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**PSYCHOTROPIC MEDICATION OVERSIGHT
PILOT PROGRAM AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions related to the psychotropic medication oversight pilot program.

Highlighted Provisions:

This bill:

- removes a repeal date for the psychotropic medication oversight pilot program

(program);

- amends provisions to make the program permanent;

- adds minors committed to the Division of Juvenile Justice and Youth Services to the program;

- moves operation of the program from the Division of Child and Family Services to the Division of Integrated Healthcare (division);

- addresses the membership of the program's oversight team;

- amends provisions regarding the duties of the oversight team, caseworkers, and case managers;

- adds certain reporting requirements for the division and the oversight team;

- requires the Department of Health and Human Services to pay standard Medicaid rates for outpatient behavioral health services for children in foster care and minors committed to the Division of Juvenile Justice and Youth Services; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **63I-1-280**, as enacted by Laws of Utah 2022, Chapter 33530 **80-2-503.5**, as last amended by Laws of Utah 2023, Chapter 309

31

32 *Be it enacted by the Legislature of the state of Utah:*33 Section 1. Section **63I-1-280** is amended to read:34 **63I-1-280 . Repeal dates: Title 80.**35 [~~Section 80-2-503.5 is repealed July 1, 2024.~~]36 Section 2. Section **80-2-503.5** is amended to read:37 **80-2-503.5 . Psychotropic medication oversight program -- Behavioral health**
38 **service rates.**39 (1) As used in this section[~~,-~~] :40 (a) "Advanced practice registered nurse" means an individual licensed to practice as an
41 advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse
42 Practice Act.43 (b) "Division" means the Division of Integrated Healthcare created in Section 26B-1-204.44 (c) "HIPAA" means 45 C.F.R. Parts 160, 162, and 164, Health Insurance Portability and
45 Accountability Act of 1996, as amended.46 (d) "Physician assistant" means an individual licensed to practice as a physician assistant
47 in this state under Title 58, Chapter 70a, Utah Physician Assistant Act.48 (e) [~~"psychotropic~~] "Psychotropic medication" means medication prescribed to affect or
49 alter thought processes, mood, or behavior, including antipsychotic, antidepressant,
50 anxiolytic, or behavior medication.51 (f) "Qualifying minor" means a minor committed to the Division of Juvenile Justice and
52 Youth Services under Section 80-6-703.53 (2) The division shall, through contract with the [~~Department of Health and Human Services~~]
54 University of Utah or another qualified third party, [establish and] operate a
55 psychotropic medication oversight[~~pilot~~] program for children in foster care and
56 qualifying minors to ensure that [foster children are being] each foster child and
57 qualifying minor is prescribed psychotropic medication consistent with the foster [
58 children's] child's or qualifying minor's needs and consistent with clinical best practices.59 (3) The division shall [~~establish~~] operate an oversight team to manage the psychotropic
60 medication oversight program, composed of at least the following individuals:

- 61 (a) a physician assistant with pediatric mental health experience, or an advanced practice
62 registered nurse~~[, as defined in Section 58-31b-102,]~~ with pediatric mental health
63 experience, contracted with the [~~Department of Health and Human Services~~] division; [
64 and]
- 65 (b) a child psychiatrist~~[-]~~ contracted with the division;
- 66 (c) a data analyst contracted with the division; and
- 67 (d) an individual with care coordination experience.
- 68 (4) The oversight team shall monitor foster children and qualifying minors:
- 69 (a) six years old or younger who are being prescribed one or more psychotropic
70 medications; [~~and]~~
- 71 (b) seven years old or older who are being prescribed two or more psychotropic
72 medications~~[-]~~ ; and
- 73 (c) who are prescribed one or more antipsychotic medications.
- 74 (5) The division shall establish a business associate agreement with the oversight team by
75 which the oversight team shall, upon request, be given information or records related to
76 the foster child's or qualifying minor's health care history, including psychotropic
77 medication history and mental and behavioral health history, from:
- 78 (a) the division's Medicaid pharmacy program;
- 79 (b) the department's written and electronic records and databases;
- 80 (c) the foster child's current or past caseworker, or the qualifying minor's current or past
81 case manager;
- 82 [~~(b)~~] (d) the foster child or qualifying minor; or
- 83 [~~(c)~~] (e) the foster child's or qualifying minor's:
- 84 (i) current or past health care provider;
- 85 (ii) natural parents; or
- 86 (iii) foster parents.
- 87 (6) The oversight team may review and monitor the following information about a foster
88 child or qualifying minor:
- 89 (a) the foster child's or qualifying minor's history;
- 90 (b) the foster child's or qualifying minor's health care, including psychotropic
91 medication history and mental or behavioral health history;
- 92 (c) whether there are less invasive treatment options available to meet the foster child's
93 or qualifying minor's needs;
- 94 (d) the dosage or dosage range and appropriateness of the foster child's or qualifying

- 95 minor's psychotropic medication;
96 (e) the short-term or long-term risks associated with the use of the foster child's or
97 qualifying minor's psychotropic medication; or
98 (f) the reported benefits of the foster child's or qualifying minor's psychotropic
99 medication.
- 100 (7) (a) ~~[The]~~ On at least a quarterly basis, the oversight team~~[-may]~~ shall:
101 (i) review the medical and mental or behavioral health history for each foster child
102 and qualifying minor overseen by the program;
103 (ii) based on the review under Subsection (7)(a)(i), document the oversight team's
104 findings and recommendations; and
105 (iii) make written recommendations~~[to the foster child's health care providers]~~
106 concerning the foster child's or qualifying minor's psychotropic medication ~~[or]~~ and
107 the foster child's or qualifying minor's mental or behavioral health, including any
108 recommendation for psychotherapy treatment.
- 109 (b) ~~The oversight [team shall provide the]~~ team's recommendations [made] described in
110 Subsection (7)(a) ~~[to the foster child's parent or guardian after discussing the~~
111 recommendations with the foster child's current health care providers] shall be
112 provided to the foster child's current caseworker or the qualifying minor's current
113 case manager, the foster child's or qualifying minor's parent or guardian, and the
114 foster child's or qualifying minor's current health care providers, in accordance with
115 rules adopted pursuant to Subsection (8) and in compliance with HIPAA and other
116 relevant state and federal privacy laws.
- 117 (c) The member of the oversight team described in Subsection (3)(d) shall:
118 (i) provide the recommendations described in Subsection (7)(a) in writing and
119 verbally, or as otherwise provided in rules adopted pursuant to Subsection (8), to
120 the foster child's or qualifying minor's current health care providers; and
121 (ii) on at least a semiannual basis, follow up with the foster child's or qualifying
122 minor's current health care providers to document whether recommendations
123 made by the oversight team have been implemented.
- 124 (d) A foster child's caseworker or qualifying minor's case manager shall maintain a
125 confidential record of recommendations provided under Subsection (7)(b).
- 126 (8) The division may adopt administrative rules in accordance with Title 63G, Chapter 3,
127 Utah Administrative Rulemaking Act, necessary to administer this section, including the
128 rules described in Subsection (7)(b).

- 129 (9) The division shall report regarding the psychotropic medication oversight program:
130 (a) to the Child Welfare Legislative Oversight Panel[~~regarding the psychotropic~~
131 ~~medication oversight pilot program~~] by October 1 of each even numbered year[-] ; and
132 (b) orally to the Health and Human Services Interim Committee, at least once every two
133 years at or before the October interim meeting.
- 134 (10) The oversight team shall report:
135 (a) quarterly to the division regarding the number of foster children and qualifying
136 minors reviewed and the number of recommendations made; and
137 (b) annually to the division regarding outcomes for foster children and qualifying minors
138 overseen by the program.
- 139 (11) Beginning on July 1, 2024, the department shall pay for outpatient behavioral health
140 services for children in foster care and qualifying minors at a rate no lower than the
141 standard Medicaid fee schedule.
- 142 Section 3. **Effective date.**
143 This bill takes effect on May 1, 2024.