section 26-33a-117 is repealed on December 31, 2023.

~~[(18)]~~1(16) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

~~[(19)]~~1(17) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

~~[(20)]~~1(18) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

~~[(21)]~~1(19) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

~~[(22)]~~1(20) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

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~~[(23)]~~ [(21)] Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

~~[(24)]~~ [(22)] Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

~~[(25)]~~ [(23)] Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

~~[(26)]~~ [(24)] Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

~~[(27)]~~ [(25)] Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

~~[(28)]~~ [(26)] Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

[(27)] Subsection 26B-1-204(2)(i), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

[(28)] Subsection 26B-1-204(2)(k), related to the Primary Care Grant Committee, is repealed July 1, 2025.

Section 97. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates -- Titles 26 through 26B.

[(1)] Subsection 26-1-7(1)(c), in relation to the Air Ambulance Committee, is repealed July 1, 2024.]

[(2)] Section 26-4-6.1 is repealed January 1, 2022.]

[(3)] Section 26-6-41, in relation to termination of public health emergency powers pertaining to COVID-19, is repealed on July 1, 2021.]

[(4)] (1) Subsection 26-7-8(3) is repealed January 1, 2027.

[(5)] (2) Section 26-8a-107 is repealed July 1, 2024.

[(6)] (3) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

[(7)] (4) Section 26-8a-211 is repealed July 1, 2023.

[(8)] (5) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26-8a-602(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

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(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[(9)] (6) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

[(10)] (7) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.

[(11)] (8) Subsection 26-18-420(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

[(12)] (9) In relation to the Air Ambulance Committee, July 1, 2024, Subsection 26-21-32(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[(13)] (10) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

[(14)] (11) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[(15)] (12) Subsection 26-61-202(4)(b) is repealed January 1, 2022.

[(16)] (13) Subsection 26-61-202(5) is repealed January 1, 2022.

[(17) Section 26A-1-130, in relation to termination of public health emergency powers pertaining to COVID-19, is repealed on July 1, 2021.]

[(18) Section 26B-1-201.1 is repealed July 1, 2022.]

(14) Subsection 26B-1-204(2)(f), relating to the Air Ambulance Committee, is repealed July 1, 2024.

Section 98. Section **63J-1-315** is amended to read:

63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account --

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Transfers of Medicaid growth savings -- Base budget adjustments.

(1) As used in this section:

(a) "Department" means the Department of Health and Human Services created in Section ~~[26-1-4]~~ 26B-1-201.

(b) "Division" means the Division of Medicaid and Health Financing created in Section 26-18-2.1.

(c) "General Fund revenue surplus" means a situation where actual General Fund revenues collected in a completed fiscal year exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid program expenditures, if Medicaid program expenditures are less than the Medicaid growth target.

(e) "Medicaid growth target" means Medicaid program expenditures for the previous year multiplied by 1.08.

(f) "Medicaid program" is as defined in Section 26-18-2.

(g) "Medicaid program expenditures" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during a fiscal year.

(h) "Medicaid program expenditures for the previous year" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during the fiscal year immediately preceding a fiscal year for which Medicaid program expenditures are calculated.

(i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(j) "State revenue" means revenue other than federal revenue.

(k) "State revenue expended for the Medicaid program" includes money transferred or appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the extent the money is appropriated for the Medicaid program by the Legislature.

(2) There is created within the General Fund a restricted account to be known as the Medicaid Growth Reduction and Budget Stabilization Account.

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(3) (a) (i) Except as provided in Subsection (6), if, at the end of a fiscal year, there is a General Fund revenue surplus, the Division of Finance shall transfer an amount equal to Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and Budget Stabilization Account.

(ii) If the amount transferred is reduced to prevent an operating deficit, as provided in Subsection (6), the Legislature shall include, to the extent revenue is available, an amount equal to the reduction as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the Legislature shall include, to the extent revenue is available, an amount equal to Medicaid growth savings as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department implements the proposal developed under Section 26-18-405 to reduce the long-term growth in state expenditures for the Medicaid program, and to each fiscal year after that year.

(4) The Division of Finance shall calculate the amount to be transferred under Subsection (3):

(a) before transferring revenue from the General Fund revenue surplus to:

(i) the General Fund Budget Reserve Account under Section 63J-1-312;

(ii) the Wildland Fire Suppression Fund created in Section 65A-8-204, as described in Section 63J-1-314; and

(iii) the State Disaster Recovery Restricted Account under Section 63J-1-314;

(b) before earmarking revenue from the General Fund revenue surplus to the Industrial Assistance Account under Section 63N-3-106; and

(c) before making any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law.

(5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay additional debt service for any bonded debt authorized by the Legislature, the Division of Finance may hold back from any General Fund revenue surplus money sufficient to pay the additional debt service requirements resulting from issuance of bonded debt that was authorized by the Legislature.

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(b) The Division of Finance may not spend the hold back amount for debt service under Subsection (5)(a) unless and until it is appropriated by the Legislature.

(c) If, after calculating the amount for transfer under Subsection (3), the remaining General Fund revenue surplus is insufficient to cover the hold back for debt service required by Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to cover the debt service hold back.

(d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back the General Fund balance for debt service authorized by this Subsection (5) before making any transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other designation or allocation of General Fund revenue surplus.

(6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists and that holding back earmarks to the Industrial Assistance Account under Section 63N-3-106, transfers to the Wildland Fire Suppression Fund and State Disaster Recovery Restricted Account under Section 63J-1-314, transfers to the General Fund Budget Reserve Account under Section 63J-1-312, or earmarks and transfers to more than one of those accounts, in that order, does not eliminate the operating deficit, the Division of Finance may reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to eliminate the operating deficit.

(7) The Legislature may appropriate money from the Medicaid Growth Reduction and Budget Stabilization Account only:

(a) if Medicaid program expenditures for the fiscal year for which the appropriation is made are estimated to be 108% or more of Medicaid program expenditures for the previous year; and

(b) for the Medicaid program.

(8) The Division of Finance shall deposit interest or other earnings derived from investment of Medicaid Growth Reduction and Budget Stabilization Account money into the General Fund.

Section 99. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

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- (1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.
- (2) The Native American Repatriation Restricted Account created in Section 9-9-407.
- (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.
- (4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.
- (5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.
- (6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.
- (7) The "Latino Community Support Restricted Account" created in Section 13-1-16.
- (8) The Clean Air Support Restricted Account created in Section 19-1-109.
- (9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.
- (10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.
- (11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.
- (12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.
- (13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.
- (14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.
- (15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.
- (16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.
- (17) The Nurse Home Visiting Restricted Account created in Section 26-63-601.
- (18) The Technology Development Restricted Account created in Section 31A-3-104.

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- (19) The Criminal Background Check Restricted Account created in Section 31A-3-105.
- (20) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.
- (21) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.
- (22) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.
- (23) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.
- (24) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.
- (25) The School Readiness Restricted Account created in Section 35A-15-203.
- (26) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.
- (27) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.
- (28) The Oil and Gas Conservation Account created in Section 40-6-14.5.
- (29) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.
- (30) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.
- (31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.
- (32) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.
- (33) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.
- (34) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.
- (35) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

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(36) The DNA Specimen Restricted Account created in Section 53-10-407.

(37) The Canine Body Armor Restricted Account created in Section 53-16-201.

(38) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(39) The Higher Education Capital Projects Fund created in Section 53B-22-202.

(40) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(41) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

(43) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(44) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(45) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(46) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

(47) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(48) The Relative Value Study Restricted Account created in Section 59-9-105.

(49) The Cigarette Tax Restricted Account created in Section 59-14-204.

(50) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(51) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(52) Certain funds donated to the Department of Health and Human Services, as provided in Section ~~[62A-1-111]~~ 26B-1-202.

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- (53) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section ~~62A-1-202~~ 26B-1-302.
- (54) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.
- (55) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.
- (56) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.
- (57) The Immigration Act Restricted Account created in Section 63G-12-103.
- (58) Money received by the military installation development authority, as provided in Section 63H-1-504.
- (59) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.
- (60) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.
- (61) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.
- (62) The Utah Capital Investment Restricted Account created in Section 63N-6-204.
- (63) The Motion Picture Incentive Account created in Section 63N-8-103.
- (64) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.
- (65) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).
- (66) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.
- (67) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.
- (68) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.
- (69) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.
- (70) The Water Resources Conservation and Development Fund, as provided in

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Section 73-23-2.

(71) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(72) Fees for certificate of admission created under Section 78A-9-102.

(73) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

(76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

(77) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(78) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

Section 100. Section 63M-7-301 is amended to read:

63M-7-301. Definitions -- Creation of council -- Membership -- Terms.

(1) (a) As used in this part, "council" means the Utah Substance Use and Mental Health Advisory Council created in this section.

(b) There is created within the governor's office the Utah Substance Use and Mental Health Advisory Council.

(2) The council shall be comprised of the following voting members:

(a) the attorney general or the attorney general's designee;

(b) one elected county official appointed by the Utah Association of Counties;

(c) the commissioner of public safety or the commissioner's designee;

(d) the director of the Division of ~~Substance Abuse and Mental Health~~ Integrated Healthcare or the director's designee;

(e) the state superintendent of public instruction or the superintendent's designee;

(f) the executive director of the Department of Health and Human Services or the executive director's designee;

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(g) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee;

(h) the executive director of the Department of Corrections or the executive director's designee;

(i) the director of the Division of Juvenile Justice Services or the director's designee;

(j) the director of the Division of Child and Family Services or the director's designee;

(k) the chair of the Board of Pardons and Parole or the chair's designee;

(l) the director of the Office of Multicultural Affairs or the director's designee;

(m) the director of the Division of Indian Affairs or the director's designee;

(n) the state court administrator or the state court administrator's designee;

(o) one district court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(p) one district court judge who presides over a mental health court and who is appointed by the chief justice of the Utah Supreme Court;

(q) one juvenile court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(r) one prosecutor appointed by the Statewide Association of Prosecutors;

(s) the chair or co-chair of each committee established by the council;

(t) the chair or co-chair of the Statewide Suicide Prevention Coalition created under Subsection 62A-15-1101(2);

(u) one representative appointed by the Utah League of Cities and Towns to serve a four-year term;

(v) the following members appointed by the governor to serve four-year terms:

(i) one resident of the state who has been personally affected by a substance use or mental health disorder; and

(ii) one citizen representative; and

(w) in addition to the voting members described in Subsections (2)(a) through (v), the following voting members appointed by a majority of the members described in Subsections (2)(a) through (v) to serve four-year terms:

(i) one resident of the state who represents a statewide advocacy organization for recovery from substance use disorders;

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- (ii) one resident of the state who represents a statewide advocacy organization for recovery from mental illness;
 - (iii) one resident of the state who represents a statewide advocacy organization for protection of rights of individuals with a disability;
 - (iv) one resident of the state who represents prevention professionals;
 - (v) one resident of the state who represents treatment professionals;
 - (vi) one resident of the state who represents the physical health care field;
 - (vii) one resident of the state who is a criminal defense attorney;
 - (viii) one resident of the state who is a military servicemember or military veteran under Section 53B-8-102;
 - (ix) one resident of the state who represents local law enforcement agencies;
 - (x) one representative of private service providers that serve youth with substance use disorders or mental health disorders; and
 - (xi) one resident of the state who is certified by the Division of ~~Substance Abuse and Mental Health~~ Integrated Healthcare as a peer support specialist as described in Subsection 62A-15-103(2)(h).
- (3) An individual other than an individual described in Subsection (2) may not be appointed as a voting member of the council.

Section 101. Section 67-3-11 is amended to read:

67-3-11. Health care price transparency tool -- Transparency tool requirements.

- (1) The state auditor shall create a health care price transparency tool:
 - (a) subject to appropriations from the Legislature and any available funding from third-party sources;
 - (b) with technical support from the Public Employees' Benefit and Insurance Program created in Section 49-20-103, the Department of Health and Human Services, and the Insurance Department; and
 - (c) in accordance with the requirements in Subsection (2).
- (2) A health care price transparency tool created by the state auditor under this section shall:
 - (a) present health care price information for consumers in a manner that is clear and accurate;

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- (b) be available to the public in a user-friendly manner;
 - (c) incorporate existing data collected under Section 26-33a-106.1;
 - (d) incorporate data collected under Section 26-61a-106, regarding fees for qualified medical providers recommending medical cannabis, as those terms are defined in Section 26-61a-102;
 - (e) group billing codes for common health care procedures;
 - (f) be updated on a regular basis; and
 - (g) be created and operated in accordance with all applicable state and federal laws.
- (3) The state auditor may make the health care pricing data from the health care price transparency tool available to the public through an application program interface format if the data meets state and federal data privacy requirements.

(4) (a) Before making a health care price transparency tool available to the public, the state auditor shall:

(i) seek input from the Health Data Committee created in Section ~~26-1-7~~ 26B-1-204 on the overall accuracy and effectiveness of the reports provided by the health care price transparency tool; and

(ii) establish procedures to give data providers a 30-day period to review pricing information before the state auditor publishes the information on the health care price transparency tool.

(b) If the state auditor complies with the requirements of Subsection (4)(a), the health care price transparency tool is not subject to the requirements of Section 26-33a-107.

(5) Each year in which a health care price transparency tool is operational, the state auditor shall report to the Health and Human Services Interim Committee before November 1 of that year:

- (a) the utilization of the health care price transparency tool; and
- (b) policy options for improving access to health care price transparency data.

Section 102. Section 76-5-413 is amended to read:

76-5-413. Custodial sexual relations or misconduct with youth receiving state services -- Definitions -- Penalties -- Defenses.

(1) As used in this section:

- (a) "Actor" means:

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(i) an individual employed by the Department of Health and Human Services~~[, as]~~ created in Section ~~[62A-1-102]~~ 26B-1-201, or an employee of a private provider or contractor; or

(ii) an individual employed by the juvenile court of the state, or an employee of a private provider or contractor.

(b) "Department" means the Department of Health and Human Services created in Section ~~[62A-1-102]~~ 26B-1-201.

(c) "Juvenile court" means the juvenile court of the state created in Section 78A-6-102.

(d) "Private provider or contractor" means any individual or entity that contracts with the:

(i) department to provide services or functions that are part of the operation of the department; or

(ii) juvenile court to provide services or functions that are part of the operation of the juvenile court.

(e) "Youth receiving state services" means an individual:

(i) younger than 18 years old, except as provided under Subsection (1)(e)(ii), who is:

(A) in the custody of the department under Section 80-6-703; or

(B) receiving services from any division of the department if any portion of the costs of these services is covered by public money; or

(ii) younger than 21 years old:

(A) who is in the custody of the Division of Juvenile Justice Services, or the Division of Child and Family Services; or

(B) whose case is under the jurisdiction of the juvenile court.

(2) (a) An actor commits custodial sexual relations with a youth receiving state services if the actor commits any of the acts under Subsection (3):

(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and

(ii) (A) the actor knows that the individual is a youth receiving state services; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.

(b) A violation of Subsection (2)(a) is a third degree felony, but if the youth receiving

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state services is younger than 18 years old, a violation of Subsection (2)(a) is a second degree felony.

(c) If the act committed under this Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (2), this Subsection (2) does not prohibit prosecution and sentencing for the more serious offense.

(3) Acts referred to in Subsection (2)(a) are:

(a) having sexual intercourse with a youth receiving state services;

(b) engaging in any sexual act with a youth receiving state services involving the genitals of one individual and the mouth or anus of another individual, regardless of the sex of either participant; or

(c) causing the penetration, however slight, of the genital or anal opening of a youth receiving state services by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any individual, regardless of the sex of any participant or with the intent to arouse or gratify the sexual desire of any individual, regardless of the sex of any participant.

(4) (a) An actor commits custodial sexual misconduct with a youth receiving state services if the actor commits any of the acts under Subsection (5):

(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and

(ii) (A) the actor knows that the individual is a youth receiving state services; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.

(b) A violation of Subsection (4)(a) is a class A misdemeanor, but if the youth receiving state services is younger than 18 years old, a violation of Subsection (4)(a) is a third degree felony.

(c) If the act committed under this Subsection (4) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (4), this Subsection (4) does not prohibit prosecution and sentencing for the more serious offense.

(5) Acts referred to in Subsection (4)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual, regardless of the sex of any participant:

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(a) touching the anus, buttocks, pubic area, or any part of the genitals of a youth receiving state services;

(b) touching the breast of a female youth receiving state services; or

(c) otherwise taking indecent liberties with a youth receiving state services.

(6) The offenses referred to in Subsections (2)(a)(i) and (4)(a)(i) are:

(a) Section 76-5-401, unlawful sexual activity with a minor;

(b) Section 76-5-402, rape;

(c) Section 76-5-402.1, rape of a child;

(d) Section 76-5-402.2, object rape;

(e) Section 76-5-402.3, object rape of a child;

(f) Section 76-5-403, forcible sodomy;

(g) Section 76-5-403.1, sodomy on a child;

(h) Section 76-5-404, forcible sexual abuse;

(i) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child; or

(j) Section 76-5-405, aggravated sexual assault.

(7) (a) It is not a defense to the commission of the offense of custodial sexual relations with a youth receiving state services under Subsection (2) or custodial sexual misconduct with a youth receiving state services under Subsection (4), or an attempt to commit either of these offenses, if the youth receiving state services is younger than 18 years old, that the actor:

(i) mistakenly believed the youth receiving state services to be 18 years old or older at the time of the alleged offense; or

(ii) was unaware of the true age of the youth receiving state services.

(b) Consent of the youth receiving state services is not a defense to any violation or attempted violation of Subsection (2) or (4).

(8) It is a defense that the commission by the actor of an act under Subsection (2) or (4) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section 103. Section 76-5-501 is amended to read:

76-5-501. Definitions.

For purposes of this part:

(1) "Alleged sexual offender" means a person or a minor regarding whom an indictment, petition, or an information has been filed or an arrest has been made alleging the

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commission of a sexual offense or an attempted sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, and regarding which:

(a) a judge has signed an accompanying arrest warrant, pickup order, or any other order based upon probable cause regarding the alleged offense; and

(b) the judge has found probable cause to believe that the alleged victim has been exposed to conduct or activities that may result in an HIV infection as a result of the alleged offense.

(2) "Department of Health and Human Services" means the [state] Department of Health [as defined in Section 26-1-2] and Human Services created in Section 26B-1-201.

(3) "HIV infection" means an indication of Human Immunodeficiency Virus (HIV) infection determined by current medical standards and detected by any of the following:

(a) presence of antibodies to HIV, verified by a positive "confirmatory" test, such as Western blot or other method approved by the Utah State Health Laboratory. Western blot interpretation will be based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors;

(b) presence of HIV antigen;

(c) isolation of HIV; or

(d) demonstration of HIV proviral DNA.

(4) "HIV positive individual" means a person who is HIV positive as determined by the State Health Laboratory.

(5) "Local department of health" means [the] a local health department as defined in [Subsection 26A-1-102(5)] Section 26A-1-102.

(6) "Minor" means a person younger than 18 years [of age] old.

(7) "Positive" means an indication of the HIV infection as defined in Subsection (3).

(8) "Sexual offense" means a violation of state law prohibiting a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses.

(9) "Test" or "testing" means a test or tests for HIV infection conducted by and in accordance with standards recommended by the Department of Health and Human Services.

Section 104. Section 78B-5-902 is amended to read:

78B-5-902. Definitions.

As used in this part:

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(1) "Communication" means an oral statement, written statement, note, record, report, or document made during, or arising out of, a meeting between a law enforcement officer, firefighter, emergency medical service provider, or rescue provider and a peer support team member.

(2) "Behavioral emergency services technician" means an individual who is licensed under Section 26-8a-302 as:

- (a) a behavioral emergency services technician; or
- (b) an advanced behavioral emergency services technician.

(3) "Emergency medical service provider or rescue unit peer support team member" means a person who is:

(a) an emergency medical service provider as defined in Section 26-8a-102, a regular or volunteer member of a rescue unit acting as an emergency responder as defined in Section 53-2a-502, or another person who has been trained in peer support skills; and

(b) designated by the chief executive of an emergency medical service agency or the chief of a rescue unit as a member of an emergency medical service provider's peer support team or as a member of a rescue unit's peer support team.

(4) "Law enforcement or firefighter peer support team member" means a person who is:

(a) a peace officer, law enforcement dispatcher, civilian employee, or volunteer member of a law enforcement agency, a regular or volunteer member of a fire department, or another person who has been trained in peer support skills; and

(b) designated by the commissioner of the Department of Public Safety, the executive director of the Department of Corrections, a sheriff, a police chief, or a fire chief as a member of a law enforcement agency's peer support team or a fire department's peer support team.

(5) "Trained" means a person who has successfully completed a peer support training program approved by the Peace Officer Standards and Training Division, the State Fire Marshal's Office, or the Health Department of Health and Human Services, as applicable.

Section 105. Section 78B-5-903 is amended to read:

78B-5-903. Creation -- Training -- Communications -- Exclusions.

(1) A law enforcement agency, fire department, emergency medical service agency, or rescue unit:

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(a) may create a peer support team; and

(b) if a peer support team is created, shall develop guidelines for the peer support team and its members.

(2) A peer support team member shall complete a peer support training program approved by the Peace Officer Standards and Training Division, the State Fire Marshal's Office, or the ~~[Health]~~ Department of Health and Human Services, as applicable.

(3) In accordance with the Utah Rules of Evidence, a peer support team member may refuse to disclose communications made by a person participating in peer support services, including group therapy sessions.

(4) Subsection (3) applies only to communications made during individual interactions conducted by a peer support team member who is:

(a) acting in the member's capacity as a law enforcement or firefighter peer support team member or an emergency medical service provider or rescue unit peer support team member; and

(b) functioning within the written peer support guidelines that are in effect for the member's respective law enforcement agency, fire department, emergency medical service agency, or rescue unit.

(5) This part does not apply if:

(a) a law enforcement or firefighter peer support team member or emergency medical service provider or rescue unit peer support team member was a witness or a party to the incident that prompted the delivery of peer support services;

(b) information received by a peer support team member is indicative of actual or suspected child abuse, or actual or suspected child neglect;

(c) the person receiving peer support is a clear and immediate danger to the person's self or others;

(d) communication to a peer support team member establishes reasonable cause for the peer support team member to believe that the person receiving peer support services is mentally or emotionally unfit for duty; or

(e) communication to the peer support team member provides evidence that the person who is receiving the peer support services has committed a crime, plans to commit a crime, or intends to conceal a crime.

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Section 106. Section 80-1-102 is amended to read:

80-1-102. Juvenile code definitions.

As used in this title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.

(b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

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- (b) "Adult" does not include an individual:
 - (i) who is 18 years old or older; and
 - (ii) who is a minor.
- (5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.
- (6) "Board" means the Board of Juvenile Court Judges.
- (7) "Child" means an individual who is under 18 years old.
- (8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 62A-4a-205.
- (9) "Child placement agency" means:
 - (a) a private agency licensed to receive a child for placement or adoption under this code; or
 - (b) a private agency that receives a child for placement or adoption in another state, which is licensed or approved where such license or approval is required by law.
- (10) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.
- (11) "Commit" or "committed" means, unless specified otherwise:
 - (a) with respect to a child, to transfer legal custody; and
 - (b) with respect to a minor who is at least 18 years old, to transfer custody.
- (12) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice Services.
- (13) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.
- (14) "Correctional facility" means:
 - (a) a county jail; or
 - (b) a secure correctional facility as defined in Section 64-13-1.
- (15) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.
- (16) "Department" means the Department of Health and Human Services created in

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Section ~~[62A-1-102]~~ 26B-1-201.

(17) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(18) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(19) "Detention" means home detention or secure detention.

(20) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(21) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(22) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(23) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(24) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of ~~Substance Abuse and Mental Health~~ Integrated Healthcare in accordance with Section 62A-15-105; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(25) "Emancipated" means the same as that term is defined in Section 80-7-102.

(26) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(27) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

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(28) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(29) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(30) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(31) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(32) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(33) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court.

(34) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

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(b) "Incest" includes:

- (i) blood relationships of the whole or half blood, without regard to legitimacy;
- (ii) relationships of parent and child by adoption; and
- (iii) relationships of stepparent and stepchild while the marriage creating the

relationship of a stepparent and stepchild exists.

(35) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(36) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(37) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(38) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(39) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(40) (a) "Intake probation" means a minor is:

- (i) monitored by a juvenile probation officer; and
- (ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

(41) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(42) "Juvenile offender" means:

- (a) a serious youth offender; or
- (b) a youth offender.

(43) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(44) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice Services, or under contract with the Division of Juvenile Justice Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(45) "Legal custody" means a relationship embodying:

- (a) the right to physical custody of the minor;

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- (b) the right and duty to protect, train, and discipline the minor;
 - (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;
 - (d) the right to determine where and with whom the minor shall live; and
 - (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- (46) "Mental illness" means:
- (a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or
 - (b) the same as that term is defined in:
 - (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or
 - (ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.
- (47) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:
- (a) a child; or
 - (b) an individual:
 - (i) (A) who is at least 18 years old and younger than 21 years old; and
 - (B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense; or
 - (ii) (A) who is at least 18 years old and younger than 25 years old; and
 - (B) whose case is under the continuing jurisdiction of the juvenile court under Chapter 6, Juvenile Justice.
- (48) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-102.
- (49) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.
- (50) (a) "Natural parent" means a minor's biological or adoptive parent.
 - (b) "Natural parent" includes the minor's noncustodial parent.

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(51) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated custody transfer; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(52) "Neglected child" means a child who has been subjected to neglect.

(53) "Nonjudicial adjustment" means closure of the case by the assigned juvenile

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probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

- (a) the assigned juvenile probation officer; and
- (b) (i) the minor; or
- (ii) the minor and the minor's parent, legal guardian, or custodian.

(54) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

- (a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or
- (b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(55) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice Services, or another person designated by the Division of Juvenile Justice Services.

(56) "Physical abuse" means abuse that results in physical injury or damage to a child.

(57) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(58) "Prosecuting attorney" means:

- (a) the attorney general and any assistant attorney general;
- (b) any district attorney or deputy district attorney;
- (c) any county attorney or assistant county attorney; and
- (d) any other attorney authorized to commence an action on behalf of the state.

(59) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

- (a) the day on which the shelter hearing is held under Section 80-3-301; or
- (b) the day on which the child is returned home.

(60) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

- (a) the minor is permitted to remain in the minor's home; and

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(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(61) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(62) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(63) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(64) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement of the minor.

(65) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

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(66) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

(67) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

(68) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(69) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(70) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (34), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually

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charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(71) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(72) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(73) "Shelter facility" means the same as that term is defined in Section 62A-4a-101.

(74) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(75) "Status offense" means an offense that would not be an offense but for the age of the offender.

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(76) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(77) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

(78) "Supported" means the same as that term is defined in Section 62A-4a-101.

(79) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(80) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(81) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(82) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others;

or

(c) results in the situations described in Subsections (82)(a) and (b).

(83) "Unregulated custody transfer" means the placement of a child:

(a) with an individual who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;

(b) with the intent of severing the child's existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.

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(84) "Unsupported" means the same as that term is defined in Section 62A-4a-101.

(85) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

(86) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(87) "Without merit" means the same as that term is defined in Section 62A-4a-101.

(88) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

Section 107. Section 80-3-404 is amended to read:

80-3-404. Finding of severe child abuse or neglect -- Petition for removal from Licensing Information System -- Court records.

(1) Upon the filing with the juvenile court of an abuse, neglect, or dependency petition that informs the juvenile court that the division has made a supported finding that an individual committed a severe type of child abuse or neglect as defined in Section 62A-4a-1002, the juvenile court shall:

(a) make a finding of substantiated, unsubstantiated, or without merit;

(b) include the finding described in Subsection (1)(a) in a written order; and

(c) deliver a certified copy of the order described in Subsection (1)(b) to the division.

(2) The juvenile court shall make the finding described in Subsection (1):

(a) as part of the adjudication hearing;

(b) at the conclusion of the adjudication hearing; or

(c) as part of a court order entered pursuant to a written stipulation of the parties.

(3) (a) An individual described in Subsection 62A-4a-1010(1) may at any time file with the juvenile court a petition for removal of the individual's name from the Licensing Information System.

(b) At the conclusion of the hearing on the petition described in Subsection (3), the juvenile court shall:

(i) make a finding of substantiated, unsubstantiated, or without merit;

(ii) include the finding described in Subsection (1)(a) in a written order; and

(iii) deliver a certified copy of the order described in Subsection (1)(b) to the division.

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(4) A proceeding for adjudication of a supported finding under this section of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an adjudication of a severe type of child abuse or neglect.

(5) If an individual whose name appears on the Licensing Information System before May 6, 2002, files a petition under Subsection (3) during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the juvenile court shall hear the matter and enter a final decision no later than 60 days after the day on which the petition is filed.

(6) For the purposes of licensing under Sections 26-39-402, ~~62A-1-118~~ 26B-1-211, and 62A-2-120, and for the purposes described in Sections 26-8a-310 and 62A-2-121 and Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access:

(a) the juvenile court shall make available records of the juvenile court's findings under Subsections (1) and (2):

(i) for those purposes; and

(ii) only to a person with statutory authority to access the Licensing Information System created under Section 62A-4a-1006; and

(b) any appellate court shall make available court records of appeals from juvenile court decisions under Subsections (1), (2), (3), and (4):

(i) for those purposes; and

(ii) only to a person with statutory authority to also access the Licensing Information System.

Section 108. Section 80-5-102 is amended to read:

80-5-102. Definitions.

As used in this chapter:

(1) "Account" means the Juvenile Justice Reinvestment Restricted Account created in Section 80-5-302.

(2) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include a juvenile offender.

(3) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R. 1351.1.

(4) "Authority" means the Youth Parole Authority created in Section 80-5-701.

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(5) "Control" means the authority to detain, restrict, and supervise a juvenile offender in a manner consistent with public safety and the well-being of the juvenile offender and division employees.

(6) "Director" means the director of the Division of Juvenile Justice Services.

(7) "Discharge" means the same as that term is defined in Section 80-6-102.

(8) "Division" means the Division of Juvenile Justice Services created in Section 80-5-103.

(9) "Homeless youth" means a child, other than an emancipated minor:

(a) who is a runaway; or

(b) who is:

(i) not accompanied by the child's parent or guardian; and

(ii) without care, as defined in Section 80-5-602.

(10) "Observation and assessment program" means a nonresidential service program operated or purchased by the division that is responsible only for diagnostic assessment of minors, including for substance use disorder, mental health, psychological, and sexual behavior risk assessments.

(11) "Performance based contracting" means a system of contracting with service providers for the provision of residential or nonresidential services that:

(a) provides incentives for the implementation of evidence-based juvenile justice programs or programs rated as effective for reducing recidivism by a standardized tool in accordance with Section 63M-7-208; and

(b) provides a premium rate allocation for a minor who receives the evidence-based dosage of treatment and successfully completes the program within three months.

(12) "Rescission" means the same as that term is defined in Section 80-6-102.

(13) "Restitution" means the same as that term is defined in Section 80-6-102.

(14) "Revocation" means the same as that term is defined in Section 80-6-102.

(15) "Temporary custody" means the same as that term is defined in Section 80-6-102.

(16) "Temporary homeless youth shelter" means a facility that:

(a) provides temporary shelter to homeless youth; and

(b) is licensed by the ~~Office of Licensing, created under Section 62A-1-105;~~

Department of Health and Human Services, created in Section 26B-1-201, as a residential

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support program.

(17) "Termination" means the same as that term is defined in Section 80-6-102.

(18) "Victim" means the same as that term is defined in Section 80-6-102.

(19) "Work program" means a nonresidential public or private service work project established and administered by the division for juvenile offenders for the purpose of rehabilitation, education, and restitution to victims.

(20) (a) "Youth services" means services provided in an effort to resolve family conflict:

(i) for families in crisis when a minor is ungovernable or a runaway; or

(ii) involving a minor and the minor's parent or guardian.

(b) "Youth services" include efforts to:

(i) resolve family conflict;

(ii) maintain or reunite minors with the minors' families; and

(iii) divert minors from entering or escalating in the juvenile justice system.

(c) "Youth services" may provide:

(i) crisis intervention;

(ii) short-term shelter;

(iii) time-out placement; and

(iv) family counseling.

(21) "Youth services center" means a center established by, or under contract with, the division to provide youth services.

~~Section 38. Section 35A-3-103 (Effective 07/01/22) is amended to read:~~

~~35A-3-103 (Effective 07/01/22). Department responsibilities.~~

~~The department shall:~~

~~(1) administer public assistance programs assigned by the Legislature and the governor;~~

~~(2) determine eligibility for public assistance programs in accordance with the requirements of this chapter;~~

~~(3) cooperate with the federal government in the administration of public assistance programs;~~

~~(4) administer state employment services;~~

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~~—— (5) provide for the compilation of necessary or desirable information, statistics, and reports;~~

~~—— (6) perform other duties and functions required by law;~~

~~—— (7) monitor the application of eligibility policy;~~

~~—— (8) develop personnel training programs for effective and efficient operation of the programs administered by the department;~~

~~—— (9) provide refugee resettlement services in accordance with Section 35A-3-701;~~

~~—— (10) provide child care assistance for children in accordance with Part 2, Office of Child Care;~~

~~—— (11) provide services that enable an applicant or recipient to qualify for affordable housing in cooperation with:~~

~~—— (a) the Utah Housing Corporation;~~

~~—— (b) the Housing and Community Development Division; and~~

~~—— (c) local housing authorities;~~

~~—— [(12) in accordance with 42 C.F.R. Sec. 431.10, develop non-clinical eligibility policy and procedures to implement the eligibility state plan, waivers, and administrative rules developed and issued by the Department of Health and Human Services for medical assistance under:]~~

~~—— [(a) Title 26, Chapter 18, Medical Assistance Act; and]~~

~~—— [(b) Title 26, Chapter 40, Utah Children's Health Insurance Act;]~~

~~—— [(13)] (12) administer the Medicaid Eligibility Quality Control function in accordance with 42 C.F.R. Sec. 431.812; and~~

~~—— [(14)] (13) conduct non-clinical eligibility hearings and issue final decisions in adjudicative proceedings, including expedited appeals as defined in 42 C.F.R. Sec. 431.224, for medical assistance eligibility under:~~

~~—— (a) Title 26, Chapter 18, Medical Assistance Act; or~~

~~—— (b) Title 26, Chapter 40, Utah Children's Health Insurance Act.~~

~~—— Section 39. Section **62A-1-104** is amended to read:~~

~~—— **62A-1-104. Definitions.**~~

~~—— (1) As used in this title:~~

~~—— (a) "Competency evaluation" means the same as that term is defined in Section~~

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~~77-15-2.~~

~~—— (b) "Concurrence of the board" means agreement by a majority of the members of a board.~~

~~—— (c) "Department" means the Department of Health and Human Services [established in Section 62A-1-102] created in Section 26B-1-201.~~

~~—— (d) "Executive director" means the executive director of the department, appointed under Section [62A-1-108] 26B-1-203.~~

~~—— (e) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.~~

~~—— (f) "Stabilization services" means in-home services provided to a child with, or who is at risk for, complex emotional and behavioral needs, including teaching the child's parent or guardian skills to improve family functioning.~~

~~—— (g) "System of care" means a broad, flexible array of services and supports that:~~

~~—— (i) serves a child with or who is at risk for complex emotional and behavioral needs;~~

~~—— (ii) is community based;~~

~~—— (iii) is informed about trauma;~~

~~—— (iv) builds meaningful partnerships with families and children;~~

~~—— (v) integrates service planning, service coordination, and management across state and local entities;~~

~~—— (vi) includes individualized case planning;~~

~~—— (vii) provides management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and~~

~~—— (viii) is guided by the type and variety of services needed by a child with or who is at risk for complex emotional and behavioral needs and by the child's family.~~

~~—— (2) The definitions provided in Subsection (1) are to be applied in addition to definitions contained throughout this title that are applicable to specified chapters or parts:~~

~~—— Section 40. Section ~~62A-15-102~~ is amended to read:~~

~~—— **62A-15-102. Definitions.**~~

~~—— As used in this chapter:~~

~~—— (1) "Criminal risk factors" means a person's characteristics and behaviors that:~~

~~—— (a) affect the person's risk of engaging in criminal behavior; and~~

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~~_____ (b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.~~

~~_____ (2) "Director" means the director [of the Division of Substance Abuse and Mental Health] appointed under Section 62A-15-104.~~

~~_____ (3) "Division" means the Division of [Substance Abuse and Mental Health established in Section 62A-15-103] Integrated Healthcare created in Section 26B-1-202.~~

~~_____ (4) "Local mental health authority" means a county legislative body.~~

~~_____ (5) "Local substance abuse authority" means a county legislative body.~~

~~_____ (6) "Mental health crisis" means:~~

~~_____ (a) a mental health condition that manifests in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:~~

~~_____ (i) serious danger to the individual's health or well-being; or~~

~~_____ (ii) a danger to the health or well-being of others; or~~

~~_____ (b) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or intervention.~~

~~_____ (7) "Mental health crisis response training" means community-based training that educates laypersons and professionals on the warning signs of a mental health crisis and how to respond.~~

~~_____ (8) "Mental health crisis services" means an array of services provided to an individual who experiences a mental health crisis, which may include:~~

~~_____ (a) direct mental health services;~~

~~_____ (b) on-site intervention provided by a mobile crisis outreach team;~~

~~_____ (c) the provision of safety and care plans;~~

~~_____ (d) prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis;~~

~~_____ (e) referrals to other community resources;~~

~~_____ (f) local mental health crisis lines; and~~

~~_____ (g) the statewide mental health crisis line.~~

~~_____ (9) "Mental health therapist" means the same as that term is defined in Section 58-60-102.~~

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~~—— (10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.~~

~~—— (11) (a) "Public funds" means federal money received from the [Department of Human Services or the Department of Health] department, and state money appropriated by the Legislature to the [Department of Human Services, the Department of Health] department, a county governing body, or a local substance abuse authority, or a local mental health authority for the purposes of providing substance abuse or mental health programs or services.~~

~~—— (b) "Public funds" include federal and state money that has been transferred by a local substance abuse authority or a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority. The money maintains the nature of "public funds" while in the possession of the private entity that has an annual or otherwise ongoing contract with a local substance abuse authority or a local mental health authority to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority.~~

~~—— (c) Public funds received for the provision of services [pursuant to] under substance abuse or mental health service plans may not be used for any other purpose except those authorized in the contract between the local mental health or substance abuse authority and provider for the provision of plan services.~~

~~—— (12) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.~~

~~—— (13) "Statewide mental health crisis line" means the same as that term is defined in Section 62A-15-1301.~~

~~—— Section 41. Section **62A-15-103** is amended to read:~~

~~—— **62A-15-103. Division -- Responsibilities.**~~

~~—— (1) (a) [There is created] The division shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and~~

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~~Mental Health within the department, under the administration and general supervision of the executive director:~~

~~—— (b) The division is the substance abuse authority and the mental health authority for this state.~~

~~—— (2) The division shall:~~

~~—— (a) (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;~~

~~—— (ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;~~

~~—— (iii) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;~~

~~—— (iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;~~

~~—— (v) except as provided in Section 62A-15-103.5, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private programs, minimum standards for public and private providers of substance abuse and mental health programs licensed by the department under [Title 62A,] Chapter 2, Licensure of Programs and Facilities;~~

~~—— (vi) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;~~

~~—— (vii) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance use disorder and mental illness that addresses criminal risk factors;~~

~~—— (viii) evaluate the effectiveness of programs described in this Subsection (2);~~

~~—— (ix) consider the impact of the programs described in this Subsection (2) on:~~

~~—— (A) emergency department utilization;~~

~~—— (B) jail and prison populations;~~

~~—— (C) the homeless population; and~~

~~—— (D) the child welfare system; and~~

~~—— (x) promote or establish programs for education and certification of instructors to~~

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~~educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;~~

~~—— (b) (i) collect and disseminate information pertaining to mental health;~~

~~—— (ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;~~

~~—— (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and~~

~~—— (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;~~

~~—— (c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;~~

~~—— (ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues;~~

~~—— (iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;~~

~~—— (iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;~~

~~—— (v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;~~

~~—— (vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;~~

~~—— (vii) examine expenditures of local, state, and federal funds;~~

~~—— (viii) monitor the expenditure of public funds by:~~

~~—— (A) local substance abuse authorities;~~

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- ~~—— (B) local mental health authorities; and~~
- ~~—— (C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;~~
- ~~—— (ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;~~
- ~~—— (x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;~~
- ~~—— (xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:~~
 - ~~—— (A) a statewide comprehensive continuum of substance abuse services;~~
 - ~~—— (B) a statewide comprehensive continuum of mental health services;~~
 - ~~—— (C) services result in improved overall health and functioning;~~
 - ~~—— (D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;~~
 - ~~—— (E) compliance, where appropriate, with the certification requirements in Subsection (2)(j); and~~
 - ~~—— (F) appropriate expenditure of public funds;~~
- ~~—— (xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance abuse programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;~~
- ~~—— (xiii) monitor and ensure compliance with division rules and contract requirements;~~
- ~~and~~
- ~~—— (xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply~~

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~~with division directives regarding the use of public funds, or for misuse of public funds or money;~~

~~—— (d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;~~

~~—— (e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;~~

~~—— (f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:~~

~~—— (i) a review and determination regarding whether:~~

~~—— (A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and~~

~~—— (B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and~~

~~—— (ii) items determined by the division to be necessary and appropriate;~~

~~—— (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;~~

~~—— (h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:~~

~~—— (A) a substance use disorder;~~

~~—— (B) a mental health disorder; or~~

~~—— (C) a substance use disorder and a mental health disorder;~~

~~—— (ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;~~

~~—— (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:~~

~~—— (A) establish training and certification requirements for a peer support specialist;~~

~~—— (B) specify the types of services a peer support specialist is qualified to provide;~~

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~~—— (C) specify the type of supervision under which a peer support specialist is required to operate; and~~

~~—— (D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and~~

~~—— (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:~~

~~—— (A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and~~

~~—— (B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;~~

~~—— (i) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance use disorder and mental health treatment to an individual who is incarcerated or who is required to participate in treatment by a court or by the Board of Pardons and Parole, including:~~

~~—— (i) collaboration with the Department of Corrections and the Utah Substance Use and Mental Health Advisory Council to develop and coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;~~

~~—— (ii) determining that the standards ensure available treatment, including the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and~~

~~—— (iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(i) in order to receive public funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;~~

~~—— (j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers, including individuals licensed by the Division of Occupational and Professional Licensing, programs licensed by the department, and health care facilities licensed by the [Department of Health] department, who provide, as~~

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~~part of their practice, substance use disorder and mental health treatment to an individual involved in the criminal justice system, including:~~

~~—— (i) collaboration with the Department of Corrections, the Utah Substance Use and Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;~~

~~—— (ii) basing the certification process on the standards developed under Subsection (2)(i) for the treatment of an individual involved in the criminal justice system; and~~

~~—— (iii) the requirement that a public or private provider of treatment to an individual involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;~~

~~—— (k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:~~

~~—— (i) pretrial services and the resources needed to reduce recidivism;~~

~~—— (ii) county jail and county behavioral health early-assessment resources needed for an offender convicted of a class A or class B misdemeanor; and~~

~~—— (iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;~~

~~—— (l) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(i), including recidivism data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; and~~

~~—— (ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;~~

~~—— (m) in the division's discretion, use the data to make decisions regarding the use of funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(i);~~

~~—— (n) annually, on or before August 31, submit the data collected under Subsection (2)(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings~~

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~~based on the data and provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees; and~~

~~—— (o) consult and coordinate with [the Department of Health and] the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance abuse during pregnancy and by parents of a newborn child that includes:~~

~~—— (i) providing education and resources to health care providers and individuals in the state regarding prevention of substance abuse during pregnancy;~~

~~—— (ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance abuse disorder; and~~

~~—— (iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance abuse treatment services to a facility that has the capacity to provide the treatment services:~~

~~—— (3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:~~

~~—— (a) coordinating with [the Department of Health,] local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:~~

~~—— (i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:~~

~~—— (A) information on safe handling, storage, and use of firearms in a home environment;~~

~~—— (B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;~~

~~—— (C) information about suicide prevention awareness; and~~

~~—— (D) information about the availability of firearm safety packets;~~

~~—— (ii) procure cable-style gun locks for distribution under this section;~~

~~—— (iii) produce a firearm safety packet that includes the firearm safety brochure and the~~

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~~cable-style gun lock described in this Subsection (3); and~~

~~—— (iv) create a suicide prevention education course that:~~

~~—— (A) provides information for distribution regarding firearm safety education;~~

~~—— (B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and~~

~~—— (C) provides information regarding crisis intervention resources;~~

~~—— (b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:~~

~~—— (i) health care providers, including emergency rooms;~~

~~—— (ii) mobile crisis outreach teams;~~

~~—— (iii) mental health practitioners;~~

~~—— (iv) other public health suicide prevention organizations;~~

~~—— (v) entities that teach firearm safety courses;~~

~~—— (vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and~~

~~—— (vii) firearm dealers to be distributed in accordance with Section 76-10-526;~~

~~—— (c) creating and administering a rebate program that includes a rebate that offers between \$10 and \$200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;~~

~~—— (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:~~

~~—— (i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;~~

~~—— (ii) procuring the cable-style gun locks for distribution; and~~

~~—— (iii) administering the rebate program; and~~

~~—— (e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education course at or before the November meeting each year.~~

~~—— (4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or~~

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~~directives issued in accordance with state law:~~

~~—— (b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.~~

~~—— (5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.~~

~~—— (b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.~~

~~—— (6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.~~

~~—— (7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.~~

~~—— (8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:~~

~~—— (a) use of public funds;~~

~~—— (b) oversight of public funds; and~~

~~—— (c) governance of substance use disorder and mental health programs and services.~~

~~—— (9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.~~

~~—— (10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:~~

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~~—— (a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or~~

~~—— (b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.~~

~~—— (11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:~~

~~—— (a) provide coordination between a local education agency and local mental health authority;~~

~~—— (b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and~~

~~—— (c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.~~

~~—— Section 42. Section **62A-15-104** is amended to read:~~

~~—— **62A-15-104. Director -- Qualifications.**~~

~~—— (1) The [director of the division shall be appointed by the] executive director shall appoint an individual to carry out all or part of the duties and responsibilities of the director described in this part.~~

~~—— (2) The director appointed under Subsection (1) shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in matters concerning substance abuse and mental health.~~

~~—— [(3) The director is the administrative head of the division.]~~

~~—— Section 43. Section **63I-2-226** is amended to read:~~

~~—— **63I-2-226. Repeal dates -- Titles 26 through 26B.**~~

~~—— [(1) Subsection 26-1-7(1)(c), in relation to the Air Ambulance Committee, is repealed July 1, 2024.]~~

~~—— [(2)] (1) Section 26-4-6.1 is repealed January 1, 2022.~~

~~—— [(3) Section 26-6-41, in relation to termination of public health emergency powers pertaining to COVID-19, is repealed on July 1, 2021.]~~

~~—— [(4)] (2) Subsection 26-7-8(3) is repealed January 1, 2027.~~

~~—— [(5)] (3) Section 26-8a-107 is repealed July 1, 2024.~~

~~—— [(6)] (4) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.~~

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~~——— [(7)] (5) Section 26-8a-211 is repealed July 1, 2023.~~

~~——— [(8)] (6) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26-8a-602(1)(a) is amended to read:~~

~~——— "(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:~~

~~——— (i) which health insurers in the state the air medical transport provider contracts with;~~

~~——— (ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and~~

~~——— (iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and"~~

~~——— [(9)] (7) Subsection 26-18-2.4(3)(c) is repealed January 1, 2023.~~

~~——— [(10)] (8) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.~~

~~——— [(11)] (9) Subsection 26-18-420(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.~~

~~——— [(12)] (10) In relation to the Air Ambulance Committee, July 1, 2024, Subsection 26-21-32(1)(a) is amended to read:~~

~~——— "(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:~~

~~——— (i) which health insurers in the state the air medical transport provider contracts with;~~

~~——— (ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and~~

~~——— (iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and"~~

~~——— [(13)] (11) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.~~

~~——— [(14)] (12) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.~~

~~——— [(15)] (13) Subsection 26-61-202(4)(b) is repealed January 1, 2022.~~

~~——— [(16)] (14) Subsection 26-61-202(5) is repealed January 1, 2022.~~

~~——— [(17) Section 26A-1-130, in relation to termination of public health emergency powers pertaining to COVID-19, is repealed on July 1, 2021.]~~

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~~[(18) Section 26B-1-201.1 is repealed July 1, 2022.]~~

~~(15) Subsection 26B-1-204(2)(f), relating to the Air Ambulance Committee, is repealed July 1, 2024.~~

~~Section 44;~~ 109. Repealer.

This bill repeals:

Section 26-1-1, Title cited as "Utah Health Code."

Section 26-1-3, Purpose of title -- Consolidation of health functions into single state agency.

Section 26-1-4.1, Department procedures -- Adjudicative proceedings.

Section 26-1-7, Committees within department.

Section 26-1-7.1, Committee procedures -- Adjudicative proceedings.

Section 26-1-8, Executive director -- Appointment -- Compensation.

Section 26-1-9, Executive director -- Qualifications.

Section 26-1-13, Executive director -- Power to organize department.

Section 26-1-14, Executive director -- Appointment, removal, and compensation of division directors.

Section 26-1-15, Executive director -- Power to accept federal aid.

Section 26-1-17, Executive director -- Power to prescribe rules for administration and government of department.

Section 26-1-18, Authority of department generally.

Section 26-1-20, Advisory committees created by department.

Section 26-1-21, Disposal of property by department.

Section 26-1-22, Budget preparation and submission to governor.

Section 26-1-23, Regulations for local health departments prescribed by department -- Local standards not more stringent than federal or state standards -- Exceptions for written findings.

Section 26-1-24, Hearings conducted by department.

Section 26-1-25, Principal and branch offices of department.

Section 26-1-30, Powers and duties of department.

Section 26B-1-101, Title.

Section 62A-1-101, Short title.

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Section 62A-1-102, Department of Human Services -- Creation.

Section 62A-1-106, Adjudicative proceedings.

Section 62A-1-110, Executive director -- Jurisdiction over division and office directors -- Authority.

Section 62A-1-114, Department is state agency for specified federal programs -- Development of state plans and programs.

Section 62A-1-118, Access to abuse and neglect information to screen employees and volunteers.

Section 62A-5-304, Limited admission of persons convicted of felony offenses.

Section ~~{45}~~110. Effective date.

This bill takes effect on July 1, 2022.

Section 111. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, on July 1, 2022:

(1) replace "Department of Health" or "Department of Human Services" with "Department of Health and Human Services" in any new language added to the Utah Code by legislation passed during the 2022 General Session, except for the references to "Department of Health" and "Department of Human Services" in:

(a) Section 26B-1-103;

(b) Section 26B-1-201; and

(c) Section 26B-1-201.1; and

(2) replace "Division of Substance Abuse and Mental Health" with "Division of Integrated Healthcare."