

SB0038S01 compared with SB0038

~~{deleted text}~~ shows text that was in SB0038 but was deleted in SB0038S01.

inserted text shows text that was not in SB0038 but was inserted into SB0038S01.

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Representative Raymond P. Ward proposes the following substitute bill:

HEALTH AND HUMAN SERVICES RECODIFICATION ~~{}~~ ADMINISTRATION, LICENSING, AND RECOVERY SERVICES

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Raymond P. Ward

LONG TITLE

~~{Committee Note:~~

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

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

~~{General Description:~~

This bill recodifies portions of the Utah Health Code and Utah Human Services Code.

Highlighted Provisions:

This bill:

- ▶ recodifies provisions regarding:
 - the Department of Health and Human Services;

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- licensing and certifications; and
- recovery services and child support administration; and
- makes technical and corresponding changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provide coordination clauses.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

26B-1-102, as last amended by Laws of Utah 2022, Chapter 255

26B-1-204, as renumbered and amended by Laws of Utah 2022, Chapter 255

26B-2-101, as enacted by Laws of Utah 2022, Chapter 255

26B-9-101, as enacted by Laws of Utah 2022, Chapter 255

ENACTS:

26B-1-333, Utah Code Annotated 1953

26B-1-432, Utah Code Annotated 1953

26B-1-433, Utah Code Annotated 1953

26B-9-401, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

26B-1-214, (Renumbered from 26-1-10, as last amended by Laws of Utah 2022, Chapter 255)

26B-1-215, (Renumbered from 62A-1-115, as enacted by Laws of Utah 1988, Chapter 1)

26B-1-216, (Renumbered from 62A-18-105, as last amended by Laws of Utah 2022, Chapter 335)

26B-1-217, (Renumbered from 26-1-35, as enacted by Laws of Utah 2000, Chapter 86)

26B-1-218, (Renumbered from 26-1-44, as enacted by Laws of Utah 2022, Chapter 36)

26B-1-219, (Renumbered from 26-1-45, as enacted by Laws of Utah 2022, Chapter 189)

26B-1-220, (Renumbered from 26-23-1, as last amended by Laws of Utah 1993,

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Chapter 38)

26B-1-221, (Renumbered from 26-23-2, as last amended by Laws of Utah 2008,
Chapter 382)

26B-1-222, (Renumbered from 26-23-3, as enacted by Laws of Utah 1981, Chapter
126)

26B-1-223, (Renumbered from 26-23-4, as enacted by Laws of Utah 1981, Chapter
126)

26B-1-224, (Renumbered from 26-23-6, as last amended by Laws of Utah 2022,
Chapter 457)

26B-1-225, (Renumbered from 26-23-7, as last amended by Laws of Utah 2011,
Chapter 297)

26B-1-226, (Renumbered from 26-23-8, as enacted by Laws of Utah 1981, Chapter
126)

26B-1-227, (Renumbered from 26-23-9, as enacted by Laws of Utah 1981, Chapter
126)

26B-1-228, (Renumbered from 26-23-10, as last amended by Laws of Utah 2011,
Chapter 297)

26B-1-229, (Renumbered from 26-25-1, as last amended by Laws of Utah 2022,
Chapter 255)

26B-1-230, (Renumbered from 26-68-102, as enacted by Laws of Utah 2021, Chapter
182)

26B-1-231, (Renumbered from 26B-1a-104, as enacted by Laws of Utah 2022, Chapter
245)

26B-1-232, (Renumbered from 26B-1a-105, as renumbered and amended by Laws of
Utah 2022, Chapter 245 and last amended by Coordination Clause, Laws of Utah
2022, Chapter 245)

26B-1-233, (Renumbered from 26B-1a-106, as enacted by Laws of Utah 2022, Chapter
245 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 245)

26B-1-234, (Renumbered from 62A-1-122, as last amended by Laws of Utah 2021,
Chapter 344)

26B-1-235, (Renumbered from 26-10-8, as last amended by Laws of Utah 2012,

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Chapter 347)

26B-1-236, (Renumbered from 26-26-3, as last amended by Laws of Utah 2010,

Chapter 241

26B-1-237, (Renumbered from 26-18-605, as last amended by Laws of Utah 2015,

Chapter 135)

26B-1-238, (Renumbered from 62A-4a-211, as enacted by Laws of Utah 2014, Chapter
67)

26B-1-306, (Renumbered from 26-8a-108, as last amended by Laws of Utah 2021,

Chapter 395)

26B-1-307, (Renumbered from 26-8b-602, as last amended by Laws of Utah 2014,

Chapter 109)

26B-1-308, (Renumbered from 26-9-4, as last amended by Laws of Utah 2017, Chapter
199)

26B-1-309, (Renumbered from 26-18-402, as last amended by Laws of Utah 2020,

Chapter 152)

26B-1-310, (Renumbered from 26-61a-109, as last amended by Laws of Utah 2019,

First Special Session, Chapter 5)

26B-1-311, (Renumbered from 26-18a-4, as last amended by Laws of Utah 2010,

Chapter 278)

26B-1-312, (Renumbered from 26-18b-101, as last amended by Laws of Utah 2021,

Chapter 378)

26B-1-313, (Renumbered from 26-21a-302, as last amended by Laws of Utah 2011,

Chapter 303)

26B-1-314, (Renumbered from 26-21a-304, as enacted by Laws of Utah 2016, Chapter
46)

26B-1-315, (Renumbered from 26-36b-208, as last amended by Laws of Utah 2021,

Chapter 367)

26B-1-316, (Renumbered from 26-36d-207, as last amended by Laws of Utah 2020,

Fifth Special Session, Chapter 20)

26B-1-317, (Renumbered from 26-37a-107, as last amended by Laws of Utah 2020,

Fifth Special Session, Chapter 20)

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- 26B-1-318**, (Renumbered from 26-50-201, as last amended by Laws of Utah 2013, Chapter 400)
- 26B-1-319**, (Renumbered from 26-54-102, as last amended by Laws of Utah 2019, Chapter 405)
- 26B-1-320**, (Renumbered from 26-54-102.5, as enacted by Laws of Utah 2019, Chapter 405)
- 26B-1-321**, (Renumbered from 26-58-102, as enacted by Laws of Utah 2016, Chapter 71)
- 26B-1-322**, (Renumbered from 26-67-205, as enacted by Laws of Utah 2020, Chapter 169)
- 26B-1-323**, (Renumbered from 62A-3-110, as last amended by Laws of Utah 2013, Chapters 167 and 400)
- 26B-1-324**, (Renumbered from 62A-15-123, as last amended by Laws of Utah 2022, Chapter 187)
- 26B-1-325**, (Renumbered from 62A-15-1103, as last amended by Laws of Utah 2022, Chapters 19 and 149)
- 26B-1-326**, (Renumbered from 62A-15-1104, as enacted by Laws of Utah 2021, Chapter 12)
- 26B-1-327**, (Renumbered from 62A-15-1502, as last amended by Laws of Utah 2021, Chapter 277)
- 26B-1-328**, (Renumbered from 62A-15-1602, as last amended by Laws of Utah 2021, Chapter 278)
- 26B-1-329**, (Renumbered from 62A-15-1702, as enacted by Laws of Utah 2020, Chapter 358 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 358)
- 26B-1-330**, (Renumbered from 62A-5-206.5, as last amended by Laws of Utah 2016, Chapter 300)
- 26B-1-331**, (Renumbered from 62A-5-206.7, as enacted by Laws of Utah 2018, Chapter 404)
- 26B-1-332**, (Renumbered from 26-35a-106, as last amended by Laws of Utah 2017, Chapter 443)

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- 26B-1-401**, (Renumbered from 26-1-11, as last amended by Laws of Utah 2022, Chapter 255)
- 26B-1-402**, (Renumbered from 26-1-41, as enacted by Laws of Utah 2020, Chapter 172)
- 26B-1-403**, (Renumbered from 26-7-13, as last amended by Laws of Utah 2022, Chapter 415)
- 26B-1-404**, (Renumbered from 26-8a-103, as last amended by Laws of Utah 2022, Chapter 255)
- 26B-1-405**, (Renumbered from 26-8a-107, as last amended by Laws of Utah 2022, Chapter 255)
- 26B-1-406**, (Renumbered from 26-8a-251, as last amended by Laws of Utah 2019, Chapter 349)
- 26B-1-407**, (Renumbered from 26-8d-104, as last amended by Laws of Utah 2019, Chapter 349)
- 26B-1-408**, (Renumbered from 26-8d-105, as last amended by Laws of Utah 2019, Chapter 349)
- 26B-1-409**, (Renumbered from 26-9f-103, as last amended by Laws of Utah 2022, Chapter 255)
- 26B-1-410**, (Renumbered from 26-10b-106, as last amended by Laws of Utah 2022, Chapter 255)
- 26B-1-411**, (Renumbered from 26-18a-2, as last amended by Laws of Utah 2010, Chapter 286)
- 26B-1-412**, (Renumbered from 26-21-3, as last amended by Laws of Utah 2022, Chapter 255)
- 26B-1-413**, (Renumbered from 26-33a-104, as last amended by Laws of Utah 2016, Chapter 74)
- 26B-1-414**, (Renumbered from 26-39-200, as last amended by Laws of Utah 2022, Chapter 255)
- 26B-1-415**, (Renumbered from 26-39-201, as last amended by Laws of Utah 2022, Chapter 255)
- 26B-1-416**, (Renumbered from 26-40-104, as last amended by Laws of Utah 2015,

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Chapter 107)

26B-1-417, (Renumbered from 26-50-202, as last amended by Laws of Utah 2016,
Chapter 168)

26B-1-418, (Renumbered from 26-54-103, as last amended by Laws of Utah 2022,
Chapter 255)

26B-1-419, (Renumbered from 26-46-103, as last amended by Laws of Utah 2017,
Chapter 126)

26B-1-420, (Renumbered from 26-61-201, as last amended by Laws of Utah 2022,
Chapter 452)

26B-1-421, (Renumbered from 26-61a-105, as last amended by Laws of Utah 2022,
Chapter 452)

26B-1-422, (Renumbered from 26-66-202, as enacted by Laws of Utah 2019, Chapter
34)

26B-1-423, (Renumbered from 26-46a-104, as last amended by Laws of Utah 2022,
Chapter 255)

26B-1-424, (Renumbered from 26-67-202, as enacted by Laws of Utah 2015, Chapter
136)

26B-1-425, (Renumbered from 26-69-201, as enacted by Laws of Utah 2022, Chapter
224)

26B-1-426, (Renumbered from 62A-1-107, as last amended by Laws of Utah 2022,
Chapter 255)

26B-1-427, (Renumbered from 62A-1-121, as last amended by Laws of Utah 2022,
Chapter 447)

26B-1-428, (Renumbered from 26-7-10, as last amended by Laws of Utah 2022,
Chapter 255)

26B-1-429, (Renumbered from 62A-5-202.5, as last amended by Laws of Utah 2021,
Chapter 355)

26B-1-430, (Renumbered from 62A-5a-103, as last amended by Laws of Utah 2016,
Chapter 271)

26B-1-431, (Renumbered from 62A-15-605, as last amended by Laws of Utah 2020,
Chapter 304)

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- 26B-1-501**, (Renumbered from 62A-16-102, as last amended by Laws of Utah 2022, Chapter 335)
- 26B-1-502**, (Renumbered from 62A-16-201, as last amended by Laws of Utah 2021, Chapter 231)
- 26B-1-503**, (Renumbered from 62A-16-202, as last amended by Laws of Utah 2021, Chapter 231)
- 26B-1-504**, (Renumbered from 62A-16-203, as last amended by Laws of Utah 2021, Chapter 231)
- 26B-1-505**, (Renumbered from 62A-16-204, as last amended by Laws of Utah 2021, Chapter 231)
- 26B-1-506**, (Renumbered from 62A-16-301, as last amended by Laws of Utah 2021, Chapter 231)
- 26B-1-507**, (Renumbered from 62A-16-302, as last amended by Laws of Utah 2022, Chapter 274)
- 26B-2-102**, (Renumbered from 62A-2-102, as last amended by Laws of Utah 1998, Chapter 358)
- 26B-2-103**, (Renumbered from 62A-2-103, as last amended by Laws of Utah 1998, Chapter 358)
- 26B-2-104**, (Renumbered from 62A-2-106, as last amended by Laws of Utah 2021, Chapter 400)
- 26B-2-105**, (Renumbered from 62A-2-108, as last amended by Laws of Utah 2017, Chapter 78)
- 26B-2-106**, (Renumbered from 62A-2-109, as last amended by Laws of Utah 2009, Chapter 75)
- 26B-2-107**, (Renumbered from 62A-2-118, as last amended by Laws of Utah 2021, Chapter 400)
- 26B-2-108**, (Renumbered from 62A-2-119, as enacted by Laws of Utah 1998, Chapter 358)
- 26B-2-109**, (Renumbered from 62A-2-124, as enacted by Laws of Utah 2021, Chapter 400)
- 26B-2-110**, (Renumbered from 62A-2-113, as last amended by Laws of Utah 2018,

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Chapter 93)

26B-2-111, (Renumbered from 62A-2-111, as last amended by Laws of Utah 2008, Chapter 382)

26B-2-112, (Renumbered from 62A-2-112, as last amended by Laws of Utah 2021, Chapter 117)

26B-2-113, (Renumbered from 62A-2-116, as last amended by Laws of Utah 2022, Chapter 468)

26B-2-114, (Renumbered from 62A-2-115, as last amended by Laws of Utah 2009, Chapter 75)

26B-2-115, (Renumbered from 62A-2-110, as last amended by Laws of Utah 2005, Chapter 188)

26B-2-116, (Renumbered from 62A-2-108.1, as last amended by Laws of Utah 2019, Chapters 187 and 316)

26B-2-117, (Renumbered from 62A-2-108.2, as last amended by Laws of Utah 2014, Chapter 240)

26B-2-118, (Renumbered from 62A-2-108.4, as enacted by Laws of Utah 2016, Chapter 342)

26B-2-119, (Renumbered from 62A-2-108.8, as last amended by Laws of Utah 2021, Chapter 262)

26B-2-120, (Renumbered from 62A-2-120, as last amended by Laws of Utah 2022, Chapters 185, 335, 430, and 468)

26B-2-121, (Renumbered from 62A-2-121, as last amended by Laws of Utah 2022, Chapters 255, 255, and 335)

26B-2-122, (Renumbered from 62A-2-122, as last amended by Laws of Utah 2016, Chapter 348)

26B-2-123, (Renumbered from 62A-2-123, as last amended by Laws of Utah 2022, Chapter 468)

26B-2-124, (Renumbered from 62A-2-125, as enacted by Laws of Utah 2021, Chapter 117)

26B-2-125, (Renumbered from 62A-2-128, as enacted by Laws of Utah 2022, Chapter 468)

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26B-2-126, (Renumbered from 62A-2-108.5, as last amended by Laws of Utah 2017, Chapter 148)

26B-2-127, (Renumbered from 62A-2-108.6, as last amended by Laws of Utah 2022, Chapters 287, 326 and renumbered and amended by Laws of Utah 2022, Chapter 334 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 334)

26B-2-128, (Renumbered from 62A-2-116.5, as enacted by Laws of Utah 2017, Chapter 29)

26B-2-129, (Renumbered from 62A-2-117, as last amended by Laws of Utah 2017, Chapter 209)

26B-2-130, (Renumbered from 62A-2-117.5, as last amended by Laws of Utah 2022, Chapter 335)

26B-2-131, (Renumbered from 62A-2-127, as renumbered and amended by Laws of Utah 2022, Chapter 334)

26B-2-132, (Renumbered from 62A-2-115.2, as renumbered and amended by Laws of Utah 2022, Chapter 334)

26B-2-133, (Renumbered from 62A-2-115.1, as last amended by Laws of Utah 2022, Chapter 415 and renumbered and amended by Laws of Utah 2022, Chapter 334)

26B-2-201, (Renumbered from 26-21-2, as last amended by Laws of Utah 2022, Chapter 255)

26B-2-202, (Renumbered from 26-21-6, as last amended by Laws of Utah 2016, Chapter 74)

26B-2-203, (Renumbered from 26-21-2.1, as last amended by Laws of Utah 2022, Chapter 452)

26B-2-204, (Renumbered from 26-21-6.5, as last amended by Laws of Utah 2018, Chapter 282)

26B-2-205, (Renumbered from 26-21-7, as last amended by Laws of Utah 2019, Chapter 349)

26B-2-206, (Renumbered from 26-21-8, as last amended by Laws of Utah 2016, Chapter 74)

26B-2-207, (Renumbered from 26-21-9, as last amended by Laws of Utah 2011, Chapter 297)

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- 26B-2-208**, (Renumbered from 26-21-11, as last amended by Laws of Utah 1997, Chapter 209)
- 26B-2-209**, (Renumbered from 26-21-11.1, as last amended by Laws of Utah 2018, Chapter 203)
- 26B-2-210**, (Renumbered from 26-21-12, as last amended by Laws of Utah 1997, Chapter 209)
- 26B-2-211**, (Renumbered from 26-21-13, as last amended by Laws of Utah 1990, Chapter 114)
- 26B-2-212**, (Renumbered from 26-21-13.5, as last amended by Laws of Utah 2011, Chapter 366)
- 26B-2-213**, (Renumbered from 26-21-13.6, as enacted by Laws of Utah 1995, Chapter 321)
- 26B-2-214**, (Renumbered from 26-21-14, as last amended by Laws of Utah 1990, Chapter 114)
- 26B-2-215**, (Renumbered from 26-21-15, as last amended by Laws of Utah 1990, Chapter 114)
- 26B-2-216**, (Renumbered from 26-21-16, as last amended by Laws of Utah 2009, Chapter 347)
- 26B-2-217**, (Renumbered from 26-21-17, as last amended by Laws of Utah 1990, Chapter 114)
- 26B-2-218**, (Renumbered from 26-21-19, as last amended by Laws of Utah 1985, Chapter 242)
- 26B-2-219**, (Renumbered from 26-21-20, as last amended by Laws of Utah 2009, Chapter 11)
- 26B-2-220**, (Renumbered from 26-21-21, as enacted by Laws of Utah 1992, Chapter 31)
- 26B-2-221**, (Renumbered from 26-21-22, as last amended by Laws of Utah 2022, Chapter 415)
- 26B-2-222**, (Renumbered from 26-21-23, as last amended by Laws of Utah 2017, Chapter 443)
- 26B-2-223**, (Renumbered from 26-21-24, as enacted by Laws of Utah 2008, Chapter

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26B-2-224, (Renumbered from 26-21-25, as last amended by Laws of Utah 2010, Chapter 218)

26B-2-225, (Renumbered from 26-21-26, as last amended by Laws of Utah 2022, Chapter 415)

26B-2-226, (Renumbered from 26-21-27, as last amended by Laws of Utah 2021, Chapter 353)

26B-2-227, (Renumbered from 26-21-28, as enacted by Laws of Utah 2016, Chapter 357)

26B-2-228, (Renumbered from 26-21-29, as last amended by Laws of Utah 2020, Chapter 222)

26B-2-229, (Renumbered from 26-21-30, as enacted by Laws of Utah 2018, Chapter 157)

26B-2-230, (Renumbered from 26-21-31, as last amended by Laws of Utah 2019, Chapter 445)

26B-2-231, (Renumbered from 26-21-32, as enacted by Laws of Utah 2019, Chapter 262)

26B-2-232, (Renumbered from 26-21-33, as enacted by Laws of Utah 2020, Chapter 251)

26B-2-233, (Renumbered from 26-21-34, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4)

26B-2-234, (Renumbered from 26-21-35, as enacted by Laws of Utah 2021, Chapter 146)

26B-2-235, (Renumbered from 26-21c-103, as enacted by Laws of Utah 2020, Chapter 406)

26B-2-236, (Renumbered from 26-21-303, as enacted by Laws of Utah 2016, Chapter 141)

26B-2-237, (Renumbered from 26-21-305, as enacted by Laws of Utah 2018, Chapter 220)

26B-2-238, (Renumbered from 26-21-201, as enacted by Laws of Utah 2012, Chapter 328)

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- 26B-2-239**, (Renumbered from 26-21-202, as enacted by Laws of Utah 2012, Chapter 328)
- 26B-2-240**, (Renumbered from 26-21-204, as last amended by Laws of Utah 2022, Chapters 335 and 415)
- 26B-2-241**, (Renumbered from 26-21-209, as last amended by Laws of Utah 2015, Chapter 307)
- 26B-2-301**, (Renumbered from 62A-3-202, as last amended by Laws of Utah 2022, Chapter 415)
- 26B-2-302**, (Renumbered from 62A-3-201, as last amended by Laws of Utah 2018, Chapter 60)
- 26B-2-303**, (Renumbered from 62A-3-203, as last amended by Laws of Utah 2018, Chapter 60)
- 26B-2-304**, (Renumbered from 62A-3-204, as last amended by Laws of Utah 2018, Chapter 60)
- 26B-2-305**, (Renumbered from 62A-3-205, as last amended by Laws of Utah 2018, Chapter 60)
- 26B-2-306**, (Renumbered from 62A-3-206, as last amended by Laws of Utah 2018, Chapter 60)
- 26B-2-307**, (Renumbered from 62A-3-207, as last amended by Laws of Utah 2018, Chapter 60)
- 26B-2-308**, (Renumbered from 62A-3-208, as last amended by Laws of Utah 2018, Chapter 60)
- 26B-2-309**, (Renumbered from 62A-3-209, as enacted by Laws of Utah 2018, Chapter 220)
- 26B-2-401**, (Renumbered from 26-39-102, as last amended by Laws of Utah 2022, Chapters 21 and 255)
- 26B-2-402**, (Renumbered from 26-39-301, as last amended by Laws of Utah 2022, Chapters 21 and 255)
- 26B-2-403**, (Renumbered from 26-39-401, as last amended by Laws of Utah 2022, Chapter 21)
- 26B-2-404**, (Renumbered from 26-39-402, as last amended by Laws of Utah 2022,

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Chapters 21, 255, and 335)

26B-2-405, (Renumbered from 26-39-403, as last amended by Laws of Utah 2022, Chapter 21)

26B-2-406, (Renumbered from 26-39-404, as last amended by Laws of Utah 2020, Chapter 150)

26B-2-407, (Renumbered from 26-39-405, as enacted by Laws of Utah 2022, Chapter 194)

26B-2-408, (Renumbered from 26-39-501, as last amended by Laws of Utah 2015, Chapter 220)

26B-2-409, (Renumbered from 26-39-601, as last amended by Laws of Utah 2008, Chapter 382 and renumbered and amended by Laws of Utah 2008, Chapter 111)

26B-2-410, (Renumbered from 26-39-602, as renumbered and amended by Laws of Utah 2008, Chapter 111)

26B-2-501, (Renumbered from 26-71-101, as enacted by Laws of Utah 2022, Chapter 279)

26B-2-502, (Renumbered from 26-71-102, as enacted by Laws of Utah 2022, Chapter 279)

26B-2-503, (Renumbered from 26-71-103, as enacted by Laws of Utah 2022, Chapter 279)

26B-2-504, (Renumbered from 26-71-104, as enacted by Laws of Utah 2022, Chapter 279)

26B-2-505, (Renumbered from 26-71-105, as enacted by Laws of Utah 2022, Chapter 279)

26B-2-506, (Renumbered from 26-71-106, as enacted by Laws of Utah 2022, Chapter 279)

26B-2-507, (Renumbered from 26-71-107, as enacted by Laws of Utah 2022, Chapter 279)

26B-2-601, (Renumbered from 26-21a-101, as enacted by Laws of Utah 1991, Chapter 126)

26B-2-602, (Renumbered from 26-21a-203, as last amended by Laws of Utah 2018, Chapter 217)

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26B-2-603, (Renumbered from 26-21a-204, as last amended by Laws of Utah 2001, Chapter 286)

26B-2-604, (Renumbered from 26-21a-205, as last amended by Laws of Utah 2018, Chapter 217)

26B-2-605, (Renumbered from 26-21a-206, as enacted by Laws of Utah 2018, Chapter 217)

26B-2-606, (Renumbered from 26-21a-301, as enacted by Laws of Utah 1991, Chapter 126)

26B-9-102, (Renumbered from 62A-11-101, as enacted by Laws of Utah 1988, Chapter 1)

26B-9-103, (Renumbered from 62A-11-102, as enacted by Laws of Utah 1988, Chapter 1)

26B-9-104, (Renumbered from 62A-11-104, as last amended by Laws of Utah 2015, Chapter 45)

26B-9-105, (Renumbered from 62A-11-104.1, as last amended by Laws of Utah 2008, Chapter 382)

26B-9-106, (Renumbered from 62A-11-105, as last amended by Laws of Utah 2008, Chapter 382)

26B-9-107, (Renumbered from 62A-11-106, as last amended by Laws of Utah 1994, Chapter 140)

26B-9-108, (Renumbered from 62A-11-107, as last amended by Laws of Utah 2008, Chapter 3)

26B-9-109, (Renumbered from 62A-11-108, as last amended by Laws of Utah 1997, Chapter 232)

26B-9-110, (Renumbered from 62A-11-111, as last amended by Laws of Utah 2011, Chapter 366)

26B-9-111, (Renumbered from 62A-1-117, as enacted by Laws of Utah 1997, Chapter 174)

26B-9-112, (Renumbered from 62A-11-703, as renumbered and amended by Laws of Utah 2008, Chapter 73)

26B-9-113, (Renumbered from 62A-11-704, as enacted by Laws of Utah 2008, Chapter

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26B-9-201, (Renumbered from 62A-11-303, as last amended by Laws of Utah 2008, Chapters 3 and 382)

26B-9-202, (Renumbered from 62A-11-302, as enacted by Laws of Utah 1988, Chapter 1)

26B-9-203, (Renumbered from 62A-11-303.5, as enacted by Laws of Utah 2002, Chapter 60)

26B-9-204, (Renumbered from 62A-11-303.7, as last amended by Laws of Utah 2019, Chapter 285)

26B-9-205, (Renumbered from 62A-11-304.1, as last amended by Laws of Utah 2009, Chapter 212)

26B-9-206, (Renumbered from 62A-11-304.2, as last amended by Laws of Utah 2021, Chapter 262)

26B-9-207, (Renumbered from 62A-11-304.4, as last amended by Laws of Utah 2022, Chapter 335)

26B-9-208, (Renumbered from 62A-11-304.5, as enacted by Laws of Utah 1997, Chapter 232)

26B-9-209, (Renumbered from 62A-11-305, as last amended by Laws of Utah 2015, Chapter 45)

26B-9-210, (Renumbered from 62A-11-306.1, as last amended by Laws of Utah 1997, Chapter 232)

26B-9-211, (Renumbered from 62A-11-306.2, as enacted by Laws of Utah 2007, Chapter 282)

26B-9-212, (Renumbered from 62A-11-307.1, as last amended by Laws of Utah 2017, Chapter 156)

26B-9-213, (Renumbered from 62A-11-307.2, as last amended by Laws of Utah 1997, Chapters 174 and 232)

26B-9-214, (Renumbered from 62A-11-312.5, as last amended by Laws of Utah 2008, Chapter 3)

26B-9-215, (Renumbered from 62A-11-313, as last amended by Laws of Utah 1989, Chapter 62)

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- 26B-9-216**, (Renumbered from 62A-11-315.5, as enacted by Laws of Utah 1997, Chapter 232)
- 26B-9-217**, (Renumbered from 62A-11-316, as last amended by Laws of Utah 1988, Chapter 203)
- 26B-9-218**, (Renumbered from 62A-11-319, as enacted by Laws of Utah 1988, Chapter 1)
- 26B-9-219**, (Renumbered from 62A-11-320, as last amended by Laws of Utah 1997, Chapter 232)
- 26B-9-220**, (Renumbered from 62A-11-320.5, as repealed and reenacted by Laws of Utah 1997, Chapter 232)
- 26B-9-221**, (Renumbered from 62A-11-320.6, as enacted by Laws of Utah 1997, Chapter 232)
- 26B-9-222**, (Renumbered from 62A-11-320.7, as enacted by Laws of Utah 1997, Chapter 232)
- 26B-9-223**, (Renumbered from 62A-11-321, as enacted by Laws of Utah 1988, Chapter 1)
- 26B-9-224**, (Renumbered from 62A-11-326, as last amended by Laws of Utah 2010, Chapter 285)
- 26B-9-225**, (Renumbered from 62A-11-326.1, as last amended by Laws of Utah 2001, Chapter 116)
- 26B-9-226**, (Renumbered from 62A-11-326.2, as last amended by Laws of Utah 2001, Chapter 116)
- 26B-9-227**, (Renumbered from 62A-11-326.3, as last amended by Laws of Utah 2008, Chapter 382)
- 26B-9-228**, (Renumbered from 62A-11-327, as repealed and reenacted by Laws of Utah 1997, Chapter 232)
- 26B-9-229**, (Renumbered from 62A-11-328, as last amended by Laws of Utah 2021, Chapter 367)
- 26B-9-230**, (Renumbered from 62A-11-333, as last amended by Laws of Utah 2008, Chapters 3 and 382)
- 26B-9-231**, (Renumbered from 62A-11-334, as enacted by Laws of Utah 2021, Chapter

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26B-9-301, (Renumbered from 62A-11-401, as last amended by Laws of Utah 2008, Chapters 3 and 73)

26B-9-302, (Renumbered from 62A-11-402, as enacted by Laws of Utah 1988, Chapter 1)

26B-9-303, (Renumbered from 62A-11-403, as last amended by Laws of Utah 2007, Chapter 131)

26B-9-304, (Renumbered from 62A-11-404, as repealed and reenacted by Laws of Utah 1997, Chapter 232)

26B-9-305, (Renumbered from 62A-11-405, as last amended by Laws of Utah 1997, Chapter 232)

26B-9-306, (Renumbered from 62A-11-406, as last amended by Laws of Utah 2000, Chapter 161)

26B-9-307, (Renumbered from 62A-11-407, as last amended by Laws of Utah 2008, Chapter 382)

26B-9-308, (Renumbered from 62A-11-408, as last amended by Laws of Utah 1997, Chapter 232)

26B-9-309, (Renumbered from 62A-11-409, as last amended by Laws of Utah 1997, Chapter 232)

26B-9-310, (Renumbered from 62A-11-410, as enacted by Laws of Utah 1988, Chapter 1)

26B-9-311, (Renumbered from 62A-11-411, as enacted by Laws of Utah 1988, Chapter 1)

26B-9-312, (Renumbered from 62A-11-413, as enacted by Laws of Utah 1988, Chapter 1)

26B-9-313, (Renumbered from 62A-11-414, as enacted by Laws of Utah 1988, Chapter 1)

26B-9-402, (Renumbered from 62A-11-501, as last amended by Laws of Utah 1997, Chapter 232)

26B-9-403, (Renumbered from 62A-11-502, as last amended by Laws of Utah 2007, Chapter 131)

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- 26B-9-404**, (Renumbered from 62A-11-503, as repealed and reenacted by Laws of Utah 1997, Chapter 232)
- 26B-9-405**, (Renumbered from 62A-11-504, as last amended by Laws of Utah 1998, Chapter 188)
- 26B-9-406**, (Renumbered from 62A-11-505, as enacted by Laws of Utah 1997, Chapter 232)
- 26B-9-407**, (Renumbered from 62A-11-506, as last amended by Laws of Utah 2000, Chapter 161)
- 26B-9-408**, (Renumbered from 62A-11-507, as enacted by Laws of Utah 1997, Chapter 232)
- 26B-9-409**, (Renumbered from 62A-11-508, as enacted by Laws of Utah 1997, Chapter 232)
- 26B-9-410**, (Renumbered from 62A-11-509, as enacted by Laws of Utah 1997, Chapter 232)
- 26B-9-411**, (Renumbered from 62A-11-510, as enacted by Laws of Utah 1997, Chapter 232)
- 26B-9-412**, (Renumbered from 62A-11-511, as enacted by Laws of Utah 1997, Chapter 232)
- 26B-9-501**, (Renumbered from 62A-11-602, as enacted by Laws of Utah 2007, Chapter 338)
- 26B-9-502**, (Renumbered from 62A-11-603, as last amended by Laws of Utah 2008, Chapter 382)
- 26B-9-503**, (Renumbered from 62A-11-604, as enacted by Laws of Utah 2007, Chapter 338)

Utah Code Sections Affected by Coordination Clause:

26-8a-103, as last amended by Laws of Utah 2022, Chapter 255

26-8a-107, as last amended by Laws of Utah 2022, Chapter 255

26-8a-602, as enacted by Laws of Utah 2019, Chapter 262

26-21-305, as enacted by Laws of Utah 2018, Chapter 220

26-39-200, as last amended by Laws of Utah 2022, Chapter 255

26-61-201, as last amended by Laws of Utah 2022, Chapter 452

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26-61a-109, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

26-66-202, as enacted by Laws of Utah 2019, Chapter 34

26-66-204, Utah Code Annotated 1953

26B-1-333, Utah Code Annotated 1953

26B-1-433, Utah Code Annotated 1953

26B-2-101, as enacted by Laws of Utah 2022, Chapter 255

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

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

CHAPTER 1. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Part 1. General Provisions

26B-1-102. Definitions.

As used in this title:

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

~~[(2) "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;]~~

(2) "Executive director" means the executive director of the department appointed under Section 26B-1-203.

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

~~[(3)]~~ (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 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;]~~

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~~[(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 2. Section 26B-1-204 is amended to read:

Part 2. Department of Health and Human Services

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.

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

- (a) Board of Aging and Adult Services;
- (b) Utah State Developmental Center Board;
- ~~[(c) Health Advisory Council;]~~
- ~~[(d)]~~ (c) Health Facility Committee;
- ~~[(e)]~~ (d) State Emergency Medical Services Committee;
- ~~[(f)]~~ (e) Air Ambulance Committee;
- ~~[(g)]~~ (f) Health Data Committee;
- ~~[(h)]~~ (g) Utah Health Care Workforce Financial Assistance Program Advisory Committee;
- ~~[(i)]~~ (h) Residential Child Care Licensing Advisory Committee;
- ~~[(j)]~~ (i) Child Care Center Licensing Committee;

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~~[(k)]~~ [(i)] Primary Care Grant Committee;

~~[(t)]~~ [(k)] Adult Autism Treatment Program Advisory Committee;

~~[(m)]~~ [(l)] Youth Electronic Cigarette, Marijuana, and Other Drug Prevention

Committee; and

~~[(n)]~~ [(m)] any boards, councils, or committees that are created by statute in ~~[:]~~ this title.

~~[(i)]~~ this title;

~~[(ii)]~~ Title 26, Utah Health Code; or

~~[(iii)]~~ Title 62A, Utah Human Services Code.

(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;~~ Chapter 5, Health Care - Substance Use and Mental Health;

(ii) the Division of Aging and Adult Services; and

(iii) the Division of 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

(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 ~~[:]~~ this title.

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~~[(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~~[(1)]~~ this title.

~~[(a) this title;]~~

~~[(b) Title 26, Utah Health Code; or]~~

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

Section ~~{2}~~3. Section **26B-1-214**, which is renumbered from Section 26-1-10 is renumbered and amended to read:

~~{Part 2. Department of Health and Human Services~~

~~†~~ ~~[26-1-10].~~ **26B-1-214.** 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 the department except where the enforcement power is given to a committee created under Section 26B-1-204.

Section ~~{3}~~4. Section **26B-1-215**, which is renumbered from Section 62A-1-115 is renumbered and amended to read:

~~[62A-1-115].~~ **26B-1-215.** Actions on behalf of department -- Party in interest.

(1) The executive director, each of the department's boards, divisions, offices, and the director of each division or office, shall, in the exercise of any power, duty, or function under any statute of this state, is considered to be acting on behalf of the department.

(2) The department, through the executive director or through any of the department's boards, divisions, offices, or directors, shall be considered the party in interest in all actions at law or in equity, where the department or any constituent, board, division, office, or official thereof is authorized by any statute of the state to be a party to any legal action.

Section ~~{4}~~5. Section **26B-1-216**, which is renumbered from Section 62A-18-105 is renumbered and amended to read:

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~~[62A-18-105].~~ 26B-1-216. Powers and duties of the department -- Quality and design.

The ~~[office]~~ department shall:

- (1) monitor and evaluate the quality of services provided by the department including:
 - (a) in accordance with ~~[Title 62A, Chapter 16, Fatality Review Act,]~~ Part 5, Fatality Review monitoring, reviewing, and making recommendations relating to a fatality review;
 - (b) overseeing the duties of the child protection ombudsman appointed under Section 80-2-1104; and
 - (c) conducting internal evaluations of the quality of services provided by the department and service providers contracted with the department;
- (2) conduct investigations described in Section 80-2-703; and
- (3) ~~[assist the department in developing]~~ develop an integrated human services system and implementing a system of care by:
 - (a) designing and implementing a comprehensive continuum of services for individuals who receive services from the department or a service provider contracted with the department;
 - (b) establishing and maintaining department contracts with public and private service providers;
 - (c) establishing standards for the use of service providers who contract with the department;
 - (d) coordinating a service provider network to be used within the department to ensure individuals receive the appropriate type of services;
 - (e) centralizing the department's administrative operations; and
 - (f) integrating, analyzing, and applying department-wide data and research to monitor the quality, effectiveness, and outcomes of services provided by the department.

Section ~~{5}~~6. Section **26B-1-217**, which is renumbered from Section 26-1-35 is renumbered and amended to read:

~~[26-1-35].~~ 26B-1-217. Content and form of certificates and reports.

- (1) Certificates, certifications, forms, reports, other documents and records, and the form of communication between persons required by this title shall be prepared in the form prescribed by department rule.
- (2) Certificates, certifications, forms, reports, or other documents and records, and

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communications between persons required by this title may be signed, filed, verified, registered, and stored by photographic, electronic, or other means as prescribed by department rule.

Section ~~6~~7. Section **26B-1-218**, which is renumbered from Section 26-1-44 is renumbered and amended to read:

~~[26-1-44].~~ 26B-1-218. Intergenerational poverty mitigation reporting.

(1) As used in this section:

(a) "Cycle of poverty" means the same as that term is defined in Section 35A-9-102.

(b) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(2) On or before October 1 of each year, the department shall provide an annual report to the Department of Workforce Services for inclusion in the intergenerational poverty report described in Section 35A-9-202.

(3) The report shall:

(a) describe policies, procedures, and programs that the department has implemented or modified to help break the cycle of poverty and end welfare dependency for children in the state affected by intergenerational poverty; and

(b) contain recommendations to the Legislature on how to address issues relating to breaking the cycle of poverty and ending welfare dependency for children in the state affected by intergenerational poverty.

Section ~~7~~8. Section **26B-1-219**, which is renumbered from Section 26-1-45 is renumbered and amended to read:

~~[26-1-45].~~ 26B-1-219. Requirements for issuing, recommending, or facilitating rationing criteria.

(1) As used in this section:

(a) "Health care resource" means:

(i) health care as defined in Section 78B-3-403;

(ii) a prescription drug as defined in Section 58-17b-102;

(iii) a prescription device as defined in Section 58-17b-102;

(iv) a nonprescription drug as defined in Section 58-17b-102; or

(v) any supply or treatment that is intended for use in the course of providing health

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care as defined in Section 78B-3-403.

(b) (i) "Rationing criteria" means any requirement, guideline, process, or recommendation regarding:

(A) the distribution of a scarce health care resource; or

(B) qualifications or criteria for a person to receive a scarce health care resource.

(ii) "Rationing criteria" includes crisis standards of care with respect to any health care resource.

(c) "Scarce health care resource" means a health care resource:

(i) for which the need for the health care resource in the state or region significantly exceeds the available supply of that health care resource in that state or region;

(ii) that, based on the circumstances described in Subsection (1)(c)(i), is distributed or provided using written requirements, guidelines, processes, or recommendations as a factor in the decision to distribute or provide the health care resource; and

(iii) that the federal government has allocated to the state to distribute.

(2) (a) On or before July 1, 2022, the department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure that the department will follow to adopt, modify, require, facilitate, or recommend rationing criteria.

(b) Beginning July 1, 2022, the department may not adopt, modify, require, facilitate, or recommend rationing criteria unless the department follows the procedure established by the department under Subsection (2)(a).

(3) The procedures developed by the department under Subsection (2) shall include, at a minimum:

(a) a requirement that the department notify the following individuals in writing before rationing criteria are issued, are recommended, or take effect:

(i) the Administrative Rules Review and General Oversight Committee created in Section 63G-3-501;

(ii) the governor or the governor's designee;

(iii) the president of the Senate or the president's designee;

(iv) the speaker of the House of Representatives or the speaker's designee;

(v) the executive director or the executive director's designee; and

(vi) if rationing criteria affect hospitals in the state, a representative of an association

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representing hospitals throughout the state, as designated by the executive director; and

(b) procedures for an emergency circumstance which shall include, at a minimum:

(i) a description of the circumstances under which emergency procedures described in this Subsection (3)(b) may be used; and

(ii) a requirement that the department notify the individuals described in Subsections (3)(a)(i) through (vi) as soon as practicable, but no later than 48 hours after the rationing criteria take effect.

(4) (a) Within 30 days after March 22, 2022, the department shall send to the Administrative Rules Review and General Oversight Committee all rationing criteria that:

(i) were adopted, modified, required, facilitated, or recommended by the department prior to March 22, 2022; and

(ii) on March 22, 2022, were in effect and in use to distribute or qualify a person to receive scarce health care resources.

(b) During the 2022 interim, the Administrative Rules Review and General Oversight Committee shall, under Subsection 63G-3-501(3)(d)(i), review each of the rationing criteria submitted by the department under Subsection (4)(a).

(5) The requirements described in this section and rules made under this section shall apply regardless of whether rationing criteria:

(a) have the force and effect of law, or is solely advisory, informative, or descriptive;

(b) are carried out or implemented directly or indirectly by the department or by other individuals or entities; or

(c) are developed solely by the department or in collaboration with other individuals or entities.

(6) This section:

(a) may not be suspended under Section 53-2a-209 or any other provision of state law relating to a state of emergency;

(b) does not limit a private entity from developing or implementing rationing criteria; and

(c) does not require the department to adopt, modify, require, facilitate, or recommend rationing criteria that the department does not determine to be necessary or appropriate.

(7) Subsection (2) does not apply to rationing criteria that are adopted, modified,

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required, facilitated, or recommended by the department:

- (a) through the regular, non-emergency rulemaking procedure described in Section 63G-3-301;
- (b) if the modification is solely to correct a technical error in rationing criteria such as correcting obvious errors and inconsistencies including those involving punctuation, capitalization, cross references, numbering, and wording;
- (c) to the extent that compliance with this section would result in a direct violation of federal law;
- (d) that are necessary for administration of the Medicaid program;
- (e) if state law explicitly authorizes the department to engage in rulemaking to establish rationing criteria; or
- (f) if rationing criteria are authorized directly through a general appropriation bill that is validly enacted.

Section ~~8~~9. Section **26B-1-220**, which is renumbered from Section 26-23-1 is renumbered and amended to read:

~~26-23-1~~. 26B-1-220. Legal advice and representation for department.

(1) The attorney general shall be the legal adviser for the department and the executive director and shall defend them in all actions and proceedings brought against either of them. The county attorney of the county in which a cause of action arises or a public offense occurs shall bring any civil action requested by the executive director to abate a condition which exists in violation of the public health laws or standards, orders, and rules of the department as provided in Section ~~26-23-6~~ 26B-1-224.

(2) The district attorney or county attorney having criminal jurisdiction shall prosecute for the violation of the public health laws or standards, orders, and rules of the department as provided in Section ~~26-23-6~~ 26B-1-224.

(3) If the county attorney or district attorney fails to act, the executive director may bring any such action and shall be represented by the attorney general or, with the approval of the attorney general, by special counsel.

Section ~~9~~10. Section **26B-1-221**, which is renumbered from Section 26-23-2 is renumbered and amended to read:

~~26-23-2~~. 26B-1-221. Administrative review of actions of department or

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director.

Any person aggrieved by any action or inaction of the department or its executive director may request an adjudicative proceeding by following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

Section ~~{10}~~11. Section **26B-1-222**, which is renumbered from Section 26-23-3 is renumbered and amended to read:

~~[26-23-3]~~. **26B-1-222. Violation of public health laws or orders unlawful.**

It shall be unlawful for any person, association, or corporation, and the officers thereof:

(1) to willfully violate, disobey, or disregard the provisions of the public health laws or the terms of any lawful notice, order, standard, rule, or regulation issued thereunder; ~~[or]~~

(2) to fail to remove or abate from private property under the person's control at ~~[his]~~ the person's own expense, within 48 hours, or such other reasonable time as the health authorities shall determine, after being ordered to do so by the health authorities, any nuisance, source of filth, cause of sickness, dead animal, health hazard, or sanitation violation within the jurisdiction and control of the department, whether the person, association, or corporation shall be the owner, tenant, or occupant of such property; provided, however, when any such condition is due to an act of God, it shall be removed at public expense; ~~[or]~~

(3) to pay, give, present, or otherwise convey to any officer or employee of the department any gift, remuneration or other consideration, directly or indirectly, which such officer or employee is forbidden to receive by the provisions of this chapter; or

(4) to fail to make or file reports required by law or rule of the department relating to the existence of disease or other facts and statistics relating to the public health.

Section ~~{11}~~12. Section **26B-1-223**, which is renumbered from Section 26-23-4 is renumbered and amended to read:

~~[26-23-4]~~. **26B-1-223. Unlawful acts by department officers and employees.**

It shall be unlawful for any officer or employee of the department:

(1) ~~[To]~~ to accept any gift, remuneration, or other consideration, directly or indirectly, for an incorrect or improper performance of the duties imposed upon ~~[him]~~ the officer or employee by or in behalf of the department or by the provisions of this chapter~~[-];~~ or

(2) ~~[To]~~ to perform any work, labor, or services other than the duties assigned to ~~[him]~~ the officer or employee on behalf of the department during the hours such officer or employee

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is regularly employed by the department, or to perform [his] the officer or employee's duties as an officer or employee of the department under any condition or arrangement that involves a violation of this or any other law of the state.

Section ~~{12}~~13. Section **26B-1-224**, which is renumbered from Section 26-23-6 is renumbered and amended to read:

~~[26-23-6].~~ 26B-1-224. Criminal and civil penalties and liability for violations.

(1) (a) Any person, association, corporation, or an officer of a person, an association, or a corporation, who violates any provision of [~~this chapter~~] ~~{Sections}~~Section ~~26B-1-222~~~~{,}~~26B-1-223, or lawful orders of the department or a local health department in a criminal proceeding is guilty of a class B misdemeanor for the first violation, and for any subsequent similar violation within two years, is guilty of a class A misdemeanor, except this section does not establish the criminal penalty for a violation of Section ~~[26-23-5.5]~~ 26B-8-134 or Section ~~[26-8a-502.1]~~ 26B-4-128.

(b) Conviction in a criminal proceeding does not preclude the department or a local health department from assessment of any civil penalty, administrative civil money penalty or to deny, revoke, condition, or refuse to renew a permit, license, or certificate or to seek other injunctive or equitable remedies.

(2) (a) Subject to Subsections (2)(c) and (d), any association, corporation, or an officer of an association or a corporation, who violates any provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department:

(i) may be assessed, in a judicial civil proceeding, a penalty not to exceed the sum of \$5,000 per violation; or

(ii) may be assessed, in an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act, or similar procedures adopted by local or county government, a penalty not to exceed the sum of \$5,000 per violation.

(b) Subject to Subsections (2)(c) and (d), an individual who violates any provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department:

(i) may be assessed, in a judicial civil proceeding, a penalty not to exceed the sum of \$150 per violation; or

(ii) may be assessed, in an administrative action in accordance with Title 63G, Chapter

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4, Administrative Procedures Act, or similar procedures adopted by local or county government, a penalty not to exceed the sum of \$150 per violation.

(c) (i) Except as provided in Subsection (2)(c)(ii), a penalty described in Subsection (2)(a) or (b) may only be assessed against the same individual, association, or corporation one time in a calendar week.

(ii) Notwithstanding Subsection (2)(c)(i), an individual, an association, a corporation, or an officer of an association or a corporation, who willfully disregards or recklessly violates a provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department, may be assessed a penalty as described in Subsection (2)(a) for each day of violation if it is determined that the violation is likely to result in a serious threat to public health.

(d) Upon reasonable cause shown in judicial civil proceeding or an administrative action, a penalty imposed under this Subsection (2) may be waived or reduced.

(3) Assessment of any civil penalty or administrative penalty does not preclude the department or a local health department from seeking criminal penalties or to deny, revoke, impose conditions on, or refuse to renew a permit, license, or certificate or to seek other injunctive or equitable remedies.

(4) In addition to any penalties imposed under Subsection (1), a person, association, corporation, or an officer of a person, an association, or a corporation, is liable for any expense incurred by the department in removing or abating any health or sanitation violations, including any nuisance, source of filth, cause of sickness, or dead animal.

Section ~~{13}~~14. Section **26B-1-225**, which is renumbered from Section 26-23-7 is renumbered and amended to read:

~~[26-23-7].~~ **26B-1-225. Application of enforcement procedures and penalties.**

Enforcement procedures and penalties provided in ~~[this chapter]~~ Sections 26B-1-222 through 26B-1-224 do not apply to other chapters in this title which provide for specific enforcement procedures and penalties.

Section ~~{14}~~15. Section **26B-1-226**, which is renumbered from Section 26-23-8 is renumbered and amended to read:

~~[26-23-8].~~ **26B-1-226. Representatives of department authorized to enter regulated premises.**

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(1) Authorized representatives of the department upon presentation of appropriate identification shall be authorized to enter upon the premises of properties regulated under this title to perform routine inspections to ~~insure~~ ensure compliance with rules adopted by the department. ~~{ }~~

(2) This section does not authorize the department to inspect private dwellings.

Section ~~{15}~~ 16. Section **26B-1-227**, which is renumbered from Section 26-23-9 is renumbered and amended to read:

~~[26-23-9].~~ **26B-1-227. Authority of department as to functions transferred from other agencies.**

(1) (a) If functions transferred from other agencies are vested by this code in the department, the department shall be the successor in every way, with respect to such functions, except as otherwise provided by this code.

(b) Every act done in the exercise of such functions by the department shall have the same force and effect as if done by the agency in which the functions were previously vested.

(2) Whenever any such agency is referred to or designated by law, contract, or other document, the reference or designation shall apply to the department.

Section ~~{16}~~ 17. Section **26B-1-228**, which is renumbered from Section 26-23-10 is renumbered and amended to read:

~~[26-23-10].~~ **26B-1-228. Religious exemptions from code -- Regulation of state-licensed healing system practice unaffected by code.**

(1) (a) Except as provided in Subsection (1)(b), nothing in this code shall be construed to compel any person to submit to any medical or dental examination or treatment under the authority of this code when such person, or the parent or guardian of any such person objects to such examination or treatment on religious grounds, or to permit any discrimination against such person on account of such objection.

(b) An exemption from medical or dental examination, described in Subsection (1)(a), may not be granted if the executive director has reasonable cause to suspect a substantial menace to the health of other persons exposed to contact with the unexamined person.

(2) Nothing in this code shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents in any home or institution conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or

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tenets of any well recognized church or religious denomination, provided the statutes and regulations on sanitation are complied with.

(3) Nothing in this code shall be construed or used to amend any statute now in force pertaining to the scope of practice of any state-licensed healing system.

Section ~~{17}~~18. Section **26B-1-229**, which is renumbered from Section 26-25-1 is renumbered and amended to read:

~~[26-25-1]~~. **26B-1-229**. **Authority to provide data on treatment and condition of persons to designated agencies -- Immunity from liability -- Information considered privileged communication -- Information held in confidence -- Penalties for violation.**

(1) As used in this section:

(a) "Health care ~~{provider}~~facility" means the same as that term is defined in Section ~~{78B-3-403}~~26B-2-201.

(b) "Health care ~~{facility}~~provider" means the same as that term is defined in Section ~~{26B-2-201}~~78B-3-403.

~~[(1)]~~ (2) Any person, health facility, or other organization may, without incurring liability, provide the following information to the persons and entities described in Subsection ~~[(2)]~~ (3):

(a) information as determined by the state registrar of vital records appointed under ~~[Title 26, Chapter 2, Utah Vital Statistics Act]~~ Chapter 8, Part 1, Vital Statistics;

(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)]~~ (3) The information described in Subsection ~~[(1)]~~ (2) may be provided to:

(a) the department and local health departments;

(b) the Division of Integrated Healthcare within the ~~[Department of Health and Human Services]~~ department;

(c) scientific and health care research organizations affiliated with institutions of higher education;

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- (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)]~~ (4).

~~[(3)]~~ (4) The information described in Subsection ~~[(1)]~~ (2) 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)]~~ (5) 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 in-hospital staff committee to be used for purposes of intraprofessional society or association discipline.

~~[(5)]~~ (6) 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.]~~

(7) (a) The information described in Subsection (2) that is provided to the entities described in Subsection (3) shall:

(i) be used and disclosed by the entities described in Subsection (3) in accordance with this section; and

(ii) is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

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(b) The Office of Substance Use and Mental Health, scientific and health care research organizations affiliated with institutions of higher education, the Utah Medical Association or any of ~~fits~~ **the Utah Medical Association's** allied medical societies, peer review committees, professional review organizations, professional societies and associations, or any health facility's in-house staff committee may only use or publish the information or material received or gathered under this section for the purpose of study and advancing medical research or medical education in the interest of reducing the incidence of disease, morbidity, or mortality, except that a summary of studies conducted in accordance with this section may be released by those groups for general publication.

(8) All information, interviews, reports, statements, memoranda, or other data furnished by reason of this section, and any findings or conclusions resulting from those studies are privileged communications and are not subject to discovery, use, or receipt in evidence in any legal proceeding of any kind or character.

(9) (a) All information described in Subsection (2) that is provided to a person or organization described in Subsection (3) shall be held in strict confidence by that person or organization, and any use, release, or publication resulting therefrom shall be made only for the purposes described in Subsections (4) and (7) and shall preclude identification of any individual or individuals studied.

(b) Notwithstanding Subsection (9)(a), the department's use and disclosure of information is not governed by this section.

(10) (a) Any use, release or publication, negligent or otherwise, contrary to the provisions of this section is a class B misdemeanor.

(b) Subsection (10)(~~fb~~**a**) does not relieve the person or organization responsible for such use, release, or publication from civil liability.

Section ~~18~~**19**. Section **26B-1-230**, which is renumbered from Section 26-68-102 is renumbered and amended to read:

~~[26-68-102].~~ 26B-1-230. Governmental entities prohibited from requiring a COVID-19 vaccine.

(1) As used in this section:

(a) "Governmental entity" means the same as that term is defined in Section 63D-2-102.

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(b) "Emergency COVID-19 vaccine" means a substance that is:

(i) authorized for use by the United States Food and Drug Administration under an emergency use authorization under 21 U.S.C. Sec. 360bbb-3;

(ii) injected into or otherwise administered to an individual; and

(iii) intended to immunize an individual against COVID-19 as defined in Section 78B-4-517.

(2) Except as provided in Subsection (4), a governmental entity may not require, directly or indirectly, that an individual receive an emergency COVID-19 vaccine.

(3) The prohibited activities under Subsection (2) include:

(a) making rules that require, directly or indirectly, that an individual receive an emergency COVID-19 vaccine;

(b) requiring that an individual receive an emergency COVID-19 vaccine as a condition of:

(i) employment;

(ii) participation in an activity of the governmental entity, including outside or extracurricular activities; or

(iii) attendance at events that are hosted or sponsored by the governmental entity; and

(c) any action that a reasonable person would not be able to deny without significant harm to the individual.

(4) Subsection (2) does not include:

(a) facilitating the distribution, dispensing, administration, coordination, or provision of an emergency COVID-19 vaccine;

(b) an employee of a governmental entity who is:

(i) acting in a public health or medical setting; and

(ii) required to receive vaccinations in order to perform the employee's assigned duties and responsibilities; or

(c) enforcement by a governmental entity of a non-discretionary requirement under federal law.

(5) This section may not be suspended or modified by the governor or any other chief executive officer under Title 53, Chapter 2a, Emergency Management Act.

Section ~~19~~20. Section **26B-1-231**, which is renumbered from Section 26B-1a-104 is

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renumbered and amended to read:

~~[26B-1a-104].~~ **26B-1-231.** Office of American Indian-Alaska Native Health and Family Services -- Creation -- Director -- Purpose -- Duties.

(1) (a) "Director" means the director of the office appointed under Subsection (3).

(b) "Office" means the Office of American Indian-Alaska Native Health and Family Services created in Subsection (2).

(2) There is created within the department the Office of American Indian-Alaska Native Health and Family Services.

(3) The executive director shall appoint a director of the office who:

(a) has a bachelor's degree from an accredited university or college;

(b) is experienced in administration; and

(c) is knowledgeable about the areas of American Indian-Alaska Native practices.

(4) (a) The director is the administrative head of the office and shall serve under the supervision of the executive director.

(b) The executive director may hire staff as necessary to carry out the duties of the office described in Subsection (5)(b).

(5) (a) The purpose of the office is to oversee and coordinate department services for Utah's American Indian-Alaska Native populations.

(b) The office shall:

~~[(1)]~~ (i) oversee and coordinate department services for Utah's American Indian-Alaska Native populations;

~~[(2)]~~ (ii) conduct regular and meaningful consultation with Indian tribes when there is a proposed department action that has an impact on an Indian tribe as a sovereign entity;

~~[(3)]~~ (iii) monitor agreements between the department and Utah's American Indian-Alaska Native populations; and

~~[(4)]~~ (iv) oversee the health liaison appointed under Section 26B-1-232 and ICWA liaison appointed under Section 26B-1-233.

Section ~~{20}~~21. Section **26B-1-232**, which is renumbered from Section 26B-1a-105 is renumbered and amended to read:

~~[26B-1a-105].~~ **26B-1-232.** American Indian-Alaska Native Health Liaison -- Appointment -- Duties.

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(1) (a) "Director" means the director of the Office of American Indian-Alaska Native Health and Family Services appointed under Section 26B-1-231.

(b) "Health care" means care, treatment, service, or a procedure to improve, maintain, diagnose, or otherwise affect an individual's physical or mental condition.

(c) "Health liaison" means the American Indian-Alaska Native Health Liaison appointed under Subsection (2).

~~[(1)]~~ (2) (a) The executive director shall appoint an individual as the American Indian-Alaska Native Health Liaison.

(b) The health liaison shall serve under the supervision of the director.

~~[(2)]~~ (3) The health liaison shall:

(a) promote and coordinate collaborative efforts between the department and Utah's American Indian-Alaska Native population to improve the availability and accessibility of quality health care impacting Utah's American Indian-Alaska Native populations on and off reservations;

(b) interact with the following to improve health disparities for Utah's American Indian-Alaska Native populations:

(i) tribal health programs;

(ii) local health departments;

(iii) state agencies and officials; and

(iv) providers of health care in the private sector;

(c) facilitate education, training, and technical assistance regarding public health and medical assistance programs to Utah's American Indian-Alaska Native populations; and

(d) staff an advisory board by which Utah's tribes may consult with state and local agencies for the development and improvement of public health programs designed to address improved health care for Utah's American Indian-Alaska Native populations on and off the reservation.

(4) The health liaison shall annually report the liaison's activities and accomplishments to the Native American Legislative Liaison Committee created in Section 36-22-1.

Section ~~{21}~~22. Section **26B-1-233**, which is renumbered from Section 26B-1a-106 is renumbered and amended to read:

~~[26B-1a-106].~~ 26B-1-233. Indian Child Welfare Act Liaison --

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Appointment -- Qualifications -- Duties.

(1) As used in this section:

(a) "Director" means the director of the Office of American Indian-Alaska Native Health and Family Services appointed under Section 26B-1-231.

(b) "ICWA liaison" means the Indian Child Welfare Act Liaison appointed under Subsection (2).

~~[(+)]~~ (2) (a) The executive director shall appoint an individual as the Indian Child Welfare Act Liaison who:

(i) has a bachelor's degree from an accredited university or college; and

(ii) is knowledgeable about the areas of child and family services and Indian tribal child rearing practices.

(b) The ICWA liaison shall serve under the supervision of the director.

~~[(2)]~~ (3) The ICWA liaison shall:

(a) act as a liaison between the department and Utah's American Indian populations regarding child and family services;

(b) provide training to department employees regarding the requirements and implementation of the Indian Child Welfare Act, 25 U.S.C. Secs. 1901-1963;

(c) develop and facilitate education and technical assistance programs for Utah's American Indian populations regarding available child and family services;

(d) promote and coordinate collaborative efforts between the department and Utah's American Indian population to improve the availability and accessibility of quality child and family services for Utah's American Indian populations; and

(e) interact with the following to improve delivery and accessibility of child and family services for Utah's American Indian populations:

(i) state agencies and officials; and

(ii) providers of child and family services in the public and private sector.

(4) The ICWA liaison shall annually report the liaison's activities and accomplishments to the Native American Legislative Liaison Committee created in Section 36-22-1.

Section ~~{22}~~ 23. Section **26B-1-234**, which is renumbered from Section 62A-1-122 is renumbered and amended to read:

~~[62A-1-122]~~. **26B-1-234. Handling of child sexual abuse material.**

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(1) As used in this section:

(a) "Child ~~{} pornography {}~~ sexual abuse material" means ~~{} the same as that term is {}~~ child pornography as defined in Section 76-5b-103.

(b) "Secure" means to prevent and prohibit access, electronic upload, transmission, or transfer of an image.

(2) The department or a division within the department may not retain child ~~{} pornography {}~~ sexual abuse material longer than is necessary to comply with the requirements of this section.

(3) When the department or a division within the department obtains child ~~{} pornography {}~~ sexual abuse material as a result of an employee unlawfully viewing child ~~{} pornography {}~~ sexual abuse material, the department or division shall consult with and follow the guidance of the Division of Human Resource Management regarding personnel action and local law enforcement regarding retention of the child ~~{} pornography {}~~ sexual abuse material.

(4) When the department or a division within the department obtains child ~~{} pornography {}~~ sexual abuse material as a result of a report or an investigation, the department or division shall immediately secure the child ~~{} pornography {}~~ sexual abuse material, or the electronic device if the child ~~{} pornography {}~~ sexual abuse material is digital, and contact the law enforcement office that has jurisdiction over the area where the division's case is located.

Section ~~{23}~~ 24. Section **26B-1-235**, which is renumbered from Section 26-10-8 is renumbered and amended to read:

~~[26-10-8]. 26B-1-235. Request for proposal required for non-state supplied services.~~

(1) As used in this section:

(a) "AED" means the same as that term is defined in Section 26B-4-301.

(b) "~~{Bureau}~~ Office" means the ~~{Bureau}~~ Office of Emergency Medical Services ~~{,}~~ and Preparedness within the department.

(c) "Sudden cardiac arrest" means the same as that term is defined in Section 26B-4-301.

[~~{+}~~] (2) Funds provided to the department through Sections 51-9-201 and 59-14-204

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to be used to provide services, shall be awarded to non-governmental entities based on a competitive process consistent with Title 63G, Chapter 6a, Utah Procurement Code.

~~[(2)]~~ (3) Beginning July 1, 2010, and not more than every five years thereafter, the department shall issue requests for proposals for new or renewing contracts to award funding for programs under Subsection (1).

Section ~~{24}~~25. Section **26B-1-236**, which is renumbered from Section 26-26-3 is renumbered and amended to read:

~~[26-26-3].~~ **26B-1-236. Experimental ~~{Animals}~~animals -- ~~{Authorization}~~Authorization -- Minimum period of impoundment -- Requirements -- Fees -- Records -- Revocation -- Rulemaking and ~~{Investigation}~~investigation.**

(1) As used in this section, "institution" means any school or college of agriculture, veterinary medicine, medicine, pharmacy, dentistry or other educational, hospital, or scientific establishment properly concerned with the investigation of or instruction concerning the structure or functions of living organisms, the cause, prevention, control, or cure of diseases or abnormal condition of human beings or animals.

(2) (a) Institutions may apply to the department for authorization to obtain animals from establishments maintained for the impounding, care, and disposal of animals seized by lawful authority.

(b) If, after an investigation under Subsection (2)(a), the department finds that the institution meets the requirements of this chapter and ~~{its}~~the department's rules and that the public interest will be served thereby, ~~{it}~~the department may authorize the institution to obtain animals under this chapter.

~~[(1)]~~ (3) Subject to Subsection ~~[(2)]~~ (4), the governing body of the county or municipality in which an establishment is located may make available to an authorized institution as many impounded animals in that establishment as the institution may request.

~~[(2)]~~ (4) A governing body described in Subsection ~~[(1)]~~ (3) may not make an impounded animal available to an institution, unless:

- (a) the animal has been legally impounded for the longer of:
 - (i) at least five days; or
 - (ii) the minimum period provided for by local ordinance;
- (b) the animal has not been claimed or redeemed by:

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- (i) the animal's owner; or
- (ii) any other person entitled to claim or redeem the animal; and
- (c) the establishment has made a reasonable effort to:
 - (i) find the rightful owner of the animal, including checking if the animal has a tag or microchip; and
 - (ii) if the owner is not found, make the animal available to others during the impound period.
- (5) Owners of animals who voluntarily provide their animals to an establishment may, by signature, determine whether or not the animal may be provided to an institution or used for research or educational purposes.
- (6) The authorized institution shall provide, at ~~fits~~ the authorized institution's own expense, for the transportation of such animals from the establishment to the institution and shall use them only in the conduct of scientific and educational activities and for no other purpose.
- (7) (a) The institution shall reimburse the establishment for animals received.
- (b) The fee described in Subsection (7)(a) shall be, at a minimum, \$15 for cats and \$20 for dogs.
- (c) The fee described in Subsection (7)(a) shall be increased as determined by the department, based on fluctuations or changes in the Consumer Price Index.
- (8) Each institution shall keep a public record of all animals received and disposed of.
- (9) The department, upon 15 days written notice and an opportunity to be heard, may revoke an institution's authorization if the institution has violated any provision of this chapter, or has failed to comply with the conditions required by the department in respect to the issuance of authorization.
- (10) In carrying out the provisions of this chapter, the department may adopt rules for:
 - (a) controlling the humane use of animals;
 - (b) diagnosis and treatment of human and animal diseases;
 - (c) advancement of veterinary, dental, medical, and biological sciences; and
 - (d) testing, improvement, and standardization of laboratory specimens, biologic projects, pharmaceuticals, and drugs.
- (11) The department may inspect or investigate any institution that applies for or is

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authorized to obtain animals.

Section ~~{25}~~26. Section **26B-1-237**, which is renumbered from Section 26-18-605 is renumbered and amended to read:

~~[26-18-605].~~ **26B-1-237. Utah Office of Internal Audit.**

The Utah Office of Internal Audit:

- (1) may not be placed within the division;
- (2) shall be placed directly under, and report directly to, the executive director of the Department of Health; and
- (3) shall have full access to all records of the division.

~~{62A-4a-211. Division responsibilities -- Normalizing}~~Section 27. Section 26B-1-238, which is renumbered from Section 62A-4a-211 is renumbered and amended to read:

~~[62A-4a-211].~~ **26B-1-238. 62A-4a-211. Normalizing lives of children**~~f.~~

~~(1)}~~ **-- Responsibilities of the Division of Child and Family Services.**

(1) As used in this section:

(a) "Activity" means an extracurricular, enrichment, or social activity.

(b) "Age-appropriate" means a type of activity that is generally accepted as suitable for a child of the same age or level of maturity, based on the development of cognitive, emotional, physical, and behavioral capacity that is typical for the child's age or age group.

(c) "Caregiver" means a person with whom a child is placed in an out-of-home placement.

(d) "Division" means the Division of Child and Family Services.

(e) "Out-of-home placement" means the placement of a child in the division's custody outside of the child's home, including placement in a foster home, a residential treatment program, proctor care, or with kin.

(f) "Reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions to maintain a child's health, safety, and best interest while at the same time encouraging the child's emotional and developmental growth.

~~(1)~~ (2) A child who comes into care under this chapter is entitled to participate in age-appropriate activities for the child's emotional well-being and development of valuable life-coping skills.

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~~[(2)]~~1(3) The division shall make efforts to normalize the lives of children in the division's custody and to empower a caregiver to approve or disapprove a child's participation in activities based on the caregiver's own assessment using a reasonable and prudent parent standard, without prior approval of the division.

~~[(3)]~~1(4) The division shall allow a caregiver to make important decisions, similar to the decisions that a parent is entitled to make, regarding the child's participation in activities.

Section ~~{26}~~28. Section **26B-1-306**, which is renumbered from Section 26-8a-108 is renumbered and amended to read:

Part 3. Funds and Accounts

~~[26-8a-108].~~ **26B-1-306. Emergency Medical Services System Account.**

(1) There is created within the General Fund a restricted account known as the "Emergency Medical Services System Account."

(2) The account consists of:

- (a) interest earned on the account;
- (b) appropriations made by the Legislature; and
- (c) contributions deposited into the account in accordance with Section 41-1a-230.7.

(3) The department shall use:

- (a) an amount equal to 25% of the money in the account for administrative costs related to this chapter;
- (b) an amount equal to 75% of the money in the account for grants awarded in accordance with ~~[Subsection 26-8a-207(3)]~~ Section 26B-4-107; and
- (c) all money received from the revenue source in Subsection (2)(c) for grants awarded in accordance with ~~[Subsection 26-8a-207(3)]~~ Section 26B-4-107.

Section ~~{27}~~29. Section **26B-1-307**, which is renumbered from Section 26-8b-602 is renumbered and amended to read:

~~[26-8b-602].~~ **26B-1-307. Automatic External Defibrillator Restricted Account.**

(1) As used in this section:

(a) "AED" means the same as that term is defined in Section 26B-4-301.

(b) "~~{Bureau}~~Office" means the ~~{Bureau}~~Office of Emergency Medical Services~~{,}~~ and Preparedness within the department.

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(c) "Sudden cardiac arrest" means the same as that term is defined in Section 26B-4-301.

~~[(1)-(a)]~~ (2) (a) There is created a restricted account within the General Fund known as the "Automatic External Defibrillator Restricted Account" to provide AEDs to entities under Subsection (4).

(b) The director of the [bureau] office shall administer the account in accordance with rules made by the [bureau] office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(2)]~~ (c) The restricted account shall consist of money appropriated to the account by the Legislature.

(3) The director of the [bureau] office shall distribute funds deposited in the account to eligible entities, under Subsection (4), for the purpose of purchasing:

- (a) an AED;
- (b) an AED carrying case;
- (c) a wall-mounted AED cabinet; or
- (d) an AED sign.

(4) Upon appropriation, the director of the [bureau] office shall distribute funds deposited in the account, for the purpose of purchasing items under Subsection (3), to:

- (a) a municipal department of safety that routinely responds to incidents, or potential incidents, of sudden cardiac arrest;
- (b) a municipal or county law enforcement agency that routinely responds to incidents, or potential incidents, of sudden cardiac arrest;
- (c) a state law enforcement agency that routinely responds to incidents, or potential incidents, of sudden cardiac arrest;
- (d) a school that offers instruction to grades kindergarten through 6;
- (e) a school that offers instruction to grades 7 through 12; or
- (f) a state institution of higher education.

(5) The director of the [bureau] office shall distribute funds under this section to a municipality only if the municipality provides a match in funding for the total cost of items under Subsection (3):

- (a) of 50% for the municipality, if the municipality is a city of first, second, or third

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class under Section 10-2-301; or

(b) of 75% for the municipality, other than a municipality described in Subsection (5)(a).

(6) The director of the ~~bureau~~ office shall distribute funds under this section to a county only if the county provides a match in funding for the total cost of items under Subsection (3):

(a) of 50% for the county, if the county is a county of first, second, or third class under Section 17-50-501; or

(b) of 75% for the county, other than a county described in Subsection (6)(a).

(7) In accordance with rules made by the ~~bureau~~ office, an entity described in Subsection (4) may apply to the director of the ~~bureau~~ office to receive a distribution of funds from the account by filing an application with the ~~bureau~~ office on or before October 1 of each year.

Section ~~28~~ 30. Section **26B-1-308**, which is renumbered from Section 26-9-4 is renumbered and amended to read:

~~[26-9-4]~~. **26B-1-308. Rural Health Care Facilities Account -- Source of revenues -- Interest -- Distribution of revenues -- Expenditure of revenues -- Unexpended revenues lapse into the General Fund.**

(1) As used in this section:

(a) "Emergency medical services" is as defined in Section ~~[26-8a-102]~~ 26B-4-101.

(b) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.

(c) "Fiscal year" means a one-year period beginning on July 1 of each year.

(d) "Freestanding urgent care center" is as defined in Section 59-12-801.

(e) "Nursing care facility" is as defined in Section ~~[26-21-2]~~ 26B-2-201.

(f) "Rural city hospital" is as defined in Section 59-12-801.

(g) "Rural county health care facility" is as defined in Section 59-12-801.

(h) "Rural county hospital" is as defined in Section 59-12-801.

(i) "Rural county nursing care facility" is as defined in Section 59-12-801.

(j) "Rural emergency medical services" is as defined in Section 59-12-801.

(k) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

(2) There is created a restricted account within the General Fund known as the "Rural

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Health Care Facilities Account."

(3) (a) The restricted account shall be funded by amounts appropriated by the Legislature.

(b) Any interest earned on the restricted account shall be deposited into the General Fund.

(4) Subject to Subsections (5) and (6), the State Tax Commission shall for a fiscal year distribute money deposited into the restricted account to each:

(a) county legislative body of a county that, on January 1, 2007, imposes a tax in accordance with Section 59-12-802 and has not repealed the tax; or

(b) city legislative body of a city that, on January 1, 2007, imposes a tax in accordance with Section 59-12-804 and has not repealed the tax.

(5) (a) Subject to Subsection (6), for purposes of the distribution required by Subsection (4), the State Tax Commission shall:

(i) estimate for each county and city described in Subsection (4) the amount by which the revenues collected from the taxes imposed under Sections 59-12-802 and 59-12-804 for fiscal year 2005-06 would have been reduced had:

(A) the amendments made by Laws of Utah 2007, Chapter 288, Sections 25 and 26, to Sections 59-12-802 and 59-12-804 been in effect for fiscal year 2005-06; and

(B) each county and city described in Subsection (4) imposed the tax under Sections 59-12-802 and 59-12-804 for the entire fiscal year 2005-06;

(ii) (A) for fiscal years ending before fiscal year 2018, calculate a percentage for each county and city described in Subsection (4) by dividing the amount estimated for each county and city in accordance with Subsection (5)(a)(i) by \$555,000; and

(B) beginning in fiscal year 2018, calculate a percentage for each county and city described in Subsection (4) by dividing the amount estimated for each county and city in accordance with Subsection (5)(a)(i) by \$218,809.33;

(iii) distribute to each county and city described in Subsection (4) an amount equal to the product of:

(A) the percentage calculated in accordance with Subsection (5)(a)(ii); and

(B) the amount appropriated by the Legislature to the restricted account for the fiscal year.

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(b) The State Tax Commission shall make the estimations, calculations, and distributions required by Subsection (5)(a) on the basis of data collected by the State Tax Commission.

(6) If a county legislative body repeals a tax imposed under Section 59-12-802 or a city legislative body repeals a tax imposed under Section 59-12-804:

(a) the commission shall determine in accordance with Subsection (5) the distribution that, but for this Subsection (6), the county legislative body or city legislative body would receive; and

(b) after making the determination required by Subsection (6)(a), the commission shall:

(i) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is October 1:

(A) (I) distribute to the county legislative body or city legislative body 25% of the distribution determined in accordance with Subsection (6)(a); and

(II) deposit 75% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and

(B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund;

(ii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is January 1:

(A) (I) distribute to the county legislative body or city legislative body 50% of the distribution determined in accordance with Subsection (6)(a); and

(II) deposit 50% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and

(B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund;

(iii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is April 1:

(A) (I) distribute to the county legislative body or city legislative body 75% of the distribution determined in accordance with Subsection (6)(a); and

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(II) deposit 25% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and

(B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund; or

(iv) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is July 1, beginning on that effective date and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund.

(7) (a) Subject to Subsection (7)(b) and Section 59-12-802, a county legislative body shall distribute the money the county legislative body receives in accordance with Subsection (5) or (6):

(i) for a county of the third or fourth class, to fund rural county health care facilities in that county; and

(ii) for a county of the fifth or sixth class, to fund:

(A) rural emergency medical services in that county;

(B) federally qualified health centers in that county;

(C) freestanding urgent care centers in that county;

(D) rural county health care facilities in that county;

(E) rural health clinics in that county; or

(F) a combination of Subsections (7)(a)(ii)(A) through (E).

(b) A county legislative body shall distribute the money the county legislative body receives in accordance with Subsection (5) or (6) to a center, clinic, facility, or service described in Subsection (7)(a) as determined by the county legislative body.

(c) A center, clinic, facility, or service that receives a distribution in accordance with this Subsection (7) shall expend that distribution for the same purposes for which money collected from a tax under Section 59-12-802 may be expended.

(8) (a) Subject to Subsection (8)(b), a city legislative body shall distribute the money the city legislative body receives in accordance with Subsection (5) or (6) to fund rural city hospitals in that city.

(b) A city legislative body shall distribute a percentage of the money the city legislative

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body receives in accordance with Subsection (5) or (6) to each rural city hospital described in Subsection (8)(a) equal to the same percentage that the city legislative body distributes to that rural city hospital in accordance with Section 59-12-805 for the calendar year ending on the December 31 immediately preceding the first day of the fiscal year for which the city legislative body receives the distribution in accordance with Subsection (5) or (6).

(c) A rural city hospital that receives a distribution in accordance with this Subsection (8) shall expend that distribution for the same purposes for which money collected from a tax under Section 59-12-804 may be expended.

(9) Any money remaining in the Rural Health Care Facilities Account at the end of a fiscal year after the State Tax Commission makes the distributions required by this section shall lapse into the General Fund.

Section ~~{29}~~31. Section **26B-1-309**, which is renumbered from Section 26-18-402 is renumbered and amended to read:

~~[26-18-402].~~ 26B-1-309. Medicaid Restricted Account.

(1) There is created a restricted account in the General Fund known as the "Medicaid Restricted Account."

(2) (a) Except as provided in Subsection (3), the following shall be deposited into the Medicaid Restricted Account:

(i) any general funds appropriated to the department for the state plan for medical assistance or for the Division of Health Care Financing that are not expended by the department in the fiscal year for which the general funds were appropriated and which are not otherwise designated as nonlapsing shall lapse into the Medicaid Restricted Account;

(ii) any unused state funds that are associated with the Medicaid program, as defined in Section ~~[26-18-2]~~ 26B-3-101, from the Department of Workforce Services ~~[and the Department of Human Services]~~; and

(iii) any penalties imposed and collected under:

(A) Section 17B-2a-818.5;

(B) Section 19-1-206;

(C) Section 63A-5b-607;

(D) Section 63C-9-403;

(E) Section 72-6-107.5; or

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(F) Section 79-2-404.

(b) The account shall earn interest and all interest earned shall be deposited into the account.

(c) The Legislature may appropriate money in the restricted account to fund programs that expand medical assistance coverage and private health insurance plans to low income persons who have not traditionally been served by Medicaid, including the Utah Children's Health Insurance Program created in [~~Chapter 40, Utah Children's Health Insurance Act~~] Section 26B-3-902.

(3) (a) For fiscal years 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13 the following funds are nonlapsing:

~~[(a)]~~ (i) any general funds appropriated to the department for the state plan for medical assistance, or for the Division of Health Care Financing that are not expended by the department in the fiscal year in which the general funds were appropriated; and

~~[(b)]~~ (ii) funds described in Subsection (2)(a)(ii).

(b) For fiscal years 2019-20, 2020-21, 2021-22, and 2022-23, the funds described in Subsection (2)(a)(ii) and (3)(a)(i) are nonlapsing.

Section ~~30~~32. Section **26B-1-310**, which is renumbered from Section 26-61a-109 is renumbered and amended to read:

~~[26-61a-109].~~ **26B-1-310. Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality.**

(1) There is created an enterprise fund known as the "Qualified Patient Enterprise Fund."

(2) The fund created in this section is funded from:

(a) money the department deposits into the fund under [~~this chapter~~] Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;

(b) appropriations the Legislature makes to the fund; and

(c) the interest described in Subsection (3).

(3) Interest earned on the fund shall be deposited into the fund.

(4) The department may only use money in the fund to fund the department's responsibilities under [~~this chapter~~] Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

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(5) The department shall set fees authorized under ~~[this chapter]~~ Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement ~~[this chapter]~~ Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

Section ~~{31}~~33. Section **26B-1-311**, which is renumbered from Section 26-18a-4 is renumbered and amended to read:

~~[26-18a-4].~~ **26B-1-311. Creation of Kurt Oscarson Children's Organ Transplant Account.**

(1) (a) There is created a restricted account within the General Fund known as the "Kurt Oscarson Children's Organ Transplant Account."

(b) Private contributions received under this section and Section 59-10-1308 shall be deposited into the restricted account to be used only for the programs and purposes described in Section ~~[26-18a-3]~~ 26B-1-411.

(2) Money shall be appropriated from the restricted account to the ~~[committee]~~ Kurt Oscarson Children's Organ Transplant Coordinating Committee created in Section 26B-1-411, in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(3) In addition to funds received under Section 59-10-1308, the ~~[committee]~~ Kurt Oscarson Children's Organ Transplant Coordinating Committee created in Section 26B-1-411 may accept transfers, grants, gifts, bequests, or any money made available from any source to implement ~~[this chapter]~~ the programs and purposes described in Section 26B-1-411.

Section ~~{32}~~34. Section **26B-1-312**, which is renumbered from Section 26-18b-101 is renumbered and amended to read:

~~[26-18b-101].~~ **26B-1-312. Allyson Gamble Organ Donation Contribution Fund created.**

(1) (a) There is created an expendable special revenue fund known as the "Allyson Gamble Organ Donation Contribution Fund."

(b) The Allyson Gamble Organ Donation Contribution Fund shall consist of:

- (i) private contributions;
- (ii) donations or grants from public or private entities;
- (iii) voluntary donations collected under Sections 41-1a-230.5 and 53-3-214.7;
- (iv) contributions deposited into the account in accordance with Section 41-1a-422;

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and

(v) interest and earnings on fund money.

(c) The cost of administering the Allyson Gamble Organ Donation Contribution Fund shall be paid from money in the fund.

(2) The [~~Department of Health~~] department shall:

(a) administer the funds deposited in the Allyson Gamble Organ Donation Contribution Fund; and

(b) select qualified organizations and distribute the funds in the Allyson Gamble Organ Donation Contribution Fund in accordance with Subsection (3).

(3) (a) The funds in the Allyson Gamble Organ Donation Contribution Fund may be distributed to a selected organization that:

(i) promotes and supports organ donation;

(ii) assists in maintaining and operating a statewide organ donation registry; and

(iii) provides donor awareness education.

(b) An organization that meets the criteria of Subsections (3)(a)(i) through (iii) may apply to the [~~Department of Health~~] department, in a manner prescribed by the department, to receive a portion of the money contained in the Allyson Gamble Organ Donation Contribution Fund.

(4) The [~~Department of Health~~] department may expend funds in the account to pay the costs of administering the fund and issuing or reordering the Donate Life support special group license plate and decals.

Section ~~{33}~~35. Section **26B-1-313**, which is renumbered from Section 26-21a-302 is renumbered and amended to read:

~~[26-21a-302].~~ **26B-1-313. Cancer Research Restricted Account.**

(1) As used in this section, "account" means the Cancer Research Restricted Account created by this section.

(2) There is created in the General Fund a restricted account known as the "Cancer Research Restricted Account."

(3) The account shall be funded by:

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

(b) private contributions;

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- (c) donations or grants from public or private entities; and
- (d) interest and earnings on fund money.

(4) 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) have been designated as an official cancer center of the state;
- (c) is a National Cancer Institute designated cancer center; and
- (d) have as part of its primary mission:
 - (i) cancer research programs in basic science, translational science, population science, and clinical research to understand cancer from its beginnings; and
 - (ii) the dissemination and use of knowledge developed by the research described in Subsection (4)(d)(i) for the creation and improvement of cancer detection, treatments, prevention, and outreach programs.

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

(b) An organization that receives a distribution from the department in accordance with Subsection (4) shall expend the distribution only to conduct cancer research for the purpose of making improvements in cancer treatments, cures, detection, and prevention of cancer at the molecular and genetic levels.

(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 Subsection (4).

Section ~~34~~36. Section **26B-1-314**, which is renumbered from Section 26-21a-304 is renumbered and amended to read:

~~[26-21a-304].~~ **26B-1-314. Children with Cancer Support Restricted Account.**

(1) As used in this section, "account" means the Children with Cancer Support Restricted Account created in this section.

(2) There is created in the General Fund a restricted account known as the "Children with Cancer Support Restricted Account."

(3) The account shall be funded by:

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- (a) contributions deposited into the account in accordance with Section 41-1a-422;
- (b) private contributions;
- (c) donations or grants from public or private entities; and
- (d) interest and earnings on account money.

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

- (a) qualify as tax exempt under Section 501(c)(3), Internal Revenue Code;
- (b) are hospitals for children's tertiary care with board certified pediatric hematologist oncologists treating children, both on an inpatient and outpatient basis, with blood disorders and cancers from throughout the state;

(c) are members of a national organization devoted exclusively to childhood and adolescent cancer research;

- (d) have pediatric nurses trained in hematology oncology;
- (e) participate in one or more pediatric cancer clinical trials; and
- (f) have programs that provide assistance to children with cancer.

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

(b) An organization that receives a distribution from the department in accordance with Subsection (4) may expend the distribution only to create or support programs that provide assistance to children with cancer.

(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 Subsection (4).

Section ~~35~~37. Section **26B-1-315**, which is renumbered from Section 26-36b-208 is renumbered and amended to read:

~~[26-36b-208].~~ **26B-1-315. Medicaid Expansion Fund.**

(1) There is created an expendable special revenue fund known as the "Medicaid Expansion Fund."

(2) The fund consists of:

(a) assessments collected under ~~[this chapter]~~ Chapter 3, Part 5, Inpatient Hospital Assessment;

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- (b) intergovernmental transfers under Section ~~[26-36b-206]~~ 26B-3-508;
 - (c) savings attributable to the health coverage improvement program, as defined in Section 26B-3-501, as determined by the department;
 - (d) savings attributable to the enhancement waiver program, as defined in Section 26B-3-501, as determined by the department;
 - (e) savings attributable to the Medicaid waiver expansion, as defined in Section 26B-3-501, as determined by the department;
 - (f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection ~~[26-18-2.4(3)]~~ 26B-3-105(3) as determined by the department;
 - (g) revenues collected from the sales tax described in Subsection 59-12-103(12);
 - (h) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;
 - (i) interest earned on money in the fund; and
 - (j) additional amounts as appropriated by the Legislature.
- (3) (a) The fund shall earn interest.
- (b) All interest earned on fund money shall be deposited into the fund.
- (4) (a) A state agency administering the provisions of ~~[this chapter]~~ Chapter 3, Part 5, Inpatient Hospital Assessment, may use money from the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:
- (i) the health coverage improvement program as defined in Section 26B-3-501;
 - (ii) the enhancement waiver program as defined in Section 26B-3-501;
 - (iii) a Medicaid waiver expansion as defined in Section 26B-3-501; and
 - (iv) the outpatient upper payment limit supplemental payments under Section ~~[26-36b-210]~~ 26B-3-511.
- (b) A state agency administering the provisions of ~~[this chapter]~~ Chapter 3, Part 5, Inpatient Hospital Assessment, may not use:
- (i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper payment limit supplemental payments; or
 - (ii) money in the fund for any purpose not described in Subsection (4)(a).
- Section ~~36~~38. Section **26B-1-316**, which is renumbered from Section 26-36d-207 is renumbered and amended to read:

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~~[26-36d-207].~~ 26B-1-316. Hospital Provider Assessment Expendable Revenue Fund.

(1) There is created an expendable special revenue fund known as the "Hospital Provider Assessment Expendable Revenue Fund."

(2) The fund shall consist of:

(a) the assessments collected by the department under ~~[this chapter]~~ Chapter 3, Part 7, Hospital Provider Assessment;

(b) any interest and penalties levied with the administration of ~~[this chapter]~~ Chapter 3, Part 7, Hospital Provider Assessment; and

(c) any other funds received as donations for the fund and appropriations from other sources.

(3) Money in the fund shall be used:

(a) to support capitated rates consistent with Subsection ~~[26-36d-203]~~ 26B-3-705(1)(d) for accountable care organizations as defined in Section 26B-3-701; and

(b) to reimburse money collected by the division from a hospital, as defined in Section 26B-3-701, through a mistake made under ~~[this chapter]~~ Chapter 3, Part 7, Hospital Provider Assessment.

(4) (a) Subject to Subsection (4)(b), for the fiscal year beginning July 1, 2019, and ending July 1, 2020, any fund balance in excess of the amount necessary to pay for the costs described in Subsection (3) shall be deposited into the General Fund.

(b) Subsection (4)(a) applies only to funds that were appropriated by the Legislature from the General Fund to the fund and the interest and penalties deposited into the fund under Subsection (2)(b).

Section ~~37~~39. Section **26B-1-317**, which is renumbered from Section 26-37a-107 is renumbered and amended to read:

~~[26-37a-107].~~ 26B-1-317. Ambulance Service Provider Assessment Expendable Revenue Fund.

(1) There is created an expendable special revenue fund known as the "Ambulance Service Provider Assessment Expendable Revenue Fund."

(2) The fund shall consist of:

(a) the assessments collected by the division under ~~[this chapter]~~ Chapter 3, Part 8,

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Ambulance Service Provider Assessment;

- (b) the penalties collected by the division under ~~[this chapter]~~ Chapter 3, Part 8,

Ambulance Service Provider Assessment;

- (c) donations to the fund; and
- (d) appropriations by the Legislature.

- (3) Money in the fund shall be used:

- (a) to support fee-for-service rates; and
- (b) to reimburse money to an ambulance service provider, as defined in Section

26B-3-801, that is collected by the division from the ambulance service provider through a mistake made under ~~[this chapter]~~ Chapter 3, Part 8, Ambulance Service Provider Assessment.

(4) (a) Subject to Subsection (4)(b), for the fiscal year beginning July 1, 2019, and ending July 1, 2020, any fund balance in excess of the amount necessary to pay for the costs described in Subsection (3) shall be deposited into the General Fund.

(b) Subsection (4)(a) applies only to funds that were appropriated by the Legislature from the General Fund to the fund and the penalties deposited into the fund under Subsection (2)(b).

Section ~~38~~40. Section **26B-1-318**, which is renumbered from Section 26-50-201 is renumbered and amended to read:

~~[26-50-201].~~ **26B-1-318. Traumatic Brain Injury Fund -- Creation -- Administration -- Uses.**

(1) There is created an expendable special revenue fund ~~[entitled]~~ known as the "Traumatic Brain Injury Fund."

- (2) The fund shall consist of:

- (a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources; and

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

- (3) The fund shall be administered by the executive director.

- (4) Fund money may be used to:

- (a) educate the general public and professionals regarding understanding, treatment, and prevention of traumatic brain injury;

- (b) provide access to evaluations and coordinate short-term care to assist an individual

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in identifying services or support needs, resources, and benefits for which the individual may be eligible;

(c) develop and support an information and referral system for persons with a traumatic brain injury and their families; and

(d) provide grants to persons or organizations to provide the services described in Subsections (4)(a), (b), and (c).

(5) Not less than 50% of the fund shall be used each fiscal year to directly assist individuals who meet the qualifications described in Subsection (6).

(6) An individual who receives services either paid for from the fund, or through an organization under contract with the fund, shall:

(a) be a resident of Utah;

(b) have been diagnosed by a qualified professional as having a traumatic brain injury which results in impairment of cognitive or physical function; and

(c) have a need that can be met within the requirements of this ~~[chapter]~~ section.

(7) The fund may not duplicate any services or support mechanisms being provided to an individual by any other government or private agency.

(8) All actual and necessary operating expenses for the ~~[committee]~~ Traumatic Brain Injury Advisory Committee created in Section 26B-1-417 and staff shall be paid by the fund.

(9) The fund may not be used for medical treatment, long-term care, or acute care.

Section ~~39~~41. Section **26B-1-319**, which is renumbered from Section 26-54-102 is renumbered and amended to read:

~~[26-54-102].~~ **26B-1-319. Spinal Cord and Brain Injury Rehabilitation Fund -- Creation -- Administration -- Uses.**

(1) As used in this section, a "qualified IRC 501(c)(3) charitable clinic" means a professional medical clinic that:

(a) provides rehabilitation services to individuals in the state:

(i) who have a traumatic spinal cord or brain injury that tends to be nonprogressive or nondeteriorating; and

(ii) who require post-acute care;

(b) employs licensed therapy clinicians;

(c) has at least five years experience operating a post-acute care rehabilitation clinic in

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the state; and

(d) has obtained tax-exempt status under Internal Revenue Code, 26 U.S.C. Sec. 501(c)(3).

(2) There is created an expendable special revenue fund known as the "Spinal Cord and Brain Injury Rehabilitation Fund."

(3) The fund shall consist of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;

(b) a portion of the impound fee as designated in Section 41-6a-1406;

(c) the fees collected by the Motor Vehicle Division under Subsections 41-1a-1201(9) and 41-22-8(3); and

(d) amounts appropriated by the Legislature.

(4) The fund shall be administered by the executive director of the department, in consultation with the advisory committee created in Section ~~[26-54-103]~~ 26B-1-418.

(5) Fund money shall be used to:

(a) assist one or more qualified IRC 501(c)(3) charitable clinics to provide rehabilitation services to individuals who have a traumatic spinal cord or brain injury that tends to be nonprogressive or nondeteriorating, including:

(i) physical, occupational, and speech therapy; and

(ii) equipment for use in the qualified charitable clinic; and

(b) pay for operating expenses of the ~~[advisory committee]~~ Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee created by Section ~~[26-54-103]~~ 26B-1-418, including the advisory committee's staff.

Section ~~{40}~~42. Section **26B-1-320**, which is renumbered from Section 26-54-102.5 is renumbered and amended to read:

~~[26-54-102.5].~~ **26B-1-320. Pediatric Neuro-Rehabilitation Fund -- Creation -- Administration -- Uses.**

(1) As used in this section, a "qualified IRC 501(c)(3) charitable clinic" means a professional medical clinic that:

(a) provides services for children in the state:

(i) with neurological conditions, including:

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(A) cerebral palsy; and
(B) spina bifida; and
(ii) who require post-acute care;
(b) employs licensed therapy clinicians;
(c) has at least five years experience operating a post-acute care rehabilitation clinic in the state; and

(d) has obtained tax-exempt status under Internal Revenue Code, 26 U.S.C. Sec. 501(c)(3).

(2) There is created an expendable special revenue fund known as the "Pediatric Neuro-Rehabilitation Fund."

(3) The fund shall consist of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources; and

(b) amounts appropriated to the fund by the Legislature.

(4) The fund shall be administered by the executive director of the department, in consultation with the advisory committee created in Section ~~[26-54-103]~~ 26B-1-418.

(5) Fund money shall be used to:

(a) assist one or more qualified IRC 501(c)(3) charitable clinics to provide physical or occupational therapy to children with neurological conditions; and

(b) pay for operating expenses of the ~~[advisory committee]~~ Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee created by Section ~~[26-54-103]~~ 26B-1-418, including the advisory committee's staff.

Section ~~{41}~~43. Section **26B-1-321**, which is renumbered from Section 26-58-102 is renumbered and amended to read:

~~[26-58-102]~~. **26B-1-321. Children with Heart Disease Support Restricted Account -- Creation -- Administration -- Uses.**

(1) As used in this section, "account" means the Children with Heart Disease Support Restricted Account created in Subsection (2).

(2) There is created in the General Fund a restricted account known as the "Children with Heart Disease Support Restricted Account."

(3) The account shall be funded by:

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- (a) contributions deposited into the account in accordance with Section 41-1a-422;
- (b) private contributions;
- (c) donations or grants from public or private entities; and
- (d) interest and earnings on fund money.

(4) The Legislature shall appropriate money in the account to the department.

(5) Upon appropriation, 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), Internal Revenue Code; and

(b) have programs that provide awareness, education, support services, and advocacy for and on behalf of children with heart disease.

(6) (a) An organization described in Subsection (5) may apply to the department to receive a distribution in accordance with Subsection (5).

(b) An organization that receives a distribution from the department in accordance with Subsection (5) shall expend the distribution only to provide awareness, education, support services, and advocacy for and on behalf of children with heart disease.

(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 Subsection (5).

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

Section ~~{42}~~44. Section **26B-1-322**, which is renumbered from Section 26-67-205 is renumbered and amended to read:

~~[26-67-205].~~ 26B-1-322. Adult Autism Treatment Account.

(1) There is created within the General Fund a restricted account known as the "Adult Autism Treatment Account."

(2) The account consists of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the ~~[fund]~~ account from private sources;

(b) interest earned on money in the account; and

(c) money appropriated to the account by the Legislature.

(3) Money from the ~~[fund]~~ account shall be used only to:

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(a) fund grants awarded by the department under Section ~~[26-67-201]~~ 26B-4-602; and

(b) pay the ~~[advisory committee's]~~ operating expenses of the Adult Autism Treatment Program Advisory Committee created in Section 26B-1-204, including the cost of advisory committee staff if approved by the executive director.

(4) The state treasurer shall invest the money in the account in accordance with Title 51, Chapter 7, State Money Management Act.

Section ~~{43}~~45. Section **26B-1-323**, which is renumbered from Section 62A-3-110 is renumbered and amended to read:

~~[62A-3-110].~~ 26B-1-323. ~~{ "Out }~~ Out and About~~{ "" }~~

Transportation Assistance Fund -- Creation -- Administration -- Uses.

(1) (a) There is created an expendable special revenue fund known as the "Out and About~~[]~~" Homebound Transportation Assistance Fund."

(b) The ~~[]~~"Out and About~~[]~~" Homebound Transportation Assistance Fund shall consist of:

- (i) private contributions;
- (ii) donations or grants from public or private entities;
- (iii) voluntary donations collected under Section 53-3-214.8; and
- (iv) interest and earnings on account money.

(c) The cost of administering the ~~[]~~"Out and About~~[]~~" Homebound Transportation Assistance Fund shall be paid from money in the fund.

(2) The Division of Aging and Adult Services in the ~~[Department of Human Services]~~ department shall:

(a) administer the funds contained in the ~~[]~~"Out and About~~[]~~" Homebound Transportation Assistance Fund; and

(b) select qualified organizations and distribute the funds in the ~~[]~~"Out and About~~[]~~" Homebound Transportation Assistance Fund in accordance with Subsection (3).

(3) (a) The division may distribute the funds in the ~~[]~~"Out and About~~[]~~" Homebound Transportation Assistance Fund to a selected organization that provides public transportation to aging persons, high risk adults, or people with disabilities.

(b) An organization that provides public transportation to aging persons, high risk adults, or people with disabilities may apply to the Division of Aging and Adult Services, in a

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manner prescribed by the division, to receive all or part of the money contained in the ["]Out and About["] Homebound Transportation Assistance Fund.

Section ~~{44}~~46. Section **26B-1-324**, which is renumbered from Section 62A-15-123 is renumbered and amended to read:

~~[62A-15-123].~~ 26B-1-324. Statewide Behavioral Health Crisis Response Account -- Creation -- Administration -- Permitted uses.

(1) There is created a restricted account within the General Fund known as the "Statewide Behavioral Health Crisis Response Account," consisting of:

(a) money appropriated or otherwise made available by the Legislature; and
(b) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, or other persons.

(2) (a) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division shall disburse funds in the account only for the purpose of support or implementation of services or enhancements of those services in order to rapidly, efficiently, and effectively deliver 988 services in the state.

(b) Funds distributed from the account to county local mental health and substance abuse authorities for the provision of crisis services are not subject to the 20% county match described in Sections 17-43-201 and 17-43-301.

(c) Except as provided in Subsection (2)(d), the division shall prioritize expending funds from the account as follows:

(i) the Statewide Mental Health Crisis Line, as defined in Section ~~[62A-15-130]~~ 26B-5-610, including coordination with 911 emergency service, as defined in Section 69-2-102, and coordination with local substance abuse authorities as described in Section 17-43-201, and local mental health authorities, described in Section 17-43-301;

(ii) mitigation of any negative impacts on 911 emergency service from 988 services;

(iii) mobile crisis outreach teams as defined in Section ~~[62A-15-140]~~ 26B-5-609, distributed in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iv) behavioral health receiving centers as defined in Section ~~[62A-15-118]~~ 26B-5-114;

(v) stabilization services as described in Section ~~[62A-1-104]~~ 26B-1-102; and

(vi) mental health crisis services, as defined in Section 26B-5-101, provided by local

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substance abuse authorities as described in Section 17-43-201 and local mental health authorities described in Section 17-43-301 to provide prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis as defined in Section 26B-5-101.

(d) If the Legislature appropriates money to the account for a purpose described in Subsection (2)(c), the division shall use the appropriation for that purpose.

(3) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division may expend funds in the account for administrative costs that the division incurs related to administering the account.

(4) The division director shall submit and make available to the public a report before December of each year to the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202, the Social Services Appropriations Subcommittee, and the Legislative Management Committee that includes:

- (a) the amount of each disbursement from the account;
- (b) the recipient of each disbursement, the goods and services received, and a description of the project funded by the disbursement;
- (c) any conditions placed by the division on the disbursements from the account;
- (d) the anticipated expenditures from the account for the next fiscal year;
- (e) the amount of any unexpended funds carried forward;
- (f) the number of Statewide Mental Health Crisis Line calls received;
- (g) the progress towards accomplishing the goals of providing statewide mental health crisis service; and
- (h) other relevant justification for ongoing support from the account.

Section ~~{45}~~47. Section **26B-1-325**, which is renumbered from Section 62A-15-1103 is renumbered and amended to read:

~~[62A-15-1103].~~ 26B-1-325. Governor's Suicide Prevention Fund -- Creation -- Administration -- Uses.

(1) There is created an expendable special revenue fund known as the "Governor's Suicide Prevention Fund."

(2) The fund shall consist of donations described in Section 41-1a-422, gifts, grants, and bequests of real property or personal property made to the fund.

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(3) A donor to the fund may designate a specific purpose for the use of the donor's donation, if the designated purpose is described in Subsection (4).

(4) (a) Subject to Subsection (3), money in the fund shall be used for the following activities:

- (i) efforts to directly improve mental health crisis response;
- (ii) efforts that directly reduce risk factors associated with suicide; and
- (iii) efforts that directly enhance known protective factors associated with suicide reduction.

(b) Efforts described in Subsections (4)(a)(ii) and (iii) include the components of the state suicide prevention program described in Subsection ~~[62A-15-1101]~~ 26B-5-611(3).

(5) The ~~[division]~~ Office of Substance Use and Mental Health shall establish a grant application and review process for the expenditure of money from the fund.

- (6) The grant application and review process shall describe:
- (a) requirements to complete a grant application;
 - (b) requirements to receive funding;
 - (c) criteria for the approval of a grant application;
 - (d) standards for evaluating the effectiveness of a project proposed in a grant application; and

(e) support offered by the ~~[division]~~ office to complete a grant application.

(7) The ~~[division]~~ Office of Substance Use and Mental Health shall:

- (a) review a grant application for completeness;
- (b) make a recommendation to the governor or the governor's designee regarding a grant application;
- (c) send a grant application to the governor or the governor's designee for evaluation and approval or rejection;
- (d) inform a grant applicant of the governor or the governor's designee's determination regarding the grant application; and
- (e) direct the fund administrator to release funding for grant applications approved by the governor or the governor's designee.

(8) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from money in

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the fund shall be deposited into the fund.

(9) Money in the fund may not be used for the Office of the Governor's administrative expenses that are normally provided for by legislative appropriation.

(10) The governor or the governor's designee may authorize the expenditure of fund money in accordance with this section.

(11) The governor shall make an annual report to the Legislature regarding the status of the fund, including a report on the contributions received, expenditures made, and programs and services funded.

Section ~~{46}~~48. Section **26B-1-326**, which is renumbered from Section 62A-15-1104 is renumbered and amended to read:

~~[62A-15-1104].~~ **26B-1-326. Suicide Prevention and Education Fund.**

(1) There is created an expendable special revenue fund known as the Suicide Prevention and Education Fund.

(2) The fund shall consist of funds transferred from the Concealed Weapons Account in accordance with Subsection 53-5-707(5)(d).

(3) Money in the fund shall be used for suicide prevention efforts that include a focus on firearm safety as related to suicide prevention.

(4) The ~~[division]~~ Office of Substance Use and Mental Health shall establish a process by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the expenditure of money from the fund.

(5) The ~~[division]~~ Office of Substance Use and Mental Health shall make an annual report to the Legislature regarding the status of the fund, including a report detailing amounts received, expenditures made, and programs and services funded.

Section ~~{47}~~49. Section **26B-1-327**, which is renumbered from Section 62A-15-1502 is renumbered and amended to read:

~~[62A-15-1502].~~ **26B-1-327. Survivors of Suicide Loss Account.**

(1) As used in this section:

(a) (i) "Cohabitant" means an individual who lives with another individual.

(ii) "Cohabitant" does not include a relative.

(b) "Relative" means father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin,

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mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

~~[(1)]~~ (2) (a) There is created a restricted account within the General Fund known as the "Survivors of Suicide Loss Account."

~~[(2)]~~ (b) The ~~[division]~~ Office of Substance Use and Mental Health shall administer the account in accordance with this part.

(3) The account shall consist of:

(a) money appropriated to the account by the Legislature; and

(b) interest earned on money in the account.

(4) Upon appropriation, the ~~[division]~~ Office of Substance Use and Mental Health shall award grants from the account to a person who provides, for no or minimal cost:

(a) clean-up of property affected or damaged by an individual's suicide, as reimbursement for the costs incurred for the clean-up; and

(b) bereavement services to a relative, legal guardian, or cohabitant of an individual who dies by suicide.

(5) Before November 30 of each year, the ~~[division]~~ Office of Substance Use and Mental Health shall report to the Health and Human Services Interim Committee regarding the status of the account and expenditures made from the account.

Section ~~{48}~~ 50. Section **26B-1-328**, which is renumbered from Section 62A-15-1602 is renumbered and amended to read:

~~[62A-15-1602].~~ **26B-1-328. Psychiatric and Psychotherapeutic Consultation Program Account -- Creation -- Administration -- Uses.**

(1) As used in this section:

(a) "Child care" means the child care services defined in Section 35A-3-102 for a child during early childhood.

(b) "Child care provider" means a person who provides child care or mental health support or interventions to a child during early childhood.

(c) "Child mental health care facility" means a facility that provides licensed mental health care programs and services to children and families and employs a child mental health therapist.

~~(c)~~ (d) "Child mental health therapist" means a mental health therapist who:

(i) is knowledgeable and trained in early childhood mental health; and

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(ii) provides mental health services to children during early childhood.

~~{ (d) "Child mental health care facility" means a facility that provides licensed mental health care programs and services to children and families and employs a child mental health therapist.~~

+ (e) "Division" means the Division of Integrated Healthcare within the department.

(f) "Early childhood" means the time during which a child is zero to six years old.

(g) "Early childhood psychotherapeutic telehealth consultation" means a consultation regarding a child's mental health care during the child's early childhood between a child care provider or a mental health therapist and a child mental health therapist that is focused on psychotherapeutic and psychosocial interventions and is completed through the use of electronic or telephonic communication.

(h) "Health care facility" means a facility that provides licensed health care programs and services and employs at least two psychiatrists, at least one of whom is a child psychiatrist.

(i) "Primary care provider" means:

(i) an individual who is licensed to practice as an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(ii) a physician as defined in Section 58-67-102; or

(iii) a physician assistant as defined in Section 58-70a-102.

(j) "Psychiatrist" means a physician who is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists.

(k) "Telehealth psychiatric consultation" means a consultation regarding a patient's mental health care, including diagnostic clarification, medication adjustment, or treatment planning, between a primary care provider and a psychiatrist that is completed through the use of electronic or telephonic communication.

[+](2) There is created a restricted account within the General Fund known as the "Psychiatric and Psychotherapeutic Consultation Program Account."

[2] (3) (a) The ~~[division]~~ Office of Substance Use and Mental Health shall administer the account in accordance with this ~~[part]~~ section.

[3] (b) The account shall consist of:

[a] (i) money appropriated to the account by the Legislature; and

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~~[(b)]~~ (ii) interest earned on money in the account.

(4) Upon appropriation, the ~~[division]~~ Office of Substance Use and Mental Health shall award grants from the account to:

(a) at least one health care facility to implement a program that provides a primary care provider access to a telehealth psychiatric consultation when the primary care provider is evaluating a patient for or providing a patient mental health treatment; and

(b) at least one child mental health care facility to implement a program that provides access to an early childhood psychotherapeutic telehealth consultation to:

(i) a mental health therapist as defined in Section 58-60-102 when the mental health therapist is evaluating a child for or providing a child mental health treatment; or

(ii) a child care provider when the child care provider is providing child care to a child.

(5) The ~~[division]~~ Office of Substance Use and Mental Health may award and distribute grant money to a health care facility or child mental health care facility only if the health care facility or child mental health care facility:

(a) is located in the state; and

(b) submits an application in accordance with Subsection (6).

(6) An application for a grant under this section shall include:

(a) the number of psychiatrists employed by the health care facility or the number of child mental health therapists employed by the child mental health care facility;

(b) the health care facility's or child mental health care facility's plan to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (4);

(c) the estimated cost to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (4);

(d) any plan to use one or more funding sources in addition to a grant under this section to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (4);

(e) the amount of grant money requested to fund the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (4); and

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(f) any existing or planned contract or partnership between the health care facility and another person to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (4).

(7) A health care facility or child mental health care facility that receives grant money under this section shall file a report with the division before October 1 of each year that details for the immediately preceding calendar year:

(a) the type and effectiveness of each service provided in the telehealth psychiatric program or the early childhood psychotherapeutic telehealth consultation program;

(b) the utilization of the telehealth psychiatric program or the early childhood psychotherapeutic telehealth consultation program based on metrics or categories determined by the division;

(c) the total amount expended from the grant money; and

(d) the intended use for grant money that has not been expended.

(8) Before November 30 of each year, the ~~[division]~~ department shall report to the Health and Human Services Interim Committee regarding:

(a) the status of the account and expenditures made from the account; and

(b) a summary of any report provided to the division under Subsection (7).

Section ~~{49}~~ 51. Section **26B-1-329**, which is renumbered from Section 62A-15-1702 is renumbered and amended to read:

~~[62A-15-1702]~~. **26B-1-329. Mental Health Services Donation Fund.**

(1) As used in this section:

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

(b) "Mental health therapy" means treatment or prevention of a mental illness, including:

(i) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder consistent with standards generally recognized by mental health therapists;

(ii) establishing a diagnosis in accordance with established written standards generally recognized by mental health therapists;

(iii) prescribing a plan or medication for the prevention or treatment of a condition of a

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mental illness or an emotional disorder; and

(iv) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized by mental health therapists.

(c) "Qualified individual" means an individual who:

(i) is experiencing a mental health crisis; and

(ii) calls a local mental health crisis line as defined in Section 26B-5-610 or the statewide mental health crisis line as defined in Section 26B-5-610.

~~[(1)]~~ (2) There is created an expendable special revenue fund known as the "Mental Health Services Donation Fund."

~~[(2)]~~ (3) (a) The fund shall consist of:

~~[(a)]~~ (i) gifts, grants, donations, or any other conveyance of money that may be made to the fund from public or private individuals or entities; and

~~[(b)]~~ (ii) interest earned on money in the fund.

~~[(3)]~~ (b) The ~~[division]~~ Office of Substance Use and Mental Health shall administer the fund in accordance with this section.

(4) The ~~[division]~~ Office of Substance Use and Mental Health shall award fund money to an entity in the state that provides mental health and substance ~~[abuse]~~ use treatment for the purpose of:

(a) providing through telehealth or in-person services, mental health therapy to qualified individuals;

(b) providing access to evaluations and coordination of short-term care to assist a qualified individual in identifying services or support needs, resources, or benefits for which the qualified individual may be eligible; and

(c) developing a system for a qualified individual and a qualified individual's family to access information and referrals for mental health therapy.

(5) Fund money may only be used for the purposes described in Subsection (4).

(6) The ~~[division]~~ Office of Substance Use and Mental Health shall provide an annual report to the Behavioral Health Crisis Response Commission, created in Section 63C-18-202, regarding:

(a) the entity that is awarded a grant under Subsection (4);

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- (b) the number of qualified individuals served by the entity with fund money; and
- (c) any costs or benefits as a result of the award of the grant.

Section ~~{50}~~52. Section **26B-1-330**, which is renumbered from Section 62A-5-206.5 is renumbered and amended to read:

~~[62A-5-206.5]~~. **26B-1-330**. **Utah State Developmental Center Miscellaneous Donation Fund -- Use.**

(1) There is created an expendable special revenue fund known as the "Utah State Developmental Center Miscellaneous Donation Fund."

(2) The [~~board~~] Utah State Developmental Center Board created in Section ~~{62A-5-202.5}~~26B-1-429 shall deposit donations made to the Utah State Developmental Center under Section [~~62A-1-111~~] 26B-1-202 into the expendable special revenue fund described in Subsection (1).

(3) The state treasurer shall invest the money in the fund described in Subsection (1) according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, and the revenue received from the investment shall remain with the fund described in Subsection (1).

(4) (a) Except as provided in Subsection (5), the money or revenue in the fund described in Subsection (1) may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.

(b) Notwithstanding Section [~~63J-1-211~~] 26B-1-202, the Legislature may not appropriate money or revenue from the fund described in Subsection (1) to eliminate or otherwise reduce an operating deficit if the money or revenue appropriated from the fund is expended or committed to be expended for a purpose other than one listed in this section.

(c) The Legislature may not amend the purposes for which money or revenue in the fund described in Subsection (1) may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.

(5) (a) The [~~board~~] Utah State Developmental Center Board shall approve expenditures of money and revenue in the fund described in Subsection (1).

(b) The [~~board~~] Utah State Developmental Center Board may expend money and revenue in the fund described in Subsection (1) only:

- (i) as designated by the donor; or

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(ii) for the benefit of:

(A) residents of the ~~[developmental center]~~ Utah State Developmental Center, established in accordance with Chapter 6, Part 5, Utah State Developmental Center; or

(B) individuals with disabilities who receive services and support from the Utah State Developmental Center, as described in Subsection ~~[62A-5-201]~~ 26B-6-502(2)(b).

(c) Money and revenue in the fund described in Subsection (1) may not be used for items normally paid for by operating revenues or for items related to personnel costs without specific legislative authorization.

Section ~~{51}~~53. Section **26B-1-331**, which is renumbered from Section 62A-5-206.7 is renumbered and amended to read:

~~[62A-5-206.7]~~. **26B-1-331. Utah State Developmental Center Long-Term Sustainability Fund -- Fund management.**

(1) As used in this section:

(a) "Board" means the Utah State Developmental Center Board created in Section ~~{62A-5-202.5}~~26B-1-429.

(b) "Division" means the Division of Integrated Healthcare within the department.

(c) "Sustainability fund" means the Utah State Developmental Center Long-Term Sustainability Fund created in Subsection (2).

(d) "Utah State Developmental Center" means the Utah State Developmental Center established in accordance with Chapter 6, Part 5, Utah State Developmental Center.

~~[(1)]~~ (2) There is created a special revenue fund entitled the "Utah State Developmental Center Long-Term Sustainability Fund."

~~[(2)]~~ (3) (a) The sustainability fund consists of:

~~[(a)]~~ (i) revenue generated from the lease, except any lease existing on May 1, 1995, of land associated with the Utah State Developmental Center;

~~[(b)]~~ (ii) all proceeds from the sale or other disposition of real property, water rights, or water shares associated with the Utah State Developmental Center; and

~~[(c)]~~ (iii) all existing money in the Utah State Developmental Center Land Fund~~;~~ created in Section ~~62A-5-206.6~~.

~~[(3)]~~ (b) The state treasurer shall invest sustainability fund money by following the procedures and requirements in ~~[Section 62A-5-206.8]~~ Subsection (8).

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(4) (a) The board shall ensure that money or revenue deposited into the sustainability fund is irrevocable and is expended only as provided in Subsection (5).

(b) The Legislature may not amend the purposes in Subsection (5) for which money or revenue in the fund may be expended or committed to be expended, except by the affirmative vote of two-thirds of all the members elected to each house.

(5) (a) Money may be expended from the sustainability fund to:

(i) fulfill the functions of the Utah State Developmental Center described in Sections ~~[62A-5-201 and 62A-5-203]~~ 26B-6-502 and 26B-6-504; and

(ii) assist the division in the division's administration of services and supports described in Sections ~~[62A-5-102 and 62A-5-103]~~ 26B-6-402 and 26B-6-403.

(b) Money from the sustainability fund may not be expended:

(i) for a purpose other than the purposes described in Subsection (5)(a); or

(ii) to reduce the amount of money that the Legislature appropriates from the General Fund for the purposes described in Subsection (5)(a).

(6) Money may be expended from the sustainability fund only under the following conditions:

(a) if the balance of the sustainability fund is at least \$5,000,000 at the end of the fiscal year, the board may expend the earnings generated by the sustainability fund during the fiscal year for a purpose described in Subsection (5)(a);

(b) if the balance of the sustainability fund is at least \$50,000,000 at the end of the fiscal year, the Legislature may appropriate to the division up to 5% of the balance of the sustainability fund for a purpose described in Subsection (5)(a); and

(c) the board or the division may not expend any money from the sustainability fund, except as provided in Subsection (6)(a), without legislative appropriation.

(7) The sustainability fund is revocable only by the affirmative vote of two-thirds of all the members elected to each house of the Legislature.

(8) (a) The state treasurer shall invest the assets of the sustainability fund with the primary goal of providing for the stability, income, and growth of the principal.

(b) Nothing in this Subsection (8) requires a specific outcome in investing.

(c) The state treasurer may deduct any administrative costs incurred in managing sustainability fund assets from earnings before depositing earnings into the sustainability fund.

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(d) (i) The state treasurer may employ professional asset managers to assist in the investment of assets of the sustainability fund.

(ii) The state treasurer may only provide compensation to asset managers from earnings generated by the sustainability fund's investments.

(e) The state treasurer shall invest and manage the sustainability fund assets as a prudent investor would under Section 67-19d-302.

Section ~~{52}~~54. Section **26B-1-332**, which is renumbered from Section 26-35a-106 is renumbered and amended to read:

~~[26-35a-106].~~ 26B-1-332. Nursing Care Facilities Provider Assessment Fund -- Creation -- Administration -- Uses.

(1) There is created an expendable special revenue fund known as the "Nursing Care Facilities Provider Assessment Fund" consisting of:

(a) the assessments collected by the department under this chapter;
(b) fines paid by nursing care facilities for excessive Medicare inpatient revenue under Section ~~[26-21-23]~~ 26B-2-222;

(c) money appropriated or otherwise made available by the Legislature;
(d) any interest earned on the fund; and
(e) penalties levied with the administration of this chapter.

(2) Money in the fund shall only be used by the Medicaid program:

(a) to the extent authorized by federal law, to obtain federal financial participation in the Medicaid program;

(b) to provide the increased level of hospice reimbursement resulting from the nursing care facilities assessment imposed under Section ~~[26-35a-104]~~ 26B-3-403;

(c) for the Medicaid program to make quality incentive payments to nursing care facilities, subject to approval of a Medicaid state plan amendment to do so by the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services;

(d) to increase the rates paid before July 1, 2004, to nursing care facilities for providing services pursuant to the Medicaid program; and

(e) for administrative expenses, if the administrative expenses for the fiscal year do not exceed 3% of the money deposited into the fund during the fiscal year.

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(3) The department may not spend the money in the fund to replace existing state expenditures paid to nursing care facilities for providing services under the Medicaid program, except for increased costs due to hospice reimbursement under Subsection (2)(b).

Section ~~{53}~~55. Section **26B-1-333** is enacted to read:

26B-1-333. Children's Hearing Aid Program Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Children's Hearing Aid Program Restricted Account."

(2) The Children's Hearing Aid Program Restricted Account shall consist of:

(a) amounts appropriated to the account by the Legislature; and

(b) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, or any other conveyance that may be made to the account from private sources.

(3) Upon appropriation, all actual and necessary operating expenses for the committee described in Section 26B-1-433 shall be paid by the restricted account.

(4) Upon appropriation, no more than 9% of the restricted account money may be used for the department's expenses.

(5) If this account is repealed in accordance with Section 63I-1-226, any remaining assets in the account shall be deposited into the General Fund.

Section ~~{54}~~56. Section **26B-1-401**, which is renumbered from Section 26-1-11 is renumbered and amended to read:

Part 4. Boards, Commissions, Councils, and Advisory Committees

~~[26-1-11].~~ **26B-1-401. 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 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 ~~{55}~~57. Section **26B-1-402**, which is renumbered from Section 26-1-41 is renumbered and amended to read:

~~[26-1-41].~~ **26B-1-402. Rare Disease Advisory Council Grant Program --**

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Creation -- Reporting.

(1) As used in this section:

(a) "Council" means the Rare Disease Advisory Council described in Subsection (3).

(b) "Grantee" means the recipient of a grant under this section to operate the program.

(c) "Rare disease" means a disease that affects fewer than 200,000 individuals in the United States.

(2) (a) Within legislative appropriations, the department shall issue a request for proposals for a grant to administer the provisions of this section.

(b) The department may issue a grant under this section if the grantee agrees to:

(i) convene the council in accordance with Subsection (3);

(ii) provide staff and other administrative support to the council; and

(iii) in coordination with the department, report to the Legislature in accordance with Subsection (4).

(3) The Rare Disease Advisory Council convened by the grantee shall:

(a) advise the Legislature and state agencies on providing services and care to individuals with a rare disease;

(b) make recommendations to the Legislature and state agencies on improving access to treatment and services provided to individuals with a rare disease;

(c) identify best practices to improve the care and treatment of individuals in the state with a rare disease;

(d) meet at least two times in each calendar year; and

(e) be composed of members identified by the department, including at least the following individuals:

(i) a representative from the department;

(ii) researchers and physicians who specialize in rare diseases, including at least one representative from the University of Utah;

(iii) two individuals who have a rare disease or are the parent or caregiver of an individual with a rare disease; and

(iv) two representatives from one or more rare disease patient organizations that operate in the state.

(4) Before November 30, 2021, and before November 30 of every odd-numbered year

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thereafter, the department shall report to the Health and Human Services Interim Committee on:

- (a) the activities of the grantee and the council; and
- (b) recommendations and best practices regarding the ongoing needs of individuals in the state with a rare disease.

Section ~~56~~58. Section **26B-1-403**, which is renumbered from Section 26-7-13 is renumbered and amended to read:

~~26-7-13~~. 26B-1-403. Opioid and Overdose Fatality Review Committee.

(1) As used in this section:

(a) "Committee" means the Opioid and Overdose Fatality Review Committee created in this section.

(b) "Opioid overdose death" means a death primarily caused by opioids or another substance that closely resembles an opioid.

(2) The department shall establish the Opioid and Overdose Fatality Review Committee.

(3) (a) The committee shall consist of:

- (i) the attorney general, or the attorney general's designee;
- (ii) a state, county, or municipal law enforcement officer;
- (iii) the manager of the department's Violence Injury Prevention Program, or the manager's designee;
- (iv) an emergency medical services provider;
- (v) a representative from the Office of the Medical Examiner;
- (vi) a representative from the ~~Division~~ Office of Substance ~~Abuse~~ Use and Mental Health;
- (vii) a representative from the Office of Vital Records;
- (viii) a representative from the Office of Health Care Statistics;
- (ix) a representative from the Division of Professional Licensing;
- (x) a healthcare professional who specializes in the prevention, diagnosis, and treatment of substance use disorders;
- (xi) a representative from a state or local jail or detention center;
- (xii) a representative from the Department of Corrections;

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- (xiii) a representative from the Division of Juvenile Justice and Youth Services;
- (xiv) a representative from the Department of Public Safety;
- (xv) a representative from the Commission on Criminal and Juvenile Justice;
- (xvi) a physician from a Utah-based medical center; and
- (xvii) a physician from a nonprofit vertically integrated health care organization.

(b) The president of the Senate may appoint one member of the Senate, and the speaker of the House of Representatives may appoint one member of the House of Representatives, to serve on the committee.

(4) The executive director [~~of the department~~] shall appoint a committee coordinator.

(5) (a) The department shall give the committee access to all reports, records, and other documents that are relevant to the committee's responsibilities under Subsection (6) including reports, records, or documents that are private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(b) In accordance with Subsection 63G-2-206(6), the committee is subject to the same restrictions on disclosure of a report, record, or other document received under Subsection (5)(a) as the department.

(6) The committee shall:

(a) conduct a multidisciplinary review of available information regarding a decedent of an opioid overdose death, which shall include:

(i) consideration of the decedent's points of contact with health care systems, social services systems, criminal justice systems, and other systems; and

(ii) identification of specific factors that put the decedent at risk for opioid overdose;

(b) promote cooperation and coordination among government entities involved in opioid misuse, abuse, or overdose prevention;

(c) develop an understanding of the causes and incidence of opioid overdose deaths in the state;

(d) make recommendations for changes to law or policy that may prevent opioid overdose deaths;

(e) inform public health and public safety entities of emerging trends in opioid overdose deaths;

(f) monitor overdose trends on non-opioid overdose deaths; and

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(g) review non-opioid overdose deaths in the manner described in Subsection (6)(a), when the committee determines that there are a substantial number of overdose deaths in the state caused by the use of a non-opioid.

(7) A committee may interview or request information from a staff member, a provider, or any other person who may have knowledge or expertise that is relevant to the review of an opioid overdose death.

(8) A majority vote of committee members present constitutes the action of the committee.

(9) The committee may meet up to eight times each year.

(10) When an individual case is discussed in a committee meeting under Subsection (6)(a), (6)(g), or (7), the committee shall close the meeting in accordance with Sections 52-4-204 through 52-4-206.

Section ~~(57)~~59. Section **26B-1-404**, which is renumbered from Section 26-8a-103 is renumbered and amended to read:

~~[26-8a-103].~~ 26B-1-404. State Emergency Medical Services Committee -- Membership -- Expenses.

(1) The State Emergency Medical Services Committee created by Section 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:

(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 as defined in Section 26B-4-101;

(c) one representative from an ambulance provider as defined in Section 26B-4-101 that is neither privately owned nor operated by a fire department;

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(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)[;]:

(i) a municipality;

(ii) a county; and

(iii) a fire district;

(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 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.

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(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.

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

(a) establish licensure, certification, and reciprocity requirements under Section 26B-4-116;

(b) establish designation requirements under Section 26B-4-117;

(c) promote the development of a statewide emergency medical services system under Section 26B-4-106;

(d) establish insurance requirements for ambulance providers;

(e) provide guidelines for requiring patient data under Section 26B-4-106;

(f) establish criteria for awarding grants under Section 26B-4-107;

(g) establish requirements for the coordination of emergency medical services and the

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medical supervision of emergency medical service providers under Section 26B-4-120;

(h) select appropriate vendors to establish certification requirements for emergency medical dispatchers;

(i) establish the minimum level of service for 911 ambulance services provided under Section 11-48-103; and

(j) are necessary to carry out the responsibilities of the committee as specified in other sections of this part.

Section ~~58~~60. Section **26B-1-405**, which is renumbered from Section 26-8a-107 is renumbered and amended to read:

~~[26-8a-107].~~ 26B-1-405. Air Ambulance Committee -- Membership --

Duties.

(1) The Air Ambulance Committee created by Section 26B-1-204 shall be 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 ~~[this chapter]~~ Chapter 4, Part 1, Utah Emergency Medical Services System; and

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(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.

(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.

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(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 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]~~ A member of the 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 ~~{59}~~61. Section **26B-1-406**, which is renumbered from Section 26-8a-251 is renumbered and amended to read:

~~[26-8a-251]~~. **26B-1-406. Trauma System Advisory Committee.**

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(1) There is created within the department the ~~[trauma system advisory committee]~~
Trauma System Advisory Committee.

(2) (a) The committee shall be comprised of individuals knowledgeable in adult or pediatric trauma care, including physicians, physician assistants, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and persons affiliated with professional health care associations.

(b) Representation on the committee shall be broad and balanced among the health care delivery systems in the state with no more than three representatives coming from any single delivery system.

(3) The committee shall:

(a) advise the department regarding trauma system needs throughout the state;

(b) assist the department in evaluating the quality and outcomes of the overall trauma system;

(c) review and comment on proposals and rules governing the statewide trauma system; and

(d) make recommendations for the development of statewide triage, treatment, transportation, and transfer guidelines.

(4) The department shall:

(a) determine, by rule, the term and causes for removal of committee members;

(b) establish committee procedures and administration policies consistent with this chapter and department rule; and

(c) provide administrative support to the committee.

Section ~~60~~62. Section **26B-1-407**, which is renumbered from Section 26-8d-104 is renumbered and amended to read:

~~[26-8d-104].~~ **26B-1-407. Stroke registry advisory committee.**

(1) There is created within the department a stroke registry advisory committee.

(2) The stroke registry advisory committee created in Subsection (1) shall:

(a) be composed of individuals knowledgeable in adult and pediatric stroke care, including physicians, physician assistants, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and persons affiliated with professional health care associations;

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(b) advise the department regarding the development and implementation of the stroke registry created in Section 26B-7-225;

(c) assist the department in evaluating the quality and outcomes of the stroke registry created in Section 26B-7-225; and

(d) review and comment on proposals and rules governing the statewide stroke registry created in Section 26B-7-225.

Section ~~{61}~~63. Section **26B-1-408**, which is renumbered from Section 26-8d-105 is renumbered and amended to read:

~~[26-8d-105].~~ 26B-1-408. Cardiac registry advisory committee.

(1) There is created within the department a cardiac registry advisory committee.

(2) The cardiac registry advisory committee created in Subsection (1) shall:

(a) be composed of individuals knowledgeable in adult and pediatric cardiac care, including physicians, physician assistants, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and persons affiliated with professional health care associations;

(b) advise the department regarding the development and implementation of the cardiac registry created in Section 26B-7-226;

(c) assist the department in evaluating the quality and outcomes of the cardiac registry created in Section 26B-7-226; and

(d) review and comment on proposals and rules governing the statewide cardiac registry created in Section 26B-7-226.

Section ~~{62}~~64. Section **26B-1-409**, which is renumbered from Section 26-9f-103 is renumbered and amended to read:

~~[26-9f-103].~~ 26B-1-409. Utah Digital Health Service Commission -- Creation -- Membership -- Duties.

(1) As used in this section:

(a) "Commission" means the Utah Digital Health Service Commission created in this section.

(b) "Digital health service" means the electronic transfer, exchange, or management of related data for diagnosis, treatment, consultation, educational, public health, or other related purposes.

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~~[(1)]~~ (2) There is created within the department the Utah Digital Health Service Commission.

~~[(2)]~~ (3) 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]~~ 26B-2-201;
- (c) a representative of rural Utah, which may be a person nominated by an advisory committee on rural health issues;
- (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)]~~ (4) (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)]~~ (5) (a) Except as provided in Subsection ~~[(4)]~~ (5)(b), a commission member shall be appointed for a three-year term and eligible for two reappointments.

(b) Notwithstanding Subsection ~~[(4)]~~ (5)(a), the governor shall, at the time of

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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)~~] (5)(c), a commission member who fails to attend 75% of the scheduled meetings in a calendar year shall be disqualified from serving.

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

[~~(5)~~] (6) 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)~~] (7) The department shall provide informatics staff support to the commission.

[~~(7)~~] (8) The funding of the commission shall be a separate line item to the department in the annual appropriations act.

(9) The commission shall:

(a) advise and make recommendations on digital health service issues to the department and other state entities;

(b) advise and make recommendations on digital health service related patient privacy and information security to the department;

(c) promote collaborative efforts to establish technical compatibility, uniform policies, privacy features, and information security to meet legal, financial, commercial, and other societal requirements;

(d) identify, address, and seek to resolve the legal, ethical, regulatory, financial, medical, and technological issues that may serve as barriers to digital health service;

(e) explore and encourage the development of digital health service systems as a means

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of reducing health care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations with access to or development of electronic medical records;

- (f) seek public input on digital health service issues; and
- (g) in consultation with the department, advise the governor and Legislature on:
 - (i) the role of digital health service in the state;
 - (ii) the policy issues related to digital health service;
 - (iii) the changing digital health service needs and resources in the state; and
 - (iv) state budgetary matters related to digital health service.

Section ~~63~~65. Section **26B-1-410**, which is renumbered from Section 26-10b-106 is renumbered and amended to read:

~~[26-10b-106].~~ **26B-1-410. Primary Care Grant Committee.**

(1) As used in this section:

(a) "Committee" means the Primary Care Grant Committee created in Subsection (2).

(b) "Program" means the Primary Care Grant Program described in Sections 26B-4-310 and 26B-4-313.

(2) There is created the Primary Care Grant Committee.

~~[(+)]~~ (3) The committee shall:

(a) review grant applications forwarded to the committee by the department under Subsection ~~[26-10b-104]~~ 26B-4-312(1);

(b) recommend, to the executive director, grant applications to award under Subsection ~~[26-10b-102]~~ 26B-4-310(1);

(c) evaluate:

(i) the need for primary health care as defined in Section 26B-4-301 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,

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Chapter 3, Utah Administrative Rulemaking Act, that govern the committee, including the committee's grant selection criteria.

~~[(2)]~~ (4) 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 as defined in Section 26B-4-301 and with health care systems, where at least one is familiar with a rural medically underserved population.

~~[(3)]~~ (5) 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)]~~ (6) A committee member may not receive compensation or benefits for the member's 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 ~~{64}~~ 66. Section **26B-1-411**, which is renumbered from Section 26-18a-2 is renumbered and amended to read:

~~[26-18a-2].~~ **26B-1-411. Creation and membership of Kurt Oscarson Children's Organ Transplant Coordinating Committee -- Expenses -- Purposes.**

(1) There is created the Kurt Oscarson Children's Organ Transplant Coordinating Committee.

(2) The committee shall have five members representing the following:

(a) the executive director ~~[of the Department of Health or his]~~ the executive director's designee;

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(b) two representatives from public or private agencies and organizations concerned with providing support and financial assistance to the children and families of children who need organ transplants; and

(c) two individuals who have had organ transplants, have children who have had organ transplants, who work with families or children who have had or are awaiting organ transplants, or community leaders or volunteers who have demonstrated an interest in working with families or children in need of organ transplants.

(3) (a) The governor shall appoint the committee members and designate the chair from among the committee members.

(b) (i) Except as required by Subsection (3)(b)(ii), each member shall serve a four-year term.

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

(4) 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.

(5) The [~~Department of Health~~] department shall provide support staff for the committee.

(6) The committee shall work to:

(a) provide financial assistance for initial medical expenses of children who need organ transplants;

(b) obtain the assistance of volunteer and public service organizations; and

(c) fund activities as the committee designates for the purpose of educating the public about the need for organ donors.

(7) (a) The committee is responsible for awarding financial assistance funded by the

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Kurt Oscarson Children's Organ Transplant Account created in Section 26B-1-311.

(b) The financial assistance awarded by the committee under Subsection (6)(a) shall be in the form of interest free loans. The committee may establish terms for repayment of the loans, including a waiver of the requirement to repay any awards if, in the committee's judgment, repayment of the loan would impose an undue financial burden on the recipient.

(c) In making financial awards under Subsection (6)(a), the committee shall consider:

(i) need;

(ii) coordination with or enhancement of existing services or financial assistance, including availability of insurance or other state aid;

(iii) the success rate of the particular organ transplant procedure needed by the child;
and

(iv) the extent of the threat to the child's life without the organ transplant.

(d) The committee may only provide the assistance described in this section to children who have resided in Utah, or whose legal guardians have resided in Utah for at least six months prior to the date of assistance under this section.

(8) (a) The committee may expend up to 5% of ~~fits~~ the committee's annual appropriation for administrative costs associated with the allocation of funds from the Kurt Oscarson Children's Organ Transplant Account created in Section 26B-1-311.

(b) The administrative costs shall be used for the costs associated with staffing the committee and for State Tax Commission costs in implementing Section 59-10-1308.

Section ~~65~~67. Section **26B-1-412**, which is renumbered from Section 26-21-3 is renumbered and amended to read:

[26-21-3]. 26B-1-412. Health Facility Committee -- Members -- Terms -- Organization -- Meetings.

(1) The definitions in Section 26B-2-201 apply to this section.

[~~(1)~~] (2) (a) The ~~[committee]~~ Health Facility 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)~~] (3) The membership of the committee is:

(a) one physician, licensed to practice medicine and surgery under Title 58, Chapter 67,

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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)]~~ (4) (a) Except as required by Subsection ~~[(3)]~~ (4)(b), members shall be appointed for a term of four years.

(b) Notwithstanding the requirements of Subsection ~~[(3)]~~ (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) 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) (i) A member may not serve more than two consecutive full terms or 10 consecutive years, whichever is less. ~~[However,]~~

(ii) Notwithstanding Subsection (4)(d)(i), a member may continue to serve as a member until the member is replaced.

(e) The committee shall annually elect from ~~[its]~~ the committee's 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.

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(g) Six members constitute a quorum.

(h) A vote of the majority of the members present constitutes action of the committee.

(5) The committee shall:

(a) with the concurrence of the department, make rules in accordance with Title 63G,

Chapter 3, Utah Administrative Rulemaking Act:

(i) for the licensing of health-care facilities; and

(ii) requiring the submission of architectural plans and specifications for any proposed new health-care facility or renovation to the department for review;

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

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

(d) advise, consult, cooperate with, and provide technical assistance to other agencies of the state and federal government, and other states and affected groups or persons in carrying out the purposes of this chapter.

(6) 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.

Section ~~666~~68. Section **26B-1-413**, which is renumbered from Section 26-33a-104 is renumbered and amended to read:

~~[26-33a-104].~~ **26B-1-413.** Health Data Committee -- Purpose, powers, and duties of the committee -- Membership -- Terms -- Chair -- Compensation.

(1) The definitions in Section 26B-8-501 apply to this section.

~~[(+)]~~ (2) (a) There is created within the department the Health Data Committee.

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

~~[(2)]~~ (3) The committee shall:

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

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

(ii) document existing health data activities in the state to collect, organize, or make available types of data pertinent to the needs identified in Subsection ~~[(2)]~~ (3)(a)(i);

(iii) describe and prioritize the actions suitable for the committee to take in response to the needs identified in Subsection ~~[(2)]~~ (3)(a)(i) in order to obtain or to facilitate the obtaining of needed data, and to encourage improvements in existing data collection, interpretation, and reporting activities, and indicate how those actions relate to the activities identified under Subsection ~~[(2)]~~ (3)(a)(ii);

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

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

(vi) explain the intended uses of and expected benefits to be derived from the data specified in Subsection ~~[(2)]~~ (3)(a)(iv), including the contemplated tabulation formats and analysis methods; the benefits described shall demonstrably relate to one or more of the following:

- (A) promoting quality health care;
- (B) managing health care costs; or
- (C) improving access to health care services;

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

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

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

(c) evaluate existing identification coding methods and, if necessary, require by rule adopted in accordance with Subsection ~~[(3)]~~ (4), that health data suppliers use a uniform system for identification of patients, health care facilities, and health care providers on health data they submit under this ~~[chapter]~~ section and Chapter 8, Part 5, Utah Health Data Authority; and

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

~~[(3)]~~ (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee, with the concurrence of the department, may adopt rules to carry out the provisions of this ~~[chapter]~~ section and Chapter 8, Part 5, Utah Health Data Authority.

~~[(4)]~~ (5) (a) Except for data collection, analysis, and validation functions described in this section, nothing in this ~~[chapter]~~ section or in Chapter 8, Part 5, Utah Health Data Authority, shall be construed to authorize or permit the committee to perform regulatory functions which are delegated by law to other agencies of the state or federal governments or to perform quality assurance or medical record audit functions that health care facilities, health care providers, or third party payors are required to conduct to comply with federal or state law.

(b) The committee may not recommend or determine whether a health care provider, health care facility, third party payor, or self-funded employer is in compliance with federal or state laws including federal or state licensure, insurance, reimbursement, tax, malpractice, or quality assurance statutes or common law.

~~[(5)]~~ (6) (a) Nothing in this ~~[chapter]~~ section or in Chapter 8, Part 5, Utah Health Data Authority, shall be construed to require a data supplier to supply health data identifying a patient by name or describing detail on a patient beyond that needed to achieve the approved purposes included in the plan.

~~[(6)]~~ (7) No request for health data shall be made of health care providers and other

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data suppliers until a plan for the use of such health data has been adopted.

~~[(7)]~~ (8)(a) If a proposed request for health data imposes unreasonable costs on a data supplier, due consideration shall be given by the committee to altering the request.

(b) If the request is not altered, the committee shall pay the costs incurred by the data supplier associated with satisfying the request that are demonstrated by the data supplier to be unreasonable.

~~[(8)]~~ (9) After a plan is adopted as provided in Section ~~[26-33a-106.1]~~ 26B-8-504, the committee may require any data supplier to submit fee schedules, maximum allowable costs, area prevailing costs, terms of contracts, discounts, fixed reimbursement arrangements, capitations, or other specific arrangements for reimbursement to a health care provider.

~~[(9)]~~ (10)(a) The committee may not publish any health data collected under Subsection ~~[(8)]~~ (9) that would disclose specific terms of contracts, discounts, or fixed reimbursement arrangements, or other specific reimbursement arrangements between an individual provider and a specific payer.

~~[(10)]~~ (b) Nothing in Subsection ~~[(8)]~~ (9) shall prevent the committee from requiring the submission of health data on the reimbursements actually made to health care providers from any source of payment, including consumers.

(11) The committee shall be composed of 15 members.

(12)(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)(i) Fourteen members shall be appointed by the governor with the advice and consent of the Senate in accordance with Subsection (13) and in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(ii) No more than seven members of the committee appointed by the governor may be members of the same political party.

(13) The members of the committee appointed under Subsection (12)(b) shall:

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

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

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care;

(c) include one person employed by or otherwise associated with a general acute hospital as defined in Section 26B-2-201, 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 ~~fits~~the business's 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 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:

(i) representative of a neutral, non-biased entity that can demonstrate that ~~fit~~the entity 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;

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and

(i) include two persons representing public health who are trained in, or experienced with the collection, use, and analysis of health care data.

(14) (a) Except as required by Subsection (14)(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 (14)(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~~ the members' terms expire until replaced.

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

(16) Committee members shall annually elect a chair of the committee from among ~~their~~ the committee's membership. The chair shall report to the executive director.

(17) (a) The committee shall meet at least once during each calendar quarter. Meeting dates shall be set by the chair upon 10 working ~~days~~ days' notice to the other members, or upon written request by at least four committee members with at least 10 working ~~days~~ days' notice to other committee members.

(b) 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.

(c) 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.

(18) A member:

(a) 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

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63A-3-107; and

(b) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section ~~{67}~~69. Section **26B-1-414**, which is renumbered from Section 26-39-200 is renumbered and amended to read:

~~[26-39-200].~~ 26B-1-414. Child Care Center Licensing Committee --

Duties.

(1) (a) The [~~licensing committee~~] Child Care Center Licensing Committee shall be comprised of seven members appointed by the governor [~~and approved by~~] with the advice and consent of the Senate in accordance with this [~~subsection~~] Subsection (1).

(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 as defined in Section 26B-2-401; and

(ii) hold an active license as a child care center from the department to provide center based child care as defined in Section 26B-2-401.

(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 as defined in Section 26B-2-401;

(B) a child development expert from the state system of higher education;

(C) except as provided in Subsection (1)(c)(i)(C), a pediatrician licensed in the state; and

(D) an architect licensed in the state.

(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

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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.

(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

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

(7) The ~~licensing committee~~ Child Care Center Licensing Committee shall:

(a) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that govern center based child care as defined in Section 26B-2-401 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;

(b) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out the purposes of this chapter that govern center based child care as defined in Section 26B-2-401, 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 this Subsection (~~11~~7);

(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 ensure compliance with statute and rule; and

(vii) guidelines necessary to ensure consistency and appropriateness in the regulation and discipline of licensees;

(c) advise the department on the administration of a matter affecting center based child care as defined in Section 26B-2-401;

(d) advise and assist the department in conducting center based child care provider seminars; and

(e) perform other duties as provided in Section 26B-2-402.

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(8) (a) The licensing committee may not enforce the rules adopted under this section.

(b) The department shall enforce the rules adopted under this section in accordance with Section 26B-2-402.

Section ~~68~~70. Section **26B-1-415**, which is renumbered from Section 26-39-201 is renumbered and amended to read:

~~[26-39-201].~~ **26B-1-415. Residential Child Care Licensing Advisory Committee.**

(1) (a) The [~~advisory committee~~] Residential Child Care Licensing Advisory Committee shall advise the department on rules made by the department under [~~this chapter~~] Chapter 2, Part 4, Child Care Licensing, 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 providers of residential child care [~~providers~~] as defined in Section 26B-2-401;

(iii) one certified provider of residential child care [~~provider~~] as defined in Section 26B-2-401;

(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~~] one-fourth 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 determined by the executive director, the chair, or three or more members of the advisory 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:

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- (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 ~~69~~71. Section **26B-1-416**, which is renumbered from Section 26-40-104 is renumbered and amended to read:

**~~[26-40-104].~~ 26B-1-416. Utah Children's Health Insurance Program
Advisory Council.**

(1) (a) There is created a Utah Children's Health Insurance Program Advisory Council consisting of at least five and no more than eight members appointed by the executive director of the department.

(b) The term of each appointment shall be three years.

(c) The appointments shall be staggered at one-year intervals to ensure continuity of the advisory council.

(2) The advisory council shall meet at least quarterly.

(3) The membership of the advisory council shall include at least one representative from each of the following groups:

- (a) child health care providers;
- (b) ethnic populations other than American Indians;
- (c) American Indians;
- (d) health and accident and health insurance providers; and
- (e) the general public.

(4) The advisory council shall advise the department on:

- (a) benefits design;
- (b) eligibility criteria;
- (c) outreach;
- (d) evaluation; and
- (e) special strategies for under-served populations.

(5) A member of the advisory council 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;

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

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

Section ~~{70}~~72. Section **26B-1-417**, which is renumbered from Section 26-50-202 is renumbered and amended to read:

~~[26-50-202].~~ 26B-1-417. Traumatic Brain Injury Advisory Committee -- Membership -- Time limit.

(1) On or after July 1 of each year, the executive director may create a Traumatic Brain Injury Advisory Committee of not more than nine members.

(2) The committee shall be composed of members of the community who are familiar with traumatic brain injury, its causes, diagnosis, treatment, rehabilitation, and support services, including:

- (a) persons with a traumatic brain injury;
- (b) family members of a person with a traumatic brain injury;
- (c) representatives of an association which advocates for persons with traumatic brain injuries;
- (d) specialists in a profession that works with brain injury patients; and
- (e) department representatives.

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

(4) (a) If a vacancy occurs in the committee membership for any reason, a replacement may be appointed for the unexpired term.

(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 exists, the action of the majority of members present shall be the action of the committee.

(d) The committee may adopt bylaws governing the committee's activities.

(e) A committee member may be removed by the executive director:

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

(ii) for good cause.

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

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

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(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, 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.

(7) Not later than November 30 of each year the committee shall provide a written report summarizing the activities of the committee to the executive director of the department.

(8) The committee shall cease to exist on December 31 of each year, unless the executive director determines it necessary to continue.

Section ~~71~~73. Section **26B-1-418**, which is renumbered from Section 26-54-103 is renumbered and amended to read:

~~[26-54-103]~~. **26B-1-418. Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee -- Creation -- Membership -- Terms -- Duties.**

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

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

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

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

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

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

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

(f) (i) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy

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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:

(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

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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]~~ 26B-1-319 and 26B-1-320;

(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]~~ 26B-1-319; or

(ii) children with nonprogressive neurological conditions through qualified IRC 501(c)(3) charitable clinics, as defined in Section ~~[26-54-102.5]~~ 26B-1-320; 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.

(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 ~~{72}~~74. Section **26B-1-419**, which is renumbered from Section 26-46-103 is renumbered and amended to read:

~~[26-46-103].~~ **26B-1-419. Utah Health Care Workforce Financial Assistance Program Advisory {committee}Committee -- Membership -- Compensation -- Duties.**

(1) There is created the Utah Health Care Workforce Financial Assistance Program Advisory Committee consisting of the following 13 members appointed by the executive director, eight of whom shall be residents of rural communities:

(a) one rural representative of Utah Hospitals and Health Systems, nominated by the association;

(b) two rural representatives of the Utah Medical Association, nominated by the

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association;

(c) one representative of the Utah Academy of Physician Assistants, nominated by the association;

(d) one representative of the Association for Utah Community Health, nominated by the association;

(e) one representative of the Utah Dental Association, nominated by the association;

(f) one representative of mental health therapists, selected from nominees submitted by mental health therapist professional associations;

(g) one representative of the Association of Local Health Officers, nominated by the association;

(h) one representative of a low-income advocacy group, nominated by a Utah health and human services coalition that represents underserved populations as defined in Section 26B-4-702;

(i) one nursing program faculty member, nominated by the Statewide Deans and Directors Committee;

(j) one administrator of a long-term care facility, nominated by the Utah Health Care Association;

(k) one nursing administrator, nominated by the Utah Nurses Association; and

(l) one geriatric professional as defined in Section 26B-4-702 who is:

(i) determined by the department to have adequate advanced training in geriatrics to prepare the person to provide specialized geriatric care within the scope of the person's profession; and

(ii) nominated by a professional association for the profession of which the person is a member.

(2) (a) An appointment to the committee shall be for a four-year term unless the member is appointed to complete an unexpired term.

(b) The executive director may also adjust the length of term at the time of appointment or reappointment so that approximately $[\frac{1}{2}]$ one-half of the committee is appointed every two years.

(c) The executive director shall annually appoint a committee chair from among the members of the committee.

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(3) The committee shall meet at the call of the chair, at least three members of the committee, or the executive director, but no less frequently than once each calendar year.

(4) (a) A majority of the members of the committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the committee.

(5) 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.

(6) The committee shall:

(a) make recommendations to the department for the development and modification of rules to administer the Utah Health Care Workforce Financial Assistance Program; and

(b) advise the department on the development of a needs assessment tool for identifying underserved areas as defined in Section 26B-4-702.

(7) As funding permits, the department shall provide staff and other administrative support to the committee.

Section ~~73~~75. Section **26B-1-420**, which is renumbered from Section 26-61-201 is renumbered and amended to read:

~~[26-61-201]~~. **26B-1-420. Cannabis Research Review Board.**

(1) As used in this section:

(a) "Cannabinoid product" means the same as that term is defined in Section 58-37-3.6.

(b) "Cannabis" means the same as that term is defined in Section 58-37-3.6.

~~[(1)]~~ (2) (a) There is created the Cannabis Research Review Board within the department.

~~[(2)]~~ (b) The department shall appoint, in consultation with a professional association based in the state that represents physicians, seven members to the Cannabis Research Review Board as follows:

~~[(a)]~~ (i) three individuals who are medical research professionals; and

~~[(b)]~~ (ii) four physicians who are qualified medical providers as defined in Section 26B-4-201.

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(3) The department shall ensure that at least one of the board members appointed under Subsection (2)(b) is a member of the Controlled Substances Advisory Committee created in Section 58-38a-201.

(4) (a) Four of the board members appointed under Subsection (2)(b) shall serve an initial term of two years and three of the board members appointed under Subsection (2)(b) shall serve an initial term of four years.

(b) Successor board members shall each serve a term of four years.

(c) A board member appointed to fill a vacancy on the board shall serve the remainder of the term of the board member whose departure created the vacancy.

(5) The department may remove a board member without cause.

(6) The board shall:

(a) nominate a board member to serve as chairperson of the board by a majority vote of the board members; and

(b) meet as often as necessary to accomplish the duties assigned to the board under this chapter.

(7) Each board member, including the chair, has one vote.

(8) (a) A majority of board members constitutes a quorum.

(b) A vote of a majority of the quorum at any board meeting is necessary to take action on behalf of the board.

(9) A board member may not receive compensation for the member's service on the board, but may, in accordance with rules adopted by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, receive:

(a) per diem at the rate established under Section 63A-3-106; and

(b) travel expenses at the rate established under Section 63A-3-107.

(10) If a board member appointed under Subsection (2)(b) does not meet the qualifications of Subsection (2)(b) before July 1, 2022:

(a) the board member's seat is vacant; and

(b) the department shall fill the vacancy in accordance with this section.

(11) The board shall review any available scientific research related to the human use of cannabis, a cannabinoid product, or an expanded cannabinoid product that:

(a) was conducted under a study approved by an institutional review board that is

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registered for human subject research by the United States Department of Health and Human Services;

(b) was conducted or approved by the federal government; or

(c) (i) was conducted in another country; and

(ii) demonstrates, as determined by the board, a sufficient level of scientific reliability and significance to merit the board's review.

(12) Based on the research described in Subsection (11), the board shall evaluate the safety and efficacy of cannabis, cannabinoid products, and expanded cannabinoid products, including:

(a) medical conditions that respond to cannabis, cannabinoid products, and expanded cannabinoid products;

(b) cannabis and cannabinoid dosage amounts and medical dosage forms;

(c) interaction of cannabis, cannabinoid products, and expanded cannabinoid products, as defined in Section 58-37-3.6, with other treatments; and

(d) contraindications, adverse reactions, and potential side effects from use of cannabis, cannabinoid products, and expanded cannabinoid products.

(13) Based on the board's evaluation under Subsection (12), the board shall develop guidelines for treatment with cannabis, a cannabinoid product, and an expanded cannabinoid product that include:

(a) a list of medical conditions, if any, that the board determines are appropriate for treatment with cannabis, a cannabis product, a cannabinoid product, or an expanded cannabinoid product;

(b) a list of contraindications, side effects, and adverse reactions that are associated with use of cannabis, cannabinoid products, or expanded cannabinoid products;

(c) a list of potential drug-drug interactions between medications that the United States Food and Drug Administration has approved and cannabis, cannabinoid products, and expanded cannabinoid products; and

(d) any other guideline the board determines appropriate.

(14) The board shall submit the guidelines described in Subsection (13) to the director of the Division of Professional Licensing.

(15) Guidelines that the board develops under this section may not limit the availability

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of cannabis, cannabinoid products, or expanded cannabinoid products permitted under Title 4, Chapter 41a, Cannabis Production Establishments, or Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

Section ~~{74}~~76. Section **26B-1-421**, which is renumbered from Section 26-61a-105 is renumbered and amended to read:

~~[26-61a-105].~~ 26B-1-421. Compassionate Use Board.

(1) The definitions in Section 26B-4-201 apply to this section.

~~[(1)]~~ (2) (a) The department shall establish a Compassionate Use Board consisting of:

(i) seven qualified medical providers that the executive director appoints and the

Senate confirms:

(A) who are knowledgeable about the medicinal use of cannabis;

(B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(C) whom the appropriate board certifies in the specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, or gastroenterology; and

(ii) as a nonvoting member and the chair of the Compassionate Use Board, the executive director or the director's designee.

(b) In appointing the seven qualified medical providers described in Subsection ~~[(1)]~~ (2)(a), the executive director shall ensure that at least two have a board certification in pediatrics.

~~[(2)]~~ (3) (a) Of the members of the Compassionate Use Board that the executive director first appoints:

(i) three shall serve an initial term of two years; and

(ii) the remaining members shall serve an initial term of four years.

(b) After an initial term described in Subsection ~~[(2)]~~ (3)(a) expires:

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

(c) A member of the Compassionate Use Board may serve until a successor is appointed.

~~[(3)]~~ (d) Four members constitute a quorum of the Compassionate Use Board.

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(4) A member of the Compassionate Use Board may receive:

(a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and

(b) travel expenses in accordance with Section 63A-3-107 and rules made by the Division of Finance in accordance with Section 63A-3-107.

(5) The Compassionate Use Board shall:

(a) review and recommend for department approval a petition to the board regarding an individual described in Subsection ~~[26-61a-201]~~ 26B-4-213(2)(a), a minor described in Subsection ~~[26-61a-201]~~ 26B-4-213(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use, for the standard or a reduced period of validity, if:

(i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's qualified medical provider is actively treating the individual for an intractable condition that:

(A) substantially impairs the individual's quality of life; and

(B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;

(ii) the qualified medical provider:

(A) recommends that the individual or minor be allowed to use medical cannabis; and

(B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and

(iii) the Compassionate Use Board determines that:

(A) the recommendation of the individual's qualified medical provider is justified; and

(B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;

(b) review and approve or deny the use of a medical cannabis device for an individual described in Subsection ~~[26-61a-201]~~ 26B-4-213(2)(a)(i)(B) or a minor described in Subsection ~~[26-61a-201]~~ 26B-4-213(2)(c) if the individual's or minor's qualified medical provider recommends that the individual or minor be allowed to use a medical cannabis device to vaporize the medical cannabis treatment;

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(c) unless no petitions are pending:

(i) meet to receive or review compassionate use petitions at least quarterly; and

(ii) if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;

(d) except as provided in Subsection (6), complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition;

(e) consult with the department regarding the criteria described in Subsection (6); and

(f) report, before November 1 of each year, to the Health and Human Services Interim Committee:

(i) the number of compassionate use recommendations the board issued during the past year; and

(ii) the types of conditions for which the board recommended compassionate use.

(6) The department shall make rules, in consultation with the Compassionate Use Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process and criteria for a petition to the board to automatically qualify for expedited final review and approval or denial by the department in cases where, in the determination of the department and the board:

(a) time is of the essence;

(b) engaging the full review process would be unreasonable in light of the petitioner's physical condition; and

(c) sufficient factors are present regarding the petitioner's safety.

(7) (a) (i) The department shall review:

(A) any compassionate use for which the Compassionate Use Board recommends approval under Subsection (5)(d) to determine whether the board properly exercised the board's discretion under this section; and

(B) any expedited petitions the department receives under the process described in Subsection (6).

(ii) If the department determines that the Compassionate Use Board properly exercised the board's discretion in recommending approval under Subsection (5)(d) or that the expedited petition merits approval based on the criteria established in accordance with Subsection (6), the

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department shall:

(A) issue the relevant medical cannabis card; and

(B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the qualified medical provider described in Subsection (5)(a).

(b) (i) If the Compassionate Use Board recommends denial under Subsection (5)(d), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.

(ii) If the department determines that the Compassionate Use Board's recommendation for denial under Subsection (5)(d) was arbitrary or capricious:

(A) the department shall notify the Compassionate Use Board of the department's determination; and

(B) the board shall reconsider the Compassionate Use Board's refusal to recommend approval under this section.

(c) In reviewing the Compassionate Use Board's recommendation for approval or denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.

(8) Any individually identifiable health information contained in a petition that the Compassionate Use Board or department receives under this section is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The Compassionate Use Board shall annually report the board's activity to the Cannabis Research Review Board.

Section ~~75~~77. Section **26B-1-422**, which is renumbered from Section 26-66-202 is renumbered and amended to read:

~~[26-66-202]~~. **26B-1-422. Early Childhood Utah Advisory Council -- Creation -- Compensation -- Duties.**

(1) There is created the Early Childhood Utah Advisory Council.

(2) (a) The department shall make rules establishing the membership, duties, and procedures of the council in accordance with the requirements of:

(i) this section;

(ii) the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b;

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and

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

(b) A member of the council may not receive compensation or benefits for the member's service.

~~[(1)]~~ (3) The council shall serve as an entity dedicated to improving and coordinating the quality of programs and services for children in accordance with the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b.

~~[(2)]~~ (4) The council shall advise the ~~[commission]~~ Governor's Early Childhood Commission created in Section 63M-13-201 and, on or before August 1, annually provide to the ~~[commission]~~ Governor's Early Childhood Commission:

(a) a statewide assessment concerning the availability of high-quality pre-kindergarten services for children from low-income households; and

(b) a statewide strategic report addressing the activities mandated by the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b, including:

(i) identifying opportunities for and barriers to collaboration and coordination among federally-funded and state-funded child health and development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering such programs;

(ii) evaluating the overall participation of children in existing federal, state, and local child care programs and early childhood health, development, family support, and education programs;

(iii) recommending statewide professional development and career advancement plans for early childhood educators and service providers in the state, including an analysis of the capacity and effectiveness of programs at two- and four-year public and private institutions of higher education that support the development of early childhood educators; and

(iv) recommending improvements to the state's early learning standards and high-quality comprehensive early learning standards.

~~[(3)]~~ (5) On or before August 1, 2020, and at least every five years thereafter, the council shall provide to the ~~[commission]~~ Governor's Early Childhood Commission a statewide needs assessment concerning the quality and availability of early childhood education, health, and development programs and services for children in early childhood.

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Section ~~76~~78. Section **26B-1-423**, which is renumbered from Section 26-46a-104 is renumbered and amended to read:

~~[26-46a-104].~~ 26B-1-423. Rural Physician Loan Repayment Program
Advisory Committee -- Membership -- Compensation -- Duties.

(1) There is created the Rural Physician Loan Repayment Program Advisory Committee consisting of the following eight members appointed by the executive director:

(a) two legislators whose districts include a rural [counties] county as defined in Section 26B-4-701;

(b) five administrators of ~~[rural hospitals]~~ a hospital located in a rural county as defined in Section 26B-4-701, nominated by an association representing Utah hospitals, no more than two of whom are employed by hospitals affiliated by ownership; and

(c) a physician currently practicing in a rural county as defined in Section 26B-4-701.

(2) (a) An appointment to the committee shall be for a four-year term unless the member is appointed to complete an unexpired term.

(b) The executive director shall adjust the length of term at the time of appointment or reappointment so that approximately one-half of the committee is appointed every two years.

(c) The executive director shall annually appoint a committee chair from among the members of the committee.

(3) (a) The committee shall meet at the call of:

(i) the chair;

(ii) at least three members of the committee; or

(iii) the executive director.

(b) The committee shall meet at least once each calendar year.

(4) (a) A majority of the members of the committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the committee.

(5) 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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(6) The committee shall make recommendations to the department for the development and modification of rules to administer the Rural Physician Loan Repayment Program created in Section 26B-4-703.

(7) As funding permits, the department shall provide staff and other administrative support to the committee.

Section ~~{77}~~79. Section **26B-1-424**, which is renumbered from Section 26-67-202 is renumbered and amended to read:

~~[26-67-202]~~. **26B-1-424. Adult Autism Treatment Program Advisory Committee -- Membership -- Procedures -- Compensation -- Duties -- Expenses.**

(1) As used in this section, "autism spectrum disorder" means the same as that term is defined in Section 31A-22-642.

~~[(1)]~~ (2) The Adult Autism Treatment Advisory Committee created in Section 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 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

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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)]~~ (3) (a) Notwithstanding Subsection ~~[(1)]~~ (2), 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)]~~ (c) The advisory committee shall annually elect a chair from its membership.

~~[(b)]~~ (d) 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]~~ Adult Autism Treatment Program created in Section 26B-4-602;

(b) make recommendations to the department and the Legislature for improving the ~~[program]~~ Adult Autism Treatment 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 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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(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 created in Section 26B-1-322.

Section ~~{78}~~80. Section **26B-1-425**, which is renumbered from Section 26-69-201 is renumbered and amended to read:

~~[26-69-201].~~ 26B-1-425. Utah Health Workforce Advisory Council creation and membership.

(1) There is created within the department the Utah Health Workforce Advisory Council.

(2) The council shall be comprised of at least 14 but not more than 19 members.

(3) The following are members of the council:

(a) the executive director or that individual's designee;

(b) the executive director of the Department of Workforce Services or that individual's designee;

(c) the commissioner of higher education of the Utah System of Higher Education or that individual's designee;

(d) the state superintendent of the State Board of Education or that individual's designee;

(e) the executive director of the Department of Commerce or that individual's designee;

(f) the director of the Division of Multicultural Affairs or that individual's designee;

(g) the director of the Utah Substance Use and Mental Advisory Council or that individual's designee;

(h) the chair of the Utah Indian Health Advisory Board; and

(i) the chair of the Utah Medical Education Council created in Section ~~[26-69-402]~~ 26B-4-706.

(4) The executive director shall appoint at least five but not more than ten additional members that represent diverse perspectives regarding Utah's health workforce as defined in Section 26B-4-701.

(5) (a) A member appointed by the executive director under Subsection (4) shall serve a four-year term.

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(b) Notwithstanding Subsection (5)(a) for the initial appointments of members described in Subsection (4) the executive director shall appoint at least three but not more than five members to a two-year appointment to ensure that approximately half of the members appointed by the executive director rotate every two years.

(6) The executive director or the executive director's designee shall chair the council.

(7) (a) As used in this Subsection (7), "health workforce" means the same as that term is defined in Section 26B-4-706.

(b) The council shall:

(i) meet at least once each quarter;

(ii) study and provide recommendations to an entity described in Subsection (8) regarding:

(A) health workforce supply;

(B) health workforce employment trends and demand;

(C) options for training and educating the health workforce;

(D) the implementation or improvement of strategies that entities in the state are using or may use to address health workforce needs including shortages, recruitment, retention, and other Utah health workforce priorities as determined by the council;

(iii) provide guidance to an entity described in Subsection (8) regarding health workforce related matters;

(iv) review and comment on legislation relevant to Utah's health workforce; and

(v) advise the Utah Board of Higher Education and the Legislature on the status and needs of the health workforce who are in training.

(8) The council shall provide information described in Subsections (7)(b)(ii) and (iii) to:

(a) the Legislature;

(b) the department;

(c) the Department of Workforce Services;

(d) the Department of Commerce;

(e) the Utah Medical Education Council; and

(f) any other entity the council deems appropriate upon the entity's request.

(9) (a) The Utah Medical Education Council created in Section 26B-4-706 is a

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subcommittee of the council.

(b) The council may establish subcommittees to support the work of the council.

(c) A member of the council shall chair a subcommittee created by the council.

(d) Except for the Utah Medical Education Council, the chair of the subcommittee may appoint any individual to the subcommittee.

(10) For any report created by the council that pertains to any duty described in Subsection (7), the council shall:

(a) provide the report to:

(i) the department; and

(ii) any appropriate legislative committee; and

(b) post the report on the council's website.

(11) The executive director shall:

(a) ensure the council has adequate staff to support the council and any subcommittee created by the council; and

(b) provide any available information upon the council's request if:

(i) that information is necessary for the council to fulfill a duty described in Subsection (7); and

(ii) the department has access to the information.

(12) A member of the council or a subcommittee created by the council 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 according to Sections 63A-3-106 and 63A-3-107.

Section ~~79~~81. Section **26B-1-426**, which is renumbered from Section 62A-1-107 is renumbered and amended to read:

~~[62A-1-107].~~ 26B-1-426. Board of Aging and Adult Services -- Members, appointment, terms, vacancies, chairperson, compensation, meetings, quorum.

(1) The Board of Aging and Adult Services 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

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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) (a) No more than four members of the board may be from the same political party.

(b) 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) (a) The board shall annually elect a chairperson from the board's membership.

(b) The board shall hold meetings at least once every three months.

(c) 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.

(d) 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 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) (a) The board shall adopt bylaws governing its activities. [~~Bylaws~~]

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(b) The bylaws described in Subsection (6)(a) 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 ~~80~~82. Section **26B-1-427**, which is renumbered from Section 62A-1-121 is renumbered and amended to read:

[62A-1-121]. 26B-1-427. Tracking effects of abuse of alcoholic products.

(1) There is created a committee within the department known as the ^[a]Alcohol Abuse Tracking Committee^[a] that consists of:

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

~~[(b) the executive director of the Department of Health or that executive director's designee;]~~

~~[(c)]~~ (b) the commissioner of the Department of Public Safety or the commissioner's designee;

~~[(d)]~~ (c) the director of the Department of Alcoholic Beverage Services or that director's designee;

~~[(e)]~~ (d) the executive director of the Department of Workforce Services or that executive director's designee;

~~[(f)]~~ (e) the chair of the Utah Substance Use and Mental Health Advisory Council or the chair's designee;

~~[(g)]~~ (f) the state court administrator or the state court administrator's designee; and

~~[(h)]~~ (g) the director of the Division of Technology Services or that director's designee.

(2) The executive director or the executive director's designee shall chair the committee.

(3) (a) Four members of the committee constitute a quorum.

(b) A vote of the majority of the committee members present when a quorum is present is an action of the committee.

(4) The committee shall meet at the call of the chair, except that the chair shall call a

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meeting at least twice a year:

(a) with one meeting held each year to develop the report required under Subsection (7); and

(b) with one meeting held to review and finalize the report before the report is issued.

(5) The committee may adopt additional procedures or requirements for:

(a) voting, when there is a tie of the committee members;

(b) how meetings are to be called; and

(c) the frequency of meetings.

(6) The committee shall establish a process to collect for each calendar year the following information:

(a) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to underage drinking of alcohol;

(b) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to driving under the influence of alcohol;

(c) the number of violations statewide of Title 32B, Alcoholic Beverage Control Act, related to over-serving or over-consumption of an alcoholic product;

(d) the cost of social services provided by the state related to abuse of alcohol, including services provided by the Division of Child and Family Services;

(e) the location where the alcoholic products that result in the violations or costs described in Subsections (6)(a) through (d) are obtained; and

(f) any information the committee determines can be collected and relates to the abuse of alcoholic products.

(7) The committee shall report the information collected under Subsection (6) annually to the governor and the Legislature by no later than the July 1 immediately following the calendar year for which the information is collected.

Section ~~{81}~~83. Section **26B-1-428**, which is renumbered from Section 26-7-10 is renumbered and amended to read:

~~[26-7-10]~~. **26B-1-428. Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee and Program -- Creation -- Membership - Duties.**

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(1) As used in this section:

(a) "Committee" means the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee created in Section 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;

(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

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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 ~~{82}~~84. Section **26B-1-429**, which is renumbered from Section 62A-5-202.5 is renumbered and amended to read:

**~~[62A-5-202.5].~~ 26B-1-429. Utah State Developmental Center Board --
Creation -- Membership -- Duties -- Powers.**

- (1) There is created the Utah State Developmental Center Board within the ~~[Department of Human Services]~~ department.
- (2) The board is composed of nine members as follows:
 - (a) the director of the ~~[division]~~ Division of Services for People with Disabilities or the director's designee;
 - (b) the superintendent of the developmental center or the superintendent's designee;

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(c) the executive director [~~of the Department of Human Services~~] or the executive director's designee;

(d) a resident of the [~~developmental center~~] Utah State Developmental Center selected by the superintendent; and

(e) five members appointed by the governor with the advice and consent of the Senate as follows:

(i) three members of the general public; and

(ii) two members who are parents or guardians of individuals who receive services at the [~~developmental center~~] Utah State Developmental Center.

(3) In making appointments to the board, the governor shall ensure that:

(a) no more than three members have immediate family residing at the [~~developmental center~~] Utah State Developmental Center; and

(b) members represent a variety of geographic areas and economic interests of the state.

(4) (a) The governor shall appoint each member described in Subsection (2)(e) for a term of four years.

(b) An appointed member may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.

(c) Notwithstanding the requirements of Subsections (4)(a) and (b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed members are staggered so that approximately half of the appointed members are appointed every two years.

(d) Appointed members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 120 days after the formal expiration of a term.

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

(5) (a) The director shall serve as the chair.

(b) The board shall appoint a member to serve as vice chair.

(c) The board shall hold meetings quarterly or as needed.

(d) Five members 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 action of the board.

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(e) The chair shall be a non-voting member except that the chair may vote to break a tie vote between the voting members.

(6) An appointed 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.

(7) (a) The board shall adopt bylaws governing the board's activities.

(b) Bylaws shall include procedures for removal of a member who is unable or unwilling to fulfill the requirements of the member's appointment.

(8) The board shall:

(a) act for the benefit of the [~~developmental center and the division~~] Utah State Developmental Center and the Division of Services for People with Disabilities;

(b) advise and assist the [~~division~~] Division of Services for People with Disabilities with the division's functions, operations, and duties related to the [~~developmental center~~] Utah State Developmental Center, described in Sections [~~62A-5-102, 62A-5-103, 62A-5-201, 62A-5-203, and 62A-5-206~~] 26B-6-402, 26B-6-403, 26B-6-502, 26B-6-504, and 26B-6-506;

(c) administer the Utah State Developmental Center Miscellaneous Donation Fund, as described in Section [~~62A-5-206.5~~] 26B-1-330;

(d) administer the Utah State Developmental Center [~~Land~~] Long-Term Sustainability Fund, as described in Section [~~62A-5-206.6~~] 26B-1-331;

(e) approve the sale, lease, or other disposition of real property or water rights associated with the [~~developmental center~~] Utah State Developmental Center, as described in Subsection [~~62A-5-206.6~~] 26B-6-507(2); and

(f) within 21 days after the day on which the board receives the notice required under Subsection 10-2-419(3)(c), provide a written opinion regarding the proposed boundary adjustment to:

(i) the director of the Division of Facilities and Construction Management; and

(ii) the Legislative Management Committee.

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Section ~~{83}~~85. Section **26B-1-430**, which is renumbered from Section 62A-5a-103 is renumbered and amended to read:

~~[62A-5a-103]~~. **26B-1-430. Coordinating Council for Persons with Disabilities -- Policy regarding services to individuals with disabilities -- Creation -- Membership -- Expenses.**

(1) As used in this section, "state agencies" means:

(a) the Division of Services for People with Disabilities~~{ and }~~;

~~(b)~~ the Office of Substance Use and Mental Health~~{ within the department }~~;

~~{ b }~~c the Division of Integrated Healthcare~~{ within the department }~~;

~~{ c }~~d family health services programs established under Chapter 4, Health Care --

Delivery and Access, operated by the department;

~~{ d }~~e the Utah State Office of Rehabilitation created in Section 35A-1-202; and

~~{ e }~~f special education programs operated by the State Board of Education or an LEA under Title 53E, Chapter 7, Part 2, Special Education Program.

(2) It is the policy of this state that all agencies that provide services to persons with disabilities:

(a) coordinate and ensure that services and supports are provided in a cost-effective manner. It is the intent of the Legislature that services and supports provided under this chapter be coordinated to meet the individual needs of persons with disabilities; and

(b) whenever possible, regard an individual's personal choices concerning services and supports that are best suited to ~~{ this individual }~~the individual's needs and that promote ~~{ this }~~the individual's independence, productivity, and integration in community life.

~~{ 1 }~~ (3) There is created the Coordinating Council for Persons with Disabilities.

~~{ 2 }~~ (4) The council shall consist of:

(a) the director of the Division of Services for People with Disabilities within the ~~[Department of Human Services]~~ department, or the director's designee;

(b) the director of family health services programs, appointed under Section ~~[26-10-3]~~ 26B-7-102, or the director's designee;

(c) the director of the Utah State Office of Rehabilitation created in Section 35A-1-202, or the director's designee;

(d) the state director of special education, or the director's designee;

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(e) the director of the Division of ~~[Health Care Financing within the Department of Health]~~ Integrated Healthcare within the department, or the director's designee;

(f) the director of the ~~[Division]~~ Office of Substance ~~[Abuse]~~ Use and Mental Health within the ~~[Department of Human Services]~~ department, or the director's designee;

(g) the superintendent of Schools for the Deaf and the Blind, or the superintendent's designee; and

(h) a person with a disability, a family member of a person with a disability, or an advocate for persons with disabilities, appointed by the members listed in Subsections ~~[(2)]~~ (4)(a) through (g).

~~[(3)]~~ 1(5) (a) The council shall annually elect a chair from its membership.

(b) Five members of the council are a quorum.

~~[(4)]~~ 1(6) 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)]~~ 7 The council has authority, after local or individual efforts have failed, to:

(a) coordinate the appropriate transition of persons with disabilities who receive services and support from one state agency to receive services and support from another state agency;

(b) coordinate policies governing the provision of services and support for persons with disabilities by state agencies; and

(c) consider issues regarding eligibility for services and support and, where possible, develop uniform eligibility standards for state agencies.

~~[(6)]~~ 8 The council may receive appropriations from the Legislature to purchase services and supports for persons with disabilities as the council deems appropriate.

~~[(7)]~~ 9 (a) Within appropriations authorized by the Legislature, the following individuals or ~~their~~ the individuals' representatives shall cooperatively develop a single coordinated education program, treatment services, and individual and family supports for students entitled to a free appropriate education under Title 53E, Chapter 7, Part 2, Special

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Education Program, who also require services from the department or the Utah State Office of Rehabilitation:

(i) the state director of special education;

(ii) the director of the Utah State Office of Rehabilitation created in Section

35A-1-202;

(iii) the executive director of the department;

(iv) the director of family health services within the department; and

(v) ~~and~~ the affected LEA, as defined in Section 53E-1-102.

(b) Distribution of costs for services and supports described in Subsection (~~47~~9)(a) shall be determined through a process established by the department and the State Board of Education.

Section ~~84~~86. Section **26B-1-431**, which is renumbered from Section 62A-15-605 is renumbered and amended to read:

[~~62A-15-605~~]. 26B-1-431. Forensic Mental Health Coordinating Council -- Establishment and purpose.

(1) There is established the Forensic Mental Health Coordinating Council composed of the following members:

(a) the director of the [~~Division~~] Office of Substance [~~Abuse~~] Use and Mental Health or the director's appointee;

(b) the superintendent of the state hospital or the superintendent's appointee;

(c) the executive director of the Department of Corrections or the executive director's appointee;

(d) a member of the Board of Pardons and Parole or its appointee;

(e) the attorney general or the attorney general's appointee;

(f) the director of the Division of Services for People with Disabilities or the director's appointee;

(g) the director of the Division of Juvenile Justice and Youth Services or the director's appointee;

(h) the director of the Commission on Criminal and Juvenile Justice or the director's appointee;

(i) the state court administrator or the administrator's appointee;

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(j) the state juvenile court administrator or the administrator's appointee;

(k) a representative from a local mental health authority or an organization, excluding the state hospital that provides mental health services under contract with the ~~[Division]~~ Office of Substance ~~[Abuse]~~ Use and Mental Health or a local mental health authority, as appointed by the director of the ~~[division]~~ Division of Integrated Healthcare;

(l) the executive director of the Utah Developmental Disabilities Council or the director's appointee; and

(m) other individuals, including individuals from appropriate advocacy organizations with an interest in the mission described in Subsection (3), as appointed by the members described in Subsections (1)(a) through (l).

(2) 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.

(3) The purpose of the Forensic Mental Health Coordinating Council is to:

(a) advise the director of the Office of Substance Use and Mental Health regarding the state hospital admissions policy for individuals in the custody of the Department of Corrections;

(b) develop policies for coordination between the ~~[division]~~ Office of Substance Use and Mental Health and the Department of Corrections;

(c) advise the executive director of the Department of Corrections regarding department policy related to the care of individuals in the custody of the Department of Corrections who are mentally ill;

(d) promote communication between and coordination among all agencies dealing with individuals with an intellectual disability or mental illness who become involved in the civil commitment system or in the criminal or juvenile justice system;

(e) study, evaluate, and recommend changes to laws and procedures relating to individuals with an intellectual disability or mental illness who become involved in the civil commitment system or in the criminal or juvenile justice system;

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(f) identify and promote the implementation of specific policies and programs to deal fairly and efficiently with individuals with an intellectual disability or mental illness who become involved in the civil commitment system or in the criminal or juvenile justice system;

(g) promote judicial education relating to individuals with an intellectual disability or mental illness who become involved in the civil commitment system or in the criminal or juvenile justice system; and

(h) in consultation with the Utah Substance Abuse Advisory Council created in Section 63M-7-301, study the long-term need for adult patient beds at the state hospital, including:

(i) the total number of beds currently in use in the adult general psychiatric unit of the state hospital;

(ii) the current bed capacity at the state hospital;

(iii) the projected total number of beds needed in the adult general psychiatric unit of the state hospital over the next three, five, and 10 years based on:

(A) the state's current and projected population growth;

(B) current access to mental health resources in the community; and

(C) any other factors the Forensic Mental Health Coordinating Council finds relevant to projecting the total number of beds; and

(iv) the cost associated with the projected total number of beds described in Subsection (3)(h)(iii).

(4) The Forensic Mental Health Coordinating Council shall report the results of the study described in Subsection (3)(h) and any recommended changes to laws or procedures based on the results to the Health and Human Services Interim Committee before November 30 of each year.

Section ~~85~~87. Section **26B-1-432** is enacted to read:

26B-1-432. Newborn Hearing Screening Committee.

(1) There is established the Newborn Hearing Screening Committee.

(2) The committee shall advise the department on:

(a) the validity and cost of newborn infant hearing loss testing procedures; and

(b) rules promulgated by the department to implement this section.

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

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(a) one representative of the health insurance industry;

(b) one pediatrician;

(c) one family practitioner;

(d) one ear, nose, and throat specialist nominated by the Utah Medical Association;

(e) two audiologists nominated by the Utah Speech-Language-Hearing Association;

(f) one representative of hospital neonatal nurseries;

(g) one representative of the Early Intervention Baby Watch Program administered by the department;

(h) one public health nurse;

(i) one consumer; and

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

(4) (a) 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.

(b) After the initial appointments described in Subsection (4)(a), 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.

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

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

(7) The committee shall meet at least quarterly.

(8) 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.

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

Section ~~86~~88. Section **26B-1-433** is enacted to read:

26B-1-433. Children's Hearing Aid Advisory Committee.

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- (1) There is established the Children's Hearing Aid Advisory Committee.
- (2) The committee shall be composed of five members appointed by the executive director, and shall include:
 - (a) one audiologist with pediatric expertise;
 - (b) one speech language pathologist;
 - (c) one teacher, certified under Title 53E, Public Education System -- State Administration, as a teacher of the deaf or a listening and spoken language therapist;
 - (d) one ear, nose, and throat specialist; and
 - (e) one parent whose child:
 - (i) is six years old or older; and
 - (ii) has hearing loss.
- (3) A majority of the members constitutes a quorum.
- (4) A vote of the majority of the members, with a quorum present, constitutes an action of the committee.
- (5) The committee shall elect a chair from ~~fits~~ the committee's members.
- (6) The committee shall:
 - (a) meet at least quarterly;
 - (b) recommend to the department medical criteria and procedures for selecting children who may qualify for assistance from the account; and
 - (c) review rules developed by the department.
- (7) 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.
- (8) The department shall provide staff to the committee.

Section ~~{87}~~89. Section **26B-1-501**, which is renumbered from Section 62A-16-102 is renumbered and amended to read:

Part 5. Fatality Review

~~[62A-16-102].~~ 26B-1-501. Definitions.

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As used in this part:

- (1) "Abuse" means the same as that term is defined in Section 80-1-102.
- (2) "Child" means the same as that term is defined in Section 80-1-102.
- (3) "Committee" means a fatality review committee that is formed under Section ~~[62A-16-202 or 62A-16-203]~~ 26B-1-503 or 26B-1-504.
- (4) "Dependency" means the same as that term is defined in Section 80-1-102.
- (5) "Formal review" means a review of a death or a near fatality that is ordered under Subsection ~~[62A-16-201(6)]~~ 26B-1-502(6).
- (6) "Near fatality" means alleged abuse or neglect that, as certified by a physician, places a child in serious or critical condition.
- (7) "Qualified individual" means an individual who:
 - (a) at the time that the individual dies, is a resident of a facility or program that is owned or operated by the department or a division of the department;
 - (b) (i) is in the custody of the department or a division of the department; and
(ii) is placed in a residential placement by the department or a division of the department;
 - (c) at the time that the individual dies, has an open case for the receipt of child welfare services, including:
 - (i) an investigation for abuse, neglect, or dependency;
 - (ii) foster care;
 - (iii) in-home services; or
 - (iv) substitute care;
 - (d) had an open case for the receipt of child welfare services within one year before the day on which the individual dies;
 - (e) was the subject of an accepted referral received by Adult Protective Services within one year before the day on which the individual dies, if:
 - (i) the department or a division of the department is aware of the death; and
 - (ii) the death is reported as a homicide, suicide, or an undetermined cause;
 - (f) received services from, or under the direction of, the Division of Services for People with Disabilities within one year before the day on which the individual dies, unless the individual:

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- (i) lived in the individual's home at the time of death; and
- (ii) the director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement determines that the death was not in any way related to services that were provided by, or under the direction of, the department or a division of the department;
- (g) dies within 60 days after the day on which the individual is discharged from the Utah State Hospital, if the department is aware of the death;
- (h) is a child who:
 - (i) suffers a near fatality; and
 - (ii) is the subject of an open case for the receipt of child welfare services within one year before the day on which the child suffered the near fatality, including:
 - (A) an investigation for abuse, neglect, or dependency;
 - (B) foster care;
 - (C) in-home services; or
 - (D) substitute care; or
- (i) is designated as a qualified individual by the executive director.
- (8) "Neglect" means the same as that term is defined in Section 80-1-102.
- (9) "Substitute care" means the same as that term is defined in Section 80-1-102.

Section ~~{88}~~90. Section **26B-1-502**, which is renumbered from Section 62A-16-201 is renumbered and amended to read:

~~[62A-16-201].~~ 26B-1-502. Initial review.

(1) Within seven days after the day on which the department knows that a qualified individual has died or is an individual described in Subsection [~~62A-16-102(7)(h)~~]

26B-1-501(7)(h), a person designated by the department shall:

- (a) (i) for a death, complete a deceased client report form, created by the department; or
- (ii) for an individual described in Subsection [~~62A-16-102(7)(h)~~] 26B-1-501(7)(h), complete a near fatality client report form, created by the department; and
- (b) forward the completed client report form to the director of the office or division that has jurisdiction over the region or facility.

(2) The director of the office or division described in Subsection (1) shall, upon receipt of a near fatality client report form or a deceased client report form, immediately provide a copy of the form to:

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(a) the executive director; and

(b) the fatality review coordinator or the fatality review coordinator's designee.

(3) Within 10 days after the day on which the fatality review coordinator or the fatality review coordinator's designee receives a copy of the near fatality client report form or the deceased client report form, the fatality review coordinator or the fatality review coordinator's designee shall request a copy of all relevant department case records regarding the individual who is the subject of the client report form.

(4) Each person who receives a request for a record described in Subsection (3) shall provide a copy of the record to the fatality review coordinator or the fatality review coordinator's designee, by a secure method, within seven days after the day on which the request is made.

(5) Within 30 days after the day on which the fatality review coordinator or the fatality review coordinator's designee receives the case records requested under Subsection (3), the fatality review coordinator, or the fatality review coordinator's designee, shall:

(a) review the client report form, the case files, and other relevant information received by the fatality review coordinator; and

(b) make a recommendation to the director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement regarding whether a formal review of the death or near fatality should be conducted.

(6) (a) In accordance with Subsection (6)(b), within seven days after the day on which the fatality review coordinator or the fatality review coordinator's designee makes the recommendation described in Subsection (5)(b), the director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement or the director's designee shall determine whether to order that a review of the death or near fatality be conducted.

(b) The director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement or the director's designee shall order that a formal review of the death or near fatality be conducted if:

(i) at the time of the near fatality or the death, the qualified individual is:

(A) an individual described in Subsection [~~62A-16-102~~] 26B-1-501(6)(a) or (b),

unless:

(I) the near fatality or the death is due to a natural cause; or

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(II) the director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement or the director's designee determines that the near fatality or the death was not in any way related to services that were provided by, or under the direction of, the department or a division of the department; or

(B) a child in foster care or substitute care, unless the near fatality or the death is due to:

(I) a natural cause; or

(II) an accident;

(ii) it appears, based on the information provided to the director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement or the director's designee, that:

(A) a provision of law, rule, policy, or procedure relating to the qualified individual or the individual's family may not have been complied with;

(B) the near fatality or the fatality was not responded to properly;

(C) a law, rule, policy, or procedure may need to be changed; or

(D) additional training is needed;

(iii) (A) the death is caused by suicide; or

(B) the near fatality is caused by attempted suicide; or

(iv) the director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement or the director's designee determines that another reason exists to order that a review of the near fatality or the death be conducted.

Section ~~{89}~~91. Section **26B-1-503**, which is renumbered from Section 62A-16-202 is renumbered and amended to read:

~~[62A-16-202]~~. **26B-1-503. Fatality review committee for a qualified individual who was not a resident of the Utah State Hospital or the Utah State Developmental Center.**

(1) Except for a fatality review committee described in Section ~~[62A-16-203]~~ 26B-1-504, the fatality review coordinator shall organize a fatality review committee for each formal review.

(2) Except as provided in Subsection (5), a committee described in Subsection (1):

(a) shall include the following members:

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(i) the department's fatality review coordinator, who shall designate a member of the committee to serve as chair of the committee;

(ii) a member of the board, if there is a board, of the relevant division or office;

(iii) the attorney general or the attorney general's designee;

(iv) (A) a member of the management staff of the relevant division or office; or

(B) a person who is a supervisor, or a higher level position, from a region that did not have jurisdiction over the qualified individual; and

(v) a member of the department's risk management services; and

(b) may include the following members:

(i) a health care professional;

(ii) a law enforcement officer; or

(iii) a representative of the Office of Public Guardian.

(3) If a death that is subject to formal review involves a qualified individual described in Subsection [~~62A-16-102~~] 26B-1-501(7)(c), (d), or (h), the committee may also include:

(a) a health care professional;

(b) a law enforcement officer;

(c) the director of the Office of Guardian ad Litem;

(d) an employee of the division who may be able to provide information or expertise that would be helpful to the formal review; or

(e) a professional whose knowledge or expertise may significantly contribute to the formal review.

(4) A committee described in Subsection (1) may also include a person whose knowledge or expertise may significantly contribute to the formal review.

(5) A committee described in this section may not include an individual who was involved in, or who supervises a person who was involved in, the near fatality or the death.

(6) Each member of a committee described in this section who is not an employee of the department shall sign a form, created by the department, indicating that the member agrees to:

(a) keep all information relating to the formal review confidential; and

(b) not release any information relating to a formal review, unless required or permitted by law to release the information.

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Section ~~{90}~~92. Section **26B-1-504**, which is renumbered from Section 62A-16-203 is renumbered and amended to read:

~~[62A-16-203].~~ 26B-1-504. Fatality review committees for a resident of the Utah State Hospital or the Utah State Developmental Center.

(1) If a qualified individual who is the subject of a formal review was a resident of the Utah State Hospital or the Utah State Developmental Center, the fatality review coordinator of that facility shall organize a fatality review committee to review the near fatality or the death.

(2) Except as provided in Subsection (4), a committee described in Subsection (1) shall include the following members:

- (a) the fatality review coordinator for the facility, who shall serve as chair of the committee;
- (b) a member of the management staff of the facility;
- (c) a supervisor of a unit other than the one in which the qualified individual resided;
- (d) a physician;
- (e) a representative from the administration of the division that oversees the facility;
- (f) the department's fatality review coordinator;
- (g) a member of the department's risk management services; and
- (h) a citizen who is not an employee of the department.

(3) A committee described in Subsection (1) may also include a person whose knowledge or expertise may significantly contribute to the formal review.

(4) A committee described in this section may not include an individual who:

- (a) was involved in, or who supervises a person who was involved in, the near fatality or the death; or
- (b) has a conflict with the fatality review.

Section ~~{91}~~93. Section **26B-1-505**, which is renumbered from Section 62A-16-204 is renumbered and amended to read:

~~[62A-16-204].~~ 26B-1-505. Fatality review committee proceedings.

(1) A majority vote of committee members present constitutes the action of the committee.

(2) The department shall give the committee access to all reports, records, and other documents that are relevant to the near fatality or the death under investigation, including:

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- (a) narrative reports;
- (b) case files;
- (c) autopsy reports; and
- (d) police reports, unless the report is protected from disclosure under Subsection 63G-2-305(10) or (11).

(3) The Utah State Hospital and the Utah State Developmental Center shall provide protected health information to the committee if requested by a fatality review coordinator.

(4) A committee shall convene its first meeting within 14 days after the day on which a formal review is ordered, unless this time is extended, for good cause, by the director of the ~~[Office of Quality and Design]~~ Division of Continuous Quality and Improvement.

(5) A committee may interview a staff member, a provider, or any other person who may have knowledge or expertise that is relevant to the formal review.

(6) A committee shall render an advisory opinion regarding:

- (a) whether the provisions of law, rule, policy, and procedure relating to the qualified individual and the individual's family were complied with;
- (b) whether the near fatality or the death was responded to properly;
- (c) whether to recommend that a law, rule, policy, or procedure be changed; and
- (d) whether additional training is needed.

Section ~~92~~94. Section **26B-1-506**, which is renumbered from Section 62A-16-301 is renumbered and amended to read:

~~[62A-16-301].~~ **26B-1-506. Fatality review committee report -- Response to report.**

(1) Within 20 days after the day on which the committee proceedings described in Section ~~[62A-16-204]~~ 26B-1-505 end, the committee shall submit:

- (a) a written report to the executive director that includes:
 - (i) the advisory opinions made under Subsection ~~[62A-16-204(6)]~~ 26B-1-505(6); and
 - (ii) any recommendations regarding action that should be taken in relation to an employee of the department or a person who contracts with the department;
- (b) a copy of the report described in Subsection (1)(a) to:
 - (i) the director, or the director's designee, of the office or division to which the near fatality or the death relates; and

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(ii) the regional director, or the regional director's designee, of the region to which the near fatality or the death relates; and

(c) a copy of the report described in Subsection (1)(a), with only identifying information redacted, to the Office of Legislative Research and General Counsel.

(2) Within 20 days after the day on which the director described in Subsection (1)(b)(i) receives a copy of the report described in Subsection (1)(a), the director shall provide a written response to the director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement and a copy of the response, with only identifying information redacted, to the Office of Legislative Research and General Counsel, if the report:

- (a) indicates that a law, rule, policy, or procedure was not complied with;
- (b) indicates that the near fatality or the death was not responded to properly;
- (c) recommends that a law, rule, policy, or procedure be changed; or
- (d) indicates that additional training is needed.

(3) The response described in Subsection (2) shall include a plan of action to implement any recommended improvements within the office or division.

(4) Within 30 days after the day on which the executive director receives the response described in Subsection (2), the executive director, or the executive director's designee shall:

- (a) review the plan of action described in Subsection (3);
- (b) make any written response that the executive director or the executive director's designee determines is necessary;

(c) provide a copy of the written response described in Subsection (4)(b), with only identifying information redacted, to the Office of Legislative Research and General Counsel; and

(d) provide an unredacted copy of the response described in Subsection (4)(b) to the director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement.

(5) A report described in Subsection (1) and each response described in this section is a protected record.

(6) (a) As used in this Subsection (6), "fatality review document" means any document created in connection with, or as a result of, a formal review of a near fatality or a death, or a decision whether to conduct a formal review of a near fatality or a death, including:

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- (i) a report described in Subsection (1);
- (ii) a response described in this section;
- (iii) a recommendation regarding whether a formal review should be conducted;
- (iv) a decision to conduct a formal review;
- (v) notes of a person who participates in a formal review;
- (vi) notes of a person who reviews a formal review report;
- (vii) minutes of a formal review;
- (viii) minutes of a meeting where a formal review report is reviewed; and
- (ix) minutes of, documents received in relation to, and documents generated in relation to, the portion of a meeting of the Health and Human Services Interim Committee or the Child Welfare Legislative Oversight Panel that a formal review report or a document described in this Subsection (6)(a) is reviewed or discussed.

(b) A fatality review document is not subject to discovery, subpoena, or similar compulsory process in any civil, judicial, or administrative proceeding, nor shall any individual or organization with lawful access to the data be compelled to testify with regard to a report described in Subsection (1) or a response described in this section.

(c) The following are not admissible as evidence in a civil, judicial, or administrative proceeding:

- (i) a fatality review document; and
- (ii) an executive summary described in Subsection [~~62A-16-302(4)~~] 26B-1-507(4).

Section ~~93~~95. Section **26B-1-507**, which is renumbered from Section 62A-16-302 is renumbered and amended to read:

[~~62A-16-302~~]. 26B-1-507. Reporting to, and review by, legislative committees.

(1) The Office of Legislative Research and General Counsel shall provide a copy of the report described in Subsection [~~62A-16-301~~] 26B-1-506(1)(c), and the responses described in Subsections [~~62A-16-301~~] 26B-1-506(2) and (4)(c) to the chairs of:

- (a) the Health and Human Services Interim Committee; or
- (b) if the qualified individual who is the subject of the report is an individual described in Subsection [~~62A-16-102~~] 26B-1-501(7)(c), (d), or (h), the Child Welfare Legislative Oversight Panel.

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(2) (a) The Health and Human Services Interim Committee may, in a closed meeting, review a report described in Subsection [~~62A-16-301~~] 26B-1-506(1)(b).

(b) The Child Welfare Legislative Oversight Panel shall, in a closed meeting, review a report described in Subsection (1)(b).

(3) (a) The Health and Human Services Interim Committee and the Child Welfare Legislative Oversight Panel may not interfere with, or make recommendations regarding, the resolution of a particular case.

(b) The purpose of a review described in Subsection (2) is to assist a committee or panel described in Subsection (2) in determining whether to recommend a change in the law.

(c) Any recommendation, described in Subsection (3)(b), by a committee or panel for a change in the law shall be made in an open meeting.

(4) (a) On or before September 1 of each year, the department shall provide an executive summary of all formal review reports for the preceding state fiscal year to the Office of Legislative Research and General Counsel.

(b) The Office of Legislative Research and General Counsel shall forward a copy of the executive summary described in Subsection (4)(a) to:

- (i) the Health and Human Services Interim Committee; and
- (ii) the Child Welfare Legislative Oversight Panel.

(5) The executive summary described in Subsection (4):

- (a) may not include any names or identifying information;
- (b) shall include:

(i) all recommendations regarding changes to the law that were made during the preceding fiscal year under Subsection [~~62A-16-204~~] 26B-1-505(6);

(ii) all changes made, or in the process of being made, to a law, rule, policy, or procedure in response to a formal review that occurred during the preceding fiscal year;

(iii) a description of the training that has been completed in response to a formal review that occurred during the preceding fiscal year;

(iv) statistics for the preceding fiscal year regarding:

(A) the number of qualified individuals and the type of deaths and near fatalities that are known to the department;

(B) the number of formal reviews conducted;

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(C) the categories described in Subsection ~~[62A-16-102]~~ 26B-1-501(7) of qualified individuals;

(D) the gender, age, race, and other significant categories of qualified individuals; and

(E) the number of fatalities of qualified individuals known to the department that are identified as suicides; and

(v) action taken by the ~~[Office]~~ Division of Licensing and Background Checks and the Bureau of Internal Review and Audits in response to the near fatality or the death of a qualified individual; and

(c) is a public document.

(6) The Division of Child and Family Services shall, to the extent required by the federal Child Abuse Prevention and Treatment Act of 1988, Pub. L. No. 93-247, as amended, allow public disclosure of the findings or information relating to a case of child abuse or neglect that results in a child fatality or a near fatality.

Section ~~{94}~~ 96. Section **26B-2-101** is amended to read:

CHAPTER 2. LICENSING AND CERTIFICATIONS

Part 1. Human Services Programs and Facilities

26B-2-101. Definitions.

~~[Reserved]~~

As used in this part:

(1) "Adoption services" means the same as that term is defined in Section 80-2-801.

(2) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(3) "Applicant" means a person that applies for an initial license or a license renewal under this part.

(4) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection

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(4)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance ~~abuse~~ use programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(5) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (5)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection (38)(a); or

(B) provides the treatment or services described in Subsection (38)(a) on a limited basis, as described in Subsection (5)(b)(ii).

(b) (i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for one or more ~~of~~ grades from kindergarten through ~~12th~~ grade 12.

(ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or services described in Subsection (38)(a) on a limited basis if:

(A) the treatment or services described in Subsection (38)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (38)(a); or

(II) have a primary purpose of providing the treatment or services described in

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Subsection (38)(a).

(c) "Boarding school" does not include a therapeutic school.

(6) "Child" means an individual under 18 years old.

(7) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(8) "Child-placing agency" means a person that engages in child placing.

(9) "Client" means an individual who receives or has received services from a licensee.

(10) (a) "Congregate care program" means any of the following that provide services to a child:

(i) an outdoor youth program;

(ii) a residential support program;

(iii) a residential treatment program; or

(iv) a therapeutic school.

(b) "Congregate care program" does not include a human services program that:

(i) is licensed to serve adults; and

(ii) is approved by the office to service a child for a limited time.

(11) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

(12) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

(13) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual

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with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

(14) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background screening approval issued by the office.

(15) "Director" means the director of the office.

(16) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(17) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(18) "Elder adult" means a person 65 years old or older.

(19) "Foster home" means a residence that is licensed or certified by the office for the full-time substitute care of a child.

(20) "Health benefit plan" means the same as that term is defined in Section ~~31A-1-301~~ 31A-22-634.

(21) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(22) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

(23) (a) "Human services program" means:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

(vii) a resource family home;

(viii) a recovery residence; or

(ix) a facility or program that provides:

(A) adult day care;

(B) day treatment;

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(C) outpatient treatment;

(D) domestic violence treatment;

(E) child-placing services;

(F) social detoxification; or

(G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school; or

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102.

(24) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(25) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

(26) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(27) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

(28) "Licensee" means an individual or a human services program licensed by the office.

(29) "Local government" means a city, town, metro township, or county.

(30) "Minor" means child.

(31) "Office" means the Office of Licensing within the department.

(32) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c) (i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

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(33) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

(34) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(35) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

(36) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to ~~their~~ the resident's recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program; or

(iii) a home, residence, or facility, in which:

(A) residents, by ~~their~~ a majority vote of the residents, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

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(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

(37) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

(38) (a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

(39) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

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(ii) foster home; or

(iii) recovery residence.

(40) "Residential treatment program" means a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

(41) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

(42) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

(43) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 26B-5-501.

(44) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection (44)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

(45) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

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- (i) the owner of the facility; or
- (ii) the primary service provider of the facility;
- (b) that serves students who have a history of failing to function:

- (i) at home;
- (ii) in a public school; or
- (iii) in a nonresidential private school; and
- (c) that offers:
 - (i) room and board; and
 - (ii) an academic education integrated with:
 - (A) specialized structure and supervision; or
 - (B) services or treatment related to:
 - (I) a disability;
 - (II) emotional development;
 - (III) behavioral development;
 - (IV) familial development; or
 - (V) social development.

(46) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

(47) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

- (a) provide personal protection;
- (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- (c) obtain services necessary for health, safety, or welfare;
- (d) carry out the activities of daily living;
- (e) manage the adult's own resources; or
- (f) comprehend the nature and consequences of remaining in a situation of abuse,

neglect, or exploitation.

(48) (a) "Youth program" means a program designed to provide behavioral, substance ~~abuse~~ use, or mental health services to minors that:

- (i) serves adjudicated or nonadjudicated youth;
- (ii) charges a fee for ~~fits~~ the program's services;

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(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may provide all or part of ~~fits~~the program's services in the outdoors;

(v) may limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

(49) (a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.

(b) "Youth transportation company" does not include:

(i) a relative of the child;

(ii) a state agency; or

(iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

Section ~~95~~97. Section **26B-2-102**, which is renumbered from Section 62A-2-102 is renumbered and amended to read:

~~[62A-2-102].~~ 26B-2-102. Purpose of licensure.

The purpose of licensing under this ~~[chapter]~~ part is to permit or authorize a public or private agency to provide defined human services programs within statutory and regulatory guidelines.

Section ~~96~~98. Section **26B-2-103**, which is renumbered from Section 62A-2-103 is renumbered and amended to read:

**~~[62A-2-103].~~ 26B-2-103. Office of Licensing -- Appointment --
Qualifications of director.**

(1) There is created the Office of Licensing within the ~~[Department of Human Services]~~ department.

(2) The office shall be the licensing authority for the department, and is vested with all the powers, duties, and responsibilities described in ~~[this chapter.]:~~

(a) this part;

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(b) Part 2, Health Care Facility Licensing and Inspection; and

(c) Part 6, Mammography Quality Assurance.

~~[(2)]~~ (3) The executive director shall appoint the director of the office.

~~[(3)]~~ (4) The director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable of health and human services licensing.

Section ~~{97}~~99. Section **26B-2-104**, which is renumbered from Section 62A-2-106 is renumbered and amended to read:

~~[62A-2-106].~~ **26B-2-104. Office responsibilities.**

(1) Subject to the requirements of federal and state law, the office shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

Rulemaking Act, to establish:

(i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for licensees, that shall be limited to:

(A) fire safety;

(B) food safety;

(C) sanitation;

(D) infectious disease control;

(E) safety of the:

(I) physical facility and grounds; and

(II) area and community surrounding the physical facility;

(F) transportation safety;

(G) emergency preparedness and response;

(H) the administration of medical standards and procedures, consistent with the related provisions of this title;

(I) staff and client safety and protection;

(J) the administration and maintenance of client and service records;

(K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;

(L) staff to client ratios;

(M) access to firearms; and

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- (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;
- (ii) basic health and safety standards for therapeutic schools, that shall be limited to:
 - (A) fire safety, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;
 - (B) food safety;
 - (C) sanitation;
 - (D) infectious disease control, except that the standards are limited to:
 - (I) those required by law or rule under [~~Title 26, Utah Health Code~~] this title, or Title 26A, Local Health Authorities; and
 - (II) requiring a separate room for clients who are sick;
 - (E) safety of the physical facility and grounds, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;
 - (F) transportation safety;
 - (G) emergency preparedness and response;
 - (H) access to appropriate medical care, including:
 - (I) subject to the requirements of law, designation of a person who is authorized to dispense medication; and
 - (II) storing, tracking, and securing medication;
 - (I) staff and client safety and protection that permits the school to provide for the direct supervision of clients at all times;
 - (J) the administration and maintenance of client and service records;
 - (K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;
 - (L) staff to client ratios;
 - (M) access to firearms; and
 - (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;
- (iii) procedures and standards for permitting a licensee to:
 - (A) provide in the same facility and under the same conditions as children, residential treatment services to a person 18 years old or older who:
 - (I) begins to reside at the licensee's residential treatment facility before the person's

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18th birthday;

(II) has resided at the licensee's residential treatment facility continuously since the time described in Subsection (1)(a)(iii)(A)(I);

(III) has not completed the course of treatment for which the person began residing at the licensee's residential treatment facility; and

(IV) voluntarily consents to complete the course of treatment described in Subsection (1)(a)(iii)(A)(III); or

(B) (I) provide residential treatment services to a child who is:

(Aa) at least 12 years old or, as approved by the office, younger than 12 years old; and

(Bb) under the custody of the [~~Department of Human Services~~] department, or one of its divisions; and

(II) provide, in the same facility as a child described in Subsection (1)(a)(iii)(B)(I), residential treatment services to a person who is:

(Aa) at least 18 years old, but younger than 21 years old; and

(Bb) under the custody of the [~~Department of Human Services~~] department, or one of its divisions;

(iv) minimum administration and financial requirements for licensees;

(v) guidelines for variances from rules established under this Subsection (1);

(vi) ethical standards, as described in Subsection 78B-6-106(3), and minimum responsibilities of a child-placing agency that provides adoption services and that is licensed under this [~~chapter~~] part;

(vii) what constitutes an "outpatient treatment program" for purposes of this [~~chapter~~] part;

(viii) a procedure requiring a licensee to provide an insurer the licensee's records related to any services or supplies billed to the insurer, and a procedure allowing the licensee and the insurer to contact the Insurance Department to resolve any disputes;

(ix) a protocol for the office to investigate and process complaints about licensees;

(x) a procedure for a licensee to:

(A) report the use of a restraint or seclusion within one business day after the day on which the use of the restraint or seclusion occurs; and

(B) report a critical incident within one business day after the day on which the

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incident occurs;

(xi) guidelines for the policies and procedures described in Sections [~~62A-2-123~~] 26B-2-123 and [~~62A-2-124~~] 26B-2-109;

(xii) a procedure for the office to review and approve the policies and procedures described in Sections [~~62A-2-123~~] 26B-2-123 and [~~62A-2-124~~] 26B-2-109; and

(xiii) a requirement that each human services program publicly post information that informs an individual how to submit a complaint about a human services program to the office;

(b) enforce rules relating to the office;

(c) issue licenses in accordance with this [~~chapter~~] part;

(d) if the United States Department of State executes an agreement with the office that designates the office to act as an accrediting entity in accordance with the Intercountry Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to provide intercountry adoption services pursuant to:

(i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and

(ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L. No. 106-279;

(e) make rules to implement the provisions of Subsection (1)(d);

(f) conduct surveys and inspections of licensees and facilities in accordance with Section [~~62A-2-118~~] 26B-2-107;

(g) collect licensure fees;

(h) notify licensees of the name of a person within the department to contact when filing a complaint;

(i) investigate complaints regarding any licensee or human services program;

(j) have access to all records, correspondence, and financial data required to be maintained by a licensee;

(k) have authority to interview any client, family member of a client, employee, or officer of a licensee;

(l) have authority to deny, condition, revoke, suspend, or extend any license issued by the department under this [~~chapter~~] part by following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act;

(m) electronically post notices of agency action issued to a human services program,

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with the exception of a foster home, on the office's website, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act; and

(n) upon receiving a local government's request under Section [~~62A-2-108.4~~] 26B-2-118, notify the local government of new human services program license applications, except for foster homes, for human services programs located within the local government's jurisdiction.

(2) In establishing rules under Subsection (1)(a)(ii)(G), the office shall require a licensee to establish and comply with an emergency response plan that requires clients and staff to:

(a) immediately report to law enforcement any significant criminal activity, as defined by rule, committed:

- (i) on the premises where the licensee operates its human services program;
- (ii) by or against its clients; or
- (iii) by or against a staff member while the staff member is on duty;

(b) immediately report to emergency medical services any medical emergency, as defined by rule:

- (i) on the premises where the licensee operates its human services program;
- (ii) involving its clients; or
- (iii) involving a staff member while the staff member is on duty; and

(c) immediately report other emergencies that occur on the premises where the licensee operates its human services program to the appropriate emergency services agency.

Section ~~{98}~~100. Section **26B-2-105**, which is renumbered from Section 62A-2-108 is renumbered and amended to read:

~~[62A-2-108].~~ **26B-2-105. Licensure requirements -- Expiration -- Renewal.**

(1) Except as provided in Section [~~62A-2-110~~] 26B-2-115, an individual, agency, firm, corporation, association, or governmental unit acting severally or jointly with any other individual, agency, firm, corporation, association, or governmental unit may not establish, conduct, or maintain a human services program in this state without a valid and current license issued by and under the authority of the office as provided by this [~~chapter~~] part and the rules under the authority of this [~~chapter~~] part.

(2) (a) For purposes of this Subsection (2), "member" means a person or entity that is

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associated with another person or entity:

- (i) as a member;
- (ii) as a partner;
- (iii) as a shareholder; or
- (iv) as a person or entity involved in the ownership or management of a human

services program owned or managed by the other person or entity.

(b) A license issued under this [chapter] part may not be assigned or transferred.

(c) An application for a license under this [chapter] part shall be treated as an application for reinstatement of a revoked license if:

(i) (A) the person or entity applying for the license had a license revoked under this [chapter] part; and

(B) the revoked license described in Subsection (2)(c)(i)(A) is not reinstated before the application described in this Subsection (2)(c) is made; or

(ii) a member of an entity applying for the license:

(A) (I) had a license revoked under this [chapter] part; and

(II) the revoked license described in Subsection (2)(c)(ii)(A)(I) is not reinstated before the application described in this Subsection (2)(c) is made; or

(B) (I) was a member of an entity that had a license revoked under this [chapter] part at any time before the license was revoked; and

(II) the revoked license described in Subsection (2)(c)(ii)(B)(I) is not reinstated before the application described in this Subsection (2)(c) is made.

(3) A current license shall at all times be posted in the facility where each human services program is operated, in a place that is visible and readily accessible to the public.

(4) (a) Except as provided in Subsection (4)(c), each license issued under this [chapter] part expires at midnight on the last day of the same month the license was issued, one year following the date of issuance unless the license has been:

- (i) previously revoked by the office;
- (ii) voluntarily returned to the office by the licensee; or
- (iii) extended by the office.

(b) A license shall be renewed upon application and payment of the applicable fee, unless the office finds that the licensee:

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- (i) is not in compliance with the:
 - (A) provisions of this ~~[chapter]~~ part; or
 - (B) rules made under this ~~[chapter]~~ part;
 - (ii) has engaged in a pattern of noncompliance with the:
 - (A) provisions of this ~~[chapter]~~ part; or
 - (B) rules made under this ~~[chapter]~~ part;
 - (iii) has engaged in conduct that is grounds for denying a license under Section ~~[62A-2-112]~~ 26B-2-112; or
 - (iv) has engaged in conduct that poses a substantial risk of harm to any person.
- (c) The office may issue a renewal license that expires at midnight on the last day of the same month the license was issued, two years following the date of issuance, if:
- (i) the licensee has maintained a human services license for at least 24 months before the day on which the licensee applies for the renewal; and
 - (ii) the licensee has not violated this ~~[chapter]~~ part or a rule made under this ~~[chapter]~~ part.
- (5) Any licensee that is in operation at the time rules are made in accordance with this ~~[chapter]~~ part shall be given a reasonable time for compliance as determined by the rule.
- (6) (a) A license for a human services program issued under this section shall apply to a specific human services program site.
- (b) A human services program shall obtain a separate license for each site where the human services program is operated.
- Section ~~†99†~~101. Section **26B-2-106**, which is renumbered from Section 62A-2-109 is renumbered and amended to read:
- ~~[62A-2-109]~~. **26B-2-106. License application -- Classification of information.**
- (1) An application for a license under this ~~[chapter]~~ part shall be made to the office and shall contain information that is necessary to comply with approved rules.
 - (2) Information received by the office through reports and inspections shall be classified in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.
- Section ~~†100†~~102. Section **26B-2-107**, which is renumbered from Section 62A-2-118

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is renumbered and amended to read:

~~[62A-2-118].~~ 26B-2-107. Administrative inspections.

(1) (a) Subject to Subsection (1)(b), the office may, for the purpose of ascertaining compliance with this ~~[chapter]~~ part, enter and inspect on a routine basis the facility of a licensee.

(b) (i) The office shall enter and inspect a congregate care program at least once each calendar quarter.

(ii) At least two of the inspections described in Subsection (1)(b)(i) shall be unannounced.

(c) If another government entity conducts an inspection that is substantially similar to an inspection conducted by the office, the office may conclude the inspection satisfies an inspection described in Subsection (1)(b).

(2) Before conducting an inspection under Subsection (1), the office shall, after identifying the person in charge:

(a) give proper identification;

(b) request to see the applicable license;

(c) describe the nature and purpose of the inspection; and

(d) if necessary, explain the authority of the office to conduct the inspection and the penalty for refusing to permit the inspection as provided in Section ~~[62A-2-116]~~ 26B-2-113.

(3) In conducting an inspection under Subsection (1), the office may, after meeting the requirements of Subsection (2):

(a) inspect the physical facilities;

(b) inspect and copy records and documents;

(c) interview officers, employees, clients, family members of clients, and others; and

(d) observe the licensee in operation.

(4) An inspection conducted under Subsection (1) shall be during regular business hours and may be announced or unannounced.

(5) The licensee shall make copies of inspection reports available to the public upon request.

(6) The provisions of this section apply to on-site inspections and do not restrict the office from contacting family members, neighbors, or other individuals, or from seeking

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information from other sources to determine compliance with this ~~[chapter]~~ part.

Section ~~{101}~~ 103. Section **26B-2-108**, which is renumbered from Section 62A-2-119 is renumbered and amended to read:

~~[62A-2-119].~~ **26B-2-108. Adoption of inspections, examinations, and studies.**

The office may adopt an inspection, examination, or study conducted by a public or private entity, as identified by rule, to determine whether a licensee has complied with a licensing requirement imposed by virtue of this ~~[chapter]~~ part.

Section ~~{102}~~ 104. Section **26B-2-109**, which is renumbered from Section 62A-2-124 is renumbered and amended to read:

~~[62A-2-124].~~ **26B-2-109. Human services program non-discrimination.**

A human services program:

- (1) shall perform an individualized assessment when classifying and placing an individual in programs and living environments; and
- (2) subject to the office's review and approval, shall create policies and procedures that include:
 - (a) a description of what constitutes sex and gender based abuse, discrimination, and harassment;
 - (b) procedures for preventing and reporting abuse, discrimination, and harassment; and
 - (c) procedures for teaching effective and professional communication with individuals of all sexual orientations and genders.

Section ~~{103}~~ 105. Section **26B-2-110**, which is renumbered from Section 62A-2-113 is renumbered and amended to read:

~~[62A-2-113].~~ **26B-2-110. License revocation -- Suspension.**

- (1) If a license is revoked, the office may not grant a new license unless:
 - (a) the human services program provides satisfactory evidence to the office that the conditions upon which revocation was based have been corrected;
 - (b) the human services program is inspected by the office and found to be in compliance with all provisions of this ~~[chapter]~~ part and applicable rules;
 - (c) at least five years have passed since the day on which the licensee is served with final notice that the license is revoked; and

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(d) the office determines that the interests of the public will not be jeopardized by granting the license.

(2) The office may suspend a license for no longer than three years.

(3) When a license has been suspended, the office may restore, or restore subject to conditions, the suspended license upon a determination that the:

(a) conditions upon which the suspension was based have been completely or partially corrected; and

(b) interests of the public will not be jeopardized by restoration of the license.

Section ~~(104)~~106. Section **26B-2-111**, which is renumbered from Section 62A-2-111 is renumbered and amended to read:

~~[62A-2-111].~~ 26B-2-111. Adjudicative proceedings.

(1) Whenever the office has reason to believe that a licensee is in violation of this ~~[chapter]~~ part or rules made under this ~~[chapter]~~ part, the office may commence adjudicative proceedings to determine the legal rights of the licensee by serving notice of agency action in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) A licensee, human services program, or individual may commence adjudicative proceedings, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, regarding all office actions that determine the legal rights, duties, privileges, immunities, or other legal interests of the licensee, human services program, or persons associated with the licensee, including all office actions to grant, deny, place conditions on, revoke, suspend, withdraw, or amend an authority, right, or license under this ~~[chapter]~~ part.

Section ~~(105)~~107. Section **26B-2-112**, which is renumbered from Section 62A-2-112 is renumbered and amended to read:

~~[62A-2-112].~~ 26B-2-112. Violations -- Penalties.

(1) As used in this section, "health care provider" means a person licensed to provide health care services under this ~~[chapter]~~ part.

(2) The office may deny, place conditions on, suspend, or revoke a human services license, if ~~[it]~~ the office finds, related to the human services program:

(a) that there has been a failure to comply with the rules established under this ~~[chapter]~~ part;

(b) evidence of aiding, abetting, or permitting the commission of any illegal act; or

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(c) evidence of conduct adverse to the standards required to provide services and promote public trust, including aiding, abetting, or permitting the commission of abuse, neglect, exploitation, harm, mistreatment, or fraud.

(3) The office may restrict or prohibit new admissions to a human services program, if it finds:

(a) that there has been a failure to comply with rules established under this ~~[chapter]~~ part;

(b) evidence of aiding, abetting, or permitting the commission of any illegal act; or

(c) evidence of conduct adverse to the standards required to provide services and promote public trust, including aiding, abetting, or permitting the commission of abuse, neglect, exploitation, harm, mistreatment, or fraud.

(4) (a) The office may assess a fine of up to \$500 per violation against a health care provider that violates Section 31A-26-313.

(b) The office shall waive the fine described in Subsection (4)(a) if:

(i) the health care provider demonstrates to the office that the health care provider mitigated and reversed any damage to the insured caused by the health care provider or third party's violation; or

(ii) the insured does not pay the full amount due on the bill that is the subject of the violation, including any interest, fees, costs, and expenses, within 120 days after the day on which the health care provider or third party makes a report to a credit bureau or takes an action in violation of Section 31A-26-313.

(5) If a congregate care program knowingly fails to comply with the provisions of Section ~~[62A-2-125]~~ 26B-2-124, the office may impose a penalty on the congregate care program that is less than or equal to the cost of care incurred by the state for a private-placement child described in Subsection ~~[62A-2-125]~~ 26B-2-124 ~~(3)~~.

(6) The office shall make rules for calculating the cost of care described in Subsection (5) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section ~~106~~ 108. Section **26B-2-113**, which is renumbered from Section 62A-2-116 is renumbered and amended to read:

~~[62A-2-116].~~ **26B-2-113. Violation -- Criminal penalties.**

(1) (a) A person who owns, establishes, conducts, maintains, manages, or operates a

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human services program in violation of this [chapter] part is guilty of a class A misdemeanor if the violation endangers or harms the health, welfare, or safety of persons participating in that program.

(b) Conviction in a criminal proceeding does not preclude the office from:

- (i) assessing a civil penalty or an administrative penalty;
- (ii) denying, placing conditions on, suspending, or revoking a license; or
- (iii) seeking injunctive or equitable relief.

(2) Any person that violates a provision of this [chapter] part, lawful orders of the office, or rules adopted under this [chapter] part may be assessed a penalty not to exceed the sum of \$10,000 per violation, in:

- (a) a judicial civil proceeding; or
- (b) an administrative action in accordance with Title 63G, Chapter 4, Administrative

Procedures Act.

(3) Assessment of a judicial penalty or an administrative penalty does not preclude the office from:

- (a) seeking criminal penalties;
- (b) denying, placing conditions on, suspending, or revoking a license; or
- (c) seeking injunctive or equitable relief.

(4) The office may assess the human services program the cost incurred by the office in placing a monitor.

(5) Notwithstanding Subsection (1)(a) and subject to Subsections (1)(b) and (2), an individual is guilty of a class A misdemeanor if the individual knowingly and willfully offers, pays, promises to pay, solicits, or receives any remuneration, including any commission, bonus, kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, or engages in any split-fee arrangement in return for:

(a) referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for the treatment of a substance use disorder;

(b) receiving a referred individual for the furnishing or arranging for the furnishing of any item or service for the treatment of a substance use disorder; or

(c) referring a clinical sample to a person, including a laboratory, for testing that is used toward the furnishing of any item or service for the treatment of a substance use disorder.

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(6) Subsection (5) does not prohibit:

(a) any discount, payment, waiver of payment, or payment practice not prohibited by 42 U.S.C. Sec. 1320a-7(b) or regulations made under 42 U.S.C. Sec. 1320a-7(b);

(b) patient referrals within a practice group;

(c) payments by a health insurer who reimburses, provides, offers to provide, or administers health, mental health, or substance use disorder goods or services under a health benefit plan;

(d) payments to or by a health care provider, practice group, or substance use disorder treatment program that has contracted with a local mental health authority, a local substance abuse authority, a health insurer, a health care purchasing group, or the Medicare or Medicaid program to provide health, mental health, or substance use disorder services;

(e) payments by a health care provider, practice group, or substance use disorder treatment program to a health, mental health, or substance use disorder information service that provides information upon request and without charge to consumers about providers of health care goods or services to enable consumers to select appropriate providers or facilities, if the information service:

(i) does not attempt, through standard questions for solicitation of consumer criteria or through any other means, to steer or lead a consumer to select or consider selection of a particular health care provider, practice group, or substance use disorder treatment program;

(ii) does not provide or represent that the information service provides diagnostic or counseling services or assessments of illness or injury and does not make any promises of cure or guarantees of treatment; and

(iii) charges and collects fees from a health care provider, practice group, or substance use disorder treatment program participating in information services that:

(A) are set in advance;

(B) are consistent with the fair market value for those information services; and

(C) are not based on the potential value of the goods or services that a health care provider, practice group, or substance use disorder treatment program may provide to a patient; or

(f) payments by a laboratory to a person that:

(i) does not have a financial interest in or with a facility or person who refers a clinical

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sample to the laboratory;

(ii) is not related to an owner of a facility or a person who refers a clinical sample to the laboratory;

(iii) is not related to and does not have a financial relationship with a health care provider who orders the laboratory to conduct a test that is used toward the furnishing of an item or service for the treatment of a substance use disorder;

(iv) identifies, in advance of providing marketing or sales services, the types of clinical samples that each laboratory will receive, if the person provides marketing or sales services to more than one laboratory;

(v) the person does not identify as or hold itself out to be a laboratory or part of a network with an insurance payor, if the person provides marketing or sales services under a contract with a laboratory, as described in Subsection (6)(f)(vii)(B);

(vi) the person identifies itself in all marketing materials as a salesperson for a licensed laboratory and identifies each laboratory that the person represents, if the person provides marketing or sales services under a contract with a laboratory, as described in Subsection (6)(f)(vii)(B); and

(vii) (A) is a sales person employed by the laboratory to market or sell the laboratory's services to a person who provides substance use disorder treatment; or

(B) is a person under contract with the laboratory to market or sell the laboratory's services to a person who provides substance use disorder treatment, if the total compensation paid by the laboratory does not exceed the total compensation that the laboratory pays to employees of the laboratory for similar marketing or sales services.

(7) (a) A person may not knowingly or willfully, in exchange for referring an individual to a youth transportation company:

(i) offer, pay, promise to pay, solicit, or receive any remuneration directly or indirectly, overtly or covertly, in cash or in kind, including:

(A) a commission;

(B) a bonus;

(C) a kickback;

(D) a bribe; or

(E) a rebate; or

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(ii) engage in any split-fee arrangement.

(b) A person who violates Subsection (7)(a) is guilty of a class A misdemeanor and shall be assessed a penalty in accordance with Subsection (2).

Section ~~{107}~~109. Section **26B-2-114**, which is renumbered from Section 62A-2-115 is renumbered and amended to read:

[~~62A-2-115~~]. 26B-2-114. Injunctive relief and other legal procedures.

In addition to, and notwithstanding, any other remedy provided by law the department may, in a manner provided by law and upon the advice of the attorney general, who shall represent the department in the proceedings, maintain an action in the name of the state for injunction or other process against any person or governmental unit to restrain or prevent the establishment, management, or operation of a human services program or facility in violation of this [~~chapter~~] part or rules established under this [~~chapter~~] part.

Section ~~{108}~~110. Section **26B-2-115**, which is renumbered from Section 62A-2-110 is renumbered and amended to read:

[~~62A-2-110~~]. 26B-2-115. Exclusions from chapter.

The provisions of this [~~chapter~~] part do not apply to:

(1) a facility or program owned or operated by an agency of the United States government;

(2) a facility or program operated by or under an exclusive contract with the Department of Corrections;

(3) unless required otherwise by a contract with the department, individual or group counseling by a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(4) a general acute hospital, small health care facility, specialty hospital, nursing care facility, or other health care facility licensed by the [~~Department of Health under Title 26, Chapter 21,~~] department under Part 2, Health Care Facility Licensing and Inspection [Act]; or

(5) a boarding school.

Section ~~{109}~~111. Section **26B-2-116**, which is renumbered from Section 62A-2-108.1 is renumbered and amended to read:

[~~62A-2-108.1~~]. 26B-2-116. Coordination of human services and educational services -- Licensing of programs -- Procedures.

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(1) As used in this section:

(a) "Accredited private school" means a private school that is accredited by an accrediting entity recognized by the Utah State Board of Education.

(b) "Education entitled children" means children:

(i) subject to compulsory education under Section 53G-6-202;

(ii) subject to the school attendance requirements of Section 53G-6-203; or

(iii) who are eligible for special education services as described in Title 53E, Chapter 7, Part 2, Special Education Program.

(2) Subject to Subsection (9) or (10), a human services program may not be licensed to serve education entitled children unless the human services program presents an educational service plan that includes evidence:

(a) satisfactory to:

(i) the office; and

(ii) (A) the local school board of the school district in which the human services program will be operated; or

(B) the school district superintendent of the school district in which the human services program will be operated; and

(b) that children served by the human services program shall receive appropriate educational services satisfying the requirements of applicable law.

(3) An educational services plan may be accepted if the educational services plan includes:

(a) the following information provided by the human services program:

(i) the number of children served by the human services program estimated to be enrolled in the local school district;

(ii) the ages and grade levels of children served by the human services program estimated to be enrolled in the local school district;

(iii) the subjects or hours of the school day for which children served by the human services program are estimated to enroll in the local school district;

(iv) the direct contact information for the purposes of taking custody of a child served by the human services program during the school day in case of illness, disciplinary removal by a school, or emergency evacuation of a school; and

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(v) the method or arrangements for the transportation of children served by the human services program to and from the school; and

(b) the following information provided by the school district:

(i) enrollment procedures and forms;

(ii) documentation required prior to enrollment from each of the child's previous schools of enrollment;

(iii) if applicable, a schedule of the costs for tuition and school fees; and

(iv) schools and services for which a child served by the human services program may be eligible.

(4) Subject to Subsection (9) or (10), if a human services program serves any education entitled children whose custodial parents or legal guardians reside outside the state, then the program shall also provide an educational funding plan that includes evidence:

(a) satisfactory to:

(i) the office; and

(ii) (A) the local school board of the school district in which the human services program will be operated; or

(B) the school district superintendent of the school district in which the human services program will be operated; and

(b) that all costs for educational services to be provided to the education entitled children, including tuition, and school fees approved by the local school board, shall be borne by the human services program.

(5) Subject to Subsection (9) or (10), and in accordance with Subsection (2), the human services program shall obtain and provide the office with a letter:

(a) from the entity referred to in Subsection (2)(a)(ii):

(i) approving the educational service plan referred to in Subsection (3); or

(ii) (A) disapproving the educational service plan referred to in Subsection (3); and

(B) listing the specific requirements the human services program must meet before approval is granted; and

(b) from the entity referred to in Subsection (4)(a)(ii):

(i) approving the educational funding plan, referred to in Subsection (4); or

(ii) (A) disapproving the educational funding plan, referred to in Subsection (4); and

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(B) listing the specific requirements the human services program must meet before approval is granted.

(6) Subject to Subsection (9), failure of a local school board or school district superintendent to respond to a proposed plan within 45 days of receipt of the plan is equivalent to approval of the plan by the local school board or school district superintendent if the human services program provides to the office:

(a) proof that:

(i) the human services program submitted the proposed plan to the local school board or school district superintendent; and

(ii) more than 45 days have passed from the day on which the plan was submitted; and

(b) an affidavit, on a form produced by the office, stating:

(i) the date that the human services program submitted the proposed plan to the local school board or school district superintendent;

(ii) that more than 45 days have passed from the day on which the plan was submitted; and

(iii) that the local school board or school district superintendent described in Subsection (6)(b)(i) failed to respond to the proposed plan within 45 days from the day on which the plan was submitted.

(7) If a licensee that is licensed to serve an education entitled child fails to comply with the licensee's approved educational service plan or educational funding plan, then:

(a) the office may give the licensee notice of intent to revoke the licensee's license; and

(b) if the licensee continues its noncompliance for more than 30 days after receipt of the notice described in Subsection (7)(a), the office may revoke the licensee's license.

(8) If an education entitled child whose custodial parent or legal guardian resides within the state is provided with educational services by a school district other than the school district in which the custodial parent or legal guardian resides, then the funding provisions of Section 53G-6-405 apply.

(9) A human services program that is an accredited private school:

(a) for purposes of Subsection (3):

(i) is only required to submit proof to the office that the accreditation of the private school is current; and

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(ii) is not required to submit an educational service plan for approval by an entity described in Subsection (2)(a)(ii);

(b) for purposes of Subsection (4):

(i) is only required to submit proof to the office that all costs for educational services provided to education entitled children will be borne by the human services program; and

(ii) is not required to submit an educational funding plan for approval by an entity described in Subsection (4)(a)(ii); and

(c) is not required to comply with Subsections (5) and (6).

(10) Except for Subsection (8), the provisions of this section do not apply to a human services program that is a licensed or certified foster home [~~as defined in Section 62A-2-101~~].

Section ~~110~~112. Section **26B-2-117**, which is renumbered from Section 62A-2-108.2 is renumbered and amended to read:

~~[62A-2-108.2].~~ **26B-2-117. Licensing residential treatment programs and recovery residences -- Notification of local government.**

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules that establish categories of residential treatment and recovery residence licenses based on differences in the types of residential treatment programs and recovery residences.

(b) The categories referred to in Subsection (1)(a) may be based on differences in:

(i) services offered;

(ii) types of clients served;

(iii) risks posed to the community; or

(iv) other factors that make regulatory differences advisable.

(2) Subject to the requirements of federal and state law, and pursuant to the authority granted by Section [~~62A-2-106~~] 26B-2-104, the office shall establish and enforce rules that:

(a) relate generally to all categories of residential treatment program and recovery residence licenses; and

(b) relate to specific categories of residential treatment program and recovery residence licenses on the basis of the regulatory needs, as determined by the office, of residential treatment programs and recovery residences within those specific categories.

(3) (a) Beginning July 1, 2014, the office shall charge an annual licensing fee, set by

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the office in accordance with the procedures described in Section 63J-1-504, to a recovery residence in an amount that will pay for the cost of the licensing and inspection requirements described in this section and in Section ~~[62A-2-106]~~ 26B-2-104.

(b) The office shall deposit the licensing fees described in this section in the General Fund as a dedicated credit to be used solely to pay for the cost of the licensing and inspection requirements described in this section and in Section ~~[62A-2-106]~~ 26B-2-104.

(4) Before submitting an application for a license to operate a residential treatment program, the applicant shall serve notice of its intent to operate a residential treatment program on the governing body of:

(a) the city in which the residential treatment program will be located; or

(b) if the residential treatment program will be located in the unincorporated area of a county, the county in which the residential treatment program will be located.

(5) The notice described in Subsection (4) shall include the following information relating to the residential treatment program:

(a) an accurate description of the residential treatment program;

(b) the location where the residential treatment program will be operated;

(c) the services that will be provided by the residential treatment program;

(d) the type of clients that the residential treatment program will serve;

(e) the category of license for which the residential treatment program is applying to the office;

(f) the name, telephone number, and address of a person that may be contacted to make inquiries about the residential treatment program; and

(g) any other information that the office may require by rule.

(6) When submitting an application for a license to operate a residential treatment program, the applicant shall include with the application:

(a) a copy of the notice described in Subsection (4); and

(b) proof that the applicant served the notice described in Subsection (4) on the governing body described in Subsection (4).

Section ~~{111}~~ 113. Section **26B-2-118**, which is renumbered from Section 62A-2-108.4 is renumbered and amended to read:

~~[62A-2-108.4]~~. **26B-2-118**. Request by local government.

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(1) A local government may request that the office notify the local government of new human services program license applications for human services programs located within the local government's jurisdiction.

(2) Subsection (1) does not apply to foster homes.

Section ~~{112}~~114. Section **26B-2-119**, which is renumbered from Section 62A-2-108.8 is renumbered and amended to read:

~~[62A-2-108.8].~~ **26B-2-119. Residential support program -- Temporary homeless youth shelter.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules that establish age-appropriate and gender-appropriate sleeping quarters in temporary homeless youth shelters, as defined in Section 80-5-102, that provide overnight shelter to minors.

Section ~~{113}~~115. Section **26B-2-120**, which is renumbered from Section 62A-2-120 is renumbered and amended to read:

~~[62A-2-120].~~ **26B-2-120. Background check -- Direct access to children or vulnerable adults.**

(1) As used in this section:

(a) (i) "Applicant" means:

(A) the same as that term is defined in Section ~~[62A-2-101]~~ 26B-2-101;

(B) an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) a department contractor;

(E) an individual who transports a child for a youth transportation company;

(F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and resides in a home, that is licensed or certified by the office, with the child or vulnerable adult who is receiving services; or

(G) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older

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and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

(ii) "Applicant" does not mean an individual, including an adult, who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services.

(b) "Application" means a background screening application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(e) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Except as provided in Subsection (13), an applicant or a representative shall submit the following to the office:

(i) personal identifying information;

(ii) a fee established by the office under Section 63J-1-504; and

(iii) a disclosure form, specified by the office, for consent for:

(A) an initial background check upon submission of the information described under this Subsection (2)(a);

(B) ongoing monitoring of fingerprints and registries until no longer associated with a licensee for 90 days;

(C) a background check when the office determines that reasonable cause exists; and

(D) retention of personal identifying information, including fingerprints, for

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monitoring and notification as described in Subsections (3)(d) and (4).

(b) In addition to the requirements described in Subsection (2)(a), if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsection (2)(a) is submitted to the office, the office may require the applicant to submit documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the [~~Department of Human Services,~~] Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) search the [~~Department of Human Services,~~] Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section [~~62A-3-311.1~~] 26B-6-210;

(v) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(vi) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described under Subsection (2)(a);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

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(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an approved applicant under this section to ensure that an approved applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant applies for:

(i) more than one license;

(ii) direct access to a child or a vulnerable adult in more than one human services program; or

(iii) direct access to a child or a vulnerable adult under a contract with the department;

(f) shall track the status of each license and each individual with direct access to a child or a vulnerable adult and notify the bureau within 90 days after the day on which the license expires or the individual's direct access to a child or a vulnerable adult ceases;

(g) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a congregate care program, shall:

(i) search the [~~Department of Human Services,~~] Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits the information described in Subsection (2)(a) to the office; and

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

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(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice from the office that a license has expired or an individual's direct access to a child or a vulnerable adult has ceased for 90 days, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) After conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of any of the following, regardless of whether the offense is a felony, a misdemeanor, or an infraction:

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(i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(ii) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

(iii) prostitution;

(iv) an offense included in:

(A) Title 76, Chapter 5, Offenses Against the Individual;

(B) Section 76-5b-201, Sexual Exploitation of a Minor;

(C) Section 76-5b-201.1, Aggravated Sexual Exploitation of a Minor; or

(D) Title 76, Chapter 7, Offenses Against the Family;

(v) aggravated arson, as described in Section 76-6-103;

(vi) aggravated burglary, as described in Section 76-6-203;

(vii) aggravated robbery, as described in Section 76-6-302;

(viii) identity fraud crime, as described in Section 76-6-1102; or

(ix) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsections (5)(a)(i) through (viii).

(b) If the office denies an application to an applicant based on a conviction described in Subsection (5)(a), the applicant is not entitled to a comprehensive review described in Subsection (6).

(c) If the applicant will be working in a program serving only adults whose only impairment is a mental health diagnosis, including that of a serious mental health disorder, with or without co-occurring substance use disorder, the denial provisions of Subsection (5)(a) do not apply, and the office shall conduct a comprehensive review as described in Subsection (6).

(6) (a) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(i) has an open court case or a conviction for any felony offense, not described in Subsection (5)(a), with a date of conviction that is no more than 10 years before the date on which the applicant submits the application;

(ii) has an open court case or a conviction for a misdemeanor offense, not described in

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Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the conviction is within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check;

(iii) has a conviction for any offense described in Subsection (5)(a) that occurred more than three years before the day on which the applicant submitted information under Subsection (2)(a);

(iv) is currently subject to a plea in abeyance or diversion agreement for any offense described in Subsection (5)(a);

(v) has a listing in the [~~Department of Human Services,~~] Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(vi) has a listing in the [~~Department of Human Services,~~] Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section [~~62A-3-311.1~~] 26B-6-210;

(vii) has a record in the juvenile court of a substantiated finding of severe child abuse or neglect described in Section 80-3-404;

(viii) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(A) under 28 years old; or

(B) 28 years old or older and 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 a misdemeanor offense described in Subsection (5)(a);

(ix) has a pending charge for an offense described in Subsection (5)(a); or

(x) is an applicant described in Subsection (5)(c).

(b) The comprehensive review described in Subsection (6)(a) shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

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(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

- (A) actual or threatened, nonaccidental physical, mental, or financial harm;
- (B) sexual abuse;
- (C) sexual exploitation; or
- (D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) any other pertinent information presented to or publicly available to the committee members.

(c) At the conclusion of the comprehensive review described in Subsection (6)(a), the office shall deny an application to an applicant if the office finds that approval would likely create a risk of harm to a child or a vulnerable adult.

(d) At the conclusion of the comprehensive review described in Subsection (6)(a), the office may not deny an application to an applicant solely because the applicant was convicted of an offense that occurred 10 or more years before the day on which the applicant submitted the information required under Subsection (2)(a) if:

(i) the applicant has not committed another misdemeanor or felony offense after the day on which the conviction occurred; and

(ii) the applicant has never been convicted of an offense described in Subsection (14)(c).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this ~~[chapter]~~ part, to establish procedures for the comprehensive review described in this Subsection (6).

(7) Subject to Subsection (10), the office shall approve an application to an applicant who is not denied under Subsection (5), (6), or (14).

(8) (a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised, if the office:

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(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(b) The office may conditionally approve an application of an applicant, for a maximum of one year after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall approve or deny the application of the applicant in accordance with Subsections (5) through (7).

(9) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult unless, subject to Subsection (10):

(a) the individual is associated with the licensee or department contractor and:

(i) the individual's application is approved by the office under this section;

(ii) the individual's application is conditionally approved by the office under Subsection (8); or

(iii) (A) the individual has submitted the background check information described in Subsection (2) to the office;

(B) the office has not determined whether to approve the applicant's application; and

(C) the individual is directly supervised by an individual who has a current background screening approval issued by the office under this section and is associated with the licensee or department contractor;

(b) (i) the individual is associated with the licensee or department contractor;

(ii) the individual has a current background screening approval issued by the office under this section;

(iii) one of the following circumstances, that the office has not yet reviewed under Subsection (6), applies to the individual:

(A) the individual was charged with an offense described in Subsection (5)(a);

(B) the individual is listed in the Licensing Information System, described in Section

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(C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation database, described in Section ~~[62A-3-311.1]~~ 26B-6-210;

(D) the individual has a record in the juvenile court of a substantiated finding of severe child abuse or neglect, described in Section 80-3-404; or

(E) the individual has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or a misdemeanor as described in Subsection (5)(a) or (6); and

(iv) the individual is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(c) the individual:

(i) is not associated with the licensee or department contractor; and

(ii) is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(d) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(e) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(f) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(g) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(10) An individual may not have direct access to a child or a vulnerable adult if the individual is prohibited by court order from having that access.

(11) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have direct access to a child or vulnerable adult unless the

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office approves a subsequent application by the individual.

(12) (a) Within 30 days after the day on which the office receives the background check information for an applicant, the office shall give notice of the clearance status to:

(i) the applicant, and the licensee or department contractor, of the office's decision regarding the background check and findings; and

(ii) the applicant of any convictions and potentially disqualifying charges and adjudications found in the search.

(b) With the notice described in Subsection (12)(a), the office shall also give the applicant the details of any comprehensive review conducted under Subsection (6).

(c) If the notice under Subsection (12)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection [~~62A-2-111~~] 26B-2-111 (2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this [~~chapter~~] part:

(i) defining procedures for the challenge of the office's background check decision described in Subsection (12)(c); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

(13) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule, is exempt from this section. This exemption does not extend to a program director or a member, as defined by Section [~~62A-2-108~~] 26B-2-105, of the program.

(14) (a) Except as provided in Subsection (14)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of giving clearance status to an applicant seeking a position in a congregate care program, an applicant for a one-time adoption, an applicant seeking to provide a prospective foster home, or an applicant seeking to provide a prospective adoptive home, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective

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adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (14)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection (14)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (9), the office shall deny a clearance to an applicant seeking a position in a congregate care program, an applicant for a one-time adoption, an applicant to become a prospective foster parent, or an applicant to become a prospective adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

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- (L) aggravated kidnapping, as described in Section 76-5-302;
 - (M) human trafficking of a child, as described in Section 76-5-308.5;
 - (N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
 - (O) sexual exploitation of a minor, as described in Section 76-5b-201;
 - (P) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
 - (Q) aggravated arson, as described in Section 76-6-103;
 - (R) aggravated burglary, as described in Section 76-6-203;
 - (S) aggravated robbery, as described in Section 76-6-302; or
 - (T) domestic violence, as described in Section 77-36-1; or
 - (ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (14)(c)(i).
- (d) Notwithstanding Subsections (5) through (9), the office shall deny a license or license renewal to a prospective foster parent or a prospective adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:
- (i) aggravated assault, as described in Section 76-5-103;
 - (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
 - (iii) mayhem, as described in Section 76-5-105;
 - (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
 - (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
 - (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;
 - (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
 - (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
- (e) In addition to the circumstances described in Subsection (6)(a), the office shall conduct the comprehensive review of an applicant's background check pursuant to this section if the registry check described in Subsection (14)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 80-1-102.

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Section ~~{114}~~116. Section **26B-2-121**, which is renumbered from Section 62A-2-121 is renumbered and amended to read:

~~[62A-2-121]~~. **26B-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]~~ 26B-6-401.

(b) "Personal care attendant" means the same as that term is defined in Section ~~[62A-3-101]~~ 26B-6-401.

(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 80-2-1002 and juvenile court records under Subsection 80-3-404(4), 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

(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:

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(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]~~ 26B-6-101(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 80-2-1001:

(a) for the purpose of licensing and monitoring foster parents;

(b) for the purposes described in Subsection 80-2-1001(5)(b)(iii); and

(c) for the purpose described in Section 26B-1-211.

(4) The department shall receive and process personal identifying information under Subsection ~~[62A-2-120]~~ 26B-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]~~ part, defining the circumstances under which a person 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 80-2-1002; 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 ~~{115}~~ 117. Section **26B-2-122**, which is renumbered from Section 62A-2-122 is renumbered and amended to read:

~~[62A-2-122]~~. **26B-2-122. Access to vulnerable adult abuse and neglect information.**

(1) For purposes of this section:

(a) "Direct service worker" means the same as that term is defined in Section ~~[62A-5-101]~~ 26B-6-401.

(b) "Personal care attendant" means the same as that term is defined in Section ~~[62A-3-101]~~ 26B-6-401.

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(2) With respect to a licensee, a direct service worker, or a personal care attendant, the department may access the database created by Section [~~62A-3-311.1~~] 26B-6-210 for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to vulnerable adults, has a supported or substantiated finding of:

- (A) abuse;
- (B) neglect; or
- (C) exploitation; and

(ii) informing a licensee that a person associated with the licensee has a supported or substantiated finding of:

- (A) abuse;
- (B) neglect; or
- (C) exploitation;

(b) (i) determining whether a direct service worker has a supported or substantiated finding of:

- (A) abuse;
- (B) neglect; or
- (C) exploitation; and

(ii) informing a direct service worker or the direct service worker's employer that the direct service worker has a supported or substantiated finding of:

- (A) abuse;
- (B) neglect; or
- (C) exploitation; or

(c) (i) determining whether a personal care attendant has a supported or substantiated finding of:

- (A) abuse;
- (B) neglect; or
- (C) exploitation; and

(ii) informing a person described in Subsections [~~62A-3-101~~] 26B-6-401 ~~+~~ (9)(a)(i) through (iv) that a personal care attendant has a supported or substantiated finding of:

- (A) abuse;

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(B) neglect; or

(C) exploitation.

(3) The department shall receive and process personal identifying information under Subsection [~~62A-2-120~~] 26B-2-120~~(1)~~ for the purposes described in Subsection (2).

(4) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with this [~~chapter~~] part and [~~Title 62A, Chapter 3, Part 3~~] Chapter 6, Part 2, Abuse, Neglect, or Exploitation of a Vulnerable Adult, defining the circumstances under which a person may have direct access or provide services to vulnerable adults when the person is listed in the statewide database of the Division of Aging and Adult Services created by Section [~~62A-3-311.1~~] 26B-6-210 as having a supported or substantiated finding of abuse, neglect, or exploitation.

Section ~~{116}~~ 118. Section **26B-2-123**, which is renumbered from Section 62A-2-123 is renumbered and amended to read:

~~[62A-2-123].~~ **26B-2-123. Congregate care program regulation.**

(1) A congregate care program may not use a cruel, severe, unusual, or unnecessary practice on a child, including:

(a) a strip search unless the congregate care program determines and documents that a strip search is necessary to protect an individual's health or safety;

(b) a body cavity search unless the congregate care program determines and documents that a body cavity search is necessary to protect an individual's health or safety;

(c) inducing pain to obtain compliance;

(d) hyperextending joints;

(e) peer restraints;

(f) discipline or punishment that is intended to frighten or humiliate;

(g) requiring or forcing the child to take an uncomfortable position, including squatting or bending;

(h) for the purpose of punishing or humiliating, requiring or forcing the child to repeat physical movements or physical exercises such as running laps or performing push-ups;

(i) spanking, hitting, shaking, or otherwise engaging in aggressive physical contact;

(j) denying an essential program service;

(k) depriving the child of a meal, water, rest, or opportunity for toileting;

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- (l) denying shelter, clothing, or bedding;
- (m) withholding personal interaction, emotional response, or stimulation;
- (n) prohibiting the child from entering the residence;
- (o) abuse as defined in Section 80-1-102; and
- (p) neglect as defined in Section 80-1-102.

(2) Before a congregate care program may use a restraint or seclusion, the congregate care program shall:

(a) develop and implement written policies and procedures that:

(i) describe the circumstances under which a staff member may use a restraint or seclusion;

(ii) describe which staff members are authorized to use a restraint or seclusion;

(iii) describe procedures for monitoring a child that is restrained or in seclusion;

(iv) describe time limitations on the use of a restraint or seclusion;

(v) require immediate and continuous review of the decision to use a restraint or seclusion;

(vi) require documenting the use of a restraint or seclusion;

(vii) describe record keeping requirements for records related to the use of a restraint or seclusion;

(viii) to the extent practicable, require debriefing the following individuals if debriefing would not interfere with an ongoing investigation, violate any law or regulation, or conflict with a child's treatment plan:

(A) each witness to the event;

(B) each staff member involved; and

(C) the child who was restrained or in seclusion;

(ix) include a procedure for complying with Subsection (5); and

(x) provide an administrative review process and required follow up actions after a child is restrained or put in seclusion; and

(b) consult with the office to ensure that the congregate care program's written policies and procedures align with applicable law.

(3) A congregate care program:

(a) may use a passive physical restraint only if the passive physical restraint is

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supported by a nationally or regionally recognized curriculum focused on non-violent interventions and de-escalation techniques;

(b) may not use a chemical or mechanical restraint unless the office has authorized the congregate care program to use a chemical or mechanical restraint;

(c) shall ensure that a staff member that uses a restraint on a child is:

(i) properly trained to use the restraint; and

(ii) familiar with the child and if the child has a treatment plan, the child's treatment plan; and

(d) shall train each staff member on how to intervene if another staff member fails to follow correct procedures when using a restraint.

(4) (a) A congregate care program:

(i) may use seclusion if:

(A) the purpose for the seclusion is to ensure the immediate safety of the child or others; and

(B) no less restrictive intervention is likely to ensure the safety of the child or others; and

(ii) may not use seclusion:

(A) for coercion, retaliation, or humiliation; or

(B) due to inadequate staffing or for the staff's convenience.

(b) While a child is in seclusion, a staff member who is familiar to the child shall actively supervise the child for the duration of the seclusion.

(5) Subject to the office's review and approval, a congregate care program shall develop:

(a) suicide prevention policies and procedures that describe:

(i) how the congregate care program will respond in the event a child exhibits self-injurious, self-harm, or suicidal behavior;

(ii) warning signs of suicide;

(iii) emergency protocol and contacts;

(iv) training requirements for staff, including suicide prevention training;

(v) procedures for implementing additional supervision precautions and for removing any additional supervision precautions;

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- (vi) suicide risk assessment procedures;
 - (vii) documentation requirements for a child's suicide ideation and self-harm;
 - (viii) special observation precautions for a child exhibiting warning signs of suicide;
 - (ix) communication procedures to ensure all staff are aware of a child who exhibits warning signs of suicide;
 - (x) a process for tracking suicide behavioral patterns; and
 - (xi) a post-intervention plan with identified resources; and
- (b) based on state law and industry best practices, policies and procedures for managing a child's behavior during the child's participation in the congregate care program.
- (6) (a) A congregate care program:
- (i) subject to Subsection (6)(b), shall facilitate weekly confidential voice-to-voice communication between a child and the child's parents, guardian, foster parents, and siblings, as applicable;
 - (ii) shall ensure that the communication described in Subsection (6)(a)(i) complies with the child's treatment plan, if any; and
 - (iii) may not use family contact as an incentive for proper behavior or withhold family contact as a punishment.
- (b) For the communication described in Subsection (6)(a)(i), a congregate care program may not:
- (i) deny the communication unless state law or a court order prohibits the communication; or
 - (ii) modify the frequency or form of the communication unless:
 - (A) the office approves the modification; or
 - (B) state law or a court order prohibits the frequency or the form of the communication.

Section ~~{117}~~119. Section **26B-2-124**, which is renumbered from Section 62A-2-125 is renumbered and amended to read:

~~[62A-2-125]~~. **26B-2-124. Congregate care program requirements.**

- (1) As used in this section, "disruption plan" means a child specific plan used:
 - (a) when the private-placement child stops receiving services from a congregate care program; and

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(b) for transporting a private-placement child to a parent or guardian or to another congregate care program.

(2) A congregate care program shall keep the following for a private-placement child whose parent or guardian lives outside the state:

(a) regularly updated contact information for the parent or guardian that lives outside the state; and

(b) a disruption plan.

(3) If a private-placement child whose parent or guardian resides outside the state leaves a congregate care program without following the child's disruption plan, the congregate care program shall:

(a) notify the parent or guardian, office, and local law enforcement authorities;

(b) assist the state in locating the private-placement child; and

(c) after the child is located, transport the private-placement child:

(i) to a parent or guardian;

(ii) back to the congregate care program; or

(iii) to another congregate care program.

(4) This section does not apply to a guardian that is a state or agency.

(5) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, describing:

(a) additional mandatory provisions for a disruption plan; and

(b) how a congregate care program shall notify the office when a private-placement child begins receiving services.

Section ~~{118}~~120. Section **26B-2-125**, which is renumbered from Section 62A-2-128 is renumbered and amended to read:

~~[62A-2-128].~~ 26B-2-125. Youth transportation company registration.

(1) The office shall establish a registration system for youth transportation companies.

(2) The office shall establish a fee:

(a) under Section 63J-1-504 that does not exceed \$500; and

(b) that when paid by all registrants generates sufficient revenue to cover or substantially cover the costs for the creation and maintenance of the registration system.

(3) A youth transportation company shall:

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- (a) register with the office; and
 - (b) provide the office:
 - (i) proof of a business insurance policy that provides at least \$1,000,000 in coverage;
- and
- (ii) a valid business license from the state where the youth transportation company is headquartered.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules to implement this section.

Section ~~{119}~~121. Section **26B-2-126**, which is renumbered from Section 62A-2-108.5 is renumbered and amended to read:

~~[62A-2-108.5].~~ 26B-2-126. Notification requirement for child-placing agencies that provide foster home services -- Rulemaking authority.

(1) The office shall require a child-placing agency that provides foster home services to notify a foster parent that if the foster parent signs as the responsible adult for a foster child to receive a driver license under Section 53-3-211:

(a) the foster parent is jointly and severally liable with the minor for civil compensatory damages caused by the minor when operating a motor vehicle upon a highway as provided under Subsections 53-3-211(2) and (4); and

(b) the foster parent may file with the Driver License Division a verified written request that the learner permit or driver license be canceled in accordance with Section 53-3-211 if the foster child no longer resides with the foster parent.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules establishing the procedures for a child-placing agency to provide the notification required under this section.

Section ~~{120}~~122. Section **26B-2-127**, which is renumbered from Section 62A-2-108.6 is renumbered and amended to read:

~~[62A-2-108.6].~~ 26B-2-127. Child placing licensure requirements -- Prohibited acts.

(1) As used in this section:

(a) (i) "Advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business.

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(ii) "Advertisement" includes a statement or representation described in Subsection (1)(a)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(b) "Birth parent" means the same as that term is defined in Section 78B-6-103.

(c) "Clearly and conspicuously disclose" means the same as that term is defined in Section 13-11a-2.

(d) (i) "Matching advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business to provide the assistance described in Subsection (3)(a)(i), regardless of whether there is or will be an exchange described in Subsection (3)(a)(ii).

(ii) "Matching advertisement" includes a statement or representation described in Subsection (1)(d)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(2) (a) Subject to Section 78B-24-205, a person may not engage in child placing, or solicit money or other assistance for child placing, without a valid license issued by the office in accordance with this ~~[chapter]~~ part.

(b) If a child-placing agency's license is suspended or revoked in accordance with this ~~[chapter]~~ part, the care, control, or custody of any child who is in the care, control, or custody of the child-placing agency shall be transferred to the Division of Child and Family Services.

(3) (a) (i) An attorney, physician, or other person may assist:

(A) a birth parent to identify or locate a prospective adoptive parent who is interested in adopting the birth parent's child; or

(B) a prospective adoptive parent to identify or locate a child to be adopted.

(ii) A payment, charge, fee, reimbursement of expense, or exchange of value of any kind, or promise or agreement to make the same, may not be made for the assistance described in Subsection (3)(a)(i).

(b) An attorney, physician, or other person may not:

(i) issue or cause to be issued to any person a card, sign, or device indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i);

(ii) cause, permit, or allow any sign or marking indicating that the attorney, physician,

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or other person is available to provide the assistance described in Subsection (3)(a)(i), on or in any building or structure;

(iii) announce, cause, permit, or allow an announcement indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), to appear in any newspaper, magazine, directory, on radio or television, or an Internet website relating to a business;

(iv) announce, cause, permit, or allow a matching advertisement; or

(v) announce, cause, permit, or allow an advertisement that indicates or implies the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i) as part of, or related to, other adoption-related services by using any of the following terms:

(A) "comprehensive";

(B) "complete";

(C) "one-stop";

(D) "all-inclusive"; or

(E) any other term similar to the terms described in Subsections (3)(b)(v)(A) through (D).

(c) An attorney, physician, or other person who is not licensed by the office shall clearly and conspicuously disclose in any print media advertisement or written contract regarding adoption services or adoption-related services that the attorney, physician, or other person is not licensed to provide adoption services by the office.

(4) A person who intentionally or knowingly violates Subsection (2) or (3) is guilty of a third degree felony.

(5) This section does not preclude payment of fees for medical, legal, or other lawful services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings.

(6) In accordance with federal law, only an agent or employee of the Division of Child and Family Services or of a licensed child-placing agency may certify to United States Citizenship and Immigration Services that a family meets the preadoption requirements of the Division of Child and Family Services.

(7) A licensed child-placing agency or an attorney practicing in this state may not place

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a child for adoption, either temporarily or permanently, with an individual who would not be qualified for adoptive placement under Sections 78B-6-102, 78B-6-117, and 78B-6-137.

Section ~~{121}~~123. Section **26B-2-128**, which is renumbered from Section 62A-2-116.5 is renumbered and amended to read:

~~[62A-2-116.5].~~ **26B-2-128. Numerical limit of foster children in a foster home.**

- (1) Except as provided in Subsection (2) or (3), no more than:
 - (a) four foster children may reside in the foster home of a licensed foster parent; or
 - (b) three foster children may reside in the foster home of a certified foster parent.
- (2) When placing a sibling group into a foster home, the limits in Subsection (1) may be exceeded if:
 - (a) no other foster children reside in the foster home;
 - (b) only one other foster child resides in the foster home at the time of a sibling group's placement into the foster home; or
 - (c) a sibling group re-enters foster care and is placed into the foster home where the sibling group previously resided.
- (3) When placing a child into a foster home, the limits in Subsection (1) may be exceeded:
 - (a) to place a child into a foster home where a sibling of the child currently resides; or
 - (b) to place a child in a foster home where the child previously resided.

Section ~~{122}~~124. Section **26B-2-129**, which is renumbered from Section 62A-2-117 is renumbered and amended to read:

~~[62A-2-117].~~ **26B-2-129. Licensure of tribal foster homes.**

- (1) The Indian Child Welfare Act, 25 U.S.C. Secs. 1901-1963, provides that Indian tribes may develop and implement tribal foster home standards.
- (2) The office shall give full faith and credit to an Indian tribe's certification or licensure of a tribal foster home for an Indian child and siblings of that Indian child, both on and off Indian country, according to standards developed and approved by the Indian tribe, pursuant to the Indian Child Welfare Act, 25 U.S.C. Secs. 1901-1963.
- (3) If the Indian tribe has not developed standards, the office shall license tribal foster homes pursuant to this ~~[chapter]~~ part.

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Section ~~{123}~~125. Section **26B-2-130**, which is renumbered from Section 62A-2-117.5 is renumbered and amended to read:

~~[62A-2-117.5].~~ **26B-2-130. Foster care by a child's relative.**

(1) As used in this section:

(a) "Custody" means the same as that term is defined in Section 80-2-102.

(b) "Relative" means the same as that term is defined in Section 80-3-102.

(c) "Temporary custody" means the same as that term is defined in Section 80-2-102.

~~[(1)]~~ (2) (a) In accordance with state and federal law, the division shall provide for licensure of a child's relative for foster or substitute care, when the child is in the temporary custody or custody of the Division of Child and Family Services.

(b) If it is determined that, under federal law, allowance is made for an approval process requiring less than full foster parent licensure proceedings for a child's relative, the division shall establish an approval process to accomplish that purpose.

~~[(2) For purposes of this section:]~~

~~[(a) "Custody" and "temporary custody" mean the same as those terms are defined in Section 80-2-102.]~~

~~[(b) "Relative" means the same as that term is defined in Section 80-3-102.]~~

Section ~~{124}~~126. Section **26B-2-131**, which is renumbered from Section 62A-2-127 is renumbered and amended to read:

~~[62A-2-127].~~ **26B-2-131. Child-placing agency responsibility for educational services -- Payment of costs.**

(1) A child-placing agency shall ensure that the requirements of Subsections 53G-6-202(2) and 53G-6-203(1) are met through the provision of appropriate educational services for all children served in the state by the child-placing agency.

(2) (a) If the educational services described in Subsection (1) are provided through a public school and the custodial parent or legal guardian resides outside the state, the child-placing agency shall pay all educational costs required under Sections 53G-6-306 and 53G-7-503.

(b) If the educational services described in Subsection (1) are provided through a public school and the custodial parent or legal guardian resides within the state, then the child-placing agency shall pay all educational costs required under Section 53G-7-503.

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(3) A child in the custody or under the care of a Utah state agency is exempt from the payment of fees required under Subsection (2).

(4) A public school shall admit any child living within the public school's boundaries who is under the supervision of a child-placing agency upon payment by the child-placing agency of the tuition and fees required under Subsection (2).

Section ~~{125}~~127. Section **26B-2-132**, which is renumbered from Section 62A-2-115.2 is renumbered and amended to read:

~~[62A-2-115.2].~~ **26B-2-132. Child-placing agency proof of authority in a proceeding.**

A child-placing agency is not required to present the child-placing agency's license issued under this ~~[chapter]~~ part, the child placing agency's certificate of incorporation, or proof of the child-placing agency's authority to consent to adoption, as proof of the child-placing agency's authority in any proceeding in which the child-placing agency is an interested party, unless the court or a party to the proceeding requests that the child-placing agency or the child-placing agency's representative establish proof of authority.

Section ~~{126}~~128. Section **26B-2-133**, which is renumbered from Section 62A-2-115.1 is renumbered and amended to read:

~~[62A-2-115.1].~~ **26B-2-133. Injunctive relief and civil penalty for unlawful child placing -- Enforcement by county attorney or attorney general.**

(1) The office or another interested person may commence an action in ~~[district]~~ court to enjoin any person, agency, firm, corporation, or association from violating Section ~~[62A-2-108.6]~~ 26B-2-127.

(2) The office shall:

(a) solicit information from the public relating to violations of Section ~~[62A-2-108.6]~~ 26B-2-127; and

(b) upon identifying a violation of Section ~~[62A-2-108.6]~~ 26B-2-127:

(i) send a written notice to the person who violated Section ~~[62A-2-108.6]~~ 26B-2-127 that describes the alleged violation; and

(ii) notify the following persons of the alleged violation:

(A) the local county attorney; and

(B) the Division of Professional Licensing.

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(3) (a) A county attorney or the attorney general shall institute legal action as necessary to enforce the provisions of Section [~~62A-2-108.6~~] 26B-2-127 after being informed of an alleged violation.

(b) If a county attorney does not take action within 30 days after the day on which the county attorney is informed of an alleged violation of Section [~~62A-2-108.6~~] 26B-2-127, the attorney general may be requested to take action, and shall then institute legal proceedings in place of the county attorney.

(4) (a) In addition to the remedies provided in Subsections (1) and (3), any person, agency, firm, corporation, or association found to be in violation of Section [~~62A-2-108.6~~] 26B-2-127 shall forfeit all proceeds identified as resulting from the transaction, and may also be assessed a civil penalty of not more than \$10,000 for each violation.

(b) Each act in violation of Section [~~62A-2-108.6~~] 26B-2-127, including each placement or attempted placement of a child, is a separate violation.

(5) (a) The amount recovered as a penalty under Subsection (4) shall be placed in the General Fund of the prosecuting county, or in the state General Fund if the attorney general prosecutes.

(b) If two or more governmental entities are involved in the prosecution, the court shall apportion the penalty among the entities, according to the entities' involvement.

(6) A judgment ordering the payment of any penalty or forfeiture under Subsection (4) is a lien when recorded in the judgment docket, and has the same effect and is subject to the same rules as a judgment for money in a civil action.

Section ~~{127}~~129. Section **26B-2-201**, which is renumbered from Section 26-21-2 is renumbered and amended to read:

Part 2. Health Care Facility Licensing and Inspection

[~~26-21-2~~]. 26B-2-201. Definitions.

As used in this [~~chapter~~] part:

- (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;

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- (d) bathing;
- (e) toileting;
- (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~~
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]~~ 26B-2-228 ~~+~~ (7).

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

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

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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 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 old or older who:

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

(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 ~~{128}~~130. Section **26B-2-202**, which is renumbered from Section 26-21-6 is renumbered and amended to read:

~~[26-21-6].~~ 26B-2-202. Duties of department.

(1) The department shall:

(a) enforce rules established pursuant to this ~~[chapter]~~ part;

(b) authorize an agent of the department to conduct inspections of health care facilities pursuant to this ~~[chapter]~~ part;

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

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

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

(f) (i) collect and credit fees for conducting clearance under [~~Chapter 21, Part 2, Clearance for Direct Patient Access~~] Sections 26B-2-239 and 26B-2-240; and

(ii) beginning July 1, 2012:

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

(B) the fees collected for background checks under Subsection [~~26-21-204~~] 26B-2-240 ~~(4)~~ (6) and [~~Section 26-21-205~~] Subsection 26B-2-241(4) shall be transferred to the Department of Public Safety to reimburse the Department of Public Safety for its costs in conducting the federal background checks;

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

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

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

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

(2) The department may:

(a) exercise all incidental powers necessary to carry out the purposes of this [~~chapter~~] part;

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

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules as necessary to implement the provisions of this [~~chapter~~] part.

Section ~~{129}~~ 131. Section **26B-2-203**, which is renumbered from Section 26-21-2.1 is renumbered and amended to read:

~~[26-21-2.1].~~ **26B-2-203. Services required -- General acute hospitals -- Specialty**

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Hospitals.

(1) General acute hospitals and specialty hospitals shall remain open and be continuously ready to receive patients 24 hours of every day in a year and have an attending medical staff consisting of one or more physicians 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.

(2) A specialty hospital shall provide on-site all basic services required of a general acute hospital that are needed for the diagnosis, therapy, or rehabilitation offered to or required by patients admitted to or cared for in the facility.

(3) (a) A home health agency shall provide at least licensed nursing services or therapeutic services directly through the agency employees.

(b) A home health agency may provide additional services itself or under arrangements with another agency, organization, facility, or individual.

(4) Beginning January 1, 2023, a hospice program shall provide at least one qualified medical provider, as that term is defined in Section ~~[26-61a-102]~~ 26B-4-201, for the treatment of hospice patients.

Section ~~{130}~~132. Section **26B-2-204**, which is renumbered from Section 26-21-6.5 is renumbered and amended to read:

~~[26-21-6.5].~~ **26B-2-204. Licensing of an abortion clinic -- Rulemaking authority -- Fee.**

(1) A type I abortion clinic may not operate in the state without a license issued by the department to operate a type I abortion clinic.

(2) A type II abortion clinic may not operate in the state without a license issued by the department to operate a type II abortion clinic.

(3) The department shall make rules establishing minimum health, safety, sanitary, and recordkeeping requirements for:

(a) a type I abortion clinic; and

(b) a type II abortion clinic.

(4) To receive and maintain a license described in this section, an abortion clinic shall:

(a) apply for a license on a form prescribed by the department;

(b) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping

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requirements established under Subsection (3) that relate to the type of abortion clinic licensed;

- (c) comply with the recordkeeping and reporting requirements of Section 76-7-313;
- (d) comply with the requirements of Title 76, Chapter 7, Part 3, Abortion;
- (e) pay the annual licensing fee; and
- (f) cooperate with inspections conducted by the department.

(5) (a) The department shall, at least twice per year, inspect each abortion clinic in the state to ensure that the abortion clinic is complying with all statutory and licensing requirements relating to the abortion clinic.

(b) At least one of the inspections shall be made without providing notice to the abortion clinic.

(6) The department shall charge an annual license fee, set by the department in accordance with the procedures described in Section 63J-1-504, to an abortion clinic in an amount that will pay for the cost of the licensing requirements described in this section and the cost of inspecting abortion clinics.

(7) The department shall deposit the licensing fees described in this section in the General Fund as a dedicated credit to be used solely to pay for the cost of the licensing requirements described in this section and the cost of inspecting abortion clinics.

Section ~~{131}~~133. Section **26B-2-205**, which is renumbered from Section 26-21-7 is renumbered and amended to read:

~~[26-21-7]~~. **26B-2-205. Exempt facilities.**

This ~~[chapter]~~ part does not apply to:

- (1) a dispensary or first aid facility maintained by any commercial or industrial plant, educational institution, or convent;
- (2) a health care facility owned or operated by an agency of the United States;
- (3) the office of a physician, physician assistant, or dentist whether it is an individual or group practice, except that it does apply to an abortion clinic;
- (4) a health care facility established or operated by any recognized church or denomination for the practice of religious tenets administered by mental or spiritual means without the use of drugs, whether gratuitously or for compensation, if it complies with statutes and rules on environmental protection and life safety;
- (5) any health care facility owned or operated by the Department of Corrections,

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created in Section 64-13-2; and

(6) a residential facility providing 24-hour care:

(a) that does not employ direct care staff;

(b) in which the residents of the facility contract with a licensed hospice agency to receive end-of-life medical care; and

(c) that meets other requirements for an exemption as designated by administrative rule.

Section ~~{132}~~134. Section **26B-2-206**, which is renumbered from Section 26-21-8 is renumbered and amended to read:

[26-21-8]. 26B-2-206. License required -- Not assignable or transferable -- Posting -- Expiration and renewal -- Time for compliance by operating facilities.

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

(b) This Subsection (1) does not apply to facilities that are exempt under Section ~~[26-21-7]~~ 26B-2-205.

(2) A license issued under this ~~[chapter]~~ part is not assignable or transferable.

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

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

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

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

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

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

Section ~~{133}~~ 135. Section **26B-2-207**, which is renumbered from Section 26-21-9 is renumbered and amended to read:

~~[26-21-9]~~. **26B-2-207. Application for license -- Information required -- Public records.**

(1) An application for license shall be made to the department in a form prescribed by the department. The application and other documentation requested by the department as part of the application process shall require such information as the committee determines necessary to ensure compliance with established rules.

(2) Information received by the department in reports and inspections shall be public records, except the information may not be disclosed if it directly or indirectly identifies any individual other than the owner or operator of a health facility (unless disclosure is required by law) or if its disclosure would otherwise constitute an unwarranted invasion of personal privacy.

(3) Information received by the department from a health care facility, pertaining to that facility's accreditation by a voluntary accrediting organization, shall be private data except for a summary prepared by the department related to licensure standards.

Section ~~{134}~~ 136. Section **26B-2-208**, which is renumbered from Section 26-21-11 is renumbered and amended to read:

~~[26-21-11]~~. **26B-2-208. Violations -- Denial or revocation of license -- Restricting or prohibiting new admissions -- Monitor.**

If the department finds a violation of this ~~[chapter]~~ part or any rules adopted pursuant to this ~~[chapter]~~ part the department may take one or more of the following actions:

(1) serve a written statement of violation requiring corrective action, which shall include time frames for correction of all violations;

(2) deny or revoke a license if it finds:

(a) there has been a failure to comply with the rules established pursuant to this ~~[chapter]~~ part;

(b) evidence of aiding, abetting, or permitting the commission of any illegal act; or

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(c) conduct adverse to the public health, morals, welfare, and safety of the people of the state;

(3) restrict or prohibit new admissions to a health care facility or revoke the license of a health care facility for:

(a) violation of any rule adopted under this ~~[chapter]~~ part; or

(b) permitting, aiding, or abetting the commission of any illegal act in the health care facility;

(4) place a department representative as a monitor in the facility until corrective action is completed;

(5) assess to the facility the cost incurred by the department in placing a monitor;

(6) assess an administrative penalty as allowed by Subsection ~~[26-23-6]~~ 26B-1-224 ~~†~~(1)(a); or

(7) issue a cease and desist order to the facility.

Section ~~†135~~ 137. Section **26B-2-209**, which is renumbered from Section 26-21-11.1 is renumbered and amended to read:

~~[26-21-11.1].~~ **26B-2-209. Failure to follow certain health care claims practices -- Penalties.**

(1) The department may assess a fine of up to \$500 per violation against a health care facility that violates Section 31A-26-313.

(2) The department shall waive the fine described in Subsection (1) if:

(a) the health care facility demonstrates to the department that the health care facility mitigated and reversed any damage to the insured caused by the health care facility or third party's violation; or

(b) the insured does not pay the full amount due on the bill that is the subject of the violation, including any interest, fees, costs, and expenses, within 120 days after the day on which the health care facility or third party makes a report to a credit bureau or takes an action in violation of Section 31A-26-313.

Section ~~†136~~ 138. Section **26B-2-210**, which is renumbered from Section 26-21-12 is renumbered and amended to read:

~~[26-21-12].~~ **26B-2-210. Issuance of new license after revocation -- Restoration.**

(1) If a license is revoked, the department may issue a new license only after it

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determines by inspection that the facility has corrected the conditions that were the basis of revocation and that the facility complies with all provisions of this [~~chapter~~] part and applicable rules.

(2) If the department does not renew a license because of noncompliance with the provisions of this [~~chapter~~] part or the rules adopted under this [~~chapter~~] part, the department may issue a new license only after the facility complies with all renewal requirements and the department determines that the interests of the public will not be jeopardized.

Section ~~{137}~~ 139. Section **26B-2-211**, which is renumbered from Section 26-21-13 is renumbered and amended to read:

[~~26-21-13~~]. 26B-2-211. License issued to facility in compliance or substantial compliance with part and rules.

(1) The department shall issue a standard license for a health care facility which is found to be in compliance with the provisions of this [~~chapter~~] part and with all applicable rules adopted by the committee.

(2) The department may issue a provisional or conditional license for a health care facility which is in substantial compliance if the interests of the public will not be jeopardized.

Section ~~{138}~~ 140. Section **26B-2-212**, which is renumbered from Section 26-21-13.5 is renumbered and amended to read:

[~~26-21-13.5~~]. 26B-2-212. Intermediate care facilities for people with an intellectual disability -- Licensing.

(1) (a) It is the Legislature's intent that a person with a developmental disability be provided with an environment and surrounding that, as closely as possible, resembles small community-based, homelike settings, to allow those persons to have the opportunity, to the maximum extent feasible, to exercise their full rights and responsibilities as citizens.

(b) It is the Legislature's purpose, in enacting this section, to provide assistance and opportunities to enable a person with a developmental disability to achieve the person's maximum potential through increased independence, productivity, and integration into the community.

(2) After July 1, 1990, the department may only license intermediate care beds for people with an intellectual disability in small health care facilities.

(3) The department may define by rule "small health care facility" for purposes of

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licensure under this section and adopt rules necessary to carry out the requirements and purposes of this section.

(4) This section does not apply to the renewal of a license or the licensure to a new owner of any facility that was licensed on or before July 1, 1990, and that licensure has been maintained without interruption.

Section ~~{139}~~141. Section **26B-2-213**, which is renumbered from Section 26-21-13.6 is renumbered and amended to read:

~~[26-21-13.6].~~ 26B-2-213. Rural hospital -- Optional service designation.

(1) The Legislature finds that:

- (a) the rural citizens of this state need access to hospitals and primary care clinics;
- (b) financial stability of remote-rural hospitals and their integration into remote-rural delivery networks is critical to ensure the continued viability of remote-rural health care; and
- (c) administrative simplicity is essential for providing large benefits to small-scale remote-rural providers who have limited time and resources.

(2) After July 1, 1995, the department may grant variances to remote-rural acute care hospitals for specific services currently required for licensure under general hospital standards established by department rule.

(3) For purposes of this section, "remote-rural hospitals" are hospitals that are in a county with less than 20 people per square mile.

Section ~~{140}~~142. Section **26B-2-214**, which is renumbered from Section 26-21-14 is renumbered and amended to read:

~~[26-21-14].~~ 26B-2-214. Closing facility -- Appeal.

(1) If the department finds a condition in any licensed health care facility that is a clear hazard to the public health, the department may immediately order that facility closed and may prevent the entrance of any resident or patient onto the premises of that facility until the condition is eliminated.

(2) Parties aggrieved by the actions of the department under this section may obtain an adjudicative proceeding and judicial review.

Section ~~{141}~~143. Section **26B-2-215**, which is renumbered from Section 26-21-15 is renumbered and amended to read:

~~[26-21-15].~~ 26B-2-215. Action by department for injunction.

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Notwithstanding the existence of any other remedy, the department may, in the manner provided by law, upon the advice of the attorney general, who shall represent the department in the proceedings, maintain an action in the name of the state for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management, or operation of a health care facility which is in violation of this [~~chapter~~] part or rules adopted by the committee.

Section ~~{142}~~ 144. Section **26B-2-216**, which is renumbered from Section 26-21-16 is renumbered and amended to read:

[26-21-16]. 26B-2-216. Operating facility in violation of part a misdemeanor.

In addition to the penalties in Section [~~26-23-6~~] 26B-1-224, any person owning, establishing, conducting, maintaining, managing, or operating a health care facility in violation of this [~~chapter~~] part is guilty of a class A misdemeanor.

Section ~~{143}~~ 145. Section **26B-2-217**, which is renumbered from Section 26-21-17 is renumbered and amended to read:

[26-21-17]. 26B-2-217. Department agency of state to contract for certification of facilities under Social Security Act.

The department is the sole agency of the state authorized to enter into a contract with the United States government for the certification of health care facilities under Title XVIII and Title XIX of the Social Security Act, and any amendments thereto.

Section ~~{144}~~ 146. Section **26B-2-218**, which is renumbered from Section 26-21-19 is renumbered and amended to read:

[26-21-19]. 26B-2-218. Life and Health Insurance Guaranty Association Act not amended.

The provisions of this [~~chapter~~] part do not amend, affect, or alter the provisions of Title 31A, Chapter 28, Guaranty Associations.

Section ~~{145}~~ 147. Section **26B-2-219**, which is renumbered from Section 26-21-20 is renumbered and amended to read:

[26-21-20]. 26B-2-219. Requirement for hospitals to provide statements of itemized charges to patients.

(1) [~~For purposes of~~] As used in this section, "hospital" includes:

(a) an ambulatory surgical facility;

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(b) a general acute hospital; and

(c) a specialty hospital.

(2) A hospital shall provide a statement of itemized charges to any patient receiving medical care or other services from that hospital.

(3) (a) The statement shall be provided to the patient or the patient's personal representative or agent at the hospital's expense, personally, by mail, or by verifiable electronic delivery after the hospital receives an explanation of benefits from a third party payer which indicates the patient's remaining responsibility for the hospital charges.

(b) If the statement is not provided to a third party, it shall be provided to the patient as soon as possible and practicable.

(4) The statement required by this section:

(a) shall itemize each of the charges actually provided by the hospital to the patient;

(b) (i) shall include the words in bold "THIS IS THE BALANCE DUE AFTER PAYMENT FROM YOUR HEALTH INSURER"; or

(ii) shall include other appropriate language if the statement is sent to the patient under Subsection (3)(b); and

(c) may not include charges of physicians who bill separately.

(5) The requirements of this section do not apply to patients who receive services from a hospital under Title XIX of the Social Security Act.

(6) Nothing in this section prohibits a hospital from sending an itemized billing statement to a patient before the hospital has received an explanation of benefits from an insurer. If a hospital provides a statement of itemized charges to a patient prior to receiving the explanation of benefits from an insurer, the itemized statement shall be marked in bold: "DUPLICATE: DO NOT PAY" or other appropriate language.

Section ~~{146}~~148. Section **26B-2-220**, which is renumbered from Section 26-21-21 is renumbered and amended to read:

~~[26-21-21].~~ 26B-2-220. Authentication of medical records.

Any entry in a medical record compiled or maintained by a health care facility may be authenticated by identifying the author of the entry by:

(1) a signature including first initial, last name, and discipline; or

(2) the use of a computer identification process unique to the author that definitively

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identifies the author.

Section ~~{147}~~149. Section **26B-2-221**, which is renumbered from Section 26-21-22 is renumbered and amended to read:

~~[26-21-22]. 26B-2-221. Reporting of disciplinary information -- Immunity from liability.~~

A health care facility licensed under this ~~[chapter]~~ part which reports disciplinary information on a licensed nurse to the Division of Professional Licensing within the Department of Commerce as required by Section 58-31b-702 is entitled to the immunity from liability provided by that section.

Section ~~{148}~~150. Section **26B-2-222**, which is renumbered from Section 26-21-23 is renumbered and amended to read:

~~[26-21-23]. 26B-2-222. Licensing of a new nursing care facility -- Approval for a licensed bed in an existing nursing care facility -- Fine for excess Medicare inpatient revenue.~~

(1) Notwithstanding Section ~~[26-21-2]~~ 26B-2-201, as used in this section:

(a) "Medicaid" means the Medicaid program, as that term is defined in Section ~~[26-18-2]~~ 26B-3-101.

(b) "Medicaid certification" means the same as that term is defined in Section ~~[26-18-501]~~ 26B-3-301.

(c) "Nursing care facility" and "small health care facility":

(i) mean the following facilities licensed by the department under this ~~[chapter]~~ part:

(A) a skilled nursing facility;

(B) an intermediate care facility; or

(C) a small health care facility with four to 16 beds functioning as a skilled nursing facility; and

(ii) do not mean:

(A) an intermediate care facility for the intellectually disabled;

(B) a critical access hospital that meets the criteria of 42 U.S.C. Sec. 1395i-4(c)(2) (1998);

(C) a small health care facility that is hospital based; or

(D) a small health care facility other than a skilled nursing care facility with no more

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than 16 beds.

(d) "Rural county" means the same as that term is defined in Section ~~[26-18-501]~~ 26B-3-301.

(2) Except as provided in Subsection (6) and Section ~~[26-21-28]~~ 26B-2-227, a new nursing care facility shall be approved for a health facility license only if:

(a) under the provisions of Section ~~[26-18-503]~~ 26B-3-311 the facility's nursing care facility program has received Medicaid certification or will receive Medicaid certification for each bed in the facility;

(b) the facility's nursing care facility program has received or will receive approval for Medicaid certification under Subsection ~~[26-18-503]~~ 26B-3-311 ~~(4)~~ (5), if the facility is located in a rural county; or

(c) (i) the applicant submits to the department the information described in Subsection (3); and

(ii) based on that information, and in accordance with Subsection (4), the department determines that approval of the license best meets the needs of the current and future patients of nursing care facilities within the area impacted by the new facility.

(3) A new nursing care facility seeking licensure under Subsection (2) shall submit to the department the following information:

(a) proof of the following as reasonable evidence that bed capacity provided by nursing care facilities within the county or group of counties that would be impacted by the facility is insufficient:

(i) nursing care facility occupancy within the county or group of counties:

(A) has been at least 75% during each of the past two years for all existing facilities combined; and

(B) is projected to be at least 75% for all nursing care facilities combined that have been approved for licensure but are not yet operational;

(ii) there is no other nursing care facility within a 35-mile radius of the new nursing care facility seeking licensure under Subsection (2); and

(b) a feasibility study that:

(i) shows the facility's annual Medicare inpatient revenue, including Medicare Advantage revenue, will not exceed 49% of the facility's annual total revenue during each of

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the first three years of operation;

(ii) shows the facility will be financially viable if the annual occupancy rate is at least 88%;

(iii) shows the facility will be able to achieve financial viability;

(iv) shows the facility will not:

(A) have an adverse impact on existing or proposed nursing care facilities within the county or group of counties that would be impacted by the facility; or

(B) be within a three-mile radius of an existing nursing care facility or a new nursing care facility that has been approved for licensure but is not yet operational;

(v) is based on reasonable and verifiable demographic and economic assumptions;

(vi) is based on data consistent with department or other publicly available data; and

(vii) is based on existing sources of revenue.

(4) When determining under Subsection (2)(c) whether approval of a license for a new nursing care facility best meets the needs of the current and future patients of nursing care facilities within the area impacted by the new facility, the department shall consider:

(a) whether the county or group of counties that would be impacted by the facility is underserved by specialized or unique services that would be provided by the facility; and

(b) how additional bed capacity should be added to the long-term care delivery system to best meet the needs of current and future nursing care facility patients within the impacted area.

(5) The department may approve the addition of a licensed bed in an existing nursing care facility only if:

(a) each time the facility seeks approval for the addition of a licensed bed, the facility satisfies each requirement for licensure of a new nursing care facility in Subsections (2)(c), (3), and (4); or

(b) the bed has been approved for Medicaid certification under Section ~~[26-18-503]~~ 26B-3-311 or ~~[26-18-505]~~ 26B-3-313.

(6) Subsection (2) does not apply to a nursing care facility that:

(a) has, by the effective date of this act, submitted to the department schematic drawings, and paid applicable fees, for a particular site or a site within a three-mile radius of that site;

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(b) before July 1, 2016:

(i) filed an application with the department for licensure under this section and paid all related fees due to the department; and

(ii) submitted to the department architectural plans and specifications, as defined by the department by administrative rule, for the facility;

(c) applies for a license within three years of closing for renovation;

(d) replaces a nursing care facility that:

(i) closed within the past three years; or

(ii) is located within five miles of the facility;

(e) is undergoing a change of ownership, even if a government entity designates the facility as a new nursing care facility; or

(f) is a state-owned veterans home, regardless of who operates the home.

(7) (a) For each year the annual Medicare inpatient revenue, including Medicare Advantage revenue, of a nursing care facility approved for a health facility license under Subsection (2)(c) exceeds 49% of the facility's total revenue for the year, the facility shall be subject to a fine of \$50,000, payable to the department.

(b) A nursing care facility approved for a health facility license under Subsection (2)(c) shall submit to the department the information necessary for the department to annually determine whether the facility is subject to the fine in Subsection (7)(a).

(c) The department:

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the information a nursing care facility shall submit to the department under Subsection (7)(b);

(ii) shall annually determine whether a facility is subject to the fine in Subsection (7)(a);

(iii) may take one or more of the actions in Section ~~[26-21-11]~~ 26B-2-208 or ~~[26-23-6]~~ 26B-2-202 against a facility for nonpayment of a fine due under Subsection (7)(a); and

(iv) shall deposit fines paid to the department under Subsection (7)(a) into the Nursing Care Facilities Provider Assessment Fund, created ~~[by Section 26-35a-106]~~ in Section 26B-3-405.

Section ~~{149}~~ 151. Section **26B-2-223**, which is renumbered from Section 26-21-24 is

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renumbered and amended to read:

~~[26-21-24].~~ 26B-2-223. Prohibition against bed banking by nursing care facilities for Medicaid reimbursement.

(1) ~~[For purposes of]~~ As used in this section:

(a) ~~"[bed] Bed banking"~~ means the designation of a nursing care facility bed as not part of the facility's operational bed capacity~~;~~ and

(b) ~~"[nursing] Nursing care facility" [is as defined in Subsection 26-21-23(1)]~~ means the same as that term is defined in Section 26B-2-222.

(2) Beginning July 1, 2008, the department shall, for purposes of Medicaid reimbursement under ~~[Chapter 18, Part 1, Medical Assistance Programs]~~ Chapter 3, Part 1, Health Care Assistance, prohibit the banking of nursing care facility beds.

Section ~~{150}~~152. Section **26B-2-224**, which is renumbered from Section 26-21-25 is renumbered and amended to read:

~~[26-21-25].~~ 26B-2-224. Patient identity protection.

(1) As used in this section:

(a) "EMTALA" means the federal Emergency Medical Treatment and Active Labor Act.

(b) "Health professional office" means:

(i) a physician's office; or

(ii) a dental office.

(c) "Medical facility" means:

(i) a general acute hospital;

(ii) a specialty hospital;

(iii) a home health agency;

(iv) a hospice;

(v) a nursing care facility;

(vi) a residential-assisted living facility;

(vii) a birthing center;

(viii) an ambulatory surgical facility;

(ix) a small health care facility;

(x) an abortion clinic;

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- (xi) a facility owned or operated by a health maintenance organization;
- (xii) an end stage renal disease facility;
- (xiii) a health care clinic; or
- (xiv) any other health care facility that the committee designates by rule.

(2) (a) In order to discourage identity theft and health insurance fraud, and to reduce the risk of medical errors caused by incorrect medical records, a medical facility or a health professional office shall request identification from an individual prior to providing in-patient or out-patient services to the individual.

(b) If the individual who will receive services from the medical facility or a health professional office lacks the legal capacity to consent to treatment, the medical facility or a health professional office shall request identification:

- (i) for the individual who lacks the legal capacity to consent to treatment; and
- (ii) from the individual who consents to treatment on behalf of the individual described in Subsection (2)(b)(i).

(3) A medical facility or a health professional office:

(a) that is subject to EMTALA:

(i) may not refuse services to an individual on the basis that the individual did not provide identification when requested; and

(ii) shall post notice in its emergency department that informs a patient of the patient's right to treatment for an emergency medical condition under EMTALA;

(b) may not be penalized for failing to ask for identification;

(c) is not subject to a private right of action for failing to ask for identification; and

(d) may document or confirm patient identity by:

(i) photograph;

(ii) fingerprinting;

(iii) palm scan; or

(iv) other reasonable means.

(4) The identification described in this section:

(a) is intended to be used for medical records purposes only; and

(b) shall be kept in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996.

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Section ~~{151}~~153. Section **26B-2-225**, which is renumbered from Section 26-21-26 is renumbered and amended to read:

~~[26-21-26]. 26B-2-225. General acute hospital to report prescribed controlled substance poisoning or overdose.~~

(1) If a person who is 12 years old or older is admitted to a general acute hospital for poisoning or overdose involving a prescribed controlled substance, the general acute hospital shall, within three business days after the day on which the person is admitted, send a written report to the Division of Professional Licensing, created in Section 58-1-103, that includes:

- (a) the patient's name and date of birth;
- (b) each drug or other substance found in the person's system that may have contributed to the poisoning or overdose, if known;
- (c) the name of each person who the general acute hospital has reason to believe may have prescribed a controlled substance described in Subsection (1)(b) to the person, if known; and
- (d) the name of the hospital and the date of admission.

(2) Nothing in this section may be construed as creating a new cause of action.

Section ~~{152}~~154. Section **26B-2-226**, which is renumbered from Section 26-21-27 is renumbered and amended to read:

~~[26-21-27]. 26B-2-226. Information regarding certain health care facility charges.~~

A health care facility licensed under this ~~[chapter]~~ part shall, when requested by a consumer:

(1) make a list of prices charged by the facility available for the consumer that includes the facility's:

- (a) in-patient procedures;
- (b) out-patient procedures;
- (c) the 50 most commonly prescribed drugs in the facility;
- (d) imaging services; and
- (e) implants; and

(2) provide the consumer with information regarding any discounts the facility provides for:

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- (a) charges for services not covered by insurance; or
- (b) prompt payment of billed charges.

Section ~~{153}~~155. Section **26B-2-227**, which is renumbered from Section 26-21-28 is renumbered and amended to read:

~~[26-21-28]. 26B-2-227. Pilot program for managed care model with a small health care facility operating as a skilled nursing facility.~~

(1) Notwithstanding the requirement for Medicaid certification under [~~Chapter 18, Part 5, Long Term Care Facility - Medicaid Certification~~] Sections ~~{310}~~26B-3-310 through ~~{313}~~26B-3-313, and Section [~~26-21-23~~] 26B-2-222, a small health care facility with four to 16 beds, functioning as a skilled nursing facility, may be approved for licensing by the department as a pilot program in accordance with this section, and without obtaining Medicaid certification for the beds in the facility.

(2) (a) The department shall establish one pilot program with a facility that meets the qualifications under Subsection (3).

(b) The purpose of the pilot program described in Subsection (2)(a) is to study the impact of an integrated managed care model on cost and quality of care involving pre- and post-surgical services offered by a small health care facility operating as a skilled nursing facility.

(3) A small health care facility with four to 16 beds that functions as a skilled nursing facility may apply for a license under the pilot program if the facility will:

- (a) be located in:
 - (i) a county of the second class that has at least 1,800 square miles within the county;and
- (ii) a city of the fifth class; and
- (b) limit a patient's stay in the facility to no more than 10 days.

Section ~~{154}~~156. Section **26B-2-228**, which is renumbered from Section 26-21-29 is renumbered and amended to read:

~~[26-21-29]. 26B-2-228. Birthing centers -- Regulatory restrictions.~~

- (1) [~~For purposes of~~] As used in this section:
 - (a) "Alongside midwifery unit" means a birthing center that meets the requirements described in Subsection (7).

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(b) "Certified nurse midwife" means an individual who is licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act.

(c) "Direct-entry midwife" means an individual who is licensed under Title 58, Chapter 77, Direct-Entry Midwife Act.

(d) "Licensed maternity care practitioner" includes:

(i) a physician;

(ii) a certified nurse midwife;

(iii) a direct entry midwife;

(iv) a naturopathic physician; and

(v) other individuals who are licensed under Title 58, Occupations and Professions and whose scope of practice includes midwifery or obstetric care.

(e) "Naturopathic physician" means an individual who is licensed under Title 58, Chapter 71, Naturopathic Physician Practice Act.

(f) "Physician" means an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(2) The ~~[Health Facility Committee]~~ committee and the department may not require a birthing center or a licensed maternity care practitioner who practices at a birthing center to:

(a) maintain admitting privileges at a general acute hospital;

(b) maintain a written transfer agreement with one or more general acute hospitals;

(c) maintain a collaborative practice agreement with a physician; or

(d) have a physician or certified nurse midwife present at each birth when another licensed maternity care practitioner is present at the birth and remains until the maternal patient and newborn are stable postpartum.

(3) The ~~[Health Facility Committee]~~ committee and the department shall:

(a) permit all types of licensed maternity care practitioners to practice in a birthing center; and

(b) except as provided in Subsection (2)(b), require a birthing center to have a written plan for the transfer of a patient to a hospital in accordance with Subsection (4).

(4) A transfer plan under Subsection (3)(b) shall:

(a) be signed by the patient; and

(b) indicate that the plan is not an agreement with a hospital.

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(5) If a birthing center transfers a patient to a licensed maternity care practitioner or facility, the responsibility of the licensed maternity care practitioner or facility, for the patient:

(a) does not begin until the patient is physically within the care of the licensed maternity care practitioner or facility;

(b) is limited to the examination and care provided after the patient is transferred to the licensed maternity care practitioner or facility; and

(c) does not include responsibility or accountability for the patient's decision to pursue an out-of-hospital birth and the services of a birthing center.

(6) (a) Except as provided in Subsection (6)(c), a licensed maternity care practitioner who is not practicing at a birthing center may, upon receiving a briefing from a member of a birthing center's clinical staff, issue a medical order for the birthing center's patient without assuming liability for the care of the patient for whom the order was issued.

(b) Regardless of the advice given or order issued under Subsection (6)(a), the responsibility and liability for caring for the patient is that of the birthing center and the birthing center's clinical staff.

(c) The licensed maternity care practitioner giving the order under Subsection (6)(a) is responsible and liable only for the appropriateness of the order, based on the briefing received under Subsection (6)(a).

(7) (a) A birthing center that is not freestanding may be licensed as an alongside midwifery unit if the birthing center:

(i) is accredited by the Commission on Accreditation of Birth Centers;

(ii) is connected to a hospital facility, either through a bridge, ramp, or adjacent to the labor and delivery unit within the hospital with care provided with the midwifery model of care, where maternal patients are received and care provided during labor, delivery, and immediately after delivery; and

(iii) is supervised by a clinical director who is licensed as a physician as defined in Section 58-67-102 or a certified nurse midwife under Title 58, Chapter 44a, Nurse Midwife Practice Act.

(b) An alongside midwifery unit shall have a transfer agreement in place with the adjoining hospital:

(i) to transfer a patient to the adjacent hospital's labor and delivery unit if a higher level

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of care is needed; and

(ii) for services that are provided by the adjacent hospital's staff in collaboration with the alongside midwifery unit staff.

(c) An alongside midwifery unit may:

(i) contract with staff from the adjoining hospital to assist with newborn care or resuscitation of a patient in an emergency; and

(ii) integrate the alongside midwifery unit's medical records with the medical record system utilized by the adjoining hospital.

(d) Notwithstanding Title 58, Chapter 77, Direct-Entry Midwife Act, licensure as a direct-entry midwife under Section 58-77-301 is not sufficient to practice as a licensed maternity care practitioner in an alongside midwifery unit.

(8) The department shall hold a public hearing under Subsection 63G-3-302(2)(a) for a proposed administrative rule, and amendment to a rule, or repeal of a rule, that relates to birthing centers.

Section ~~{155}~~157. Section **26B-2-229**, which is renumbered from Section 26-21-30 is renumbered and amended to read:

~~[26-21-30].~~ 26B-2-229. Disposal of controlled substances at nursing care facilities.

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) (i) "Irretrievable" means a state in which the physical or chemical condition of a controlled substance is permanently altered through irreversible means so that the controlled substance is unavailable and unusable for all practical purposes.

(ii) A controlled substance is irretrievable if the controlled substance is non-retrievable as that term is defined in 21 C.F.R. Sec. 1300.05.

(2) A nursing care facility that is in lawful possession of a controlled substance in the nursing care facility's inventory that desires to dispose of the controlled substance shall dispose of the controlled substance in a manner that:

(a) renders the controlled substance irretrievable; and

(b) complies with all applicable federal and state requirements for the disposal of a controlled substance.

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(3) A nursing care facility shall:

(a) develop a written plan for the disposal of a controlled substance in accordance with this section; and

(b) make the plan described in Subsection (3)(a) available to the department and the committee for inspection.

Section ~~{156}~~158. Section **26B-2-230**, which is renumbered from Section 26-21-31 is renumbered and amended to read:

~~[26-21-31]. 26B-2-230. Prohibition on certain age-based physician testing.~~

A health care facility may not require for purposes of employment, privileges, or reimbursement, that a physician, as defined in Section 58-67-102, take a cognitive test when the physician reaches a specified age, unless the test reflects the standards described in Subsections 58-67-302(5)(b)(i) through (x).

Section ~~{157}~~159. Section **26B-2-231**, which is renumbered from Section 26-21-32 is renumbered and amended to read:

~~[26-21-32]. 26B-2-231. Notification of air ambulance policies and charges.~~

(1) For any patient who is in need of air medical transport provider services, a health care facility shall:

(a) provide the patient or the patient's representative with the information described in Subsection ~~[26-8a-107]~~ 26B-1-405~~{}~~(7)(a) before contacting an air medical transport provider; and

(b) if multiple air medical transport providers are capable of providing the patient with services, provide the patient or the patient's representative with an opportunity to choose the air medical transport provider.

(2) Subsection (1) does not apply if the patient:

(a) is unconscious and the patient's representative is not physically present with the patient; or

(b) is unable, due to a medical condition, to make an informed decision about the choice of an air medical transport provider, and the patient's representative is not physically present with the patient.

Section ~~{158}~~160. Section **26B-2-232**, which is renumbered from Section 26-21-33 is renumbered and amended to read:

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[~~26-21-33~~]. 26B-2-232. Treatment of aborted remains.

(1) As used in this section, "aborted fetus" means a product of human conception, regardless of gestational age, that has died from an abortion as that term is defined in Section 76-7-301.

(2) (a) A health care facility having possession of an aborted fetus shall provide for the final disposition of the aborted fetus through:

- (i) cremation as that term is defined in Section 58-9-102; or
- (ii) interment.

(b) A health care facility may not conduct the final disposition of an aborted fetus less than 72 hours after an abortion is performed unless:

- (i) the pregnant woman authorizes the health care facility, in writing, to conduct the final disposition of the aborted fetus less than 72 hours after the abortion is performed; or
- (ii) immediate disposition is required under state or federal law.

(c) A health care facility may serve as an authorizing agent as defined in Section 58-9-102 with respect to the final disposition of an aborted fetus if:

(i) the pregnant woman provides written authorization for the health care facility to act as the authorizing agent; or

(ii) (A) more than 72 hours have passed since the abortion was performed; and

(B) the pregnant woman did not exercise her right to control the final disposition of the aborted fetus under Subsection (4)(a).

(d) Within 120 business days after the day on which an abortion is performed, a health care facility possessing an aborted fetus shall:

- (i) conduct the final disposition of the aborted fetus in accordance with this section; or
- (ii) ensure that the aborted fetus is preserved until final disposition.

(e) A health care facility shall conduct the final disposition under this section in accordance with applicable state and federal law.

(3) Before performing an abortion, a health care facility shall:

(a) provide the pregnant woman with the information described in Subsection 76-7-305.5(2)(w) through:

- (i) a form approved by the department;
- (ii) an in-person consultation with a physician; or

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(iii) an in-person consultation with a mental health therapist as defined in Section 58-60-102; and

(b) if the pregnant woman makes a decision under Subsection (4)(b), document the pregnant woman's decision under Subsection (4)(b) in the pregnant woman's medical record.

(4) A pregnant woman who has an abortion:

(a) except as provided in Subsection (6), has the right to control the final disposition of the aborted fetus;

(b) if the pregnant woman has a preference for disposition of the aborted fetus, shall inform the health care facility of the pregnant woman's decision for final disposition of the aborted fetus;

(c) is responsible for the costs related to the final disposition of the aborted fetus at the chosen location if the pregnant woman chooses a method or location for the final disposition of the aborted fetus that is different from the method or location that is usual and customary for the health care facility; and

(d) for a medication-induced abortion, shall be permitted to return the aborted fetus to the health care facility in a sealed container for disposition by the health care facility in accordance with this section.

(5) The form described in Subsection (3)(a)(i) shall include the following information:

"You have the right to decide what you would like to do with the aborted fetus. You may decide for the provider to be responsible for disposition of the fetus. If you are having a medication-induced abortion, you also have the right to bring the aborted fetus back to this provider for disposition after the fetus is expelled. The provider may dispose of the aborted fetus by burial or cremation. You can ask the provider if you want to know the specific method for disposition."

(6) If the pregnant woman is a minor, the health care facility shall obtain parental consent for the disposition of the aborted fetus unless the minor is granted a court order under Subsection ~~[76-7-304]~~ 76-7-304.5(1)(b).

(7) (a) A health care facility may not include fetal remains with other biological, infectious, or pathological waste.

(b) Fetal tissue that is sent for permanently fixed pathology or used for genetic study is not subject to the requirements of this section.

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(c) (i) A health care facility is responsible for maintaining a record to demonstrate to the department that the health care facility has complied with the provisions of this section.

(ii) The records described in Subsection (7)(c)(i) shall be:

(A) maintained for at least two years; and

(B) made available to the department for inspection upon request by the department.

Section ~~{159}~~161. Section **26B-2-233**, which is renumbered from Section 26-21-34 is renumbered and amended to read:

~~[26-21-34].~~ 26B-2-233. Treatment of miscarried remains.

(1) As used in this section, "miscarried fetus" means a product of human conception, regardless of gestational age, that has died from a spontaneous or accidental death before expulsion or extraction from the mother, regardless of the duration of the pregnancy.

(2) (a) A health care facility having possession of a miscarried fetus shall provide for the final disposition of the miscarried fetus through:

(i) cremation as that term is defined in Section 58-9-102; or

(ii) interment.

(b) A health care facility may not conduct the final disposition of a miscarried fetus less than 72 hours after a woman has her miscarried fetus expelled or extracted in the health care facility unless:

(i) the parent authorizes the health care facility, in writing, to conduct the final disposition of the miscarried fetus less than 72 hours after the miscarriage occurs; or

(ii) immediate disposition is required under state or federal law.

(c) A health care facility may serve as an authorizing agent as defined in Section 58-9-102 with respect to the final disposition of a miscarried fetus if:

(i) the parent provides written authorization for the health care facility to act as the authorizing agent; or

(ii) (A) more than 72 hours have passed since the miscarriage occurs; and

(B) the parent did not exercise their right to control the final disposition of the miscarried fetus under Subsection (4)(a).

(d) Within 120 business days after the day on which a miscarriage occurs, a health care facility possessing miscarried remains shall:

(i) conduct the final disposition of the miscarried remains in accordance with this

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section; or

(ii) ensure that the miscarried remains are preserved until final disposition.

(e) A health care facility shall conduct the final disposition under this section in accordance with applicable state and federal law.

(3) (a) No more than 24 hours after a woman has her miscarried fetus expelled or extracted in a health care facility, the health care facility shall provide information to the parent or parents of the miscarried fetus regarding:

(i) the parents' right to determine the final disposition of the miscarried fetus;

(ii) the available options for disposition of the miscarried fetus; and

(iii) counseling that may be available concerning the death of the miscarried fetus.

(b) A health care facility shall:

(i) provide the information described in Subsection (3)(a) through:

(A) a form approved by the department;

(B) an in-person consultation with a physician; or

(C) an in-person consultation with a mental health therapist as defined in Section 58-60-102; and

(ii) if the parent or parents make a decision under Subsection (4)(b), document the parent's decision under Subsection (4)(b) in the parent's medical record.

(4) The parents of a miscarried fetus:

(a) have the right to control the final disposition of the miscarried fetus;

(b) if the parents have a preference for disposition of the miscarried fetus, shall inform the health care facility of the parents' decision for final disposition of the miscarried fetus; and

(c) are responsible for the costs related to the final disposition of the miscarried fetus at the chosen location if the parents choose a method or location for the final disposition of the miscarried fetus that is different from the method or location that is usual and customary for the health care facility.

(5) The form described in Subsection (3)(b)(i) shall include the following information:

"You have the right to decide what you would like to do with the miscarried fetus. You may decide for the provider to be responsible for disposition of the fetus. The provider may dispose of the miscarried fetus by burial or cremation. You can ask the provider if you want to know the specific method for disposition."

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(6) (a) A health care facility may not include a miscarried fetus with other biological, infectious, or pathological waste.

(b) Fetal tissue that is sent for permanently fixed pathology or used for genetic study is not subject to the requirements of this section.

(c) (i) A health care facility is responsible for maintaining a record to demonstrate to the department that the health care facility has complied with the provisions of this section.

(ii) The records described in Subsection (6)(c)(i) shall be:

(A) maintained for at least two years; and

(B) made available to the department for inspection upon request by the department.

Section ~~160~~162. Section **26B-2-234**, which is renumbered from Section 26-21-35 is renumbered and amended to read:

~~[26-21-35].~~ 26B-2-234. Resident consumer protection.

(1) As used in this section:

(a) "Eligible requester" means:

(i) a resident;

(ii) a prospective resident;

(iii) a legal representative of a resident or prospective resident; or

(iv) the department.

(b) "Facility" means an assisted living facility or nursing care facility.

(c) "Facility's leadership" means a facility's:

(i) owner;

(ii) administrator;

(iii) director; or

(iv) employee that is in a position to determine which providers have access to the facility.

(d) "Personal care agency" means a person that provides assistance with activities of daily living.

(e) "Provider" means a home health agency, hospice provider, medical provider, or personal care agency.

(f) "Resident" means an individual who resides in a facility.

(2) Subject to other state or federal laws, a facility may limit which providers have

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access to the facility if the facility complies with Subsection (3).

(3) (a) A facility that prohibits a provider from accessing the facility shall:

(i) before or at the time a prospective resident or prospective resident's legal representative signs an admission contract, inform the prospective resident or prospective resident's legal representative that the facility prohibits one or more providers from accessing the facility;

(ii) if an eligible requester requests to know which providers have access to the facility, refer the eligible requester to a member of the facility's leadership; and

(iii) if a provider requests to know whether the provider has access to the facility, refer the provider to a member of the facility's leadership.

(b) If a facility refers an eligible requester to a member of the facility's leadership under Subsection (3)(a)(ii), the member of the facility's leadership shall inform the eligible requester:

(i) which providers the facility:

(A) allows to access the facility; or

(B) prohibits from accessing the facility;

(ii) that a provider's access to the facility may change at any time; and

(iii) whether a person in the facility's leadership has a legal or financial interest in a provider that is allowed to access the facility.

(c) If a facility refers a provider to a member of the facility's leadership under Subsection (3)(a)(iii), the member of the facility's leadership:

(i) shall disclose whether the provider has access to the facility; and

(ii) may disclose any other information described in Subsection (3)(b).

(d) If a resident is being served by a provider that is later prohibited from accessing the facility, the facility shall:

(i) allow the provider access to the facility to finish the resident's current episode of care; or

(ii) provide to the resident a written explanation of why the provider no longer has access to the facility.

(4) This section does not apply to a facility operated by a government unit.

(5) The department may issue a notice of deficiency if a facility that denies a provider access under Subsection (2) does not comply with Subsection (3) at the time of the denial.

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Section ~~{161}~~163. Section 26B-2-235, which is renumbered from Section 26-21c-103 is renumbered and amended to read:

~~[26-21c-103].~~ **26B-2-235. Sepsis protocols for general acute hospitals -- Presenting protocols upon inspection.**

(1) As used in this section, "sepsis" means a life-threatening complication of an infection.

~~[(1)]~~ (2) ~~[Hospitals]~~ A general acute hospital may develop protocols for the treatment of sepsis and septic shock that are consistent with current evidence-based guidelines for the treatment of severe sepsis and septic shock.

~~[(2)]~~ (3) When developing the protocols described in Subsection ~~[(1)]~~ (2), a general acute hospital shall consider:

- (a) a process for screening and recognizing patients with sepsis;
- (b) a process to screen out individuals for whom the protocols would not be appropriate for treating sepsis;
- (c) timeline goals for treating sepsis;
- (d) different possible methods for treating sepsis and reasons to use each method;
- (e) specific protocols to treat children who present with symptoms of sepsis or septic shock; and
- (f) training requirements for staff.

~~[(3)]~~ (4) A general acute hospital may update the general acute hospital's sepsis protocols as new data on the treatment of sepsis and septic shock becomes available.

(5) The department, or an entity assigned by the department to inspect a general acute hospital, may request a copy of the sepsis protocols described in this section when inspecting a general acute hospital.

Section ~~{162}~~164. Section 26B-2-236, which is renumbered from Section 26-21-303 is renumbered and amended to read:

~~[26-21-303].~~ **26B-2-236. Monitoring device -- Installation, notice, and consent -- Admission and discharge -- Liability.**

(1) As used in this section:

(a) "Legal representative" means an individual who is legally authorized to make health care decisions on behalf of another individual.

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(b) (i) "Monitoring device" means:

(A) a video surveillance camera; or

(B) a microphone or other device that captures audio.

(ii) "Monitoring device" does not include:

(A) a device that is specifically intended to intercept wire, electronic, or oral communication without notice to or the consent of a party to the communication; or

(B) a device that is connected to the Internet or that is set up to transmit data via an electronic communication.

(c) "Resident" means an individual who receives health care from a facility.

(d) "Room" means a resident's private or shared primary living space.

(e) "Roommate" means an individual sharing a room with a resident.

~~[(1)]~~ (2) A resident or the resident's legal representative may operate or install a monitoring device in the resident's room if the resident and the resident's legal representative, if any, unless the resident is incapable of informed consent:

(a) notifies the resident's assisted living facility in writing that the resident or the resident's legal representative, if any:

(i) intends to operate or install a monitoring device in the resident's room; and

(ii) consents to a waiver agreement, if required by ~~[a]~~ and assisted living facility;

(b) obtains written consent from each of the resident's roommates, and their legal representative, if any, that specifically states the hours when each roommate consents to the resident or the resident's legal representative operating the monitoring device; and

(c) assumes all responsibility for any cost related to installing or operating the monitoring device.

~~[(2) A]~~ (3) An assisted living facility shall not be civilly or criminally liable to:

(a) a resident or resident's roommate for the operation of a monitoring device consistent with this part; and

(b) any person other than the resident or resident's roommate for any claims related to the use or operation of a monitoring device consistent with this part, unless the claim is caused by the acts or omissions of an employee or agent of the assisted living facility.

(4) (a) An assisted living facility may not deny an individual admission to the facility for the sole reason that the individual or the individual's legal representative requests to install

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or operate a monitoring device in the individual's room.

(b) An assisted living facility may not discharge a resident for the sole reason that the resident or the resident's legal representative requests to install or operate a monitoring device in the individual's room.

(c) An assisted living facility may require the resident or the resident's legal representative to place a sign near the entrance of the resident's room that states that the room contains a monitoring device.

~~[(3)]~~ (5) Notwithstanding any other provision of this part, an individual may not, under this part, operate a monitoring device in ~~[a]~~ an assisted living facility without a court order:

(a) in secret; or

(b) with an intent to intercept a wire, electronic, or oral communication without notice to or the consent of a party to the communication.

Section ~~163~~ 165. Section **26B-2-237**, which is renumbered from Section 26-21-305 is renumbered and amended to read:

~~[26-21-305].~~ **26B-2-237. Transfer or discharge from an assisted living facility.**

(1) As used in this section:

(a) "Ombudsman" means the same as that term is defined in Section 26B-2-301.

(b) "Resident" means an individual who receives health care from ~~fa~~ an assisted living facility.

(c) "Responsible person" means an individual who:

(i) is designated in writing by a resident to receive communication on behalf of the resident; or

(ii) is legally authorized to make health care decisions on behalf of the resident.

(2) When [a] an assisted living facility initiates the transfer or discharge of a resident, the assisted living facility shall:

~~[(1)]~~ (a) notify the resident and the resident's responsible person, if any, in writing and in a language and a manner that is most likely to be understood by the resident and the resident's responsible person, of:

~~[(a)]~~ (i) the reasons for the transfer or discharge;

~~[(b)]~~ (ii) the effective date of the transfer or discharge;

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~~[(c)]~~ (iii) the location to which the resident will be transferred or discharged, if known;
and

~~[(d)]~~ (iv) the name, address, email, and telephone number of the ombudsman;

~~[(2)]~~ (b) send a copy, in English, of the notice described in Subsection ~~[(1)(a)]~~ (2)(a) to the ombudsman on the same day on which the assisted living facility delivers the notice described in Subsection ~~[(1)(a)]~~ (2)(a) to the resident and the resident's responsible person;

~~[(3)]~~ (c) provide the notice described in Subsection ~~[(1)(a)]~~ (2)(a) at least 30 days before the day on which the resident is transferred or discharged, unless:

~~[(a)]~~ (i) notice for a shorter period of time is necessary to protect:

~~[(i)]~~ (A) the safety of individuals in the assisted living facility from endangerment due to the medical or behavioral status of the resident; or

~~[(ii)]~~ (B) the health of individuals in the assisted living facility from endangerment due to the resident's continued residency;

~~[(b)]~~ (ii) an immediate transfer or discharge is required by the resident's urgent medical needs; or

~~[(c)]~~ (iii) the resident has not resided in the assisted living facility for at least 30 days;

~~[(4)]~~ (d) update the transfer or discharge notice as soon as practicable before the transfer or discharge if information in the notice changes before the transfer or discharge;

~~[(5)]~~ (e) orally explain to the resident:

~~[(a)]~~ (i) the services available through the ombudsman; and

~~[(b)]~~ (ii) the contact information for the ombudsman; and

~~[(6)]~~ (f) provide and document the provision of preparation and orientation for the resident, in a language and manner the resident is most likely to understand, ~~[for a resident]~~ to ensure a safe and orderly transfer or discharge from the assisted living facility~~[-and]~~.

~~[(7) in]~~ (3) In the event of ~~[a]~~ an assisted living facility closure, the assisted living facility shall provide written notification of the closure to the ombudsman, each resident of the facility, and each resident's responsible person.

Section ~~{164}~~ 166. Section **26B-2-238**, which is renumbered from Section 26-21-201 is renumbered and amended to read:

~~[26-21-201].~~ **26B-2-238. Definitions for Sections 26B-2-238 through 26B-2-241.**

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As used in this ~~[part]~~ section and Sections 26B-2-239, 26B-2-240, and 26B-2-241:

- (1) "Clearance" means approval by the department under Section ~~[26-21-203]~~ 26B-2-239 for an individual to have direct patient access.
 - (2) "Covered body" means a covered provider, covered contractor, or covered employer.
 - (3) "Covered contractor" means a person that supplies covered individuals, by contract, to a covered employer or covered provider.
 - (4) "Covered employer" means an individual who:
 - (a) engages a covered individual to provide services in a private residence to:
 - (i) an aged individual, as defined by department rule; or
 - (ii) a disabled individual, as defined by department rule;
 - (b) is not a covered provider; and
 - (c) is not a licensed health care facility within the state.
 - (5) "Covered individual":
 - (a) means an individual:
 - (i) whom a covered body engages; and
 - (ii) who may have direct patient access;
 - (b) includes:
 - (i) a nursing assistant, as defined by department rule;
 - (ii) a personal care aide, as defined by department rule;
 - (iii) an individual licensed to engage in the practice of nursing under Title 58, Chapter 31b, Nurse Practice Act;
 - (iv) a provider of medical, therapeutic, or social services, including a provider of laboratory and radiology services;
 - (v) an executive;
 - (vi) administrative staff, including a manager or other administrator;
 - (vii) dietary and food service staff;
 - (viii) housekeeping and maintenance staff; and
 - (ix) any other individual, as defined by department rule, who has direct patient access;
- and
- (c) does not include a student, as defined by department rule, directly supervised by a

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member of the staff of the covered body or the student's instructor.

(6) "Covered provider" means:

- (a) an end stage renal disease facility;
- (b) a long-term care hospital;
- (c) a nursing care facility;
- (d) a small health care facility;
- (e) an assisted living facility;
- (f) a hospice;
- (g) a home health agency; or
- (h) a personal care agency.

(7) "Direct patient access" means for an individual to be in a position where the individual could, in relation to a patient or resident of the covered body who engages the individual:

- (a) cause physical or mental harm;
 - (b) commit theft; or
 - (c) view medical or financial records.
- (8) "Engage" means to obtain one's services:

- (a) by employment;
- (b) by contract;
- (c) as a volunteer; or
- (d) by other arrangement.

(9) "Long-term care hospital":

(a) means a hospital that is certified to provide long-term care services under the provisions of 42 U.S.C. Sec. 1395tt; and

(b) does not include a critical access hospital, designated under 42 U.S.C. Sec. 1395i-4(c)(2).

(10) "Patient" means an individual who receives health care services from one of the following covered providers:

- (a) an end stage renal disease facility;
- (b) a long-term care hospital;
- (c) a hospice;

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(d) a home health agency; or

(e) a personal care agency.

(11) "Personal care agency" means a health care facility defined by department rule.

(12) "Resident" means an individual who receives health care services from one of the following covered providers:

(a) a nursing care facility;

(b) a small health care facility;

(c) an assisted living facility; or

(d) a hospice that provides living quarters as part of its services.

(13) "Residential setting" means a place provided by a covered provider:

(a) for residents to live as part of the services provided by the covered provider; and

(b) where an individual who is not a resident also lives.

(14) "Volunteer" means an individual, as defined by department rule, who provides services without pay or other compensation.

Section ~~165~~167. Section **26B-2-239**, which is renumbered from Section 26-21-202 is renumbered and amended to read:

~~[26-21-202]~~. **26B-2-239. Clearance required -- Application by covered providers, covered contractors, and individuals.**

(1) The definitions in Section 26B-2-238 apply to this section.

~~[(1)]~~ (2)(a) A covered provider may engage a covered individual only if the individual has clearance.

~~[(2)]~~ (b) A covered contractor may supply a covered individual to a covered employer or covered provider only if the individual has clearance.

~~[(3)]~~ (c) A covered employer may engage a covered individual who does not have clearance.

~~[(4)]~~ (3) (a) Notwithstanding Subsections ~~[(1) and (2)]~~ (2)(a) and (b), if a covered individual does not have clearance, a covered provider may engage the individual or a covered contractor may supply the individual to a covered provider or covered employer:

(i) under circumstances specified by department rule; and

(ii) only while an application for clearance for the individual is pending.

(b) For purposes of Subsection ~~[(4)(a)]~~ (3)(a), an application is pending if the

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following have been submitted to the department for the individual:

- (i) an application for clearance;
- (ii) the personal identification information specified by the department under Subsection ~~[26-21-204(4)(b)]~~ 26B-2-240(4)(b); and
- (iii) any fees established by the department under Subsection ~~[26-21-204(9)]~~ 26B-2-240(9).

(4) (a) As provided in Subsection (4)(b), each covered provider and covered contractor operating in this state shall:

(i) collect from each covered individual ~~[it]~~ the contractor engages, and each individual ~~fit~~ the contractor intends to engage as a covered individual, the personal identification information specified by the department under Subsection 26B-2-240(4)(b); and

(ii) submit to the department an application for clearance for the individual, including:

(A) the personal identification information; and

(B) any fees established by the department under Subsection 26B-2-240(9).

(b) Clearance granted for an individual pursuant to an application submitted by a covered provider or a covered contractor is valid until the later of:

(i) two years after the individual is no longer engaged as a covered individual; or

(ii) the covered provider's or covered contractor's next license renewal date.

(5) (a) A covered provider that provides services in a residential setting shall:

(i) collect the personal identification information specified by the department under Subsection 26B-2-240(4)(b) for each individual 12 years ~~of age~~ old or older, other than a resident, who resides in the residential setting; and

(ii) submit to the department an application for clearance for the individual, including:

(A) the personal identification information; and

(B) any fees established by the department under Subsection 26B-2-240(9).

(b) A covered provider that provides services in a residential setting may allow an individual 12 years ~~of age~~ old or older, other than a resident, to reside in the residential setting only if the individual has clearance.

(6) (a) An individual may apply for clearance by submitting to the department an application, including:

(i) the personal identification information specified by the department under

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Subsection 26B-2-240(4)(b); and

(ii) any fees established by the department under Subsection 26B-2-240(9).

(b) Clearance granted to an individual who makes application under Subsection (6)(a) is valid for two years unless the department determines otherwise based on the department's ongoing review under Subsection 26B-2-240(4)(a).

Section ~~{166}~~ 168. Section **26B-2-240**, which is renumbered from Section 26-21-204 is renumbered and amended to read:

~~[26-21-204].~~ 26B-2-240. Department authorized to grant, deny, or revoke clearance -- Department may limit direct patient access -- Clearance.

(1) The definitions in Section 26B-2-238 apply to this section.

(2) (a) As provided in this section, the department may grant, deny, or revoke clearance for an individual, including a covered individual.

(b) The department may limit the circumstances under which a covered individual granted clearance may have direct patient access, based on the relationship ~~{the}~~ factors under Subsection (4) and other mitigating factors ~~{may have}~~ related to patient and resident protection.

~~[(1)]~~ (c) The department shall determine whether to grant clearance for each applicant for whom it receives:

~~[(a)]~~ (i) the personal identification information specified by the department under Subsection (4)(b); and

~~[(b)]~~ (ii) any fees established by the department under Subsection (9).

~~[(2)]~~ (d) The department shall establish a procedure for obtaining and evaluating relevant information concerning covered individuals, including fingerprinting the applicant and submitting the prints to the Criminal Investigations and Technical Services Division of the Department of Public Safety for checking against applicable state, regional, and national criminal records files.

(3) The department may review the following sources to determine whether an individual should be granted or retain clearance, which may include:

(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;

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(b) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6-209;

(c) federal criminal background databases available to the state;

(d) the [~~Department of Human Services~~] Division of Child and Family Services Licensing Information System described in Section 80-2-1002;

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

(f) the [~~Department of Human Services~~] Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section [~~62A-3-311.1~~]
26B-6-210;

(g) registries of nurse aids described in 42 C.F.R. Sec. 483.156;

(h) licensing and certification records of individuals licensed or certified by the Division of Professional Licensing under Title 58, Occupations and Professions; and

(i) the List of Excluded Individuals and Entities database maintained by the United States Department of Health and Human Services' Office of Inspector General.

(4) The department shall adopt rules that:

(a) specify the criteria the department will use to determine whether an individual is granted or retains clearance:

(i) based on an initial evaluation and ongoing review of information under Subsection (3); and

(ii) including consideration of the relationship the following may have to patient and resident protection:

(A) warrants for arrest;

(B) arrests;

(C) convictions, including pleas in abeyance;

(D) pending diversion agreements;

(E) adjudications by a juvenile court under Section 80-6-701 if the individual is over 28 years old and has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, or the individual is under 28 years old; and

(F) any other findings under Subsection (3); and

(b) specify the personal identification information that must be submitted by an

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individual or covered body with an application for clearance, including:

- (i) the applicant's Social Security number; and
- (ii) fingerprints.

(5) For purposes of Subsection (4)(a), 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.

(6) The Department of Public Safety, the Administrative Office of the Courts, [~~the Department of Human Services,~~] the Division of Professional Licensing, and any other state agency or political subdivision of the state:

(a) shall allow the department to review the information the department may review under Subsection (3); and

(b) except for the Department of Public Safety, may not charge the department for access to the information.

(7) The department shall adopt measures to protect the security of the information it reviews under Subsection (3) and strictly limit access to the information to department employees responsible for processing an application for clearance.

(8) The department may disclose personal identification information specified under Subsection (4)(b) to [~~the Department of Human Services~~] other divisions and offices within the department to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (3)(d) through (f).

(9) The department may establish fees, in accordance with Section 63J-1-504, for an application for clearance, which may include:

- (a) the cost of obtaining and reviewing information under Subsection (3);
- (b) a portion of the cost of creating and maintaining the Direct Access Clearance

System database under Section [~~26-21-209~~] 26B-2-241; and

(c) other department costs related to the processing of the application and the ongoing review of information pursuant to Subsection (4)(a) to determine whether clearance should be retained.

Section ~~{167}~~ 169. Section **26B-2-241**, which is renumbered from Section 26-21-209 is renumbered and amended to read:

[~~26-21-209~~]. 26B-2-241. ~~{ 26-21-209. Direct}~~ Direct Access Clearance

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System database -- Contents and use -- Department of Public Safety retention of information and notification -- No civil liability for providing information.

(1) The definitions in Section 26B-2-238 apply to this section.

~~[(1)]~~ (2) The department shall create and maintain a Direct Access Clearance System database, which:

(a) includes the names of individuals for whom the department has received:

(i) an application for clearance under this part; or

(ii) an application for background clearance under Section ~~[26-8a-310]~~ 26B-4-124; and

(b) indicates whether an application is pending and whether clearance has been granted and retained for:

(i) an applicant under this part; and

(ii) an applicant for background clearance under Section ~~[26-8a-310]~~ 26B-4-124.

~~[(2)]~~ (3) (a) The department shall allow covered providers and covered contractors to access the database electronically.

(b) Data accessible to a covered provider or covered contractor is limited to the information under Subsections ~~[(1)(a)(i) and (1)(b)(i)]~~ (2)(a)(i) and (2)(b)(i) for:

(i) covered individuals engaged by the covered provider or covered contractor; and

(ii) individuals:

(A) whom the covered provider or covered contractor could engage as covered individuals; and

(B) who have provided the covered provider or covered contractor with sufficient personal identification information to uniquely identify the individual in the database.

(c) (i) The department may establish fees, in accordance with Section 63J-1-504, for use of the database by a covered contractor.

(ii) The fees may include, in addition to any fees established by the department under Subsection ~~[26-21-204]~~ 26B-2-240(9), an initial set-up fee, an ongoing access fee, and a per-use fee.

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

(a) retain, separate from other division records, personal information, including any fingerprints, sent to ~~fit~~ the division by the department pursuant to Subsection 26B-2-240(3)(a);

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and

(b) notify the 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.

(5) A covered body is not civilly liable for submitting to the department information required under this section, Section 26B-2-239, or Section 26B-2-240, or refusing to employ an individual who does not have clearance to have direct patient access under Section 26B-2-240.

Section ~~{168}~~170. Section **26B-2-301**, which is renumbered from Section 62A-3-202 is renumbered and amended to read:

Part 3. Long Term Care Ombudsman

~~[62A-3-202].~~ 26B-2-301. Definitions.

As used in this part:

(1) "Assisted living facility" means the same as that term is defined in Section ~~[26-21-2]~~ 26B-2-201.

(2) "Auxiliary aids and services" means items, equipment, or services that assist in effective communication between an individual who has a mental, hearing, vision, or speech disability and another individual.

(3) "Division" means the Division of ~~{Services for People with Disabilities}~~ Customer Experience.

~~[(3)]~~ (4) "Government agency" means any department, division, office, bureau, board, commission, authority, or any other agency or instrumentality created by the state, or to which the state is a party, or created by any county or municipality, which is responsible for the regulation, visitation, inspection, or supervision of facilities, or which provides services to patients, residents, or clients of facilities.

~~[(4)]~~ (5) "Intermediate care facility" means the same as that term is defined in Section 58-15-101.

~~[(5)]~~ (6) (a) "Long-term care facility" means:

(i) a skilled nursing facility;

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- (ii) except as provided in Subsection ~~[(5)]~~ (6)(b), an intermediate care facility;
- (iii) a nursing home;
- (iv) a small health care facility;
- (v) a small health care facility type N; or
- (vi) an assisted living facility.

(b) "Long-term care facility" does not mean an intermediate care facility for people with an intellectual disability, as defined in Section 58-15-101.

~~[(6)]~~ (7) "Ombudsman" means the administrator of the long-term care ombudsman program, created pursuant to Section ~~[62A-3-203]~~ 26B-2-303.

~~[(7)]~~ (8) "Ombudsman program" means the Long-Term Care Ombudsman Program.

~~[(8)]~~ (9) "Resident" means an individual who resides in a long-term care facility.

~~[(9)]~~ (10) "Skilled nursing facility" means the same as that term is defined in Section 58-15-101.

~~[(10)]~~ (11) "Small health care facility" means the same as that term is defined in Section ~~[26-21-2]~~ 26B-2-201.

~~[(11)]~~ (12) "Small health care facility type N" means a residence in which a licensed nurse resides and provides protected living arrangements, nursing care, and other services on a daily basis for two to three individuals who are also residing in the residence and are unrelated to the licensee.

Section ~~1169~~ 171. Section **26B-2-302**, which is renumbered from Section 62A-3-201 is renumbered and amended to read:

~~[62A-3-201]~~. **26B-2-302. Legislative findings -- Purpose -- Ombudsman.**

(1) The Legislature finds and declares that the citizens of this state should be assisted in asserting their civil and human rights as patients, residents, and clients of long-term care facilities created to serve their specialized needs and problems; and that for the health, safety, and welfare of these citizens, the state should take appropriate action through an adequate legal framework to address their difficulties.

(2) The purpose of this part is to establish within the division the Long-Term Care Ombudsman Program for the citizens of this state and identify duties and responsibilities of that program and of the ombudsman, in order to address problems relating to long-term care and to fulfill federal requirements.

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Section ~~{170}~~172. Section **26B-2-303**, which is renumbered from Section 62A-3-203 is renumbered and amended to read:

~~[62A-3-203].~~ 26B-2-303. Long-Term Care Ombudsman Program -- Responsibilities.

(1) (a) There is created within the division the ombudsman program for the purpose of promoting, advocating, and ensuring the adequacy of care received and the quality of life experienced by residents of long-term care facilities within the state.

(b) Subject to the rules made under Section ~~[62A-3-106.5]~~ 26B-6-110, the ombudsman is responsible for:

- (i) receiving and resolving complaints relating to residents of long-term care facilities;
- (ii) conducting investigations of any act, practice, policy, or procedure of a long-term care facility or government agency that the ombudsman has reason to believe affects or may affect the health, safety, welfare, or civil and human rights of a resident of a long-term care facility;
- (iii) coordinating the department's services for residents of long-term care facilities to ensure that those services are made available to eligible citizens of the state; and
- (iv) providing training regarding the delivery and regulation of long-term care to public agencies, local ombudsman program volunteers, and operators and employees of long-term care facilities.

(2) (a) A long-term care facility shall display an ombudsman program information poster in a location that is readily visible to all residents, visitors, and staff members.

(b) The division is responsible for providing the posters, which shall include phone numbers for local ombudsman programs.

Section ~~{171}~~173. Section **26B-2-304**, which is renumbered from Section 62A-3-204 is renumbered and amended to read:

~~[62A-3-204].~~ 26B-2-304. Powers and responsibilities of ombudsman.

The long-term care ombudsman shall:

- (1) comply with Title VII of the federal Older Americans Act, 42 U.S.C. 3058 et seq.;
- (2) establish procedures for and engage in receiving complaints, conducting investigations, reporting findings, issuing findings and recommendations, promoting community contact and involvement with residents of long-term care facilities through the use

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of volunteers, and publicizing its functions and activities;

(3) investigate an administrative act or omission of a long-term care facility or governmental agency if the act or omission relates to the purposes of the ombudsman. The ombudsman may exercise its authority under this subsection without regard to the finality of the administrative act or omission, and it may make findings in order to resolve the subject matter of its investigation;

(4) recommend to the division rules that it considers necessary to carry out the purposes of the ombudsman;

(5) cooperate and coordinate with governmental entities and voluntary assistance organizations in exercising its powers and responsibilities;

(6) request and receive cooperation, assistance, services, and data from any governmental agency, to enable it to properly exercise its powers and responsibilities;

(7) establish local ombudsman programs to assist in carrying out the purposes of this part, which shall meet the standards developed by the division, and possess all of the authority and power granted to the ombudsman program under this part; and

(8) exercise other powers and responsibilities as reasonably required to carry out the purposes of this part.

Section ~~{172}~~174. Section **26B-2-305**, which is renumbered from Section 62A-3-205 is renumbered and amended to read:

~~[62A-3-205].~~ 26B-2-305. Procedures -- Adjudicative proceedings.

The ombudsman shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in the ombudsman's adjudicative proceedings.

Section ~~{173}~~175. Section **26B-2-306**, which is renumbered from Section 62A-3-206 is renumbered and amended to read:

~~[62A-3-206].~~ 26B-2-306. Investigation of complaints -- Procedures.

(1) The ombudsman shall investigate each complaint the ombudsman receives. An investigation may consist of a referral to another public agency, the collecting of facts and information over the telephone, or an inspection of the long-term care facility that is named in the complaint.

(2) In making an investigation, the ombudsman may engage in actions the ombudsman considers appropriate, including:

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- (a) making inquiries and obtaining information;
- (b) holding investigatory hearings;
- (c) entering and inspecting any premises, without notice to the facility, provided the investigator presents, upon entering the premises, identification as an individual authorized by this part to inspect the premises; and
- (d) inspecting or obtaining a book, file, medical record, or other record required by law to be retained by the long-term care facility or governmental agency, pertaining to residents, subject to Subsection (3).

(3) (a) Before reviewing a resident's records, the ombudsman shall seek to obtain from the resident, or the resident's legal representative, permission in writing, orally, or through the use of auxiliary aids and services to review the records.

(b) The effort to obtain permission under Subsection (3)(a) shall include personal contact with the resident or the resident's legal representative. If the resident or the resident's legal representative refuses to give permission, the ombudsman shall record and abide by this decision.

(c) If the ombudsman's attempt to obtain permission fails for a reason other than the refusal of the resident or the resident's legal representative to give permission, the ombudsman may review the records.

(d) If the ombudsman has reasonable cause to believe that the resident is incompetent to give permission and that the resident's legal representative is not acting in the best interest of the resident, the ombudsman shall determine whether review of the resident's records is in the best interest of the resident.

(e) If the ombudsman determines that review of the resident's records is in the best interest of the resident, the ombudsman shall review the records.

Section ~~{174}~~ 176. Section **26B-2-307**, which is renumbered from Section 62A-3-207 is renumbered and amended to read:

~~[62A-3-207].~~ 26B-2-307. Confidentiality of materials relating to complaints or investigations -- Immunity from liability -- Discriminatory, disciplinary, or retaliatory actions prohibited.

(1) The ombudsman shall establish procedures to ensure that all files maintained by the ombudsman program are disclosed only at the discretion of and under the authority of the

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ombudsman. The identity of a complainant or resident of a long-term care facility may not be disclosed by the ombudsman unless:

(a) the complainant or resident, or the legal representative of either, consents in writing, orally, or through the use of auxiliary aids and services to the disclosure;

(b) disclosure is ordered by the court; or

(c) the disclosure is approved by the ombudsman and is made, as part of an investigation involving the resident, to an agency that:

(i) has statutory responsibility for the resident;

(ii) has statutory responsibility over the action alleged in the complaint;

(iii) is able to assist the ombudsman to achieve resolution of the complaint; or

(iv) is able to provide expertise that would benefit the resident.

(2) Neither the ombudsman nor the ombudsman's agent or designee may be required to testify in court with respect to confidential matters, except as the court finds necessary to enforce this part.

(3) Any person who makes a complaint to the ombudsman pursuant to this part is immune from any civil or criminal liability unless the complaint was made maliciously or without good faith.

(4) (a) Discriminatory, disciplinary, or retaliatory action may not be taken against a volunteer or employee of a long-term care facility or governmental agency, or against a resident of a long-term care facility, for any communication made or information given or disclosed to aid the ombudsman or other appropriate public agency in carrying out its duties and responsibilities, unless the same was done maliciously or without good faith.

(b) This subsection does not infringe on the rights of an employer to supervise, discipline, or terminate an employee for any other reason.

Section ~~{175}~~177. Section **26B-2-308**, which is renumbered from Section 62A-3-208 is renumbered and amended to read:

~~[62A-3-208]~~. 26B-2-308. Prohibited acts -- Penalty.

(1) No person may:

(a) give or cause to be given advance notice to a long-term care facility or agency that an investigation or inspection under the direction of the ombudsman is pending or under consideration, except as provided by law;

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(b) disclose confidential information submitted to the ombudsman pursuant to this part, except as provided by law;

(c) willfully interfere with the lawful actions of the ombudsman;

(d) willfully refuse to comply with lawful demands of the ombudsman, including the demand for immediate entry into or inspection of the premises of any long-term care facility or agency or for immediate access to a resident of a long-term care facility; or

(e) offer or accept any compensation, gratuity, or promise thereof in an effort to affect the outcome of a matter being investigated or of a matter that is before the ombudsman for determination of whether an investigation should be conducted.

(2) Violation of any provision of this part constitutes a class B misdemeanor.

Section ~~{176}~~178. Section **26B-2-309**, which is renumbered from Section 62A-3-209 is renumbered and amended to read:

~~[62A-3-209]~~. **26B-2-309**. **Assisted living facility transfers.**

(1) After the ombudsman receives a notice described in Subsection ~~[26-21-305]~~ 26B-2-237(1)(a), the ombudsman shall:

(a) review the notice; and

(b) contact the resident or the resident's responsible person to conduct a voluntary interview.

(2) The voluntary interview described in Subsection (1)(b) shall:

(a) provide the resident with information about the services available through the ombudsman;

(b) confirm the details in the notice described in Subsection ~~[26-21-305]~~

26B-2-237(1)(a), including:

(i) the name of the resident;

(ii) the reason for the transfer or discharge;

(iii) the date of the transfer or discharge; and

(iv) a description of the resident's next living arrangement; and

(c) provide the resident an opportunity to discuss any concerns or complaints the resident may have regarding:

(i) the resident's treatment at the assisted living facility; and

(ii) whether the assisted living facility treated the resident fairly when the assisted

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living facility transferred or discharged the resident.

(3) On or before November 1 of each year, the ombudsman shall provide a report to the Health and Human Services Interim Committee regarding:

- (a) the reasons why assisted living facilities are transferring residents;
- (b) where residents are going upon transfer or discharge; and
- (c) the type and prevalence of complaints that the ombudsman receives regarding assisted living facilities, including complaints about the process or reasons for a transfer or discharge.

Section ~~{177}~~179. Section **26B-2-401**, which is renumbered from Section 26-39-102 is renumbered and amended to read:

Part 4. Child Care Licensing

~~[26-39-102].~~ 26B-2-401. Definitions.

As used in this ~~[chapter]~~ part:

- (1) "Advisory committee" means the Residential Child Care Licensing Advisory Committee created in Section 26B-1-204.
- (2) "Capacity limit" means the maximum number of qualifying children that a regulated provider may care for at any given time, in accordance with rules made by the department.
- (3) (a) "Center based child care" means child care provided in a facility or program that is not the home of the provider.
 - (b) "Center based child care" does not include:
 - (i) residential child care; or
 - (ii) care provided in a facility or program exempt under Section ~~[26-39-403]~~ 26B-2-405.
- (4) "Certified provider" means a person who holds a certificate from the department under Section ~~[26-39-402]~~ 26B-2-404.
- (5) "Child care" means continuous care and supervision of a qualifying child, 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.
- (6) "Child care program" means a child care facility or program operated by a regulated

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provider.

(7) "Exempt provider" means a person who provides care described in Subsection [26-39-403] 26B-2-405(2).

(8) "Licensed provider" means a person who holds a license from the department under Section [26-39-401] 26B-2-403.

(9) "Licensing committee" means the Child Care Center Licensing Committee created in Section 26B-1-204.

(10) "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

(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.

(11) "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 regulated 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.

(12) "Regulated provider" means a licensed provider or certified provider.

(13) "Residential child care" means child care provided in the home of the provider.

Section ~~{178}~~ 180. Section **26B-2-402**, which is renumbered from Section 26-39-301 is renumbered and amended to read:

~~[26-39-301].~~ **26B-2-402. Duties of the department -- Enforcement of part**

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-- Licensing committee requirements.

(1) With regard to residential child care licensed or certified under this [~~chapter~~] part, the department may:

(a) make and enforce rules to implement this [~~chapter~~] part 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~~] part, 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

(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) The department shall make rules that allow a regulated provider to provide after school child care for a reasonable number of qualifying children in excess of the regulated provider's capacity limit, without requiring the regulated provider to obtain a waiver or new license from the department.

(4) Rules made under this [~~chapter~~] part 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.

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(5) (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.

(6) 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.

(7) Notwithstanding the definition of "qualifying child" in Section [~~26-39-102~~] 26B-2-401, 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.

(8) 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.

(9) (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 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 (9)(a) is transferrable to subsequent licensed operators at the center if a licensed child care center is continuously maintained at the center.

(10) 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.

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(11) The department shall set and collect licensing and other fees in accordance with Section 26B-1-209.

Section ~~{179}~~181. Section **26B-2-403**, which is renumbered from Section 26-39-401 is renumbered and amended to read:

~~[26-39-401]~~. **26B-2-403. Licensure requirements -- Expiration -- Renewal.**

(1) Except as provided in Section ~~[26-39-403]~~ 26B-2-405, and subject to Subsection (2), a person shall obtain a license from the department if:

- (a) the person provides center based child care for five or more qualifying children;
- (b) the person provides residential child care for nine or more qualifying children; or
- (c) the person:
 - (i) provides child care;
 - (ii) is not required to obtain a license under Subsection (1)(a) or (b); and
 - (iii) requests to be licensed.

(2) Notwithstanding Subsection (1), a certified provider may, in accordance with rules made by the department under Subsection ~~[26-39-301]~~ 26B-2-402(3), exceed the certified provider's capacity limit to provide after school child care without obtaining a license from the department.

(3) The department may issue licenses for a period not exceeding 24 months to child care providers who meet the requirements of:

- (a) this ~~[chapter]~~ part; and
 - (b) the department's rules governing child care programs.
- (4) A license issued under this ~~[chapter]~~ part is not assignable or transferable.

Section ~~{180}~~182. Section **26B-2-404**, which is renumbered from Section 26-39-402 is renumbered and amended to read:

~~[26-39-402]~~. **26B-2-404. Residential Child Care Certificate.**

(1) Except as provided in Section ~~[26-39-403]~~ 26B-2-405, a person shall obtain a Residential Child Care Certificate from the department if:

- (a) the person provides residential child care for seven or eight qualifying children; or
- (b) the person:
 - (i) provides residential child care for six or less qualifying children; and
 - (ii) requests to be certified.

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(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 26B-1-209; and

(iii) in accordance with Section [~~26-39-404~~] 26B-2-406, identifying information for each adult person and each juvenile age 12 through 17 years 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 80-2-1002;

(b) an initial and annual inspection of the provider's home within 90 days of sending an intent to inspect notice to:

(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 certified provider in response to a complaint of:

(a) child abuse or neglect;

(b) serious health hazards in or around the provider's home; or

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(c) providing residential child care without the appropriate certificate or license.

(5) With respect to residential child care, the department may only make and enforce rules necessary to implement this section.

Section ~~{181}~~183. Section **26B-2-405**, which is renumbered from Section 26-39-403 is renumbered and amended to read:

~~[26-39-403]~~. **26B-2-405. Exclusions from part -- Criminal background checks by an excluded person.**

(1) (a) Except as provided in Subsection (1)(b), the provisions and requirements of this ~~[chapter]~~ part do not apply to:

(i) a facility or program owned or operated by an agency of the United States government;

(ii) group counseling provided by a mental health therapist, as defined in Section 58-60-102, who is licensed to practice in this state;

(iii) a health care facility licensed ~~[pursuant to Title 26, Chapter 21]~~ under Part 2, Health Care Facility Licensing and Inspection ~~[Act]~~;

(iv) care provided to a qualifying child by or in the home of a parent, legal guardian, grandparent, brother, sister, uncle, or aunt;

(v) care provided to a qualifying child, in the home of the provider, for less than four hours a day or on a sporadic basis, unless that child care directly affects or is related to a business licensed in this state;

(vi) care provided at a residential support program that is licensed by the ~~[Department of Human Services]~~ department;

(vii) center based child care for four or less qualifying children, unless the provider requests to be licensed under Section ~~[26-39-401]~~ 26B-2-403; or

(viii) residential child care for six or less qualifying children, unless the provider requests to be licensed under Section ~~[26-39-401]~~ 26B-2-403 or certified under Section ~~[26-39-402]~~ 26B-2-404.

(b) Notwithstanding Subsection (1)(a), a person who does not hold a license or certificate from the department under this ~~[chapter]~~ part may not, at any given time, provide child care in the person's home for more than 10 children in total under the age of 13, or under the age of 18 if a child has a disability, regardless of whether a child is related to the person

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providing child care.

(2) The licensing and certification requirements of this ~~[chapter]~~ part do not apply to:

(a) care provided to a qualifying child as part of a course of study at or a program administered by an educational institution that is regulated by the boards of education of this state, a private education institution that provides education in lieu of that provided by the public education system, or by a parochial education institution;

(b) care provided to a qualifying child by a public or private institution of higher education, if the care is provided in connection with a course of study or program, relating to the education or study of children, that is provided to students of the institution of higher education;

(c) care provided to a qualifying child at a public school by an organization other than the public school, if:

(i) the care is provided under contract with the public school or on school property; or

(ii) the public school accepts responsibility and oversight for the care provided by the organization;

(d) care provided to a qualifying child as part of a summer camp that operates on federal land pursuant to a federal permit;

(e) care provided by an organization that:

(i) qualifies for tax exempt status under Section 501(c)(3) of the Internal Revenue Code;

(ii) provides care pursuant to a written agreement with:

(A) a municipality, as defined in Section 10-1-104, that provides oversight for the program; or

(B) a county that provides oversight for the program; and

(iii) provides care to a child who is over the age of four and under the age of 13; or

(f) care provided to a qualifying child at a facility where:

(i) the parent or guardian of the qualifying child is at all times physically present in the building where the care is provided and the parent or guardian is near enough to reach the child within five minutes if needed;

(ii) the duration of the care is less than four hours for an individual qualifying child in any one day;

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- (iii) the care is provided on a sporadic basis;
- (iv) the care does not include diapering a qualifying child; and
- (v) the care does not include preparing or serving meals to a qualifying child.
- (3) An exempt provider shall submit to the department:
 - (a) the information required under Subsections ~~[26-39-404]~~ 26B-2-406(1) and (2); and
 - (b) of the children receiving care from the exempt provider:
 - (i) the number of children who are less than two years old;
 - (ii) the number of children who are at least two years old and less than five years old;

and

- (iii) the number of children who are five years old or older.
- (4) An exempt provider shall post, in a conspicuous location near the entrance of the exempt provider's facility, a notice prepared by the department that:
 - (a) states that the facility is exempt from licensure and certification; and
 - (b) provides the department's contact information for submitting a complaint.
- (5) (a) Except as provided in Subsection (5)(b), the department may not release the information the department collects from exempt providers under Subsection (3).
- (b) The department may release an aggregate count of children receiving care from exempt providers, without identifying a specific provider.

Section ~~{182}~~ 184. Section **26B-2-406**, which is renumbered from Section 26-39-404 is renumbered and amended to read:

~~[26-39-404].~~ **26B-2-406. Disqualified individuals -- Criminal history checks -- Payment of costs.**

(1) (a) Each exempt provider, except as provided in Subsection (1)(c), and each person requesting a residential certificate or to be licensed or to renew a license under this ~~[chapter]~~ part shall submit to the department the name and other identifying information, which shall include fingerprints, of existing, new, and proposed:

- (i) owners;
- (ii) directors;
- (iii) members of the governing body;
- (iv) employees;
- (v) providers of care;

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(vi) volunteers, except parents of children enrolled in the programs; and

(vii) all adults residing in a residence where child care is provided.

(b) (i) The Utah Division of Criminal Investigation and Technical Services within the Department of Public Safety shall process the information required under Subsection (1)(a) to determine whether the individual has been convicted of any crime.

(ii) The Utah Division of Criminal Investigation and Technical Services shall submit fingerprints required under Subsection (1)(a) to the FBI for a national criminal history record check.

(iii) A person required to submit information to the department under Subsection (1) shall pay the cost of conducting the record check described in this Subsection (1)(b).

(c) An exempt provider who provides care to a qualifying child as part of a program administered by an educational institution that is regulated by the State Board of Education is not subject to this Subsection (1), unless required by the Child Care and Development Block Grant, 42 U.S.C. Secs. 9857-9858r.

(2) (a) Each person requesting a residential certificate or to be licensed or to renew a license under this [~~chapter~~] part shall submit to the department the name and other identifying information of any person age 12 through 17 who resides in the residence where the child care is provided. The identifying information required for a person age 12 through 17 does not include fingerprints.

(b) The department shall access the juvenile court records to determine whether a person described in Subsection (1) or (2)(a) has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or misdemeanor if:

(i) the person described in Subsection (1) is under the age of 28; or

(ii) the person described in Subsection (1) is:

(A) over the age of 28; and

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

(3) Except as provided in Subsections (4) and (5), a licensee under this [~~chapter~~] part or an exempt provider may not permit a person who has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for any felony or misdemeanor, or if the provisions of Subsection (2)(b) apply, who has been adjudicated in

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juvenile court of committing an act which if committed by an adult would be a felony or a misdemeanor, to:

- (a) provide child care;
- (b) provide volunteer services for a child care program or an exempt provider;
- (c) reside at the premises where child care is provided; or
- (d) function as an owner, director, or member of the governing body of a child care

program or an exempt provider.

(4) (a) The department may, by rule, exempt the following from the restrictions of Subsection (3):

- (i) specific misdemeanors; and
- (ii) specific acts adjudicated in juvenile court, which if committed by an adult would be misdemeanors.

(b) In accordance with criteria established by rule, the executive director may consider and exempt individual cases not otherwise exempt under Subsection (4)(a) from the restrictions of Subsection (3).

(5) The restrictions of Subsection (3) do not apply to the following:

- (a) a conviction or plea of no contest to any nonviolent drug offense that occurred on a date 10 years or more before the date of the criminal history check described in this section; or
- (b) if the provisions of Subsection (2)(b) apply, any nonviolent drug offense adjudicated in juvenile court on a date 10 years or more before the date of the criminal history check described in this section.

(6) The department may retain background check information submitted to the department for up to one year after the day on which the covered individual is no longer associated with a Utah child care provider.

Section ~~{183}~~185. Section **26B-2-407**, which is renumbered from Section 26-39-405 is renumbered and amended to read:

~~[26-39-405]~~. **26B-2-407. Drinking water quality in child care centers.**

A child care center, as defined in Section 19-4-115, may comply with Section 19-4-115.

Section ~~{184}~~186. Section **26B-2-408**, which is renumbered from Section 26-39-501 is renumbered and amended to read:

~~[26-39-501]~~. **26B-2-408. Investigations -- Records.**

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~~[(1) The department may conduct investigations necessary to enforce the provisions of this chapter.]~~

~~[(2) For purposes of]~~ (1) As used in this section:

(a) "Anonymous complainant" means a complainant for whom the department does not have the minimum personal identifying information necessary, including the complainant's full name, to attempt to communicate with the complainant after a complaint has been made.

(b) "Confidential complainant" means a complainant for whom the department has the minimum personal identifying information necessary, including the complainant's full name, to attempt to communicate with the complainant after a complaint has been made, but who elects under Subsection (3)(c) not to be identified to the subject of the complaint.

(c) "Subject of the complaint" means the licensee or certificate holder about whom the complainant is informing the department.

(2) The department may conduct investigations necessary to enforce the provisions of this part.

(3) (a) If the department receives a complaint about a child care program or an exempt provider, the department shall:

(i) solicit information from the complainant to determine whether the complaint suggests actions or conditions that could pose a serious risk to the safety or well-being of a qualifying child;

(ii) as necessary:

(A) encourage the complainant to disclose the minimum personal identifying information necessary, including the complainant's full name, for the department to attempt to subsequently communicate with the complainant;

(B) inform the complainant that the department may not investigate an anonymous complaint;

(C) inform the complainant that the identity of a confidential complainant may be withheld from the subject of a complaint only as provided in Subsection (3)(c)(ii); and

(D) inform the complainant that the department may be limited in its use of information provided by a confidential complainant, as provided in Subsection (3)(c)(ii)(B); and

(iii) inform the complainant that a person is guilty of a class B misdemeanor under

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Section 76-8-506 if the person gives false information to the department with the purpose of inducing a change in that person's or another person's licensing or certification status.

(b) If the complainant elects to be an anonymous complainant, or if the complaint concerns events which occurred more than six weeks before the complainant contacted the department:

(i) shall refer the information in the complaint to the Division of Child and Family Services within the [~~Department of Human Services~~] department, law enforcement, or any other appropriate agency, if the complaint suggests actions or conditions which could pose a serious risk to the safety or well-being of a child;

(ii) may not investigate or substantiate the complaint; and

(iii) may, during a regularly scheduled annual survey, inform the exempt provider, licensee, or certificate holder that is the subject of the complaint of allegations or concerns raised by:

(A) the anonymous complainant; or

(B) the complainant who reported events more than six weeks after the events occurred.

(c) (i) If the complainant elects to be a confidential complainant, the department shall determine whether the complainant wishes to remain confidential:

(A) only until the investigation of the complaint has been completed; or

(B) indefinitely.

(ii) (A) If the complainant elects to remain confidential only until the investigation of the complaint has been completed, the department shall disclose the name of the complainant to the subject of the complaint at the completion of the investigation, but no sooner.

(B) If the complainant elects to remain confidential indefinitely, the department:

(I) notwithstanding Subsection 63G-2-201(5)(b), may not disclose the name of the complainant, including to the subject of the complaint; and

(II) may not use information provided by the complainant to substantiate an alleged violation of state law or department rule unless the department independently corroborates the information.

(4) (a) Prior to conducting an investigation of a child care program or an exempt provider in response to a complaint, a department investigator shall review the complaint with

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the investigator's supervisor.

(b) The investigator may proceed with the investigation only if:

(i) the supervisor determines the complaint is credible;

(ii) the complaint is not from an anonymous complainant; and

(iii) prior to the investigation, the investigator informs the subject of the complaint of:

(A) except as provided in Subsection (3)(c), the name of the complainant; and

(B) except as provided in Subsection (4)(c), the substance of the complaint.

(c) An investigator is not required to inform the subject of a complaint of the substance of the complaint prior to an investigation if doing so would jeopardize the investigation.

However, the investigator shall inform the subject of the complaint of the substance of the complaint as soon as doing so will no longer jeopardize the investigation.

(5) If the department is unable to substantiate a complaint, any record related to the complaint or the investigation of the complaint:

(a) shall be classified under Title 63G, Chapter 2, Government Records Access and Management Act, as:

(i) a private or controlled record if appropriate under Section 63G-2-302 or 63G-2-304; or

(ii) a protected record under Section 63G-2-305; and

(b) if disclosed in accordance with Subsection 63G-2-201(5)(b), may not identify an individual child care program, exempt provider, licensee, certificate holder, or complainant.

(6) Any record of the department related to a complaint by an anonymous complainant is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, and, notwithstanding Subsection 63G-2-201(5)(b), may not be disclosed in a manner that identifies an individual child care program, exempt provider, licensee, certificate holder, or complainant.

Section ~~185~~187. Section **26B-2-409**, which is renumbered from Section 26-39-601 is renumbered and amended to read:

~~[26-39-601]~~. **26B-2-409. License violations -- Penalties.**

(1) The department may deny or revoke a license and otherwise invoke disciplinary penalties if it finds:

(a) evidence of committing or of aiding, abetting, or permitting the commission of any

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illegal act on the premises of the child care facility;

(b) a failure to meet the qualifications for licensure; or

(c) conduct adverse to the public health, morals, welfare, and safety of children under its care.

(2) The department may also place a department representative as a monitor in a facility, and may assess the cost of that monitoring to the facility, until the licensee has remedied the deficiencies that brought about the department action.

(3) The department may impose civil monetary penalties in accordance with Title 63G, Chapter 4, Administrative Procedures Act, if there has been a failure to comply with the provisions of this ~~[chapter]~~ part, or rules made pursuant to this ~~[chapter]~~ part, as follows:

(a) if significant problems exist that are likely to lead to the harm of a qualifying child, the department may impose a civil penalty of \$50 to \$1,000 per day; and

(b) if significant problems exist that result in actual harm to a qualifying child, the department may impose a civil penalty of \$1,050 to \$5,000 per day.

Section ~~{186}~~ 188. Section **26B-2-410**, which is renumbered from Section 26-39-602 is renumbered and amended to read:

~~[26-39-602].~~ **26B-2-410. Offering or providing care in violation of part -- Misdemeanor.**

Notwithstanding the provisions of [~~Title 26, Chapter 23, Enforcement Provisions and Penalties,~~] Section 26B-1-224 a person who provides or offers child care except as provided by this ~~[chapter]~~ part is guilty of a class A misdemeanor.

Section ~~{187}~~ 189. Section **26B-2-501**, which is renumbered from Section 26-71-101 is renumbered and amended to read:

Part 5. Certifications

~~[26-71-101].~~ **26B-2-501. Definitions.**

As used in this ~~[chapter]~~ part:

(1) "Capacity building" means strengthening an individual's or a community's ability to participate in shared decision making.

(2) "Community health worker" means an individual who:

(a) works to improve a social determinant of health;

(b) acts as an intermediary between a community and health services or social services

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to:

- (i) facilitate access to services; or
- (ii) improve the quality and cultural competence of service delivery; and
- (c) increases health knowledge and self-sufficiency of an individual or a community through outreach, capacity building, community education, informal counseling, social support, and other similar activities.

(3) "Core-skill education" means education regarding each of the following:

- (a) self-reliance;
- (b) outreach;
- (c) capacity building;
- (d) individual and community assessment;
- (e) coordination skills;
- (f) relationship building;
- (g) facilitation of services;
- (h) communication;
- (i) professional conduct; and
- (j) health promotion.

(4) "Core-skill training" means:

- (a) 90 hours of competency-based education; and
- (b) 300 hours of community involvement as determined by the department through rule.

(5) "Social determinate of health" means any condition in which an individual or a community lives, learns, works, plays, worships, or ages, that affects the individual's or the community's health or quality of life outcomes or risks.

(6) "State certified" means that an individual has obtained the state certification described in Subsection ~~[26-71-104]~~ 26B-2-504(1).

Section ~~{188}~~190. Section **26B-2-502**, which is renumbered from Section 26-71-102 is renumbered and amended to read:

~~[26-71-102]~~. **26B-2-502. Rulemaking.**

The department may make rules as authorized by this ~~[chapter]~~ part in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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Section ~~{189}~~191. Section **26B-2-503**, which is renumbered from Section 26-71-103 is renumbered and amended to read:

~~[26-71-103]~~. **26B-2-503. Recommendation for Community Health Worker Certification Advisory Board.**

The department shall notify the Health and Human Services Interim Committee if the department determines that there is a need to create, by statute, a Community Health Worker Certification Advisory Board.

Section ~~{190}~~192. Section **26B-2-504**, which is renumbered from Section 26-71-104 is renumbered and amended to read:

~~[26-71-104]~~. **26B-2-504. Certification -- Unlawful conduct.**

(1) The department shall issue to an individual who qualifies under ~~[this chapter]~~ Section 26B-2-505 a certification as a state certified community health worker.

(2) An individual may not use the term "state certified" in conjunction with the individual's work as a community health worker if the individual is not state certified.

(3) The department may fine an individual who violates Subsection (2) in an amount up to \$100.

Section ~~{191}~~193. Section **26B-2-505**, which is renumbered from Section 26-71-105 is renumbered and amended to read:

~~[26-71-105]~~. **26B-2-505. Qualifications for certification.**

(1) The department shall issue a certification described in Section ~~[26-71-104]~~ 26B-2-504 to a community health worker if the community health worker has:

(a) completed core-skill training administered by:

(i) the department;

(ii) a state professional association that:

(A) is associated with the community health worker profession; and

(B) is aligned with a national community health worker professional association; or

(iii) an entity designated by a state professional association described in Subsection

(1)(a)(ii);

(b) completed training regarding basic medical confidentiality requirements, including the confidentiality requirements of ~~[the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended]~~ ~~{HIPPA}~~HIPAA as defined in

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Section 26B-8-514;

(c) completed an application as designed by the department with a signed statement agreeing to abide by national standards of practice and ethics for community health workers; and

(d) paid a fee established by the department under Section 63J-1-504.

(2) A community health worker with at least 4,000 hours of experience as a community health worker is exempt from the core-skill training requirement described in Subsection (1)(a).

Section ~~{192}~~194. Section **26B-2-506**, which is renumbered from Section 26-71-106 is renumbered and amended to read:

~~[26-71-106].~~ 26B-2-506. Certification is voluntary.

This ~~[chapter]~~ part does not prohibit an individual from acting as a community health worker if the individual does not have a certificate described in this ~~[chapter]~~ part.

Section ~~{193}~~195. Section **26B-2-507**, which is renumbered from Section 26-71-107 is renumbered and amended to read:

~~[26-71-107].~~ 26B-2-507. Term of certification - Expiration - Renewal.

(1) Subject to Subsection (2), the department shall issue each certification under ~~[this chapter]~~ Section 26B-2-504 in accordance with a two-year renewal cycle.

(2) The department may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles that the department administers.

(3) (a) The department shall print the expiration date on the certification.

(b) Each certification automatically expires on the date shown on the certificate.

(c) The department shall establish procedures through rule to notify each state certified community health worker when the certification is due for renewal.

(4) (a) The department shall renew a certification if the individual has:

(i) met each renewal requirement established by the department through rule; and

(ii) paid a certification renewal fee established by the department.

(b) A rule created by the department under Subsection (4)(a)(i) shall include a requirement regarding:

(i) continuing education; and

(ii) maintaining professional conduct.

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Section ~~{194}~~196. Section **26B-2-601**, which is renumbered from Section 26-21a-101 is renumbered and amended to read:

Part 6. Mammography Quality Assurance

~~[26-21a-101].~~ 26B-2-601. Definitions.

As used in this ~~[chapter]~~ part:

~~[(1) "Breast cancer screening mammography" means a standard two-view per breast, low-dose as defined by the National Cancer Institute, radiographic examination of the breasts to detect unsuspected breast cancer using equipment designed and dedicated specifically for mammography.]~~

~~[(2)]~~ (1) "Diagnostic mammography" means mammography performed on a woman having suspected breast cancer.

~~[(3)]~~ (2) "Facility" means a facility that provides screening or diagnostic breast mammography services.

Section ~~{195}~~197. Section **26B-2-602**, which is renumbered from Section 26-21a-203 is renumbered and amended to read:

~~[26-21a-203].~~ 26B-2-602. Department rulemaking authority.

The department shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(1) establishing quality assurance standards for all facilities performing screening or diagnostic mammography and developing mammogram x-ray films, including notification and procedures for clinical follow-up of abnormal mammograms;

(2) providing for:

(a) collection and periodic reporting of mammography examinations and clinical follow-up data to the department;

(b) certification and revocation of certification of mammogram facilities;

(c) inspection of mammogram facilities, including entry of agents of the department into the facilities for inspections;

(d) setting fees for certification; and

(e) an appeal process regarding department certification decisions; and

(3) requiring a facility that is certified under Section ~~[26-21a-204]~~ 26B-2-603 to comply with the notification requirement described in Section ~~[26-21a-206]~~ 26B-2-605.

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Section ~~{196}~~198. Section **26B-2-603**, which is renumbered from Section 26-21a-204 is renumbered and amended to read:

~~[26-21a-204].~~ **26B-2-603. Mammogram provider certification.**

(1) A mammogram may only be performed in a facility the department certifies as meeting:

(a) the qualifications and standards under Section ~~[26-21a-203]~~ 26B-2-602; and

(b) the registration, licensing, and inspection requirements for radiation sources under Section 19-3-104.

(2) Facilities desiring to perform mammograms shall request certification as a mammogram provider by the department under procedures established by department rule.

Section ~~{197}~~199. Section **26B-2-604**, which is renumbered from Section 26-21a-205 is renumbered and amended to read:

~~[26-21a-205].~~ **26B-2-604. Department duties.**

The department shall:

(1) enforce rules established under this part;

(2) implement and enforce the notice requirement in Section ~~[26-21a-206]~~ 26B-2-605;

(3) authorize qualified department agents to conduct inspections of mammogram facilities under department rules;

(4) collect and credit fees for certification established by the department in accordance with Section 63J-1-504; and

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

Section ~~{198}~~200. Section **26B-2-605**, which is renumbered from Section 26-21a-206 is renumbered and amended to read:

~~[26-21a-206].~~ **26B-2-605. Women's cancer screening notification requirement.**

(1) As used in this section, "dense breast tissue" means heterogeneously dense tissue or extremely dense tissue as defined in the Breast Imaging and Reporting Data System established by the American College of Radiology.

(2) A facility that is certified under Section ~~[26-21a-204]~~ 26B-2-603 shall include the following notification and information with a mammography result provided to a patient with dense breast tissue:

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"Your mammogram indicates that you have dense breast tissue. Dense breast tissue is common and is found in as many as half of all women. However, dense breast tissue can make it more difficult to fully and accurately evaluate your mammogram and detect early signs of possible cancer in the breast. This information is being provided to inform and encourage you to discuss your dense breast tissue and other breast cancer risk factors with your health care provider. Together, you can decide what may be best for you. A copy of your mammography report has been sent to your health care provider. Please contact them if you have any questions or concerns about this notice."

Section ~~{199}~~201. Section **26B-2-606**, which is renumbered from Section 26-21a-301 is renumbered and amended to read:

~~[26-21a-301]~~. **26B-2-606. Breast cancer mortality reduction program.**

The department shall create a breast cancer mortality reduction program. The program shall include:

- (1) education programs for health professionals regarding skills in cancer screening, diagnosis, referral, treatment, and rehabilitation based on current scientific knowledge;
- (2) education programs to assist the public in understanding:
 - (a) the benefits of regular breast cancer screening;
 - (b) resources available in the medical care system for cancer screening, diagnosis, referral, treatment, and rehabilitation; and
- (c) available options for treatment of breast cancer and the ramifications of each approach; and
- (3) subsidized screening mammography for low-income women as determined by the department standards.

Section ~~{200}~~202. Section **26B-9-101** is amended to read:

CHAPTER 9. RECOVERY SERVICES AND ADMINISTRATION OF CHILD SUPPORT

Part 1. Office of Recovery Services

26B-9-101. Definitions.

[Reserved]

As used in this part:

- (1) "Account" means a demand deposit account, checking or negotiable withdrawal

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order account, savings account, time deposit account, or money-market mutual fund account.

(2) "Assistance" means public assistance.

(3) "Cash medical support" means an obligation to equally share all reasonable and necessary medical and dental expenses of children.

(4) "Child support" means the same as that term defined in Section 26B-9-301.

(~~4~~5) "Child support services" means services provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651, et seq.

(~~5~~6) "Director" means the director of the Office of Recovery Services.

(~~6~~7) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction of all amounts required by law to be withheld.

(~~7~~8) "Financial institution" means:

(a) a depository institution as defined in Section 7-1-103 or the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1813(c);

(b) an institution-affiliated party as defined in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1813(u);

(c) any federal credit union or state credit union as defined in the Federal Credit Union Act, 12 U.S.C. Sec. 1752, including an institution-affiliated party of such a credit union as defined in 12 U.S.C. Sec. 1786(r);

(d) a broker-dealer as defined in Section 61-1-13; or

(e) any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in the state.

(~~8~~9) "Financial record" is defined in the Right to Financial Privacy Act of 1978, 12 U.S.C. Sec. 3401.

(~~9~~10) (a) "Income" means earnings, compensation, or other payment due to an individual, regardless of source, whether denominated as wages, salary, commission, bonus, pay, or contract payment, or denominated as advances on future wages, salary, commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay.

(b) "Income" includes:

(i) all gain derived from capital assets, labor, or both, including profit gained through sale or conversion of capital assets;

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(ii) interest and dividends;

(iii) periodic payments made under pension or retirement programs or insurance policies of any type;

(iv) unemployment compensation benefits;

(v) workers' compensation benefits; and

(vi) disability benefits.

(~~10~~11) "IV-D" means Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651 et seq.

(~~11~~12) "IV-D child support services" means the same as child support services.

(~~12~~13) "New hire registry" means the centralized new hire registry created in Section 35A-7-103.

(~~13~~14) "Obligee" means an individual, this state, another state, or other comparable jurisdiction to whom a debt is owed or who is entitled to reimbursement of child support or public assistance.

(~~14~~15) "Obligor" means a person, firm, corporation, or the estate of a decedent owing money to this state, to an individual, to another state, or other comparable jurisdiction in whose behalf this state is acting.

(~~15~~16) "Office" means the Office of Recovery Services.

(~~16~~17) "Provider" means a person or entity that receives compensation from any public assistance program for goods or services provided to a public assistance recipient.

(~~17~~18) "Public ~~assistance~~ or "assistance" means:

(a) services or benefits provided under Title 35A, Chapter 3, Employment Support Act;

(b) medical assistance provided under Chapter 3, Part 1, Health Care Assistance;

(c) foster care maintenance payments under Part E of Title IV of the Social Security Act, 42 U.S.C. Sec. 670, et seq.;

(d) SNAP benefits as defined in Section 35A-1-102; or

(e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

(~~18~~19) "State case registry" means the central, automated record system maintained by the office and the central, automated district court record system maintained by the Administrative Office of the Courts, that contains records which use standardized data

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elements, such as names, Social Security numbers and other uniform identification numbers, dates of birth, and case identification numbers, with respect to:

(a) each case in which services are being provided by the office under the state IV-D child support services plan; and

(b) each support order established or modified in the state on or after October 1, 1998.

Section ~~{201}~~203. Section **26B-9-102**, which is renumbered from Section 62A-11-101 is renumbered and amended to read:

~~[62A-11-101].~~ 26B-9-102. Legislative intent -- Liberal construction.

It is the intent of the Legislature that the integrity of the public assistance programs of this state be maintained and that the taxpayers support only those persons in need and only as a resource of last resort. To this end, this part should be liberally construed.

Section ~~{202}~~204. Section **26B-9-103**, which is renumbered from Section 62A-11-102 is renumbered and amended to read:

~~[62A-11-102].~~ 26B-9-103. Office of Recovery Services -- Creation.

(1) There is created within the department the Office of Recovery Services which has the powers and duties provided by law.

(2) The office is under the administrative and general supervision of the executive director.

Section ~~{203}~~205. Section **26B-9-104**, which is renumbered from Section 62A-11-104 is renumbered and amended to read:

~~[62A-11-104].~~ 26B-9-104. Duties of the Office of Recovery Services.

(1) The office has the following duties:

(a) except as provided in Subsection (2), to provide child support services if:

(i) the office has received an application for child support services;

(ii) the state has provided public assistance; or

(iii) a child lives out of the home in the protective custody, temporary custody, or custody or care of the state;

(b) for the purpose of collecting child support, to carry out the obligations of the department contained in:

(i) this chapter [and in];

(ii) Title 78B, Chapter 12, Utah Child Support Act;

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(iii) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act; and

(iv) Title 78B, Chapter 15, Utah Uniform Parentage Act~~[, for the purpose of collecting child support];~~

(c) to collect money due the department which could act to offset expenditures by the state;

(d) to cooperate with the federal government in programs designed to recover health and social service funds;

(e) to collect civil or criminal assessments, fines, fees, amounts awarded as restitution, and reimbursable expenses owed to the state or any of its political subdivisions, if the office has contracted to provide collection services;

(f) to implement income withholding for collection of child support in accordance with Part ~~[4]~~ 3, Income Withholding in IV-D Cases~~[, of this chapter];~~

(g) to enter into agreements with financial institutions doing business in the state to develop and operate, in coordination with such financial institutions, a data match system in the manner provided for in Section ~~[62A-11-304.5]~~ 26B-9-208;

(h) to establish and maintain the state case registry in the manner required by the Social Security Act, 42 U.S.C. Sec. 654a, which shall include a record in each case of:

(i) the amount of monthly or other periodic support owed under the order, and other amounts, including arrearages, interest, late payment penalties, or fees, due or overdue under the order;

(ii) any amount described in Subsection (1)(h)(i) that has been collected;

(iii) the distribution of collected amounts;

(iv) the birth date of any child for whom the order requires the provision of support;

and

(v) the amount of any lien imposed with respect to the order pursuant to this part;

(i) to contract with the Department of Workforce Services to establish and maintain the new hire registry created under Section 35A-7-103;

(j) to determine whether an individual who has applied for or is receiving cash assistance or Medicaid is cooperating in good faith with the office as required by Section ~~[62A-11-307.2]~~ 26B-9-213;

(k) to finance any costs incurred from collections, fees, General Fund appropriation,

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contracts, and federal financial participation; and

(1) to provide notice to a noncustodial parent in accordance with Section ~~[62A-11-304.4]~~ 26B-9-207 of the opportunity to contest the accuracy of allegations by a custodial parent of nonpayment of past-due child support, prior to taking action against a noncustodial parent to collect the alleged past-due support.

(2) The office may not provide child support services to the Division of Child and Family Services for a calendar month when the child to whom the child support services relate is:

- (a) in the custody of the Division of Child and Family Services; and
- (b) lives in the home of a custodial parent of the child for more than seven consecutive days, regardless of whether:
 - (i) the greater than seven consecutive day period starts during one month and ends in the next month; and
 - (ii) the child is living in the home on a trial basis.

(3) The Division of Child and Family Services is not entitled to child support, for a child to whom the child support relates, for a calendar month when child support services may not be provided under Subsection (2).

Section ~~{204}~~206. Section **26B-9-105**, which is renumbered from Section 62A-11-104.1 is renumbered and amended to read:

~~[62A-11-104.1].~~ 26B-9-105. Disclosure of information regarding employees.

(1) Upon request by the office, for purposes of an official investigation made in connection with its duties under Section ~~[62A-11-104]~~ 26B-9-104, the following disclosures shall be made to the office:

- (a) a public or private employer shall disclose an employee's name, address, date of birth, income, social security number, and health insurance information pertaining to the employee and the employee's dependents;
- (b) an insurance organization subject to Title 31A, Insurance Code, or the insurance administrators of a self-insured employer shall disclose health insurance information pertaining to an insured or an insured's dependents, if known; and
- (c) a financial institution subject to Title 7, Financial Institutions Act, shall disclose financial record information of a customer named in the request.

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(2) The office shall specify by rule the type of health insurance and financial record information required to be disclosed under this section.

(3) All information received under this section is subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(4) An employer, financial institution, or insurance organization, or its agent or employee, is not civilly or criminally liable for providing information to the office in accordance with this section, whether the information is provided pursuant to oral or written request.

Section ~~{205}~~207. Section **26B-9-106**, which is renumbered from Section 62A-11-105 is renumbered and amended to read:

~~[62A-11-105].~~ 26B-9-106. Adjudicative proceedings.

The office and the department shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in their adjudicative proceedings.

Section ~~{206}~~208. Section **26B-9-107**, which is renumbered from Section 62A-11-106 is renumbered and amended to read:

~~[62A-11-106].~~ 26B-9-107. Office may file as real party in interest -- Written consent to payment agreements -- Money judgment in favor of obligee considered to be in favor of office to extent of right to recover.

(1) The office may file judicial proceedings as a real party in interest to establish, modify, and enforce a support order in the name of the state, any department of the state, the office, or an obligee.

(2) No agreement between an obligee and an obligor as to past, present, or future obligations, reduces or terminates the right of the office to recover from that obligor on behalf of the department for public assistance provided, unless the department has consented to the agreement in writing.

(3) Any court order that includes a money judgment for support to be paid to an obligee by any person is considered to be in favor of the office to the extent of the amount of the office's right to recover public assistance from the judgment debtor.

Section ~~{207}~~209. Section **26B-9-108**, which is renumbered from Section 62A-11-107 is renumbered and amended to read:

~~[62A-11-107].~~ 26B-9-108. Director -- Powers of office -- Representation by

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county attorney or attorney general -- Receipt of grants -- Rulemaking and enforcement.

- (1) The director of the office shall be appointed by the executive director.
- (2) The office has power to administer oaths, certify to official acts, issue subpoenas, and to compel witnesses and the production of books, accounts, documents, and evidence.
- (3) The office has the power to seek administrative and judicial orders to require an obligor who owes past-due support and is obligated to support a child receiving public assistance to participate in appropriate work activities if the obligor is unemployed and is not otherwise incapacitated.
- (4) The office has the power to enter into reciprocal child support enforcement agreements with foreign countries consistent with federal law and cooperative enforcement agreements with Indian Tribes.
- (5) The office has the power to pursue through court action the withholding, suspension, and revocation of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or orders relating to paternity or child support proceedings pursuant to Section 78B-6-315.
- (6) It is the duty of the attorney general or the county attorney of any county in which a cause of action can be filed, to represent the office. Neither the attorney general nor the county attorney represents or has an attorney-client relationship with the obligee or the obligor in carrying out the duties arising under this chapter.
- (7) The office, with department approval, is authorized to receive any grants or stipends from the federal government or other public or private source designed to aid the efficient and effective operation of the recovery program.
- (8) The office may adopt, amend, and enforce rules as may be necessary to carry out the provisions of this chapter.

Section ~~{208}~~210. Section **26B-9-109**, which is renumbered from Section 62A-11-108 is renumbered and amended to read:

~~[62A-11-108].~~ 26B-9-109. Office designated as criminal justice agency -- Access by IV-D agencies to motor vehicle and law enforcement data through the office.

- (1) The office is designated as a criminal justice agency for the purpose of requesting and obtaining access to criminal justice information, subject to appropriate federal, state, and

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local agency restrictions governing the dissemination of that information.

(2) All federal and state agencies conducting activities under Title IV-D of the Social Security Act shall have access through the office to any system used by this state to locate an individual for purposes relating to motor vehicles or law enforcement.

Section ~~{209}~~211. Section **26B-9-110**, which is renumbered from Section 62A-11-111 is renumbered and amended to read:

~~[62A-11-111].~~ 26B-9-110. Lien provisions.

Provisions for collection of any lien placed as a condition of eligibility for any federally or state-funded public assistance program are as follows:

(1) Any assistance granted after July 1, 1953 to the spouse of an old-age recipient who was not eligible for old-age assistance but who participated in the assistance granted to the family is recoverable in the same manner as old-age assistance granted to the old-age recipient.

(2) At the time of the settlement of a lien given as a condition of eligibility for the old-age assistance program, there shall be allowed a cash exemption of \$1,000, less any additional money invested by the department in the home of an old-age recipient or recipients of other assistance programs either as payment of taxes, home and lot improvements, or to protect the interest of the state in the property for necessary improvements to make the home habitable, to be deducted from the market or appraised value of the real property. When it is necessary to sell property or to settle an estate the department may grant reasonable costs of sale and settlement of an estate as follows:

(a) When the total cost of probate, including the sale of property when it is sold, and the cost of burial and last illness do not exceed \$1,000, the exemption of \$1,000 shall be the total exemption, which shall be the only amount deductible from the market or appraised value of the property.

(b) Subject to Subsection (2)(c), when \$1,000 is not sufficient to pay for the costs of probate, the following expenditures are authorized:

- (i) cost of funeral expenses not exceeding \$1,500;
- (ii) costs of terminal illness, provided the medical expenses have not been paid from any state or federally-funded assistance program;
- (iii) realty fees, if any;
- (iv) costs of revenue stamps, if any;

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- (v) costs of abstract or title insurance, whichever is the least costly;
- (vi) attorney fees not exceeding the recommended fee established by the Utah State

Bar;

- (vii) administrator's fee not to exceed \$150;
- (viii) court costs; and
- (ix) delinquent taxes, if any.

(c) An attorney, who sells the property in an estate that the attorney is probating, is entitled to the lesser of:

- (i) a real estate fee; or
- (ii) an attorney fee.

(3) The amounts listed in Subsection (2)(b) are to be considered only when the total costs of probate exceed \$1,000, and those amounts are to be deducted from the market or appraised value of the property in lieu of the exemption of \$1,000 and are not in addition to the \$1,000 exemption.

(4) When both husband and wife are recipients and one or both of them own an interest in real property, the lien attaches to the interests of both for the reimbursement of assistance received by either or both spouses. Only one exemption, as provided in this section, is allowed.

(5) When a lien was executed by one party on property that is owned in joint tenancy with full rights of survivorship, the execution of the lien severs the joint tenancy and a tenancy in common results, insofar as a department lien is affected, unless the recipients are husband and wife. When recipients are husband and wife who own property in joint tenancy with full rights of survivorship, the execution of a lien does not sever the joint tenancy, insofar as a department lien might be affected, and settlement of the lien shall be in accordance with the provisions of Subsection (4).

(6) The amount of the lien given for old-age assistance shall be the total amount of assistance granted up to the market or appraised value of the real or personal property, less the amount of the legal maximum property limitations from the execution of the lien until settlement thereof. There shall be no exemption of any kind or nature allowed against real or personal property liens granted for old-age assistance except assistance in the form of medical care, and nursing home care, other types of congregate care, and similar plans for persons with

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a physical or mental disability.

(7) When it is necessary to sell property or to settle an estate, the department is authorized to approve payment of the reasonable costs of sale and settlement of an estate on which a lien has been given for old-age assistance.

(8) The amount of reimbursement of all liens held by the department shall be determined on the basis of the formulas described in this section, when they become due and payable.

(9) All lien agreements shall be recorded with the county recorder of the county in which the real property is located, and that recording has the same effect as a judgment lien on any real property in which the recipient has any title or interest. All such real property including but not limited to, joint tenancy interests, shall, from the time a lien agreement is recorded, be and become charged with a lien for all assistance received by the recipient or his spouse as provided in this section. That lien has priority over all unrecorded encumbrances. No fees or costs shall be paid for such recording.

(10) Liens shall become due and payable, and the department shall seek collection of each lien now held:

(a) when the property to which the lien attaches is transferred to a third party prior to the recipient's death, provided, that if other property is purchased by the recipient to be used by the recipient as a home, the department may transfer the amount of the lien from the property sold to the property purchased;

(b) upon the death of the recipient and the recipient's spouse, if any. When the heirs or devisees of the property are also recipients of public assistance, or when other hardship circumstances exist, the department may postpone settlement of the lien if that would be in the best interest of the recipient and the state;

(c) when a recipient voluntarily offers to settle the lien; or

(d) when property subject to a lien is no longer used by a recipient and appears to be abandoned.

(11) When a lien becomes due and payable, a certificate in a form approved by the department certifying to the amount of assistance provided to the recipient and the amount of the lien, shall be mailed to the recipient, the recipient's heirs, or administrators of the estate, and the same shall be allowed, approved, filed, and paid as a preferred claim, as provided in

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Subsection 75-3-805(1)(e) in the administration of the decedent's estate. The amount so certified constitutes the entire claim, as of the date of the certificate, against the real or personal property of the recipient or the recipient's spouse. Any person dealing with the recipient, heirs, or administrators, may rely upon that certificate as evidence of the amount of the existing lien against that real or personal property. That amount, however, shall increase by accruing interest until time of final settlement, at the rate of 6% per annum, commencing six months after the lien becomes due and payable, or at the termination of probate proceedings, whichever occurs later.

(12) If heirs are unable to make a lump-sum settlement of the lien at the time it becomes due and payable, the department may permit settlement based upon periodic repayments in a manner prescribed by the department, with interest as provided in Subsection (11).

(13) All sums so recovered, except those credited to the federal government, shall be retained by the department.

(14) The department is empowered to accept voluntary conveyance of real or personal property in satisfaction of its interest therein. All property acquired by the department under the provisions of this section may be disposed of by public or private sale under rules prescribed by the department. The department is authorized to execute and deliver any document necessary to convey title to all property that comes into its possession, as though the department constituted a corporate entity.

(15) Any real property acquired by the department, either by foreclosure or voluntary conveyance, is tax exempt, so long as it is so held.

Section ~~{210}~~212. Section **26B-9-111**, which is renumbered from Section 62A-1-117 is renumbered and amended to read:

~~[62A-1-117].~~ **26B-9-111. Assignment of support -- Children in state custody.**

(1) Child support is assigned to the department by operation of law when a child is residing outside of his home in the protective custody, temporary custody, custody, or care of the state for at least 30 days.

(2) The department has the right to receive payment for child support assigned to it under Subsection (1).

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(3) The Office of Recovery Services is the payee for the department for payment received under this section.

Section ~~{211}~~213. Section **26B-9-112**, which is renumbered from Section 62A-11-703 is renumbered and amended to read:

~~[62A-11-703].~~ 26B-9-112. Alternative payment by obligor through electronic funds transfer.

(1) The office may enter into a written alternative payment agreement with an obligor which provides for electronic payment of child support under Part ~~[4]~~ 3, Income Withholding in IV-D Cases, or Part ~~[5]~~ 4, Income Withholding in Non IV-D Cases. Electronic payment shall be accomplished through an automatic withdrawal from the obligor's account at a financial institution.

(2) The alternative payment agreement shall:

(a) provide for electronic payment of child support in lieu of income withholding;

(b) specify the date on which electronic payments will be withdrawn from an obligor's account; and

(c) specify the amount which will be withdrawn.

(3) The office may terminate the agreement and initiate immediate income withholding, as defined in Section 26B-9-301, if:

(a) required to meet federal or state requirements or guidelines;

(b) funds available in the account at the scheduled time of withdrawal are insufficient to satisfy the agreement; or

(c) requested by the obligor.

(4) If the payment amount requires adjusting, the office may initiate a new written agreement with the obligor. If, for any reason, the office and obligor fail to agree on the terms, the office may terminate the agreement and initiate income withholding.

(5) If an agreement is terminated for insufficient funds, a new agreement may not be entered into between the office and obligor for a period of at least 12 months.

(6) The office shall make rules specifying eligibility requirements for obligors to enter into alternative payment agreements.

Section ~~{212}~~214. Section **26B-9-113**, which is renumbered from Section 62A-11-704 is renumbered and amended to read:

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~~[62A-11-704].~~ 26B-9-113. Mandatory distribution to obligee through electronic funds transfer.

(1) Notwithstanding any provision of this chapter to the contrary, the office shall, except as provided in Subsection (3), distribute child support payments, under Subsection ~~[62A-11-413]~~ 26B-9-312(2) or Section ~~[62A-11-505]~~ 26B-9-406, by electronic funds transfer.

(2) Distribution of child support payments by electronic payment under this section shall be made to:

- (a) an account of the obligee; or
- (b) an account that may be accessed by the obligee through the use of an electronic access card.

(3) (a) Subject to Subsection (3)(b), the office may make rules, pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to allow exceptions to the requirement to make distributions by electronic funds transfer under Subsection (1).

(b) The rules described in Subsection (3)(a) may only allow exceptions under circumstances where:

- (i) requiring distribution by electronic funds transfer would result in an undue hardship to the office or a person; or
- (ii) it is not likely that distribution will be made to the obligee on a recurring basis.

Section ~~{213}~~ 215. Section **26B-9-201**, which is renumbered from Section 62A-11-303 is renumbered and amended to read:

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~~[62A-11-303].~~ 26B-9-201. Definitions.

As used in this part:

(1) "Adjudicative proceeding" means an action or proceeding of the office conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) "Administrative order" means an order that has been issued by the office, the department, or an administrative agency of another state or other comparable jurisdiction with similar authority to that of the office.

(3) "Arrears" means the same as support debt.

~~{(3)}~~ (4) "Assistance" ~~[or "public assistance" is]~~ means public assistance as defined in Section ~~[62A-11-103]~~ 26B-9-101.

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~~[(4)]~~ (5) "Business day" means a day on which state offices are open for regular business.

~~[(5)]~~ (6) "Child" means:

(a) a son or daughter under the age of 18 years who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;

(b) a son or daughter over the age of 18 years, while enrolled in high school during the normal and expected year of graduation and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or

(c) a son or daughter of any age who is incapacitated from earning a living and is without sufficient means.

~~[(6)]~~ (7) "Child support" means the same as that term is defined in Section ~~[62A-11-401]~~ 26B-9-301.

~~[(7)]~~ (8) "Child support guidelines" ~~[or "guidelines" is]~~ means guidelines as defined in Section 78B-12-102.

~~[(8)]~~ (9) "Child support order" ~~[or "support order"]~~ means the same as that term is defined in Section ~~[62A-11-401]~~ 26B-9-301.

~~[(9)]~~ (10) "Child support services" ~~[or "IV-D child support services"]~~ means the same as that term is defined in Section ~~[62A-11-103]~~ 26B-9-101.

~~[(10)]~~ (11) "Court order" means a judgment or order of a tribunal of appropriate jurisdiction of this state, another state, Native American tribe, the federal government, or any other comparable jurisdiction.

~~[(11)]~~ (12) "Director" means the director of the Office of Recovery Services.

~~[(12)]~~ (13) "Disposable earnings" means the same as that term is defined in Section ~~[62A-11-103]~~ 26B-9-101.

(14) "Guidelines" means the same as that term is defined in Section 78B-12-102.

~~[(13)]~~ (15) "High-volume automated administrative enforcement" in interstate cases means, on the request of another state, the identification by the office, through automatic data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in the requesting state, and the seizure of the assets by the office, through levy or other appropriate processes.

~~[(14)]~~ (16) "Income" means the same as that term is defined in Section ~~[62A-11-103]~~

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26B-9-101.

(17) "IV-D child support services" means the same as child support services.

~~[(15)]~~ (18) "Notice of agency action" means the notice required to commence an adjudicative proceeding in accordance with Section 63G-4-201.

~~[(16)]~~ (19) "Obligee" means an individual, this state, another state, or other comparable jurisdiction to whom a duty of child support is owed, or who is entitled to reimbursement of child support or public assistance.

~~[(17)]~~ (20) "Obligor" means a person, firm, corporation, or the estate of a decedent owing a duty of support to this state, to an individual, to another state, or other corporate jurisdiction in whose behalf this state is acting.

~~[(18)]~~ (21) "Office" ~~[is defined in Section 62A-11-103]~~ means the Office of Recovery Services ~~{ created in Section 26B-9-103 }~~.

~~[(19)]~~ (22) "Parent" means a natural parent or an adoptive parent of a dependent child.

(23) "Past-due-support" means the same as support debt.

~~{ (24) "Public assistance" means the same as that term is defined in Section 26B-9-101.~~

~~}~~ ~~[(20)]~~ ~~(25)~~ (24) "Person" includes an individual, firm, corporation, association, political subdivision, department, or office.

(25) "Public assistance" means the same as that term is defined in Section 26B-9-101.

~~[(21)]~~ (26) "Presiding officer" means a presiding officer described in Section 63G-4-103.

~~[(22)]~~ (27) "Support" includes past-due, present, and future obligations established by:

(a) a tribunal or imposed by law for the financial support, maintenance, medical, or dental care of a dependent child; and

(b) a tribunal for the financial support of a spouse or former spouse with whom the obligor's dependent child resides if the obligor also owes a child support obligation that is being enforced by the state.

~~[(23)]~~ (28) "Support ~~[debt, "past-due support," or "arrear"]~~ debt" means the debt created by nonpayment of support.

(29) "Support order" means the same as child support order.

~~[(24)]~~ (30) "Tribunal" means the district court, the ~~[Department of Human Services]~~ department, the Office of Recovery Services, or court or administrative agency of any state,

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territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

Section ~~{214}~~216. Section **26B-9-202**, which is renumbered from Section 62A-11-302 is renumbered and amended to read:

~~[62A-11-302].~~ 26B-9-202. Common-law and statutory remedies augmented by act -- Public policy.

The state of Utah, exercising its police and sovereign power, declares that the common-law and statutory remedies pertaining to family desertion and nonsupport of minor dependent children shall be augmented by this part, which is directed to the real and personal property resources of the responsible parents. In order to render resources more immediately available to meet the needs of minor children, it is the legislative intent that the remedies provided in this part are in addition to, and not in lieu of, existing law. It is declared to be the public policy of this state that this part be liberally construed and administered to the end that children shall be maintained from the resources of responsible parents, thereby relieving or avoiding, at least in part, the burden often borne by the general citizenry through public assistance programs.

Section ~~{215}~~217. Section **26B-9-203**, which is renumbered from Section 62A-11-303.5 is renumbered and amended to read:

~~[62A-11-303.5].~~ 26B-9-203. Application for child support services.

(1) Any person applying to the office for child support services shall be required to attest to the truthfulness of the information contained in the application.

(2) The attestation shall indicate that the person believes that all information provided is true and correct to the best of their knowledge and that knowingly providing false or misleading information is a violation of Section 76-8-504 and may result in prosecution, case closure for failure to cooperate, or both.

Section ~~{216}~~218. Section **26B-9-204**, which is renumbered from Section 62A-11-303.7 is renumbered and amended to read:

~~[62A-11-303.7].~~ 26B-9-204. Annual fee for child support services to a custodial parent who has not received TANF assistance.

(1) The office shall impose an annual fee of \$35 in each case in which services are provided by the office if:

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(a) the custodial parent who received the services has never received assistance under a state program funded under Title IV, Part A of the Social Security Act; and

(b) the office has collected at least \$550 of child support in the case.

(2) The fee described in Subsection (1) shall be:

(a) subject to Subsection (3), retained by the office from child support collected on behalf of the custodial parent described in Subsection (1)(a); or

(b) paid by the custodial parent described in Subsection (1)(a).

(3) A fee retained under Subsection (2)(a) may not be retained from the first \$550 of child support collected in the case.

(4) The fees collected under this section shall be deposited in the General Fund as a dedicated credit to be used by the office for the purpose of collecting child support.

Section ~~{217}~~219. Section **26B-9-205**, which is renumbered from Section 62A-11-304.1 is renumbered and amended to read:

~~[62A-11-304.1].~~ **26B-9-205. Expedited procedures for establishing paternity or establishing, modifying, or enforcing a support order.**

(1) The office may, without the necessity of initiating an adjudicative proceeding or obtaining an order from any other judicial or administrative tribunal, take the following actions related to the establishment of paternity or the establishment, modification, or enforcement of a support order, and to recognize and enforce the authority of state agencies of other states to take the following actions:

(a) require a child, mother, and alleged father to submit to genetic testing;

(b) subpoena financial or other information needed to establish, modify, or enforce a support order, including:

(i) the name, address, and employer of a person who owes or is owed support that appears on the customer records of public utilities and cable television companies; and

(ii) information held by financial institutions on such things as the assets and liabilities of a person who owes or is owed support;

(c) require a public or private employer to promptly disclose information to the office on the name, address, date of birth, social security number, employment status, compensation, and benefits, including health insurance, of any person employed as an employee or contractor by the employer;

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(d) require an insurance organization subject to Title 31A, Insurance Code, or an insurance administrator of a self-insured employer to promptly disclose to the office health insurance information pertaining to an insured or an insured's dependents, if known;

(e) obtain access to information in the records and automated databases of other state and local government agencies, including:

(i) marriage, birth, and divorce records;

(ii) state and local tax and revenue records providing information on such things as residential and mailing addresses, employers, income, and assets;

(iii) real and titled personal property records;

(iv) records concerning occupational and professional licenses and the ownership and control of corporations, partnerships, and other business entities;

(v) employment security records;

(vi) records of agencies administering public assistance programs;

(vii) motor vehicle department records; and

(viii) corrections records;

(f) upon providing notice to the obligor and obligee, direct an obligor or other payor to change the payee to the office if support has been assigned to the office under Section 35A-7-108 or if support is paid through the office pursuant to the Social Security Act, 42 U.S.C. Sec. 654B;

(g) order income withholding in accordance with Part [4] 3, Income Withholding in IV-D Cases;

(h) secure assets to satisfy past-due support by:

(i) intercepting or seizing periodic or lump-sum payments from:

(A) a state or local government agency, including unemployment compensation, workers' compensation, and other benefits; and

(B) judgments, settlements, and lotteries;

(ii) attaching and seizing assets of an obligor held in financial institutions;

(iii) attaching public and private retirement funds, if the obligor presently:

(A) receives periodic payments; or

(B) has the authority to withdraw some or all of the funds; and

(iv) imposing liens against real and personal property in accordance with this section

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and Section [~~62A-11-312.5~~] 26B-9-214; and

(i) increase monthly payments in accordance with Section [~~62A-11-320~~] 26B-9-219.

(2) (a) When taking action under Subsection (1), the office shall send notice under this Subsection (2)(a) to the person or entity who is required to comply with the action if not a party to a case receiving IV-D services.

(b) The notice described in Subsection (2)(a) shall include:

(i) the authority of the office to take the action;

(ii) the response required by the recipient;

(iii) the opportunity to provide clarifying information to the office under Subsection (2)(c);

(iv) the name and telephone number of a person in the office who can respond to inquiries; and

(v) the protection from criminal and civil liability extended under Subsection (7).

(c) The recipient of a notice sent under this Subsection (2) shall promptly comply with the terms of the notice and may, if the recipient believes the office's request is in error, send clarifying information to the office setting forth the basis for the recipient's belief.

(3) The office shall in any case in which it requires genetic testing under Subsection (1)(a):

(a) consider clarifying information if submitted by the obligee and alleged father;

(b) proceed with testing as the office considers appropriate;

(c) pay the cost of the tests, subject to recoupment from the alleged father if paternity is established;

(d) order a second test if the original test result is challenged, and the challenger pays the cost of the second test in advance; and

(e) require that the genetic test is:

(i) of a type generally acknowledged as reliable by accreditation bodies designated by the [~~federal~~] Secretary of the United States Department of Health and Human Services; and

(ii) performed by a laboratory approved by such an accreditation body.

(4) The office may impose a penalty against an entity for failing to provide information requested in a subpoena issued under Subsection (1) as follows:

(a) \$25 for each failure to provide requested information; or

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(b) \$500 if the failure to provide requested information is the result of a conspiracy between the entity and the obligor to not supply the requested information or to supply false or incomplete information.

(5) (a) Unless a court or administrative agency has reduced past-due support to a sum certain judgment, the office shall provide concurrent notice to an obligor in accordance with Section [~~62A-11-304.4~~] 26B-9-207 of:

(i) any action taken pursuant to Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection [~~62A-11-304.5~~] 26B-9-208(1)(b) if Subsection (5)(b)(iii) does not apply; and

(ii) the opportunity of the obligor to contest the action and the amount claimed to be past-due by filing a written request for an adjudicative proceeding with the office within 15 days of notice being sent.

(b) (i) Upon receipt of a notice of levy from the office for an action taken pursuant to Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection [~~62A-11-304.5~~] 26B-9-208(1)(b), a person in possession of personal property of the obligor shall:

(A) secure the property from unauthorized transfer or disposition as required by Section [~~62A-11-313~~] 26B-9-215; and

(B) surrender the property to the office after 21 days of receiving the notice unless the office has notified the person to release all or part of the property to the obligor.

(ii) Unless released by the office, a notice of levy upon personal property shall be:

(A) valid for 60 days; and

(B) effective against any additional property which the obligor may deposit or transfer into the possession of the person up to the amount of the levy.

(iii) If the property upon which the office imposes a levy is insufficient to satisfy the specified amount of past-due support and the obligor fails to contest that amount under Subsection (5)(a)(ii), the office may proceed under Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection [~~62A-11-304.5~~] 26B-9-208(1)(b) against additional property of the obligor until the amount specified and the reasonable costs of collection are fully paid.

(c) Except as provided in Subsection (5)(b)(iii), the office may not disburse funds resulting from action requiring notice under Subsection (5)(a)(i) until:

(i) 21 days after notice was sent to the obligor; and

(ii) the obligor, if the obligor contests the action under Subsection (5)(a)(ii), has

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exhausted the obligor's administrative remedies and, if appealed to a district court, the district court has rendered a final decision.

(d) Before intercepting or seizing any periodic or lump-sum payment under Subsection (1)(h)(i)(A), the office shall:

(i) comply with Subsection 59-10-529(4)(a); and

(ii) include in the notice required by Subsection 59-10-529(4)(a) reference to Subsection (1)(h)(i)(A).

(e) If Subsection (5)(a) or (5)(d) does not apply, an action against the real or personal property of the obligor shall be in accordance with Section [~~62A-11-312.5~~] 26B-9-214.

(6) All information received under this section is subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(7) No employer, financial institution, public utility, cable company, insurance organization, its agent or employee, or related entity may be civilly or criminally liable for providing information to the office or taking any other action requested by the office pursuant to this section.

(8) The actions the office may take under Subsection (1) are in addition to the actions the office may take pursuant to Part [4] 3, Income Withholding in IV-D Cases.

Section ~~{218}~~220. Section **26B-9-206**, which is renumbered from Section 62A-11-304.2 is renumbered and amended to read:

[~~62A-11-304.2~~]. 26B-9-206. Issuance or modification of administrative order -- Compliance with court order -- Authority of office -- Stipulated agreements -- Notification requirements.

(1) Through an adjudicative proceeding the office may issue or modify an administrative order that:

(a) determines paternity;

(b) determines whether an obligor owes support;

(c) determines temporary orders of child support upon clear and convincing evidence of paternity in the form of genetic test results or other evidence;

(d) requires an obligor to pay a specific or determinable amount of present and future support;

(e) determines the amount of past-due support;

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(f) orders an obligor who owes past-due support and is obligated to support a child receiving public assistance to participate in appropriate work activities if the obligor is unemployed and is not otherwise incapacitated;

(g) imposes a penalty authorized under this chapter;

(h) determines an issue that may be specifically contested under this chapter by a party who timely files a written request for an adjudicative proceeding with the office; and

(i) renews an administrative judgment.

(2) (a) An abstract of a final administrative order issued under this section or a notice of judgment-lien under Section [~~62A-11-312.5~~] 26B-9-214 may be filed with the clerk of any district court.

(b) Upon a filing under Subsection (2)(a), the clerk of the court shall:

(i) docket the abstract or notice in the judgment docket of the court and note the time of receipt on the abstract or notice and in the judgment docket; and

(ii) at the request of the office, place a copy of the abstract or notice in the file of a child support action involving the same parties.

(3) If a judicial order has been issued, the office may not issue an order under Subsection (1) that is not based on the judicial order, except:

(a) the office may establish a new obligation in those cases in which the juvenile court has ordered the parties to meet with the office to determine the support pursuant to Section 78A-6-356; or

(b) the office may issue an order of current support in accordance with the child support guidelines if the conditions of Subsection 78B-14-207(2)(c) are met.

(4) The office may proceed under this section in the name of this state, another state under Section [~~62A-11-305~~] 26B-9-209, any department of this state, the office, or the obligee.

(5) The office may accept voluntary acknowledgment of a support obligation and enter into stipulated agreements providing for the issuance of an administrative order under this part.

(6) The office may act in the name of the obligee in endorsing and cashing any drafts, checks, money orders, or other negotiable instruments received by the office for support.

(7) The obligor shall, after a notice of agency action has been served on the obligor in accordance with Section 63G-4-201, keep the office informed of:

(a) the obligor's current address;

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- (b) the name and address of current payors of income;
- (c) availability of or access to health insurance coverage; and
- (d) applicable health insurance policy information.

Section ~~{219}~~221. Section **26B-9-207**, which is renumbered from Section 62A-11-304.4 is renumbered and amended to read:

~~[62A-11-304.4].~~ 26B-9-207. Filing of location information -- Service of process.

(1) (a) Upon the entry of an order in a proceeding to establish paternity or to establish, modify, or enforce a support order, each party shall file identifying information and shall update that information as changes occur:

- (i) with the court or administrative agency that conducted the proceeding; and
- (ii) after October 1, 1998, with the state case registry.

(b) The identifying information required under Subsection (1)(a) shall include the person's Social Security number, driver's license number, residential and mailing addresses, telephone numbers, the name, address, and telephone number of employers, and any other data required by the ~~[United States]~~ Secretary of the United States Department of Health and Human Services.

(c) In any subsequent child support action involving the office or between the parties, state due process requirements for notice and service of process shall be satisfied as to a party upon:

(i) a sufficient showing that diligent effort has been made to ascertain the location of the party; and

(ii) delivery of notice to the most recent residential or employer address filed with the court, administrative agency, or state case registry under Subsection (1)(a).

(2) (a) The office shall provide individuals who are applying for or receiving services under this chapter or who are parties to cases in which services are being provided under this chapter:

(i) with notice of all proceedings in which support obligations might be established or modified; and

(ii) with a copy of any order establishing or modifying a child support obligation, or in the case of a petition for modification, a notice of determination that there should be no change

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in the amount of the child support award, within 14 days after issuance of such order or determination.

(b) Notwithstanding Subsection (2)(a)(ii), notice in the case of an interstate order shall be provided in accordance with Section 78B-14-614.

(3) Service of all notices and orders under this part shall be made in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the Utah Rules of Civil Procedure, or this section.

(4) Consistent with Title 63G, Chapter 2, Government Records Access and Management Act, the office shall adopt procedures to classify records to prohibit the unauthorized use or disclosure of information relating to a proceeding to:

- (a) establish paternity; or
- (b) establish or enforce support.

(5) (a) The office shall, upon written request, provide location information available in its files on a custodial or noncustodial parent to the other party or the other party's legal counsel provided that:

(i) the party seeking the information produces a copy of the parent-time order signed by the court;

(ii) the information has not been safeguarded in accordance with Section 454 of the Social Security Act;

(iii) the party whose location is being sought has been afforded notice in accordance with this section of the opportunity to contest release of the information;

(iv) the party whose location is being sought has not provided the office with a copy of a protective order, a current court order prohibiting disclosure, a current court order limiting or prohibiting the requesting person's contact with the party or child whose location is being sought, a criminal order, an administrative order pursuant to Section 80-2-707, or documentation of a pending proceeding for any of the above; and

- (v) there is no other state or federal law that would prohibit disclosure.

(b) "Location information" shall consist of the current residential address of the custodial or noncustodial parent and, if different and known to the office, the current residence of any children who are the subject of the parent-time order. If there is no current residential address available, the person's place of employment and any other location information shall be

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disclosed.

(c) For the purposes of this section, "reason to believe" under Section 454 of the Social Security Act means that the person seeking to safeguard information has provided to the office a copy of a protective order, current court order prohibiting disclosure, current court order prohibiting or limiting the requesting person's contact with the party or child whose location is being sought, criminal order signed by a court of competent jurisdiction, an administrative order pursuant to Section 80-2-707, or documentation of a pending proceeding for any of the above.

(d) Neither the state, the department, the office nor its employees shall be liable for any information released in accordance with this section.

(6) Custodial or noncustodial parents or their legal representatives who are denied location information in accordance with Subsection (5) may serve the Office of Recovery Services to initiate an action to obtain the information.

Section ~~{220}~~222. Section **26B-9-208**, which is renumbered from Section 62A-11-304.5 is renumbered and amended to read:

~~[62A-11-304.5].~~ 26B-9-208. Financial institutions.

(1) The office shall enter into agreements with financial institutions doing business in the state:

(a) to develop and operate, in coordination with such financial institutions, a data match system that:

(i) uses automated data exchanges to the maximum extent feasible; and

(ii) requires a financial institution each calendar quarter to provide the name, record address, social security number, other taxpayer identification number, or other identifying information for each obligor who:

(A) maintains an account at the institution; and

(B) owes past-due support as identified by the office by name and social security number or other taxpayer identification number; and

(b) to require a financial institution upon receipt of a notice of lien to encumber or surrender assets held by the institution on behalf of an obligor who is subject to a child support lien in accordance with Section ~~[62A-11-304.1]~~ 26B-9-205.

(2) The office may pay a reasonable fee to a financial institution for compliance with

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Subsection (1)(a), which may not exceed the actual costs incurred.

(3) A financial institution may not be liable under any federal or state law to any person for any disclosure of information or action taken in good faith under Subsection (1).

(4) The office may disclose a financial record obtained from a financial institution under this section only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation.

(5) If an employee of the office knowingly, or by reason of negligence, discloses a financial record of an individual in violation of Subsection (4), the individual may bring a civil action for damages in a district court of the United States as provided for in the Social Security Act, 42 U.S.C. Sec. 669A.

(6) The office shall provide notice and disburse funds seized or encumbered under this section in accordance with Section [~~62A-11-304.1~~] 26B-9-205.

Section ~~{221}~~223. Section **26B-9-209**, which is renumbered from Section 62A-11-305 is renumbered and amended to read:

~~[62A-11-305].~~ 26B-9-209. Support collection services requested by agency of another state.

(1) In accordance with Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act, the office may proceed to issue or modify an order under Section [~~62A-11-304.2~~] 26B-9-206 to collect under this part from an obligor who is located in or is a resident of this state regardless of the presence or residence of the obligee if:

(a) support collection services are requested by an agency of another state that is operating under Part IV-D of the Social Security Act; or

(b) an individual applies for services.

(2) The office shall use high-volume automated administrative enforcement, to the same extent it is used for intrastate cases, in response to a request made by another state's IV-D child support agency to enforce support orders.

(3) A request by another state shall constitute a certification by the requesting state:

(a) of the amount of support under the order of payment of which is in arrears; and

(b) that the requesting state has complied with procedural due process requirements applicable to the case.

(4) The office shall give automated administrative interstate enforcement requests the

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same priority as a two-state referral received from another state to enforce a support order.

(5) The office shall promptly report the results of the enforcement procedures to the requesting state.

(6) As required by the Social Security Act, 42 U.S.C. Sec. 666(a)(14), the office shall maintain records of:

(a) the number of requests for enforcement assistance received by the office under this section;

(b) the number of cases for which the state collected support in response to those requests; and

(c) the amount of support collected.

Section ~~{222}~~224. Section **26B-9-210**, which is renumbered from Section 62A-11-306.1 is renumbered and amended to read:

~~[62A-11-306.1].~~ 26B-9-210. Issuance or modification of an order to collect support for persons not receiving public assistance.

The office may proceed to issue or modify an order under Section ~~[62A-11-304.2]~~ 26B-9-206 and collect under this part even though public assistance is not being provided on behalf of a dependent child if the office provides support collection services in accordance with:

(1) an application for services provided under Title IV-D of the federal Social Security Act;

(2) the continued service provisions of Subsection ~~[62A-11-307.2]~~ 26B-9-213(5); or

(3) the interstate provisions of Section ~~[62A-11-305]~~ 26B-9-209.

Section ~~{223}~~225. Section **26B-9-211**, which is renumbered from Section 62A-11-306.2 is renumbered and amended to read:

~~[62A-11-306.2].~~ 26B-9-211. Mandatory review and adjustment of child support orders for TANF recipients.

If a child support order has not been issued, adjusted, or modified within the previous three years and the children who are the subject of the order currently receive TANF funds, the office shall review the order, and if appropriate, move the tribunal to adjust the amount of the order if there is a difference of 10% or more between the payor's ordered support amount and the payor's support amount required under the guidelines.

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Section ~~{224}~~226. Section **26B-9-212**, which is renumbered from Section 62A-11-307.1 is renumbered and amended to read:

~~[62A-11-307.1].~~ **26B-9-212. Collection directly from responsible parent.**

(1) (a) The office may issue or modify an order under Section ~~[62A-11-304.2]~~ 26B-9-206 and collect under this part directly from a responsible parent if the procedural requirements of applicable law have been met and if public assistance is provided on behalf of that parent's dependent child.

(b) The direct right to issue an order under this Subsection (1) is independent of and in addition to the right derived from that assigned under Section 35A-3-108.

(2) An order issuing or modifying a support obligation under Subsection (1), issued while public assistance was being provided for a dependent child, remains in effect and may be enforced by the office under Section ~~[62A-11-306.1]~~ 26B-9-210 after provision of public assistance ceases.

(3) (a) The office may issue or modify an administrative order, subject to the procedural requirements of applicable law, that requires that obligee to pay to the office assigned support that an obligee receives and retains in violation of Subsection ~~[62A-11-307.2]~~ 26B-9-213(4) and may reduce to judgment any unpaid balance due.

(b) The office may collect the judgment debt in the same manner as it collects any judgment for past-due support owed by an obligor.

(4) Notwithstanding any other provision of law, the Office of Recovery Services shall have full standing and authority to establish and enforce child support obligations against an alleged parent currently or formerly in a same-sex marriage on the same terms as the Office of Recovery Services' authority against other mothers and fathers.

Section ~~{225}~~227. Section **26B-9-213**, which is renumbered from Section 62A-11-307.2 is renumbered and amended to read:

~~[62A-11-307.2].~~ **26B-9-213. Duties of obligee after assignment of support rights.**

(1) An obligee whose rights to support have been assigned under Section 35A-3-108 as a condition of eligibility for public assistance has the following duties:

(a) Unless a good cause or other exception applies, the obligee shall, at the request of the office:

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(i) cooperate in good faith with the office by providing the name and other identifying information of the other parent of the obligee's child for the purpose of:

(A) establishing paternity; or

(B) establishing, modifying, or enforcing a child support order;

(ii) supply additional necessary information and appear at interviews, hearings, and legal proceedings; and

(iii) submit the obligee's child and himself to judicially or administratively ordered genetic testing.

(b) The obligee may not commence an action against an obligor or file a pleading to collect or modify support without the office's written consent.

(c) The obligee may not do anything to prejudice the rights of the office to establish paternity, enforce provisions requiring health insurance, or to establish and collect support.

(d) The obligee may not agree to allow the obligor to change the court or administratively ordered manner or amount of payment of past, present, or future support without the office's written consent.

(2) (a) The office shall determine and redetermine, when appropriate, whether an obligee has cooperated with the office as required by Subsection (1)(a).

(b) If the office determines that an obligee has not cooperated as required by Subsection (1)(a), the office shall:

(i) forward the determination and the basis for it to the Department of Workforce Services, which shall inform the [~~Department of Health~~] department of the determination, for a determination of whether compliance by the obligee should be excused on the basis of good cause or other exception; and

(ii) send to the obligee:

(A) a copy of the notice; and

(B) information that the obligee may, within 15 days of notice being sent:

(I) contest the office's determination of noncooperation by filing a written request for an adjudicative proceeding with the office; or

(II) assert that compliance should be excused on the basis of good cause or other exception by filing a written request for a good cause exception with the Department of Workforce Services.

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(3) The office's right to recover is not reduced or terminated if an obligee agrees to allow the obligor to change the court or administratively ordered manner or amount of payment of support regardless of whether that agreement is entered into before or after public assistance is furnished on behalf of a dependent child.

(4) (a) If an obligee receives direct payment of assigned support from an obligor, the obligee shall immediately deliver that payment to the office.

(b) (i) If an obligee agrees with an obligor to receive payment of support other than in the court or administratively ordered manner and receives payment as agreed with the obligor, the obligee shall immediately deliver the cash equivalent of the payment to the office.

(ii) If the amount delivered to the office by the obligee under Subsection (4)(b)(i) exceeds the amount of the court or administratively ordered support due, the office shall return the excess to the obligee.

(5) (a) If public assistance furnished on behalf of a dependent child is terminated, the office may continue to provide paternity establishment and support collection services.

(b) Unless the obligee notifies the office to discontinue these services, the obligee is considered to have accepted and is bound by the rights, duties, and liabilities of an obligee who has applied for those services.

Section ~~226~~228. Section **26B-9-214**, which is renumbered from Section 62A-11-312.5 is renumbered and amended to read:

~~[62A-11-312.5].~~ 26B-9-214. Liens by operation of law and writs of garnishment.

(1) Each payment or installment of child support is, on and after the date it is due, a judgment with the same attributes and effect of any judgment of a district court in accordance with Section 78B-12-112 and for purposes of Section 78B-5-202.

(2) (a) A judgment under Subsection (1) or final administrative order shall constitute a lien against the real property of the obligor upon the filing of a notice of judgment-lien in the district court where the obligor's real property is located if the notice:

(i) specifies the amount of past-due support; and

(ii) complies with the procedural requirements of Section 78B-5-202.

(b) Rule 69, Utah Rules of Civil Procedure, shall apply to any action brought to execute a judgment or final administrative order under this section against real or personal

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property in the obligor's possession.

(3) (a) The office may issue a writ of garnishment against the obligor's personal property in the possession of a third party for a judgment under Subsection (1) or a final administrative order in the same manner and with the same effect as if the writ were issued on a judgment of a district court if:

(i) the judgment or final administrative order is recorded on the office's automated case registry; and

(ii) the writ is signed by the director or the director's designee and served by certified mail, return receipt requested, or as prescribed by Rule 4, Utah Rules of Civil Procedure.

(b) A writ of garnishment issued under Subsection (3)(a) is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section ~~[62A-11-316]~~ 26B-9-217.

Section ~~{227}~~229. Section **26B-9-215**, which is renumbered from Section 62A-11-313 is renumbered and amended to read:

~~[62A-11-313]~~. 26B-9-215. Effect of ~~{Lien}~~lien.

(1) After receiving notice that a support lien has been filed under this part by the office, no person in possession of any property which may be subject to that lien may pay over, release, sell, transfer, encumber, or convey that property to any person other than the office, unless he first receives:

(a) a release or waiver thereof from the office; or

(b) a court order that orders release of the lien on the basis that the debt does not exist or has been satisfied.

(2) Whenever any such person has in his possession earnings, deposits, accounts, or balances in excess of \$100 over the amount of the debt claimed by the office, that person may, without liability under this part, release that excess to the obligor.

Section ~~{228}~~230. Section **26B-9-216**, which is renumbered from Section 62A-11-315.5 is renumbered and amended to read:

~~[62A-11-315.5]~~. 26B-9-216. Enforcement of liens arising in another state.

A lien arising in another state shall be accorded full faith and credit in this state, without any additional requirement of judicial notice or hearing prior to the enforcement of the lien, if the office, parent, or state IV-D agency who seeks to enforce the lien complies with

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Section ~~[62A-11-304.1 or Section 62A-11-312.5]~~ 26B-9-205 or Section 26B-9-214.

Section ~~{229}~~ 231. Section **26B-9-217**, which is renumbered from Section 62A-11-316 is renumbered and amended to read:

~~[62A-11-316].~~ **26B-9-217. Requirement to honor voluntary assignment of earnings -- Discharge of employee prohibited -- Liability for discharge -- Earnings subject to support lien or garnishment.**

(1) (a) Every person, firm, corporation, association, political subdivision, or department of the state shall honor, according to its terms, a duly executed voluntary assignment of earnings which is presented by the office as a plan to satisfy or retire a support debt or obligation.

(b) The requirement to honor an assignment of earnings, and the assignment of earnings itself, are applicable whether the earnings are to be paid presently or in the future, and continue in effect until released in writing by the office.

(c) Payment of money pursuant to an assignment of earnings presented by the office shall serve as full acquittance under any contract of employment, and the state shall defend the employer and hold ~~[him]~~ the employer harmless for any action taken pursuant to the assignment of earnings.

(d) The office shall be released from liability for improper receipt of money under an assignment of earnings upon return of any money so received.

(2) An employer may not discharge or prejudice any employee because ~~[his]~~ the employee's earnings have been subjected to support lien, wage assignment, or garnishment for any indebtedness under this part.

(3) If ~~[a person]~~ an employer discharges an employee in violation of Subsection (2), ~~[he]~~ the employer is liable to the employee for the damages ~~[he]~~ the employee may suffer, and, additionally, to the office in an amount equal to the debt which is the basis of the assignment or garnishment, plus costs, interest, and ~~[attorneys']~~ attorney fees, or a maximum of \$1,000, whichever is less.

(4) The maximum part of the aggregate disposable earnings of an individual for any work pay period which may be subjected to a garnishment to enforce payment of a judicial or administrative judgment arising out of failure to support dependent children may not exceed 50% of ~~[his]~~ the individual's disposable earnings for the work pay period.

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(5) The support lien or garnishment shall continue to operate and require ~~[that person]~~ the employer to withhold the nonexempt portion of earnings at each succeeding earnings disbursement interval until released in writing by the court or office.

Section ~~{230}~~232. Section **26B-9-218**, which is renumbered from Section 62A-11-319 is renumbered and amended to read:

~~[62A-11-319].~~ 26B-9-218. Release of lien, attachment, or garnishment by department.

The office may, at any time, release a support lien, wage assignment, attachment, or garnishment on all or part of the property of the obligor, or return seized property without liability, if assurance of payment is considered adequate by the office, or if that action will facilitate collection of the support debt. However, that release or return does not prevent future action to collect from the same or other property. The office may also waive provisions providing for the collection of interest on accounts due, if that waiver would facilitate collection of the support debt.

Section ~~{231}~~233. Section **26B-9-219**, which is renumbered from Section 62A-11-320 is renumbered and amended to read:

~~[62A-11-320].~~ 26B-9-219. Payment schedules.

(1) The office may:

(a) set or reset a level and schedule of payments at any time consistent with the income, earning capacity, and resources of the obligor; or

(b) demand payment in full.

(2) If a support debt is reduced to a schedule of payments and made subject to income withholding, the total monthly amount of the scheduled payment, current support payment, and cost of health insurance attributable to a child for whom the obligor has been ordered may only be subject to income withholding in an amount that does not exceed the maximum amount permitted under Section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. Sec. 1673(b).

(3) (a) Within 15 days of receiving notice, an obligor may contest a payment schedule as inconsistent with Subsection (2) or the rules adopted by the office to establish payment schedules under Subsection (1) by filing a written request for an adjudicative proceeding.

(b) For purposes of Subsection (3)(a), notice includes:

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(i) notice sent to the obligor by the office in accordance with Section [~~62A-11-304.4~~]
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(ii) participation by the obligor in the proceedings related to the establishment of the payment schedule; and

(iii) receiving a paycheck in which a reduction has been made in accordance with a payment schedule established under Subsection (1).

Section ~~{232}~~234. Section **26B-9-220**, which is renumbered from Section 62A-11-320.5 is renumbered and amended to read:

[~~62A-11-320.5~~]. 26B-9-220. Review and adjustment of child support order in three-year cycle -- Substantial change in circumstances not required.

(1) If a child support order has not been issued, modified, or reviewed within the previous three years, the office shall review a child support order, taking into account the best interests of the child involved, if:

(a) requested by a parent or legal guardian involved in a case receiving IV-D services; or

(b) there has been an assignment under Section 35A-3-108 and the office determines that a review is appropriate.

(2) If the office conducts a review under Subsection (1), the office shall determine if there is a difference of 10% or more between the amount ordered and the amount that would be required under the child support guidelines. If there is such a difference and the difference is not of a temporary nature, the office shall:

(a) with respect to a child support order issued or modified by the office, adjust the amount to that which is provided for in the guidelines; or

(b) with respect to a child support order issued or modified by a court, file a petition with the court to adjust the amount to that which is provided for in the guidelines.

(3) The office may use automated methods to:

(a) collect information and conduct reviews under Subsection (2); and

(b) identify child support orders in which there is a difference of 10% or more between the amount of child support ordered and the amount that would be required under the child support guidelines for review under Subsection (1)(b).

(4) (a) A parent or legal guardian who requests a review under Subsection (1)(a) shall

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provide notice of the request to the other parent within five days and in accordance with Section ~~[62A-11-304.4]~~ 26B-9-207.

(b) If the office conducts a review under Subsections (1)(b) and (3)(b), the office shall provide notice to the parties of:

- (i) a proposed adjustment under Subsection (2)(a); or
- (ii) a proposed petition to be filed in court under Subsection (2)(b).

(5) (a) Within 30 days of notice being sent under Subsection (4)(a), a parent or legal guardian may respond to a request for review filed with the office.

(b) Within 30 days of notice being sent under Subsection (4)(b), a parent or legal guardian may contest a proposed adjustment or petition by requesting a review under Subsection (1)(a) and providing documentation that refutes the adjustment or petition.

(6) A showing of a substantial change in circumstances is not necessary for an adjustment under this section.

Section ~~{233}~~235. Section **26B-9-221**, which is renumbered from Section 62A-11-320.6 is renumbered and amended to read:

~~[62A-11-320.6]~~. **26B-9-221. Review and adjustment of support order for substantial change in circumstances outside three-year cycle.**

(1) (a) A parent or legal guardian involved in a case receiving IV-D services or the office, if there has been an assignment under Section 35A-3-108, may at any time request the office to review a child support order if there has been a substantial change in circumstances.

(b) For purposes of Subsection (1)(a), a substantial change in circumstances may include:

- (i) material changes in custody;
- (ii) material changes in the relative wealth or assets of the parties;
- (iii) material changes of 30% or more in the income of a parent;
- (iv) material changes in the ability of a parent to earn;
- (v) material changes in the medical needs of the child; and
- (vi) material changes in the legal responsibilities of either parent for the support of

others.

(2) Upon receiving a request under Subsection (1), the office shall review the order, taking into account the best interests of the child involved, to determine whether the substantial

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change in circumstance has occurred, and if so, whether the change resulted in a difference of 15% or more between the amount of child support ordered and the amount that would be required under the child support guidelines. If there is such a difference and the difference is not of a temporary nature, the office shall:

(a) with respect to a support order issued or modified by the office, adjust the amount in accordance with the guidelines; or

(b) with respect to a support order issued or modified by a court, file a petition with the court to adjust the amount in accordance with the guidelines.

(3) The office may use automated methods to collect information for a review conducted under Subsection (2).

(4) (a) A parent or legal guardian who requests a review under Subsection (1) shall provide notice of the request to the other parent within five days and in accordance with Section ~~[62A-11-304.4]~~ 26B-9-207.

(b) If the office initiates and conducts a review under Subsection (1), the office shall provide notice of the request to any parent or legal guardian within five days and in accordance with Section ~~[62A-11-304.4]~~ 26B-9-207.

(5) Within 30 days of notice being sent under Subsection (4), a parent or legal guardian may file a response to a request for review with the office.

Section ~~{234}~~236. Section **26B-9-222**, which is renumbered from Section 62A-11-320.7 is renumbered and amended to read:

~~[62A-11-320.7]~~. 26B-9-222. Three-year notice of opportunity to review.

(1) Once every three years, the office shall give notice to each parent or legal guardian involved in a case receiving IV-D services of the opportunity to request a review and, if appropriate, adjustment of a child support order under Sections ~~[62A-11-320.5 and 62A-11-320.6]~~ 26B-9-220 and 26B-9-221.

(2) (a) The notice required by Subsection (1) may be included in an issued or modified order of support.

(b) Notwithstanding Subsection (2)(a), the office shall comply with Subsection (1), three years after the date of the order issued or modified under Subsection (2)(a).

Section ~~{235}~~237. Section **26B-9-223**, which is renumbered from Section 62A-11-321 is renumbered and amended to read:

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~~[62A-11-321].~~ 26B-9-223. Posting bond or security for payment of support debt -- Procedure.

(1) The office shall, or an obligee may, petition the court for an order requiring an obligor to post a bond or provide other security for the payment of a support debt, if the office or an obligee determines that action is appropriate, and if the payments are more than 90 days delinquent. The office shall establish rules for determining when it shall seek an order for bond or other security.

(2) When the office or an obligee petitions the court under this section, it shall give written notice to the obligor, stating:

- (a) the amount of support debt;
 - (b) that it has petitioned the court for an order requiring the obligor to post security;
- and
- (c) that the obligor has the right to appear before the court and contest the office's or obligee's petition.

(3) After notice to the obligor and an opportunity for a hearing, the court shall order a bond posted or other security to be deposited upon the office's or obligee's showing of a support debt and of a reasonable basis for the security.

Section ~~236~~238. Section **26B-9-224**, which is renumbered from Section 62A-11-326 is renumbered and amended to read:

~~[62A-11-326].~~ 26B-9-224. Medical and dental expenses of dependent children.

In any action under this part, the office and the department in their orders shall:

- (1) include a provision assigning responsibility for cash medical support;
- (2) include a provision requiring the purchase and maintenance of appropriate medical, hospital, and dental care insurance for those children, if:
 - (a) insurance coverage is or becomes available at a reasonable cost; and
 - (b) the insurance coverage is accessible to the children; and
- (3) include a designation of which health, dental or hospital insurance plan, is primary and which is secondary in accordance with the provisions of Section 30-3-5.4 which will take effect if at any time the dependent children are covered by both parents' health, hospital, or dental insurance plans.

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Section ~~{237}~~239. Section **26B-9-225**, which is renumbered from Section 62A-11-326.1 is renumbered and amended to read:

[~~62A-11-326.1~~]. 26B-9-225. Enrollment of child in accident and health insurance plan -- Order -- Notice.

(1) The office may issue a notice to existing and future employers or unions to enroll a dependent child in an accident and health insurance plan that is available through the dependent child's parent or legal guardian's employer or union, when the following conditions are satisfied:

(a) the parent or legal guardian is already required to obtain insurance coverage for the child by a prior court or administrative order; and

(b) the parent or legal guardian has failed to provide written proof to the office that:

(i) the child has been enrolled in an accident and health insurance plan in accordance with the court or administrative order; or

(ii) the coverage required by the order was not available at group rates through the employer or union 30 or more days prior to the date of the mailing of the notice to enroll.

(2) The office shall provide concurrent notice to the parent or legal guardian in accordance with Section [~~62A-11-304.4~~] 26B-9-207 of:

(a) the notice to enroll sent to the employer or union; and

(b) the opportunity to contest the enrollment due to a mistake of fact by filing a written request for an adjudicative proceeding with the office within 15 days of the notice being sent.

(3) A notice to enroll shall result in the enrollment of the child in the parent's accident and health insurance plan, unless the parent successfully contests the notice based on a mistake of fact.

(4) A notice to enroll issued under this section may be considered a "qualified medical support order" for the purposes of enrolling a dependent child in a group accident and health insurance plan as defined in Section 609(a), Federal Employee Retirement Income Security Act of 1974.

Section ~~{238}~~240. Section **26B-9-226**, which is renumbered from Section 62A-11-326.2 is renumbered and amended to read:

[~~62A-11-326.2~~]. 26B-9-226. Compliance with order -- Enrollment of dependent child for insurance.

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(1) An employer or union shall comply with a notice to enroll issued by the office under Section [~~62A-11-326.1~~] 26B-9-225 by enrolling the dependent child that is the subject of the notice in the:

(a) accident and health insurance plan in which the parent or legal guardian is enrolled, if the plan satisfies the prior court or administrative order; or

(b) least expensive plan, assuming equivalent benefits, offered by the employer or union that complies with the prior court or administrative order which provides coverage that is reasonably accessible to the dependent child.

(2) The employer, union, or insurer may not refuse to enroll a dependent child pursuant to a notice to enroll because a parent or legal guardian has not signed an enrollment application.

(3) Upon enrollment of the dependent child, the employer shall deduct the appropriate premiums from the parent or legal guardian's wages and remit them directly to the insurer.

(4) The insurer shall provide proof of insurance to the office upon request.

(5) The signature of the custodial parent of the insured dependent is a valid authorization to the insurer for purposes of processing any insurance reimbursement claim.

Section ~~{239}~~241. Section **26B-9-227**, which is renumbered from Section 62A-11-326.3 is renumbered and amended to read:

~~[62A-11-326.3].~~ 26B-9-227. Determination of parental liability.

(1) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the office may determine by order the amount of a parent's liability for uninsured medical, hospital, and dental expenses of a dependent child, when the parent:

(a) is required by a prior court or administrative order to:

(i) share those expenses with the other parent of the dependent child; or

(ii) obtain medical, hospital, or dental care insurance but fails to do so; or

(b) receives direct payment from an insurer under insurance coverage obtained after the prior court or administrative order was issued.

(2) If the prior court or administrative order does not specify what proportions of the expenses are to be shared, the office may determine the amount of liability in accordance with established rules.

(3) This section applies to an order without regard to when it was issued.

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Section ~~{240}~~242. Section **26B-9-228**, which is renumbered from Section 62A-11-327 is renumbered and amended to read:

[~~62A-11-327~~]. 26B-9-228. Reporting past-due support to consumer reporting agency.

The office shall periodically report the name of any obligor who is delinquent in the payment of support and the amount of overdue support owed by the obligor to consumer reporting agencies as defined in the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681a(f):

(1) only after the obligor has been afforded notice and a reasonable opportunity to contest the accuracy of the information; and

(2) only to an entity that has provided satisfactory evidence that it is a consumer reporting agency under 15 U.S.C. Sec. 1681a(f).

Section ~~{241}~~243. Section **26B-9-229**, which is renumbered from Section 62A-11-328 is renumbered and amended to read:

[~~62A-11-328~~]. 26B-9-229. Information received from State Tax Commission provided to other states' child support collection agencies.

The office shall, upon request, provide to any other state's child support collection agency the information which it receives from the State Tax Commission under Subsection 59-1-403(4)(l), with regard to a support debt which that agency is involved in enforcing.

Section ~~{242}~~244. Section **26B-9-230**, which is renumbered from Section 62A-11-333 is renumbered and amended to read:

[~~62A-11-333~~]. 26B-9-230. Right to judicial review.

(1) (a) Within 30 days of notice of any administrative action on the part of the office to establish paternity or establish, modify or enforce a child support order, the obligor may file a petition for de novo review with the district court.

(b) For purposes of Subsection (1)(a), notice includes:

(i) notice actually received by the obligor in accordance with Section [~~62A-11-304.4~~] 26B-9-207;

(ii) participation by the obligor in the proceedings related to the establishment of the paternity or the modification or enforcement of child support; or

(iii) receiving a paycheck in which a reduction has been made for child support.

(2) The petition shall name the office and all other appropriate parties as respondents

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and meet the form requirements specified in Section 63G-4-402.

(3) A copy of the petition shall be served upon the Child and Family Support Division of the Office of Attorney General.

(4) (a) If the petition is regarding the amount of the child support obligation established in accordance with Title 78B, Chapter 12, Utah Child Support Act, the court may issue a temporary order for child support until a final order is issued.

(b) The petitioner may file an affidavit stating the amount of child support reasonably believed to be due and the court may issue a temporary order for that amount. The temporary order shall be valid for 60 days, unless extended by the court while the action is being pursued.

(c) If the court upholds the amount of support established in Subsection (4)(a), the petitioner shall be ordered to make up the difference between the amount originally ordered in Subsection (4)(a) and the amount temporarily ordered under Subsection (4)(b).

(d) This Subsection (4) does not apply to an action for the court-ordered modification of a judicial child support order.

(5) The court may, on its own initiative and based on the evidence before it, determine whether the petitioner violated U.R. Civ. P. Rule 11 by filing the action. If the court determines that U.R. Civ. P. Rule 11 was violated, it shall, at a minimum, award to the office attorney fees and costs for the action.

(6) Nothing in this section precludes the obligor from seeking administrative remedies as provided in this chapter.

Section ~~{243}~~245. Section **26B-9-231**, which is renumbered from Section 62A-11-334 is renumbered and amended to read:

[62A-11-334]. 26B-9-231. Reporting past-due support for criminal prosecution.

(1) (a) Upon request from an official described in Subsection (1)(b), the office shall report the name of an obligor who is over \$10,000 delinquent in the payment of support and the amount of overdue support owed by the obligor to an obligee.

(b) The following officials may request the information described in Subsection (1)(a):

(i) the attorney general;

(ii) a county attorney in whose jurisdiction the obligor's obligee resides; or

(iii) a district attorney in whose jurisdiction the obligor's obligee resides.

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(2) The office shall make the report described in Subsection (1) no later than 30 days after the day on which the office receives the request for information.

Section ~~{244}~~246. Section **26B-9-301**, which is renumbered from Section 62A-11-401 is renumbered and amended to read:

Part 3. Income Withholding in IV-D Cases

~~[62A-11-401].~~ 26B-9-301. Definitions.

As used in this part~~[, Part 5, Income Withholding in Non IV-D Cases, and Part 7, Electronic Funds Transfer]~~ and Part 4, Income Withholding in Non IV-D ~~cases~~ Cases:

(1) "Business day" means a day on which state offices are open for regular business.

(2) "Child" means the same as that term is defined in Section ~~[62A-11-303]~~
26B-9-201.

(3) (a) "Child support" means a base child support award as defined in Section 78B-12-102, or a financial award for uninsured monthly medical expenses, ordered by a tribunal for the support of a child, including current periodic payments, all arrearages which accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs.

(b) "Child support" includes obligations ordered by a tribunal for the support of a spouse or former spouse with whom the child resides if the spousal support is collected with the child support.

(4) "Child support order" ~~[or "support order"]~~ means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a tribunal for child support and related costs and fees, interest and penalties, income withholding, attorney fees, and other relief.

(5) "Child support services" means the same as that term is defined in Section ~~[62A-11-103]~~ 26B-9-101.

(6) "Delinquent" or "delinquency" means that child support in an amount at least equal to current child support payable for one month is overdue.

(7) "Immediate income withholding" means income withholding without regard to whether a delinquency has occurred.

(8) "Income" means the same as that term is defined in Section ~~[62A-11-103]~~
26B-9-101.

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(9) "Jurisdiction" means a state or political subdivision of the United States, a territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, an Indian tribe or tribal organization, or any comparable foreign nation or political subdivision.

(10) "Obligee" means the same as that term is defined in Section ~~[62A-11-303]~~ ~~{ff}~~ 26B-9-201.

(11) "Obligor" means the same as that term is defined in Section ~~[62A-11-303]~~ 26B-9-201.

(12) "Office" ~~[is defined in Section 62A-11-103]~~ means the Office of Recovery Services ~~{ created in Section 26B-9-103 }~~.

(13) "Payor" means an employer or any person who is a source of income to an obligor.

(14) "Support order" means the same as child support order.

Section ~~{245}~~ 247. Section **26B-9-302**, which is renumbered from Section 62A-11-402 is renumbered and amended to read:

~~[62A-11-402]~~. **26B-9-302. Administrative procedures.**

Because the procedures of this part are mandated by federal law they shall be applied for the purposes specified in this part and control over any other statutory administrative procedures.

Section ~~{246}~~ 248. Section **26B-9-303**, which is renumbered from Section 62A-11-403 is renumbered and amended to read:

~~[62A-11-403]~~. **26B-9-303. Provision for income withholding in child support order -- Immediate income withholding.**

(1) Whenever a child support order is issued or modified in this state the obligor's income is subject to immediate income withholding for the child support described in the order in accordance with the provisions of this chapter, unless:

(a) the court or administrative body which entered the order finds that one of the parties has demonstrated good cause so as not to require immediate income withholding; or

(b) a written agreement which provides an alternative payment arrangement is executed by the obligor and obligee, and reviewed and entered in the record by the court or administrative body.

(2) In every child support order issued or modified on or after January 1, 1994, the

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court or administrative body shall include a provision that the income of an obligor is subject to immediate income withholding in accordance with this chapter. If for any reason other than the provisions of Subsection (1) that provision is not included in the child support order the obligor's income is nevertheless subject to immediate income withholding.

(3) In determining "good cause," the court or administrative body may, in addition to any other requirement it considers appropriate, consider whether the obligor has:

(a) obtained a bond, deposited money in trust for the benefit of the dependent children, or otherwise made arrangements sufficient to guarantee child support payments for at least two months;

(b) arranged to deposit all child support payments into a checking account belonging to the obligee, or made arrangements insuring that a reliable and independent record of the date and place of child support payments will be maintained; or

(c) arranged for electronic transfer of funds on a regular basis to meet court-ordered child support obligations.

Section ~~{247}~~249. Section **26B-9-304**, which is renumbered from Section 62A-11-404 is renumbered and amended to read:

~~[62A-11-404].~~ **26B-9-304. Office procedures for income withholding for orders issued or modified on or after October 13, 1990.**

(1) With regard to obligees or obligors who are receiving IV-D services, each child support order issued or modified on or after October 13, 1990, subjects the income of an obligor to immediate income withholding as of the effective date of the order, regardless of whether a delinquency occurs unless:

(a) the court or administrative body that entered the order finds that one of the parties has demonstrated good cause not to require immediate income withholding; or

(b) a written agreement that provides an alternative arrangement is executed by the obligor and obligee, and by the office, if there is an assignment under Section 35A-3-108, and reviewed and entered in the record by the court or administrative body.

(2) For purposes of this section:

(a) "good cause" shall be based on, at a minimum:

(i) a determination and explanation on the record by the court or administrative body that implementation of income withholding would not be in the best interest of the child; and

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(ii) proof of timely payment of any previously ordered support;

(b) in determining "good cause," the court or administrative body may, in addition to any other requirement that it determines appropriate, consider whether the obligor has:

(i) obtained a bond, deposited money in trust for the benefit of the dependent children, or otherwise made arrangements sufficient to guarantee child support payments for at least two months; and

(ii) arranged to deposit all child support payments into a checking account belonging to the obligee or made arrangements insuring that a reliable and independent record of the date and place of child support payments will be maintained.

(3) An exception from immediate income withholding shall be:

(a) included in the court or administrative agency's child support order; and

(b) negated without further administrative or judicial action:

(i) upon a delinquency;

(ii) upon the obligor's request; or

(iii) if the office, based on internal procedures and standards, or a party requests immediate income withholding for a case in which the parties have entered into an alternative arrangement to immediate income withholding pursuant to Subsection (1)(b).

(4) If an exception to immediate income withholding has been ordered on the basis of good cause under Subsection (1)(a), the office may commence income withholding under this part:

(a) in accordance with Subsection (3)(b); or

(b) if the administrative or judicial body that found good cause determines that circumstances no longer support that finding.

(5) (a) A party may contest income withholding due to a mistake of fact by filing a written objection with the office within 15 days of the commencement of income withholding under Subsection (4).

(b) If a party contests income withholding under Subsection (5)(a), the office shall proceed with the objection as it would an objection filed under Section [~~62A-11-405~~] 26B-9-305.

(6) Income withholding implemented under this section is subject to termination under Section [~~62A-11-408~~] 26B-9-308.

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(7) (a) Income withholding under the order may be effective until the obligor no longer owes child support to the obligee.

(b) Appropriate income withholding procedures apply to existing and future payors and all withheld income shall be submitted to the office.

Section ~~{248}~~250. Section **26B-9-305**, which is renumbered from Section 62A-11-405 is renumbered and amended to read:

~~[62A-11-405].~~ 26B-9-305. Office procedures for income withholding for orders issued or modified before October 13, 1990.

(1) With regard to child support orders issued prior to October 13, 1990, and not otherwise modified after that date, and for which an obligor or obligee is receiving IV-D services, the office shall proceed to withhold income as a means of collecting child support if a delinquency occurs under the order, regardless of whether the relevant child support order includes authorization for income withholding.

(2) Upon receipt of a verified statement or affidavit alleging that a delinquency has occurred, the office shall:

(a) send notice to the payor for income withholding in accordance with Section ~~[62A-11-406]~~ 26B-9-306; and

(b) send notice to the obligor under Section ~~[62A-11-304.4]~~ 26B-9-207 that includes:

(i) a copy of the notice sent to the payor; and

(ii) information regarding:

(A) the commencement of income withholding; and

(B) the opportunity to contest the withholding or the amount withheld due to mistake of fact by filing a written request for review under this section with the office within 15 days.

(3) If the obligor contests the withholding, the office shall:

(a) provide an opportunity for the obligor to provide documentation and, if necessary, to present evidence supporting the obligor's claim of mistake of fact;

(b) decide whether income withholding shall continue;

(c) notify the obligor of its decision and the obligor's right to appeal under Subsection (4); and

(d) at the obligor's option, return, if in the office's possession, or credit toward the most current and future support obligations of the obligor any amount mistakenly withheld and, if

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the mistake is attributable to the office, interest at the legal rate.

(4) (a) An obligor may appeal the office's decision to withhold income under Subsection (3) by filing an appeal with the district court within 30 days after service of the notice under Subsection (3) and immediately notifying the office in writing of the obligor's decision to appeal.

(b) The office shall proceed with income withholding under this part during the appeal, but shall hold all funds it receives, except current child support, in a reserve account pending the court's decision on appeal. The funds, plus interest at the legal rate, shall be paid to the party determined by the court.

(c) If an obligor appeals a decision of the office to a district court under Subsection (4)(a), the obligor shall provide to the obligee:

- (i) notice of the obligor's appeal; and
- (ii) a copy of any documents filed by the obligor upon the office in connection with the appeal.

(5) An obligor's payment of overdue child support may not be the sole basis for not implementing income withholding in accordance with this part.

Section ~~{249}~~251. Section **26B-9-306**, which is renumbered from Section 62A-11-406 is renumbered and amended to read:

~~[62A-11-406].~~ 26B-9-306. Notice to payor.

Upon compliance with the applicable provisions of this part the office shall mail or deliver to each payor at the payor's last-known address written notice stating:

- (1) the amount of child support to be withheld from income;
- (2) that the child support must be withheld from the obligor's income each time the obligor is paid, but that the amount withheld may not exceed the maximum amount permitted under Section 303 (b) of the Consumer Credit Protection Act, 15 U.S.C. Sec. 1673(b);
- (3) that the payor must mail or deliver the withheld income to the office within seven business days of the date the amount would have been paid or credited to the employee but for this section;
- (4) that the payor may deduct from the obligor's income an additional amount which is equal to the amount payable to a garnishee under Rule 64D of the Utah Rules of Civil Procedure, as the payor's fee for administrative costs, but the total amount withheld may not

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exceed the maximum amount permitted under Section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. Sec. 1673(b);

(5) that the notice to withhold is binding on the payor and on any future payor until further notice by the office or a court;

(6) (a) that if the payor fails to mail or deliver withheld income to the office within the time period set in Subsection (3), the payor is liable to the office for a late fee of \$50 or 10% of the withheld income, whichever is greater, for each payment that is late, per obligor; and

(b) that if the payor willfully fails to withhold income in accordance with the notice, the payor is liable to the office for \$1,000 or the accumulated amount the payor should have withheld, whichever is greater, plus interest on that amount;

(7) that the notice to withhold is prior to any other legal process under state law;

(8) that the payor must begin to withhold income no later than the first time the obligor's earnings are normally paid after five working days from the date the payor receives the notice;

(9) that the payor must notify the office within five days after the obligor terminates employment or the periodic income payment is terminated, and provide the obligor's last-known address and the name and address of any new payor, if known;

(10) that if the payor discharges, refuses to employ, or takes disciplinary action against an obligor because of the notice to withhold, the payor is liable to the obligor as provided in Section [~~62A-11-316~~] 26B-9-217, and to the office for the greater of \$1,000 or the amount of child support accumulated to the date of discharge which the payor should have withheld, plus interest on that amount; and

(11) that, in addition to any other remedy provided in this section, the payor is liable for costs and reasonable attorneys' fees incurred in enforcing any provision in a notice to withhold mailed or delivered to the payor's last-known address.

Section ~~(250)~~252. Section **26B-9-307**, which is renumbered from Section 62A-11-407 is renumbered and amended to read:

[~~62A-11-407~~]. 26B-9-307. Payor's procedures for income withholding.

(1) (a) A payor is subject to the requirements, penalties, and effects of a notice served on the payor under Section [~~62A-11-406~~] 26B-9-306.

(b) A payment of withheld income mailed to the office in an envelope postmarked

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within seven business days of the date the amount would have been paid or credited to the obligor but for this section satisfies Subsection [~~62A-11-406~~] 26B-9-306(3).

(2) (a) If a payor fails to comply with a notice served upon [~~him~~] the payor under Section [~~62A-11-406~~] 26B-9-306, the office, the obligee, if an assignment has not been made under Section 35A-7-108, or the obligor may proceed with a civil action against the payor to enforce a provision of the notice.

(b) In addition to a civil action under Subsection (2)(a), the office may bring an administrative action pursuant to Title 63G, Chapter 4, Administrative Procedures Act, to enforce a provision of the notice.

(c) If an obligee or obligor brings a civil action under Subsection (2)(a) to enforce a provision of the notice, the obligee or obligor may recover any penalty related to that provision under Section [~~62A-11-406~~] 26B-9-306 in place of the office.

(3) If the obligor's child support is owed monthly and the payor's pay periods are at more frequent intervals, the payor, with the consent of the office may withhold an equal amount at each pay period cumulatively sufficient to pay the monthly child support obligation.

(4) A payor may combine amounts which the payor has withheld from the incomes of multiple obligors into a single payment to the office. If such a combined payment is made, the payor shall specify the amount attributable to each individual obligor by name and Social Security number.

(5) In addition to any other remedy provided in this section, a payor is liable to the office, obligee, or obligor for costs and reasonable [~~attorneys'~~ attorney] fees incurred in enforcing a provision in the notice mailed or delivered under Section [~~62A-11-406~~] 26B-9-306.

(6) Notwithstanding this section or Section [~~62A-11-406~~] 26B-9-306, if a payor receives an income withholding order or notice issued by another state, the payor shall apply the income withholding law of the state of the obligor's principal place of employment in determining:

- (a) the payor's fee for processing income withholding;
- (b) the maximum amount permitted to be withheld from the obligor's income;
- (c) the time periods within which the payor must implement income withholding and forward child support payments;
- (d) the priorities for withholding and allocating withheld income for multiple child

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support obligees; and

(e) any term or condition for withholding not specified in the notice.

Section ~~{251}~~253. Section **26B-9-308**, which is renumbered from Section 62A-11-408 is renumbered and amended to read:

~~[62A-11-408].~~ 26B-9-308. Termination of income withholding.

(1) (a) At any time after the date income withholding begins, a party to the child support order may request a judicial hearing or administrative review to determine whether income withholding should be terminated due to:

- (i) good cause under Section ~~[62A-11-404]~~ 26B-9-304;
- (ii) the execution of a written agreement under Section ~~[62A-11-404]~~ 26B-9-304; or
- (iii) the completion of an obligor's support obligation.

(b) An obligor's payment of overdue child support may not be the sole basis for termination of income withholding.

(c) If it is determined by a court or the office that income withholding should be terminated, the office shall give written notice of termination to each payor within 10 days after receipt of notice of that decision.

(d) If, after termination of income withholding by court or administrative order, an obligor's child support obligation becomes delinquent or subject to immediate and automatic income withholding under Section ~~[62A-11-404]~~ 26B-9-304, the office shall reinstate income withholding procedures in accordance with the provisions of this part.

(e) If the office terminates income withholding through an agreement with a party, the office may reinstate income withholding if:

- (i) a delinquency occurs;
- (ii) the obligor requests reinstatement;
- (iii) the obligee requests reinstatement; or
- (iv) the office, based on internal procedures and standards, determines reinstatement is appropriate.

(2) The office shall give written notice of termination to each payor when the obligor no longer owes child support to the obligee.

(3) A notice to withhold income, served by the office, is binding on a payor until the office notifies the payor that the obligation to withhold income has been terminated.

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Section ~~{252}~~254. Section **26B-9-309**, which is renumbered from Section 62A-11-409 is renumbered and amended to read:

~~[62A-11-409].~~ 26B-9-309. Payor's compliance with income withholding.

(1) Payment by a payor under this part satisfies the terms for payment of income under any contract between a payor and obligor.

(2) A payor who complies with an income withholding notice that is regular on its face may not be subject to civil liability to any person for conduct in compliance with the notice.

Section ~~{253}~~255. Section **26B-9-310**, which is renumbered from Section 62A-11-410 is renumbered and amended to read:

~~[62A-11-410].~~ 26B-9-310. Violations by payor.

(1) A payor may not discharge, refuse to hire, or discipline any obligor because of a notice to withhold served by the office under this part, or because of a notice or order served by an obligee in a civil action for income withholding.

(2) If the payor violates Subsection (1), that payor is liable to the office, or to the obligee seeking income withholding in a civil action, for the greater of \$1,000 or the amount of child support accumulated to the date of discharge which he should have withheld, plus interest on that amount and costs incurred in collection of the amount from the payor, including a reasonable ~~[attorney's]~~attorney fee.

Section ~~{254}~~256. Section **26B-9-311**, which is renumbered from Section 62A-11-411 is renumbered and amended to read:

~~[62A-11-411].~~ 26B-9-311. Priority of notice or order to withhold income.

The notice to withhold provided by Section ~~[62A-11-406]~~ 26B-9-306, and a notice or order to withhold issued by the court in a civil action for income withholding, are prior to all other legal collection processes provided by state law, including garnishment, attachment, execution, and wage assignment.

Section ~~{255}~~257. Section **26B-9-312**, which is renumbered from Section 62A-11-413 is renumbered and amended to read:

~~[62A-11-413].~~ 26B-9-312. Records and documentation -- Distribution or refund of collected income -- Allocation of payments among multiple notices to withhold.

(1) The office shall keep adequate records to document and monitor all child support payments received under this part.

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(2) The office shall promptly distribute child support payments which it receives from a payor, to the obligee, unless those payments are owed to the department.

(3) The office shall promptly refund any improperly withheld income to the obligor.

(4) The office may allocate child support payments received from an obligor under this part among multiple notices to withhold which it has issued with regard to that obligor, in accordance with rules promulgated by the office to govern that procedure.

Section ~~{256}~~258. Section **26B-9-313**, which is renumbered from Section 62A-11-414 is renumbered and amended to read:

[62A-11-414]. 26B-9-313. Income withholding upon obligor's request.

Whether or not a delinquency has occurred, an obligor may request that the office implement income withholding procedures under this part for payment of ~~[his]~~ the obligor's child support obligations.

Section ~~{257}~~259. Section **26B-9-401** is enacted to read:

Part 4. Income Withholding in Non IV-D Cases

26B-9-401. Definitions.

The definitions in Section 26B-9-301 apply to this part.

Section ~~{258}~~260. Section **26B-9-402**, which is renumbered from Section 62A-11-501 is renumbered and amended to read:

[62A-11-501]. 26B-9-402. Application of this part only to Non IV-D cases.

~~[(+)]~~ The requirements of this part apply only to cases in which neither the obligee nor the obligor is receiving IV-D services.

~~[(2) For purposes of this part the definitions contained in Section 62A-11-401 apply.]~~

Section ~~{259}~~261. Section **26B-9-403**, which is renumbered from Section 62A-11-502 is renumbered and amended to read:

[62A-11-502]. 26B-9-403. Child support orders issued or modified on or after January 1, 1994 -- Immediate income withholding.

(1) With regard to obligees or obligors who are not receiving IV-D services, each child support order issued or modified on or after January 1, 1994, subjects the income of an obligor to immediate income withholding as of the effective date of the order, regardless of whether a delinquency occurs unless:

(a) the court or administrative body that entered the order finds that one of the parties

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has demonstrated good cause so as not to require immediate income withholding; or

(b) a written agreement which provides an alternative payment arrangement is executed by the obligor and obligee, and reviewed and entered in the record by the court or administrative body.

(2) For purposes of this section:

(a) an action on or after January 1, 1994, to reduce child support arrears to judgment, without a corresponding establishment of or modification to a base child support amount, is not sufficient to trigger immediate income withholding;

(b) "good cause" shall be based on, at a minimum:

(i) a determination and explanation on the record by the court or administrative body that implementation of income withholding would not be in the best interest of the child; and

(ii) proof of timely payment of any previously ordered support;

(c) in determining "good cause," the court or administrative body may, in addition to any other requirement it considers appropriate, consider whether the obligor has:

(i) obtained a bond, deposited money in trust for the benefit of the dependent children, or otherwise made arrangements sufficient to guarantee child support payments for at least two months;

(ii) arranged to deposit all child support payments into a checking account belonging to the obligee, or made arrangements insuring that a reliable and independent record of the date and place of child support payments will be maintained; or

(iii) arranged for electronic transfer of funds on a regular basis to meet court-ordered child support obligations.

(3) In cases where the court or administrative body that entered the order finds a demonstration of good cause or enters a written agreement that immediate income withholding is not required, in accordance with this section, any party may subsequently pursue income withholding on the earliest of the following dates:

(a) the date payment of child support becomes delinquent;

(b) the date the obligor requests;

(c) the date the obligee requests if a written agreement under Subsection (1)(b) exists;

or

(d) the date the court or administrative body so modifies that order.

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(4) The court shall include in every child support order issued or modified on or after January 1, 1994, a provision that the income of an obligor is subject to income withholding in accordance with this chapter; however, if for any reason that provision is not included in the child support order, the obligor's income is nevertheless subject to income withholding.

(5) (a) In any action to establish or modify a child support order after July 1, 1997, the court, upon request by the obligee or obligor, shall commence immediate income withholding by ordering the clerk of the court or the requesting party to:

(i) mail written notice to the payor at the payor's last-known address that contains the information required by Section ~~[62A-11-506]~~ 26B-9-407; and

(ii) mail a copy of the written notice sent to the payor under Subsection (5)(a)(i) and a copy of the support order to the office.

(b) If neither the obligee nor obligor requests commencement of income withholding under Subsection (5)(a), the court shall include in the order to establish or modify child support a provision that the obligor or obligee may commence income withholding by:

(i) applying for IV-D services with the office; or

(ii) filing an ex parte motion with a district court of competent jurisdiction pursuant to Section ~~[62A-11-504]~~ 26B-9-405.

(c) A payor who receives written notice under Subsection (5)(a)(i) shall comply with the requirements of Section ~~[62A-11-507]~~ 26B-9-408.

Section ~~260~~262. Section **26B-9-404**, which is renumbered from Section 62A-11-503 is renumbered and amended to read:

~~[62A-11-503].~~ 26B-9-404. Requirement of employment and location information.

(1) As of July 1, 1997, a court, before issuing or modifying an order of support, shall require the parties to file the information required under Section ~~[62A-11-304.4]~~ 26B-9-207.

(2) If a party fails to provide the information required by Section ~~[62A-11-304.4]~~ 26B-9-207, the court shall issue or modify an order upon receipt of a verified representation of employment or source of income for that party based on the best evidence available if:

(a) that party has participated in the current proceeding;

(b) the notice and service of process requirements of the Utah Rules of Civil Procedure have been met if the case is before the court to establish an original order of support; or

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(c) the notice requirements of Section [~~62A-11-304.4~~] 26B-9-207 have been met if the case is before the court to modify an existing order.

(3) A court may restrict the disclosure of information required by Section [~~62A-11-304.4~~] 26B-9-207:

- (a) in accordance with a protective order involving the parties; or
- (b) if the court has reason to believe that the release of information may result in physical or emotional harm by one party to the other party.

Section ~~{261}~~263. Section **26B-9-405**, which is renumbered from Section 62A-11-504 is renumbered and amended to read:

[~~62A-11-504~~]. 26B-9-405. Procedures for commencing income withholding.

(1) If income withholding has not been commenced in connection with a child support order, an obligee or obligor may commence income withholding by:

- (a) applying for IV-D services from the office; or
- (b) filing an ex parte motion for income withholding with a district court of competent jurisdiction.

(2) The office shall commence income withholding in accordance with Part [~~4~~] 3, Income Withholding in IV-D Cases, upon receipt of an application for IV-D services under Subsection (1)(a).

(3) A court shall grant an ex parte motion to commence income withholding filed under Subsection (1)(b) regardless of whether the child support order provided for income withholding, if the obligee provides competent evidence showing:

- (a) the child support order was issued or modified after January 1, 1994, and the obligee or obligor expresses a desire to commence income withholding;
- (b) the child support order was issued or modified after January 1, 1994, and the order contains a good cause exception to income withholding as provided for in Section [~~62A-11-502~~] 26B-9-403, and a delinquency has occurred; or
- (c) the child support order was issued or modified before January 1, 1994, and a delinquency has occurred.

(4) If a court grants an ex parte motion under Subsection (3), the court shall order the clerk of the court or the requesting party to:

- (a) mail written notice to the payor at the payor's last-known address that contains the

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information required by Section [~~62A-11-506~~] 26B-9-407;

(b) mail a copy of the written notice sent to the payor under Subsection (4)(a) to the nonrequesting party's address and a copy of the support order and the notice to the payor to the office; and

(c) if the obligee is the requesting party, send notice to the obligor under Section [~~62A-11-304.4~~] 26B-9-207 that includes:

(i) a copy of the notice sent to the payor; and

(ii) information regarding:

(A) the commencement of income withholding; and

(B) the opportunity to contest the withholding or the amount withheld due to mistake of fact by filing an objection with the court within 20 days.

(5) A payor who receives written notice under Subsection (4)(a) shall comply with the requirements of Section [~~62A-11-507~~] 26B-9-408.

(6) If an obligor contests withholding, the court shall:

(a) provide an opportunity for the obligor to present evidence supporting his claim of a mistake of fact;

(b) decide whether income withholding should continue;

(c) notify the parties of the decision; and

(d) at the obligor's option, return or credit toward the most current and future support payments of the obligor any amount mistakenly withheld plus interest at the legal rate.

Section ~~{262}~~264. Section **26B-9-406**, which is renumbered from Section 62A-11-505 is renumbered and amended to read:

[~~62A-11-505~~]. 26B-9-406. Responsibilities of the office.

The office shall document and distribute payments in the manner provided for and in the time required by Section [~~62A-11-413~~] 26B-9-312 and federal law upon receipt of:

(1) a copy of the written notice sent to the payor under Section [~~62A-11-502~~]

26B-9-403 or Section [~~62A-11-504~~] 26B-9-405;

(2) the order of support;

(3) the obligee's address; and

(4) withheld income from the payor.

Section ~~{263}~~265. Section **26B-9-407**, which is renumbered from Section 62A-11-506

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is renumbered and amended to read:

~~[62A-11-506].~~ 26B-9-407. Notice to payor.

(1) A notice mailed or delivered to a payor under this part shall state in writing:

(a) the amount of child support to be withheld from income;

(b) that the child support must be withheld from the obligor's income each time the obligor is paid, but that the amount withheld may not exceed the maximum amount permitted under Section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. [~~Section~~] Sec. 1673(b);

(c) that the payor must mail or deliver the withheld income to the office within seven business days of the date the amount would have been paid or credited to the employee but for this section;

(d) that the payor may deduct from the obligor's income an additional amount which is equal to the amount payable to a garnishee under Rule 64D of the Utah Rules of Civil Procedure, as the payor's fee for administrative costs, but the total amount withheld may not exceed the maximum amount permitted under Section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. [~~Section~~] Sec. 1673(b);

(e) that the notice to withhold is binding on the payor and on any future payor until further notice by the office or a court;

(f) (i) that if the payor fails to mail or deliver withheld income to the office within the time period set in Subsection (1)(c), the payor is liable to the obligee for a late fee of \$50 or 10% of the withheld income, whichever is greater, for each payment that is late; and

(ii) that if the payor willfully fails to withhold income in accordance with the notice, the payor is liable to the obligee for \$1,000 or the accumulated amount the payor should have withheld, whichever is greater, plus interest on that amount;

(g) that the notice to withhold is prior to any other legal process under state law;

(h) that the payor must begin to withhold income no later than the first time the obligor's earnings are normally paid after five working days from the date the payor receives the notice;

(i) that the payor must notify the office within five days after the obligor terminates employment or the periodic income payment is terminated, and provide the obligor's last-known address and the name and address of any new payor, if known;

(j) that if the payor discharges, refuses to employ, or takes disciplinary action against

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an obligor because of the notice to withhold, the payor is liable to the obligor as provided in Section ~~[62A-11-316]~~ 26B-9-217 and the obligee for the greater of \$1,000 or the amount of child support accumulated to the date of discharge which the payor should have withheld plus interest on that amount; and

(k) that, in addition to any other remedy provided in this section, the payor is liable to the obligee or obligor for costs and reasonable ~~[attorneys']~~ attorney fees incurred in enforcing a provision in a notice to withhold mailed or delivered under Section ~~[62A-11-502 or 62A-11-504]~~ 26B-9-403 or 26B-9-405.

(2) If the obligor's employment with a payor is terminated, the office shall, if known and if contacted by the obligee, inform the obligee of:

- (a) the obligor's last-known address; and
- (b) the name and address of any new payor.

Section ~~(264)~~ 266. Section **26B-9-408**, which is renumbered from Section 62A-11-507 is renumbered and amended to read:

~~[62A-11-507]~~. **26B-9-408. Payor's procedures for income withholding.**

(1) (a) A payor is subject to the requirements, penalties, and effects of a notice mailed or delivered to him under Section ~~[62A-11-506]~~ 26B-9-407.

(b) A payment of withheld income mailed to the office in an envelope postmarked within seven business days of the date the amount would have been paid or credited to the obligor but for this section satisfies Subsection ~~[62A-11-506]~~ 26B-9-407(1)(c).

(2) If a payor fails to comply with the requirements of a notice served upon him under Section ~~[62A-11-506]~~ 26B-9-407, the obligee, or obligor may proceed with a civil action against the payor to enforce a provision of the notice.

(3) If the obligor's child support is owed monthly and the payor's pay periods are at more frequent intervals, the payor, with the consent of the office or obligee, may withhold an equal amount at each pay period cumulatively sufficient to pay the monthly child support obligation.

(4) A payor may combine amounts which he has withheld from the income of multiple obligors into a single payment to the office. If such a combined payment is made, the payor shall specify the amount attributable to each individual obligor by name and Social Security number.

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(5) In addition to any other remedy provided in this section, a payor is liable to the obligee or obligor for costs and reasonable ~~attorneys'~~ attorney fees incurred in enforcing a provision of the notice mailed or delivered under Section ~~[62A-11-506]~~ 26B-9-407.

(6) Notwithstanding this section or Section ~~[62A-11-506]~~ 26B-9-407, if a payor receives an income withholding order or notice issued by another state, the payor shall apply the income withholding law of the state of the obligor's principal place of business in determining:

- (a) the payor's fee for processing income withholding;
- (b) the maximum amount permitted to be withheld from the obligor's income;
- (c) the time periods within which the payor must implement income withholding and forward child support payments;
- (d) the priorities for withholding and allocating withheld income for multiple child support obligees; and
- (e) any terms or conditions for withholding not specified in the notice.

Section ~~{265}~~ 267. Section **26B-9-409**, which is renumbered from Section 62A-11-508 is renumbered and amended to read:

~~[62A-11-508].~~ **26B-9-409. Termination of income withholding.**

(1) (a) At any time after the date income withholding begins, a party to the child support order may request a court to determine whether income withholding should be terminated due to:

- (i) good cause under Section ~~[62A-11-502]~~ 26B-9-403; or
 - (ii) the completion of an obligor's support obligation.
- (b) An obligor's payment of overdue child support may not be the sole basis for termination of income withholding.

(c) After termination of income withholding under this section, a party may seek reinstatement of income withholding under Section ~~[62A-11-504]~~ 26B-9-405.

(2) (a) If it is determined that income withholding should be terminated under Subsection (1)(a)(i), the court shall order written notice of termination be given to each payor within 10 days after receipt of notice of that decision.

- (b) The obligee shall give written notice of termination to each payor:
 - (i) when the obligor no longer owes child support to the obligee; or

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(ii) if the obligee and obligor enter into a written agreement that provides an alternative arrangement, which may be filed with the court.

(3) A notice to withhold income is binding on a payor until the court or the obligee notifies the payor that his obligation to withhold income has been terminated.

Section ~~{266}~~268. Section **26B-9-410**, which is renumbered from Section 62A-11-509 is renumbered and amended to read:

[62A-11-509]. 26B-9-410. Payor's compliance with income withholding.

(1) Payment by a payor under this part satisfies the terms for payment of income under any contract between a payor and obligor.

(2) A payor who complies with an income withholding notice that is regular on its face may not be subject to civil liability to any person for conduct in compliance with the notice.

Section ~~{267}~~269. Section **26B-9-411**, which is renumbered from Section 62A-11-510 is renumbered and amended to read:

[62A-11-510]. 26B-9-411. Violations by payor.

(1) A payor may not discharge, refuse to hire, or discipline any obligor because of a notice to withhold under this part.

(2) If a payor violates Subsection (1), the payor is liable to the obligor as provided in Section ~~[62A-11-316]~~ 26B-9-217 and the obligee for the greater of \$1,000 or the amount of child support accumulated to the date of discharge which should have been withheld plus interest on that amount and costs incurred in collecting the amount, including reasonable ~~[attorneys']~~ attorney fees.

Section ~~{268}~~270. Section **26B-9-412**, which is renumbered from Section 62A-11-511 is renumbered and amended to read:

[62A-11-511]. 26B-9-412. Priority of notice or order to withhold income.

The notice to withhold under this part is prior to all other legal collection processes provided by state law, including garnishment, attachment, execution, and wage assignment.

Section ~~{269}~~271. Section **26B-9-501**, which is renumbered from Section 62A-11-602 is renumbered and amended to read:

Part 5. Administrative License Suspension for Child Support Enforcement

[62A-11-602]. 26B-9-501. Definitions.

As used in this part:

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(1) "Child support" is as defined in Section ~~[62A-11-401]~~ 26B-9-301.

(2) "Delinquent on a child support obligation" means that a person:

(a) (i) made no payment for 60 days on a current child support obligation as set forth in an administrative or court order;

(ii) after the 60-day period described in Subsection (2)(a)(i), failed to make a good faith effort under the circumstances to make payment on the child support obligation in accordance with the order; and

(iii) has not obtained a judicial order staying enforcement of the person's child support obligation, or the amount in arrears; or

(b) (i) made no payment for 60 days on an arrearage obligation of child support as set forth in:

(A) a payment schedule;

(B) a written agreement with the office; or

(C) an administrative or judicial order;

(ii) after the 60-day period described in Subsection (2)(b)(i), failed to make a good faith effort under the circumstances to make payment on the child support obligation in accordance with the payment schedule, agreement, or order; and

(iii) has not obtained a judicial order staying enforcement of the person's child support obligation, or the amount in arrears.

(3) "Driver license" means a license, as defined in Section 53-3-102.

(4) "Driver License Division" means the Driver License Division of the Department of Public Safety created in Section 53-3-103.

(5) "Office" means the Office of Recovery Services ~~created in Section~~
~~{62A-11-102}~~ {26B-9-103}.

Section ~~{270}~~ 272. Section **26B-9-502**, which is renumbered from Section 62A-11-603 is renumbered and amended to read:

~~[62A-11-603]~~. **26B-9-502. Suspension of driver license for child support delinquency -- Reinstatement.**

(1) Subject to the provisions of this section, the office may order the suspension of a person's driver license if the person is delinquent on a child support obligation.

(2) Before ordering a suspension of a person's driver license, the office shall serve the

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person with a "notice of intent to suspend driver license."

(3) The notice described in Subsection (2) shall:

(a) be personally served or served by certified mail;

(b) except as otherwise provided in this section, comply with Title 63G, Chapter 4, Administrative Procedures Act;

(c) state the amount that the person is in arrears on the person's child support obligation; and

(d) state that, if the person desires to contest the suspension of the person's driver license, the person must request an informal adjudicative proceeding with the office within 30 days after the day on which the notice is mailed or personally served.

(4) (a) The office shall hold an informal adjudicative proceeding to determine whether a person's driver license should be suspended if the person requests a hearing within 30 days after the day on which the notice described in Subsection (2) is mailed or personally served on the person.

(b) The informal adjudicative proceeding described in Subsection (4)(a), and any appeal of the decision rendered in that proceeding, shall comply with Title 63G, Chapter 4, Administrative Procedures Act.

(5) Except as provided in Subsection (6), the office may order that a person's driver license be suspended:

(a) if, after the notice described in Subsection (2) is mailed or personally served, the person fails to request an informal adjudicative proceeding within the time period described in Subsection (4)(a); or

(b) following the informal adjudicative proceeding described in Subsection (4)(a), if:

(i) the presiding officer finds that the person is delinquent on a child support obligation; and

(ii) the finding described in Subsection (5)(b)(i):

(A) is not timely appealed; or

(B) is upheld after a timely appeal becomes final.

(6) The office may not order the suspension of a person's driver license if the person:

(a) pays the full amount that the person is in arrears on the person's child support obligation;

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(b) subject to Subsection (8):

(i) enters into a payment agreement with the office for the payment of the person's current child support obligation and all arrears; and

(ii) complies with the agreement described in Subsection (6)(b)(i) for any initial compliance period required by the agreement;

(c) obtains a judicial order staying enforcement of the person's child support obligation or the amount in arrears; or

(d) is not currently delinquent on a child support obligation.

(7) The office shall rescind an order made by the office to suspend a driver license if the person:

(a) pays the full amount that the person is in arrears on the person's child support obligation;

(b) subject to Subsection (8):

(i) enters into a payment agreement with the office for the payment of the person's current child support obligation and all arrears; and

(ii) complies with the agreement described in Subsection (7)(b)(i) for any initial compliance period required by the agreement;

(c) obtains a judicial order staying enforcement of the person's child support obligation or the amount in arrears; or

(d) is not currently delinquent on a child support obligation.

(8) For purposes of Subsections (6)(b) and (7)(b), the office shall diligently strive to enter into a fair and reasonable payment agreement that takes into account the person's employment and financial ability to make payments, provided that there is a reasonable basis to believe that the person will comply with the agreement.

(9) (a) If, after the office seeks to suspend a person's driver license under this section, it is determined that the person is not delinquent, the office shall refund to the person any noncustodial parent income withholding fee that was collected from the person during the erroneously alleged delinquency.

(b) Subsection (9)(a) does not apply if the person described in Subsection (9)(a) is otherwise in arrears on a child support obligation.

(10) (a) A person whose driver license is ordered suspended pursuant to this section

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may file a request with the office, on a form provided by the office, to have the office rescind the order of suspension if:

(i) the person claims that, since the time of the suspension, circumstances have changed such that the person is entitled to have the order of suspension rescinded under Subsection (7); and

(ii) the office has not rescinded the order of suspension.

(b) The office shall respond, in writing, to a person described in Subsection (10), within 10 days after the day on which the request is filed with the office, stating whether the person is entitled to have the order of suspension rescinded.

(c) If the office determines, under Subsection (10)(b), that an order to suspend a person's license should be rescinded, the office shall immediately rescind the order.

(d) If the office determines, under Subsection (10)(b), that an order to suspend a person's license should not be rescinded:

(i) the office shall, as part of the response described in Subsection (10)(b), notify the person, in writing, of the reasons for that determination; and

(ii) the person described in this Subsection (10)(d) may, within 15 days after the day on which the office sends the response described in Subsection (10)(b), appeal the determination of the office to district court.

(e) The office may not require that a person file the request described in Subsection (10)(a) before the office orders that an order of suspension is rescinded, if the office has already determined that the order of suspension should be rescinded under Subsection (7).

(11) The office may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) implement the provisions of this part; and

(b) determine when the arrears described in Subsections (6) and (7) are considered paid.

Section ~~{271}~~273. Section **26B-9-503**, which is renumbered from Section 62A-11-604 is renumbered and amended to read:

~~[62A-11-604]~~. **26B-9-503**. **Notification of order to suspend or rescission of order.**

(1) When, pursuant to this part, the office orders the suspension of a person's driver

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license, or rescinds an order suspending a person's driver license, the office shall, within five business days after the day on which the order or rescission is made, notify:

- (a) the Driver License Division; and
- (b) the person to whom the order or rescission applies.

(2) (a) The notification described in Subsections (1)(a) and (b) shall include the name and identifying information of the person described in Subsection (1).

(b) The notification to a person described in Subsection (1)(b) shall include a statement indicating that the person must reinstate the person's driver license with the Driver License Division before driving a motor vehicle.

Section ~~{272}~~274. Coordinating S.B. 38, S.B. 39, S.B. 40, S.B. 41 and S.B.208 with S.B. 64 -- Superceding revisor instructions.

If this S.B. 38, S.B. 39, Health and Human Services Recodification - Health Care Assistance and Data, S.B. 40, Health and Human Services Recodification - Health Care Delivery and Repeals, S.B. 41, Health and Human Services Recodification - Prevention, Supports Substance Use and Mental Health, S.B. 208, Health and Human Services Recodification - Cross References, Titles 58-63J, and S.B. 64, Bureau of Emergency Medical Services Amendments, all pass and become law, the Legislature intends that, on July 1, 2024:

(1) instances in which revisor instructions in this S.B. 38, S.B. 39, S.B. 40, S.B. 41, or S.B. 208 conflict with the revisor instructions in S.B. 64, the revisor instructions in S.B. 64 supersede only conflicting changes made by the revisor instructions in S.B. 38, S.B. 39, S.B. 40, S.B. 41, or S.B. 208 as those instructions were implemented on May 3, 2023; and

(2) instances in which the revisor instructions for this S.B. 38, S.B. 39, S.B. 40, or S.B. 41 do not conflict with the revisor instructions for S.B. 64, changes made by the revisor instructions in this S.B. 38, S.B. 39, S.B. 40, S.B. 41, or S.B. 208 are unaffected by the revisor instructions in S.B. 64.

Section 275. Coordinating S.B. 38 with H.B. 36 -- Substantive and technical amendments.

If this S.B. 38 and H.B. 36, Long Term Care Ombudsman Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by amending Section 26B-2-237 (renumbered from Section 26-21-305) in this S.B. 38 to read:

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"(1) As used in this section:

(a) "Ombudsman" means the same as that term is defined in Section 26B-2-301.

(b) "Resident" means an individual who receives health care from an assisted living facility.

(c) "Responsible person" means an individual who:

(i) is designated in writing by a resident to receive communication on behalf of the resident; or

(ii) is legally authorized to make health care decisions on behalf of the resident.

(2) An assisted living facility is subject to the requirements in Subsection (3) if the transfer or discharge:

(a) is initiated by the assisted living facility for any reason;

(b) is objected to by the resident or the resident's responsible person;

(c) was not initiated by a verbal or written request from the resident; or

(d) is inconsistent with the resident's preferences and stated goals for care.

(3) ~~When a facility initiates the~~ Before a transfer or discharge ~~of a resident~~ described in Subsection (2) occurs, the assisted living facility from which the resident is transferred or discharged shall:

~~[(1)]~~ (a) notify the resident and the resident's responsible person, if any, in writing and in a language and a manner that is most likely to be understood by the resident and the resident's responsible person, of:

~~[(a)]~~ (i) the reasons for the transfer or discharge;

~~[(b)]~~ (ii) the effective date of the transfer or discharge;

~~[(c)]~~ (iii) the location to which the resident will be transferred or discharged, if known;

and

~~[(d)]~~ (iv) the name, address, email, and telephone number of the ombudsman;

~~[(2)]~~ (b) send a copy, in English, of the notice described in Subsection ~~[(1)(a)]~~ (3)(a) to the ombudsman on the same day on which the assisted living facility delivers the notice described in Subsection ~~[(1)(a)]~~ (3)(a) to the resident and the resident's responsible person;

~~[(3)]~~ (c) provide the notice described in Subsection ~~[(1)(a)]~~ (3)(a) at least 30 days before the day on which the resident is transferred or discharged, unless:

~~[(a)]~~ (i) notice for a shorter period of time is necessary to protect:

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~~[(i)]~~ (A) the safety of individuals in the assisted living facility from endangerment due to the medical or behavioral status of the resident; or

~~[(ii)]~~ (B) the health of individuals in the assisted living facility from endangerment due to the resident's continued residency;

~~[(b)]~~ (ii) an immediate transfer or discharge is required by the resident's urgent medical needs; or

~~[(c)]~~ (iii) the resident has not resided in the assisted living facility for at least 30 days;

~~[(4)]~~ (d) update the transfer or discharge notice as soon as practicable before the transfer or discharge if information in the notice changes before the transfer or discharge;

~~[(5)]~~ (e) orally explain to the resident:

~~[(a)]~~ (i) the services available through the ombudsman; and

~~[(b)]~~ (ii) the contact information for the ombudsman; and

~~[(6)]~~ (f) provide and document the provision of preparation and orientation for the resident, in a language and manner the resident is most likely to understand, ~~[for a resident]~~ to ensure a safe and orderly transfer or discharge from an assisted living facility~~[-and]~~.

~~[(7)]~~ (4) ~~[in]~~ In the event of ~~[a]~~ an assisted living facility closure, the assisted living facility shall provide written notification of the closure to the ombudsman, each resident of the facility, and each resident's responsible person."

Section 276. Coordinating S.B. 38 with H.B. 40 -- Substantive and technical amendments.

If this S.B. 38 and H.B. 40, Native American Child and Family Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by amending Subsections 26B-2-101(24) and (26) in this bill to cite to Section 80-2c-101 instead of 25 U.S.C. Sec. 1903.

Section 277. Coordinating S.B. 38 with H.B. 48 -- Substantive and technical amendments.

If this S.B. 38 and H.B. 48, Early Childhood Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) amending Section 26B-1-422 (renumbered from Section 26-66-202) in this S.B. 38 to read:

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"(1) As used in this section:

(a) "Early childhood" refers to a child in the state who is eight years old or younger;

and

(b) "State superintendent" means the state superintendent of public instruction appointed under Section 53E-3-301.

(2) There is created the Early Childhood Utah Advisory Council.

(3) (a) The department shall:

(i) make rules establishing the membership, duties, and procedures of the council in accordance with the requirements of:

(A) this section;

(B) the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b;

and

(C) Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) provide necessary administrative and staff support to the council.

(b) A member of the council may not receive compensation or benefits for the member's service.

~~[(1)]~~ (4) The duties of the council ~~[shall serve as an entity dedicated to]~~ include:

(a) improving and coordinating the quality of programs and services for children in accordance with the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b[-];

(b) supporting Utah parents and families by providing comprehensive and accurate information regarding the availability of voluntary services for children in early childhood from state agencies and other private and public entities;

(c) facilitating improved coordination between state agencies and community partners that provide services to children in early childhood;

(d) sharing and analyzing information regarding early childhood issues in the state;

(e) providing recommendations to the department, the Department of Workforce Services, and the State Board of Education regarding a comprehensive delivery system of services for children in early childhood that addresses the following four areas:

(i) family support and safety;

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(ii) health and development;

(iii) early learning; and

(iv) economic development; and

(f) identifying opportunities for and barriers to the alignment of standards, rules, policies, and procedures across programs and agencies that support children in early childhood.

(5) To fulfill the duties described in Subsection (4), the council shall:

(a) directly engage with parents, families, community members, and public and private service providers to identify and address:

(i) the quality, effectiveness, and availability of existing services for children in early childhood and the coordination of those services;

(ii) gaps and barriers to entry in the provision of services for children in early childhood; and

(iii) community-based solutions in improving the quality, effectiveness, and availability of services for children in early childhood;

(b) seek regular and ongoing feedback from a wide range of entities and individuals that use or provide services for children in early childhood, including entities and individuals that use, represent, or provide services for any of the following:

(i) children in early childhood who live in urban, suburban, or rural areas of the state;

(ii) children in early childhood with varying socioeconomic backgrounds;

(iii) children in early childhood with varying ethnic or racial heritages;

(iv) children in early childhood from various geographic areas of the state; and

(v) children in early childhood with special needs;

(c) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that provide services to children in early childhood;

(d) study and evaluate the effectiveness of policies, procedures, and programs implemented by other states and nongovernmental entities that address the needs of children in early childhood;

(e) identify policies, procedures, and programs that are impeding efforts to help children in early childhood in the state and recommend changes to those policies, procedures, and programs;

(f) identify policies, procedures, and programs related to children in early childhood in

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the state that are inefficient or duplicative and recommend changes to those policies, procedures, and programs;

(g) recommend policy, procedure, and program changes to address the needs of children in early childhood;

(h) develop methods for using interagency information to inform comprehensive policy and budget decisions relating to early childhood services; and

(i) develop strategies and monitor efforts concerning:

(i) increasing school readiness;

(ii) improving access to early child care and early education programs; and

(iii) improving family and community engagement in early childhood education and development.

(6) In fulfilling the council's duties, the council may request and receive, from any state or local governmental agency or institution, information relating to early childhood, including reports, audits, projections, and statistics.

(7) (a) On or before August 1 of each year, the council shall provide an annual report to the executive director, the executive director of the Department of Workforce Services, and the state superintendent.

(b) The annual report shall include:

(i) a statewide assessment concerning the availability of high-quality pre-kindergarten services for children from low-income households;

(ii) a statewide strategic report addressing the activities mandated by the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b, including:

(A) identifying opportunities for and barriers to collaboration and coordination among federally-funded and state-funded child health and development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering such programs;

(B) evaluating the overall participation of children in existing federal, state, and local child care programs and early childhood health, development, family support, and education programs;

(C) recommending statewide professional development and career advancement plans for early childhood educators and service providers in the state, including an analysis of the

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capacity and effectiveness of programs at two- and four-year public and private institutions of higher education that support the development of early childhood educators; and

(D) recommending improvements to the state's early learning standards and high-quality comprehensive early learning standards; and

(iii) the recommendations described in Subsection (4)(e).

(8) In addition to the annual report described in Subsection (7)(a), on or before August 1, 2024, and at least every five years thereafter, the council shall provide to the executive director, the executive director of the Department of Workforce Services, and the state superintendent, a statewide needs assessment concerning the quality and availability of early childhood education, health, and development programs and services for children in early childhood.

[(2) The council shall advise the commission and, on or before August 1, annually provide to the commission:

—— (a) a statewide assessment concerning the availability of high-quality pre-kindergarten services for children from low-income households; and

—— (b) a statewide strategic report addressing the activities mandated by the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b, including:

—— (i) identifying opportunities for and barriers to collaboration and coordination among federally-funded and state-funded child health and development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering such programs;

—— (ii) evaluating the overall participation of children in existing federal, state, and local child care programs and early childhood health, development, family support, and education programs;

—— (iii) recommending statewide professional development and career advancement plans or early childhood educators and service providers in the state, including an analysis of the capacity and effectiveness of programs at two- and four-year public and private institutions of higher education that support the development of early childhood educators; and

—— (iv) recommending improvements to the state's early learning standards and high-quality comprehensive early learning standards.

—— (3) On or before August 1, 2020, and at least every five years thereafter, the council

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shall provide to the commission a statewide needs assessment concerning the quality and availability of early childhood education, health, and development programs and services for children in early childhood.]"; and

(2) not enacting Section 26-66-204 in H.B. 48.

Section 278. Coordinating S.B. 38 with H.B. 72 -- Substantive and technical amendments.

If this S.B. 38 and H.B. 72, Medical Cannabis Governance Revisions, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by enacting the amendment to Subsection 26-61-202(4) in H.B. 72 into a new Subsection 26B-1-420(16) (renumbered from Section 26-61-201) in this S.B. 38 to read:

"(16) Based on the board's evaluation under Subsection (11), the board may provide recommendations to the Medical Cannabis Policy Advisory Board created in Section 26-61a-801 regarding restrictions for a substance found in a medical cannabis product that:

(a) is likely harmful to human health; or

(b) is associated with a substance that is likely harmful to human health."

Section 279. Coordinating S.B. 38 with H.B. 230 -- Substantive and technical amendments.

If this S.B. 38 and H.B. 230, Center for Medical Cannabis Research, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by amending Subsection 26-61a-109(4) in H.B. 230, relating to permitted uses of money in this fund, to read:

"(4) Money deposited into the fund may only be used by:

(a) the department to accomplish the department's responsibilities described in Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and

(b) the Center for Medical Cannabis Research created in Section 53B-17-1402 to accomplish the Center for Medical Cannabis Research's responsibilities."

Section 280. Coordinating S.B. 38 with S.B. 64 -- Technical amendments.

If this S.B. 38 and S.B. 64, Bureau of Emergency Medical Services Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication on July 1, 2024, so that

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changes in S.B. 64 supersede the changes in this bill, as those changes went into effect on May 3, 2023, in the following sections:

- (1) Section 53-2d-104 (renumbered from 26-8a-103) in S.B. 64;
- (2) Section 53-2d-107 (renumbered from 26-8a-107) in S.B. 64; and
- (3) Section 53-2d-809 (renumbered from 26-8b-602) in S.B. 64.

Section 281. **Coordinating S.B. 38 with S.B. 123 -- Substantive and technical amendments.**

If this S.B. 38 and S.B. 123, Boards and Commissions Modifications, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication as follows:

(1) by amending Subsection 26B-1-414(1)(c)(i) (renumbered from Subsection 26-39-200(1)(c)(i)) in this S.B. 38 to read:

"~~[(c)]~~ (d) (i) The governor shall appoint one member to represent each of the following:

(A) a parent with a child in a licensed center based child care facility;

(B) a parent with a child in a residential based child care facility;

~~[(B)]~~ (C) a child development expert from the state system of higher education;

~~[(C)]~~ (D) except as provided in Subsection (1)~~[(c)]~~ (f), a pediatrician licensed in the state; ~~[and]~~

(E) a health care provider; and

~~[(D)]~~ (F) an architect licensed in the state."; and

(2) by amending Subsections 26B-1-414(7) and (8) (renumbered from Subsections 26-39-200(7) and (8) in this S.B. 38 to read:

"(7) The licensing committee shall:

(a) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that govern center based child care and residential child care, as those terms are defined in Section 26B-2-401, 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;

(b) in concurrence with the department and in accordance with Title 63G, Chapter 3,

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Utah Administrative Rulemaking Act, make rules necessary to carry out the purposes of this chapter that govern center based child care and residential child care, as those terms are defined in Section 26B-2-401, 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 this Subsection (7);

(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 ensure compliance with statute and rule; and

(vii) guidelines necessary to ensure consistency and appropriateness in the regulation and discipline of licensees;

(c) advise the department on the administration of a matter affecting center based child care or residential child care, as those terms are defined in Section 26B-2-401;

(d) advise and assist the department in conducting center based child care provider seminars and residential child care seminars; and

(e) perform other duties as provided in Section 26B-2-402.

(8) (a) The licensing committee may not enforce the rules adopted under this section.

(b) The department shall enforce the rules adopted under this section in accordance with Section 26B-2-402."

Section 282. Coordinating S.B. 38 with S.B. 137 -- Substantive and technical amendments.

If this S.B. 38 and S.B. 137, Medical Cannabis Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by enacting the amendment to Subsection 26-61-202(4) in S.B. 137 into a new Subsection 26B-1-420(16) (renumbered from Section 26-61-201) in this S.B. 38 to read:

"(16) The board shall provide a report to the Health and Human Services Interim

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Committee regarding the board's work before October 1 of each year."

Section 283. Coordinating S.B. 38 with S.B. 272 -- Substantive and technical amendments.

If this S.B. 38 and S.B. 272, Funds Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication on July 1, 2023, by repealing the following sections enacted in this S.B. 38:

(1) Section 26B-1-333, relating to the Children's Hearing Aid Program Restricted Account; and

(2) Section 26B-1-433, relating to the Children's Hearing Aid Advisory Committee.

Section 284. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) not enroll this bill if any of the following bills do not pass:

(a) S.B. 39, Health and Human Services Recodification - ~~{Prevention, Supports, Substance Use}~~ **Health Care Assistance** and ~~{Mental Health}~~ **Data**;

(b) S.B. 40, Health and Human Services Recodification - Health Care ~~{Assistance}~~ **Delivery** and ~~{Data}~~ **Repeals**; or

(c) S.B. 41, Health and Human Services Recodification - **Prevention, Supports, Substance Use and Mental** Health ~~{Care Delivery and Repeals}~~; and

(2) in any new language added to the Utah Code by legislation passed during the 2023 General Session, replace any references to Titles 26 or 62A with the renumbered reference as it is renumbered in this bill.