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(2) After the compact has initially taken effect under Subsection (1), any eligible party state may become a party to this compact by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1983, whichever occurs first, unless the compact has by then been enacted as a statute by that state.

(3) Subsection (2) of Section 26-14c-4 shall take effect on July 1, 1983, if consent is given by Congress. As provided in Public Law 96-573, Congress may withdraw its consent to the compact after every five-year period.

History: L. 1982, ch. 37, § 6.

Federal law. — Public Law 96-573 is codified as 42 U.S.C. §§ 2021b to 2021d.

CHAPTER 15

GENERAL SANITATION

Section		Section	
26-15-1.	Definitions.	26-15-8.	Periodic evaluation of local health sanitation programs.
26-15-2.	Minimum rules of sanitation established by department.	26-15-9.	Impoundment of adulterated food products authorized.
26-15-3.	Rules for plumbing systems.	26-15-10.	Rules for sale of drugs, cosmetics, and medical devices.
26-15-4.	Rules for wastewater disposal systems.	26-15-11.	Criminal statutes on smoking deemed public health laws.
26-15-5.	Requirements for food handlers.	26-15-12.	Rules to implement criminal statutes on smoking.
26-15-6.	Prohibited disposal of waste.		
26-15-7.	Rules for controlling vector-borne diseases and pests.		

26-15-1. Definitions.

As used in this chapter:

(1) "Food handler" means any person working part-time or full-time in a food service establishment who moves food or food containers, prepares, stores, or serves food, or comes in contact with any food, utensil, tableware or equipment, or washes the same. The term also includes owners, supervisors and management persons, and any other person working in a food-service establishment. The term also includes any operator or person employed by one who handles food dispensed through vending machines, or who comes into contact with food contact surfaces or containers, equipment, utensils, or packaging materials used in connection with vending machine operations, or who otherwise services or maintains one or more such machines.

(2) "Individual wastewater disposal system" means a system for disposing of domestic wastewater discharges as defined by the water pollution control committee and the executive director.

(3) "Pest" means a noxious, destructive, or troublesome organism whether plant or animal, when found in and around places of human occupancy, habitation, or use which threatens the public health or well being of the people within the state.

26-15-3. Rules for plumbing systems.

The department shall establish minimum rules for the design and installation of plumbing systems, fixtures and components used in the state.

History: C. 1953, 26-15-3, enacted by L. 1981, ch. 126, § 16.

COLLATERAL REFERENCES

A.L.R. — Validity of statutes, ordinances, and regulations requiring the installation or maintenance of various bathroom facilities in dwelling units, 79 A.L.R.3d 716.

26-15-4. Rules for wastewater disposal systems.

The department shall establish rules necessary to protect the public health for the design, and construction, operation and maintenance of individual wastewater disposal systems.

History: C. 1953, 26-15-4, enacted by L. 1981, ch. 126, § 16.

26-15-5. Requirements for food handlers.

The department shall establish minimum requirements for food handler certification and training necessary to promote general sanitation and protect the public health.

History: C. 1953, 26-15-5, enacted by L. 1981, ch. 126, § 16.

26-15-6. Prohibited disposal of waste.

No house refuse, offal, garbage, dead animals, decaying vegetable matter, or organic waste substance of any kind shall be thrown, or allowed to remain upon or in any street, road, ditch, canal, gutter, public place, private premises, vacant lot, watercourse, lake, pond, spring or well.

History: C. 1953, 26-15-6, enacted by L. 1981, ch. 126, § 16.

Cross-References. — Solid Waste Management Act, § 26-32-1 et seq.

26-15-7. Rules for controlling vector-borne diseases and pests.

The department shall adopt rules to provide for the protection of the public health by controlling or preventing the spread of vector-borne diseases and infections and to control or reduce pests by the elimination of insanitary conditions which may include but not be limited to breeding areas, shelter, harborage or sources of food associated with such diseases or pests.

History: C. 1953, 26-15-7, enacted by L. 1981, ch. 126, § 16.

COLLATERAL REFERENCES

Am. Jur. 2d. — 39 Am. Jur. 2d Health §§ 32, 33. C.J.S. — 39A C.J.S. Health and Environment §§ 18-27.

26-15-8. Periodic evaluation of local health sanitation programs.

The department shall periodically evaluate the sanitation programs of local health departments to determine the levels of sanitation being maintained throughout the state.

History: C. 1953, 26-15-8, enacted by L. 1981, ch. 126, § 16.

26-15-9. Impoundment of adulterated food products authorized.

The department and local health departments may impound any food products found in places where food or drink is handled, sold, or served to the public that is intended for but found to be adulterated and unfit for human consumption; and, upon five days notice and reasonable opportunity for a hearing to the interested parties, to condemn and destroy the same if deemed necessary for the protection of the public health.

History: C. 1953, 26-15-9, enacted by L. 1981, ch. 126, § 16.

26-15-10. Rules for sale of drugs, cosmetics, and medical devices.

The department shall establish and enforce rules for the sale or distribution of human drugs, cosmetics, and medical devices. The rules adopted under this section shall be no more stringent than those established by federal law.

History: C. 1953, 26-15-10, enacted by L. 1981, ch. 126, § 16.

COLLATERAL REFERENCES

A.L.R. — Products liability: mascara and other eye cosmetics, 63 A.L.R.4th 105.

26-15-11. Criminal statutes on smoking deemed public health laws.

Sections 76-10-106, and 76-10-108 through 76-10-110, are public health laws and shall be enforced by the department and local health departments.

History: C. 1953, 26-15-11, enacted by L. 1981, ch. 126, § 16.

COLLATERAL REFERENCES

Am. Jur. 2d. — 39 Am. Jur. 2d Health § 22.

26-15-12. Rules to implement criminal statutes on smoking.

The department shall adopt rules necessary and reasonable to implement the provisions of Sections 76-10-106, and 76-10-108 through 76-10-110.

History: C. 1953, 26-15-12, enacted by L. 1981, ch. 126, § 16.

CHAPTER 16

HOSPITAL AND MEDICAL FACILITIES SURVEY AND CONSTRUCTION ACT

(Repealed by Laws 1969, ch. 197, § 187; 1981, ch. 126, § 1.)

26-16-1 to 26-16-16. Repealed.

Repeals. — Sections 26-16-1 to 26-16-5 and 26-16-7 to 26-16-16 (L. 1955, ch. 40, §§ 1 to 5 and 7 to 16; 1965, ch. 48, §§ 1 to 3; 1969, ch. 197, §§ 55 to 58; 1971, ch. 51, § 1; 1979, ch. 101, § 2), the Hospital and Medical Facilities Survey and Construction Act, were repealed by

Laws 1981, ch. 126, § 1. For present provisions, see 26-21-1 et seq.

Section 26-16-6, providing for appropriations to the health department, was repealed by Laws 1969, ch. 197, § 187.

CHAPTER 17

MENTAL HEALTH

Article 1

State Program of Mental Health

Section	
26-17-1, 26-17-1.1.	Repealed.
26-17-1.2.	Division of Mental Health — Creation — Duties and responsibilities.
26-17-1.3.	Director of Division of Mental Health — Qualifications.
26-17-2.	Board of Mental Health to establish rules for community programs — Develop policies and procedures for referral and arbitration.
26-17-3.	Board of Mental Health — Duties.
26-17-4.	Repealed.
26-17-5.	Allocation of funds to local mental health authorities — Formula.

Article 2

Community Mental Health Services Act

Section	
26-17-6.	Repealed.
26-17-7.	Community mental health services authorized — Attempt to change religious belief prohibited.
26-17-8.	Local mental health advisory councils — Duties and powers.
26-17-9.	Authority of local mental health authorities to establish mental health services.
26-17-10.	Powers and duties of local mental health authorities.
26-17-11.	Director of community mental health services — Duties.
26-17-12.	Joint mental health services by participating counties — Ap-

<p>Section</p> <p>26-17-13. portionment of costs — Agreements.</p> <p>26-17-14. Contracts for mental health services provided by local mental health authorities — Requirement for matching funds.</p> <p>26-17-14.5. Contracts for mental health services furnished by local mental health authorities — Contents — Exclusions — Fixing dollar amounts.</p> <p>26-17-14.5. Responsibility for cost of services provided by local mental health authority.</p> <p>26-17-15. Fees for mental health services.</p> <p>26-17-16. Repealed.</p> <p>26-17-17. Contracts for mental health services to be furnished by local</p>	<p>Section</p> <p>26-17-18. mental health authorities — Requirements for eligibility. Authority to receive gifts and funds.</p> <p>26-17-18.5. Treatment without consent a misdemeanor — Services governed by Utah State Medical Practices Act.</p> <p>26-17-19. Continuation of existing services or facilities.</p> <p>26-17-20. Repealed.</p> <p style="text-align: center;">Article 3</p> <p style="text-align: center;">Tests of Newborn Infants</p> <p>26-17-21. PKU tests of newborn infants — Board of Health to establish rules and regulations.</p> <p>26-17-22. Repealed.</p>
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ARTICLE 1

STATE PROGRAM OF MENTAL HEALTH

26-17-1, 26-17-1.1. Repealed.

Repeals. — Section 26-17-1 (L. 1961, ch. 55, § 1; 1967, ch. 174, § 140), relating to the duties of the division of mental health, was repealed by Laws 1969, ch. 197, § 187.

Laws 1988, ch. 1, § 407 repeals Section 26-17-1.1, as amended by Laws 1979, ch. 102, § 4, relating to the duties of the Board of Mental Health, effective January 19, 1988.

26-17-1.2. Division of Mental Health — Creation — Duties and responsibilities.

There is created the Division of Mental Health, which shall be within the Department of Social Services under the administration and general supervision of the executive director of social services, and under the policy direction of the Board of Mental Health. The Division of Mental Health shall be the mental health authority for the State of Utah and shall have the following duties and responsibilities:

- (1) To review and coordinate mental health functions within the division and with related activities of other state agencies.
- (2) To assist and consult with local mental health authorities and with local mental health advisory councils in the establishment of community mental health programs, which may include prevention, rehabilitation, case-finding, diagnosis and treatment of the mentally ill, and consultation and education for groups and individuals regarding mental health.
- (3) To collect and disseminate information pertaining to mental health.
- (4) To develop, administer, and supervise a comprehensive state program for care of the mentally disabled, both within state and local hospitals and on an outpatient basis.
- (5) To have general direction over the Utah State Hospital at Provo.
- (6) To perform such other acts as are necessary to promote mental health in the state.

History: L. 1967, ch. 174, § 111; 1969, ch. 197, § 60.

Sunset Act. — See Section 63-55-7 for the termination date of the Division of Mental Health.

Compiler's Notes. — For other provisions

relating to the Division and Board of Mental Health, see § 62A-12-101 et seq.

Cross-References. — Creation of Department of Social Services, § 62A-1-102.

Boards, divisions, and offices within department, § 62A-1-105.

COLLATERAL REFERENCES

Utah Law Review. — The "Mentally III" and the Law: Sisyphus and Zeus, 1968 Utah L. Rev. 1.

26-17-1.3. Director of Division of Mental Health — Qualifications.

The director of the Division of Mental Health shall have administrative training and at least two years of administrative experience, and shall be a person licensed in Utah to practice psychiatry, psychology, psychiatric nursing, social work, or a closely related field, or eligible for such license.

History: L. 1967, ch. 174, § 112; 1969, ch. 197, § 61; 1979, ch. 97, § 1; 1979, ch. 102, § 5; 1979, ch. 233, § 1.

Compiler's Notes. — For similar provisions, see § 62A-12-103.

Cross-References. — Division directors, appointment, removal, compensation, qualifications, § 62A-1-109.

Jurisdiction of executive director of department, § 62A-1-110.

26-17-2. Board of Mental Health to establish rules for community programs — Develop policies and procedures for referral and arbitration.

The Board of Mental Health shall have the power and the duty to establish by rules minimum standards for community mental health programs. The Board of Mental Health shall develop policies and procedures for referral to mental health facilities and for arbitration where a difference of opinion exists regarding the appropriate treatment resource.

History: L. 1961, ch. 55, § 2; 1967, ch. 174, § 141; 1975, ch. 198, § 1; 1979, ch. 97, § 2; 1987, ch. 141, § 1.

Amendment Notes. — The 1987 amendment, effective July 1, 1987, in the first sentence deleted "and regulations" following

"rules" and deleted the former second sentence pertaining to licensing of mental health centers and mental health care programs.

Compiler's Notes. — For other provisions relating to the powers and duties of the board, see § 62A-12-104.

26-17-3. Board of Mental Health — Duties.

The Board of Mental Health shall:

- (1) develop the boundaries of mental health regions of the state upon recommendation of the director of the Division of Mental Health;
- (2) establish policies, standards, regulations, and fee schedules in cooperation with local mental health authorities for community mental health services;
- (3) establish, by rule, procedures for developing policies for community mental health services. This procedure shall ensure that local mental

health authorities are given opportunity to comment and provide input on new policy or proposed changes in existing policy. The board shall also provide a mechanism for the review and consideration of policy changes which are recommended by local mental health authorities; and

(4) meet with authorities of other state agencies and the executive director of the Department of Social Services from time to time in order to agree upon an appropriate plan for providing needed mental health services.

History: C. 1953, 26-17-3, enacted by L. 1967, ch. 174, § 139; L. 1969, ch. 197, § 62; 1987, ch. 179, § 1.

Repeals and Reenactments. — Laws 1967, ch. 174, § 139 repealed former § 26-17-3 (L. 1961, ch. 55, § 4), relating to appointment of the mental health advisory council, and enacted present § 26-17-3.

Amendment Notes. — The 1987 amendment, effective July 1, 1987, in Subsection (2),

inserted "in cooperation with local mental health authorities"; added Subsection (3) and redesignated former Subsection (3) as Subsection (4); in Subsection (4), inserted "the Department of" and "needed" and deleted "not now available" following "mental health services"; and made minor stylistic changes.

Compiler's Notes. — For other provisions relating to the powers and duties of the board, see § 62A-12-104.

26-17-4. Repealed.

Repeals. — Section 26-17-4 (L. 1961, ch. 55, § 4), relating to the employment and duties of the director of mental health in the state de-

partment of health, was repealed by L. 1967, ch. 174, § 162. For present provisions, see § 26-17-1.3.

26-17-5. Allocation of funds to local mental health authorities — Formula.

(1) The Board of Mental Health shall establish by rule a formula for allocating funds to local mental health authorities through contracts, to provide mental health services in accordance with Sections 26-17-13 and 26-17-14. This formula shall provide for allocation of funds based on need. Determination of need shall be based on population, unless the board establishes, by valid and accepted data, that other defined factors are relevant and reliable indicators of need. The formula shall include a differential to compensate for additional costs of providing services in rural areas.

(2) The formula established under Subsection (1) shall be in effect on or before July 1, 1990, and applies to all state and federal funds appropriated by the Legislature to the Division of Mental Health for local mental health authorities, but does not apply to:

(a) funds that local mental health authorities receive from sources other than the Division of Mental Health;

(b) funds that local mental health authorities receive from the Division of Mental Health to operate a specific program within its jurisdiction which is available to all residents of the state;

(c) funds that local mental health authorities receive from the Division of Mental Health to meet a need that exists only within the jurisdiction of that local mental health authority; and

(d) funds that local mental health authorities receive from the Division of Mental Health for research projects.

History: C. 1953, 26-17-5, enacted by L. 1987, ch. 180, § 1.

Repeals and Reenactments. — Laws 1987, ch. 180, § 1 repealed former § 26-17-5, as amended by Laws 1981, ch. 120, § 1, relating

to the distribution of funds for mental health programs, and enacted the present section effective July 1, 1987.

Compiler's Notes. — For similar provisions, see § 62A-12-105.

ARTICLE 2

COMMUNITY MENTAL HEALTH SERVICES ACT

26-17-6. Repealed.

Repeals. — Laws 1988, ch. 1, § 407 repeals § 26-17-6, as amended by Laws 1987, ch. 179,

§ 2, defining "local mental health authority," effective January 19, 1988.

26-17-7. Community mental health services authorized — Attempt to change religious belief prohibited.

(1) Community mental health services are authorized to be provided by counties in accordance with the provisions of this act. Those services shall include one or more of the following: outpatient mental health clinics, rehabilitation services for persons suffering from mental disorders, consultant and educational services, and other activities necessary to protect and promote mental health.

(2) It is a felony to give psychiatric treatment, nonvocational mental health counseling, case-finding testing, psychoanalysis, drugs, shock treatment, lobotomy, or surgery to any individual for the purpose of changing his concept of, belief about, or faith in God.

History: L. 1961, ch. 54, § 2; 1987, ch. 179, § 3.

Amendment Notes. — The 1987 amendment, effective July 1, 1987, added the subsection designations; in Subsection (1), deleted "cities and" preceding "counties" in the first sentence and substituted "Those" for "Such" at the beginning of the second sentence; and substituted "is" for "shall be" in Subsection (2).

Meaning of "this act." — The term "this

act," in the first sentence of Subsection (1), means Laws 1961, Chapter 54, which enacted §§ 26-17-6, 26-17-7, 26-17-9 to 26-17-15, and 26-17-17 to 26-17-19.

Compiler's Notes. — For other provisions similar to the provisions of this section, see §§ 62A-12-108 and 62A-12-116.

Cross-References. — Sentencing for felonies, §§ 76-3-201, 76-3-203, 76-3-301.

26-17-8. Local mental health advisory councils — Duties and powers.

Local mental health advisory councils may be established throughout the state. Their composition, purposes, duties, powers, and reimbursement shall be as follows:

(1) They may be established in each county in the state, either separately or in conjunction with other counties.

(2) Mental health advisory council members shall be appointed by their respective county commissions. Initially one-fourth of the members shall be appointed for one year, one-fourth for two years, one-fourth for three years, and one-fourth for four years. After the initial appointment, the term of each member shall be for four years. Vacancies shall be filled

in the same manner for unexpired terms. Council members may be removed for cause.

(3) They shall be responsible and advisory to local mental health authorities in planning, organizing, and operating community mental health programs.

(4) Council members shall be selected from persons representative of interested groups in the community, including, where possible, an officer or employee of the school district within the city or county; one or more persons familiar with problems in mental health, as these are involved in proceedings in criminal, domestic, or juvenile courts; one or more members of voluntary health, welfare, or mental health associations or agencies; and at least one person licensed in Utah to practice medicine and surgery in all their branches and engaged in the private practice of medicine.

(5) Council members may be reimbursed for actual and necessary expenses incurred in the performance of official duties, from funds made available to local mental health authorities.

(6) Councils shall be agencies of local mental health authorities, and are subject to laws and requirements relating to those authorities.

History: C. 1953, 26-17-8, enacted by L. 1967, ch. 174, § 143; 1971, ch. 172, § 26; 1987, ch. 179, § 4.

Repeals and Reenactments. — Laws 1967, ch. 174, § 143 repealed former § 26-17-8 (L. 1961, ch. 54, § 3), relating to establishment, composition, purposes, duties, and powers of local advisory mental health councils, and enacted present § 26-17-8.

Amendment Notes. — The 1987 amendment, effective July 1, 1987, deleted former Subsection (2), which read "Cities may appoint such councils"; redesignated Subsection (3) as Subsection (2); deleted "or city governing authorities" at the end of Subsection (2); substituted "Council members" for "They" at the be-

ginning of Subsection (5); substituted "Council" for "Mental health advisory council" at the beginning of Subsection (6); in Subsection (7), substituted "Councils" for "Mental health advisory councils," "are" for "shall be," and "those authorities" for "such authorities"; and made minor changes in punctuation.

Compiler's Notes. — For similar provisions, see § 62A-12-106.

Cross-References. — Medical Practice Act, § 58-12-26 et seq.

Penalty for misdemeanors, §§ 76-3-204, 76-3-301.

Practice of medicine and surgery, licensing and regulatory provisions, § 58-12-1 et seq.

26-17-9. Authority of local mental health authorities to establish mental health services.

Local mental health authorities, either separately or in conjunction with other mental health authorities, are authorized to establish community mental health services, after consultation with such mental health advisory councils, and according to the policies, standards, regulations and fee schedules approved by the Board of Mental Health.

History: L. 1961, ch. 54, § 4; 1967, ch. 174, § 145; 1969, ch. 197, § 63.

Compiler's Notes. — For similar provisions, see § 62A-12-107.

26-17-10. Powers and duties of local mental health authorities.

Subject to the provisions of this act, local mental health authorities, with the advice of their respective local mental health advisory councils, are authorized to:

- (1) review and evaluate mental health needs and services;
- (2) submit to the Division of Mental Health a plan for community mental health services;
- (3) with available funds, and, if state funds are involved with the approval of the director of the Division of Mental Health, establish and be responsible for such programs and maintain such services and facilities as are authorized by this act. However, in the event such services require diagnosis or treatment as defined by law, said services shall be under the direction of a person licensed to practice medicine and surgery in all their branches;
- (4) appoint a full-time or part-time director of community mental health services and prescribe his duties;
- (5) with the approval of the director of the Division of Mental Health, to contract and agree with any competent authority, agency, or person, official or otherwise, to furnish and operate mental health facilities, and to furnish mental health services for such authority or agency, and also to contract and agree with all such authorities, agencies and persons for the furnishing and operation of such facilities and services for the local mental health authority;
- (6) establish rules and regulations not contrary to those of the Board of Mental Health covering local mental health services and facilities;
- (7) perform such other acts as are necessary to effectuate the purposes of this act; and
- (8) take and hold by gift, devise, or bequest, real and personal property required for the use of a community mental health center and may convert property so received, and not suitable for its use, into money or property which is suitable for that use.

History: L. 1961, ch. 54, § 5; 1967, ch. 174, § 146; 1975, ch. 198, § 2; 1987, ch. 179, § 5.

Amendment Notes. — The 1987 amendment, effective July 1, 1987, inserted "are authorized to" at the end of the introductory language; deleted "Shall" at the beginning of Subsection (1); deleted "May" at the beginning of Subsections (2), (4), and (6) to (8); deleted "with the approval of the director of the division of mental health," following "appoint" in Subsection (4); deleted "Are authorized," at the begin-

ning of Subsection (5); and made minor stylistic changes.

Meaning of "this act." — The term "this act," in the introductory paragraph and in Subsections (3) and (7), means Laws 1961, Chapter 54, which enacted §§ 26-17-6, 26-17-7, 26-17-9 to 26-17-15, and 26-17-17 to 26-17-19.

Compiler's Notes. — For substantially similar provisions regarding the powers and duties of local mental health authorities, see § 62A-12-107.

COLLATERAL REFERENCES

A.L.R. — Validity, construction, and effect of statute requiring consultation with, or approval of, local governmental unit prior to lo-

cating group home, halfway house, or similar community residence for the mentally ill, 51 A.L.R.4th 1096.

26-17-11. Director of community mental health services — Duties.

In addition to such other duties as may be required by law or regulation, the director of community mental health services shall:

- (1) be responsible to the local mental health authority;
- (2) exercise supervision over mental health programs and personnel;
- (3) recommend to the local mental health authority and to the local mental health advisory council provisions for accomplishing the purposes of this act;
- (4) submit reports as required, at least annually, to the local mental health authority and to the local mental health advisory council of programs under his direction; and
- (5) carry on appropriate programs and initiate studies for the promotion of community mental health.

History: L. 1961, ch. 54, § 6; 1967, ch. 174, § 147.

Compiler's Notes. — For substantially similar provisions, see § 62A-12-109.

26-17-12. Joint mental health services by participating counties — Apportionment of costs — Agreements.

A county may join with one or more other counties, through their local mental health authorities, to jointly provide mental health services. Such participating bodies may establish acceptable ways of apportioning the cost of those services. Any agreement for joint mental health services may designate the treasurer of one of the participating counties as the custodian of moneys available for those joint services, and [provide] that that treasurer, or other disbursing officer, may make payments from those moneys for such purposes upon audit of the appropriate auditing officer or officers representing the participating governmental units. The agreement may provide:

- (1) for joint rendition or operation of services and facilities or for rendition or operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and
- (2) for the allocation of appointments of members of the mental health advisory council between or among participating cities or counties.

History: L. 1961, ch. 54, § 7; 1967, ch. 174, § 148; 1987, ch. 179, § 6.

Amendment Notes. — The 1987 amendment, effective July 1, 1987, in the first sentence, deleted "Cities may participate with counties and a" at the beginning of the sentence and substituted "to jointly provide" for "jointly to provide"; in the third sentence, substituted "designate" for "provide that," deleted "cities or" preceding "counties," substituted

"as" for "shall be," substituted "those joint services" for "expenditures for the purposes of such joint services"; in Subsection (1), deleted "city or county or" preceding "local mental health authority" and "cities or counties or" preceding "local mental health authorities" and added "and" at the end of the subsection; and made minor changes in punctuation.

Compiler's Notes. — For substantially similar provisions, see § 62A-12-110.

26-17-13. Contracts for mental health services provided by local mental health authorities — Requirement for matching funds.

(1) Where a local mental health authority has established a plan to provide mental health services authorized by this chapter, and those services meet standards fixed by rules of the Board of Mental Health, the local mental health authority may enter into a contract with the Division of Mental Health for community mental health services to be furnished by that local mental health authority, for an agreed compensation to be paid by the state.

(2) The local mental health authority shall provide funding equal to at least 20% of the state funds it receives from the division.

History: L. 1961, ch. 54, § 8; 1967, ch. 174, § 149; 1981, ch. 120, § 2; 1987, ch. 179, § 7.

Amendment Notes. — The 1987 amendment, effective July 1, 1987, rewrote the section.

Compiler's Notes. — For similar provisions, see § 62A-12-111.

26-17-14. Contracts for mental health services furnished by local mental health authorities — Contents — Exclusions — Fixing dollar amounts.

Such contracts may include the furnishing of necessary qualified personnel and the furnishing of approved supplies, facilities, and services furnished by or through the contracting authority employed in rendering special mental health service. They shall not include procurement of capital additions or improvements to the plant of the contracting authorities, nor compensation for services of members of a local mental health advisory council (except actual and necessary expenses incurred in performance of official duties), nor services of personnel for use or furnishing of facilities for which state compensation is claimed under any other provision of law. In fixing the dollar amount of any contract to be awarded, all federal funds obtained or to be obtained under any direct federal grant by the local mental health authority shall be deducted from the total amount awarded to the local authority for the purposes herein authorized.

History: L. 1961, ch. 54, § 9; 1967, ch. 174, § 150; 1980, ch. 30, § 1.

Compiler's Notes. — For similar provisions, see § 62A-12-111.

26-17-14.5. Responsibility for cost of services provided by local mental health authority.

Whenever a local mental health authority, through its designated provider, provides any service described in Section 26-17-17 to a person who resides within the jurisdiction of another local mental health authority, the local mental health authority in whose jurisdiction the person resides is responsible for the cost of that service if its designated provider has authorized the provision of that service.

History: C. 1953, 26-17-14.5, enacted by L. 1987, ch. 179, § 8.

Compiler's Notes. — For similar provisions, see § 62A-12-112.

26-17-15. Fees for mental health services.

Fees shall be charged for mental health services, but services shall not be refused to any person because of his inability to pay therefor. Any person who is unable to obtain private care for financial, geographical or other sufficient reason may be accepted for community mental health services.

History: L. 1961, ch. 54, § 10; 1979, ch. 97, § 3.

Compiler's Notes. — For similar provisions, see § 62A-12-113.

26-17-16. Repealed.

Repeals. — Section 26-17-16 (L. 1961, ch. 54, § 11; 1966 (1st S.S.), ch. 1, § 1), relating to restrictions on rendering mental health ser-

vices, was repealed by Laws 1967, ch. 174, § 162. For present provisions, see § 26-17-18.5.

26-17-17. Contracts for mental health services to be furnished by local mental health authorities — Requirements for eligibility.

To be eligible for award of a contract under Sections 26-17-13 and 26-17-14, local mental health authorities, with advice and consent of their local mental health advisory council, shall provide one or more of the following services, or assure that such services are provided in the area to the satisfaction of the Division of Mental Health, and shall submit a plan to the Division of Mental Health for proposed expenditures therefor:

- (1) inpatient services;
- (2) outpatient services;
- (3) partial hospitalization services;
- (4) emergency services;
- (5) screening for referral;
- (6) follow-up services;
- (7) transitional care;
- (8) consultation, education, and preventive services;
- (9) research and evaluation; and
- (10) such other services as defined in this act.

In accordance with the regulations of the Board of Mental Health such expenditures shall be eligible for award of contract in accordance with Sections 26-17-13 and 26-17-14, whether incurred by direct or joint operation of such facilities and services.

History: L. 1961, ch. 54, § 12; 1967, ch. 174, § 151; 1981, ch. 120, § 3.

Compiler's Notes. — For similar provisions, see § 62A-12-114.

26-17-18. Authority to receive gifts and funds.

(1) Counties and local mental health authorities may receive property, grants, fees, gifts, supplies, materials, and contributions for mental health services. If those gifts are conditioned upon their use for the maintenance and operation of a specified service or program, they shall be so used.

(2) Community mental health programs may receive funds made available by federal, state, or local health, mental health, education, welfare or other agencies.

History: L. 1961, ch. 54, § 13; 1967, ch. 174, § 152; 1987, ch. 179, § 9.

Amendment Notes. — The 1987 amendment, effective July 1, 1987, in Subsection (1), divided the existing sentence into the present two sentences, deleted "Cities" preceding "Counties and local mental health authorities"

and "and if such" following "mental health services" in the first sentence and substituted "If those gifts are" for "gifts be" in the second sentence; substituted "or" for "and" in Subsection (2); and made minor changes in punctuation.

Compiler's Notes. — For similar provisions, see § 62A-12-115.

26-17-18.5. Treatment without consent a misdemeanor — Services governed by Utah State Medical Practices Act.

It shall be a misdemeanor to give shock treatment, lobotomy or surgery to anyone without the written consent of the next of kin or guardian. Services under this act shall be governed by the Utah State Medical Practices Act.

History: C. 1953, 26-17-18.5, enacted by L. 1967, ch. 174, § 153.

Compiler's Notes. — For similar provisions, see § 62A-12-116.

26-17-19. Continuation of existing services or facilities.

Nothing in this act shall be construed to prevent the continuation of existing mental health services or facilities or the establishment of new services and facilities.

History: L. 1961, ch. 54, § 14.

Compiler's Notes. — For similar provisions, see § 62A-12-117.

26-17-20. Repealed.

Repeals. — Section 26-17-20 (L. 1961, ch. 54, § 15), relating to the exemption of recipients of services under the Community Mental Health Services Act from the application of

provisions on admission to the Utah State Hospital, was repealed by Laws 1971, ch. 172, § 27. For present provisions, see § 64-7-1 et seq.

ARTICLE 3

TESTS OF NEWBORN INFANTS

26-17-21. PKU tests of newborn infants — Board of Health to establish rules and regulations.

The Board of Health shall establish rules and regulations requiring each newborn infant to be tested for the presence of phenylketonuria (PKU) and other metabolic diseases which may result in mental retardation or brain damage and for which a preventive measure or treatment is available and for which a laboratory diagnostic test method has been found reliable.

History: L. 1965, ch. 49, § 1; 1967, ch. 174, § 36.

Cross-References. — Fees for and restriction on testing, § 26-10-6.

26-17-22. Repealed.

Repeals. — Section 26-17-22 (L. 1965, ch. 49, § 2), relating to the penalty for violations of regulations relating to PKU tests, was repealed by Laws 1967, ch. 174, § 162.

CHAPTER 18

MEDICAL ASSISTANCE ACT

Sunset Act. — See Section 63-55-7 for the termination date of the Medical Assistance Act.

Section	Short title.	Section	
26-18-1.	Definitions.		modifying department rules — Compliance with Social Security Act.
26-18-2.1.	Division — Creation.		
26-18-2.2.	Director — Appointment — Responsibilities.	26-18-6.	Federal aid — Authority of executive director.
26-18-2.3.	Division responsibilities — Emphasis — Periodic assessment.	26-18-7.	Medical vendor rates.
26-18-3.	Administration of Medicaid program by department.	26-18-8.	Enforcement of public assistance statutes — Contract with Office of Recovery Services.
26-18-3.5.	Copayments by health service recipients, spouses, and parents.	26-18-9.	Prohibited acts of state or local employees of Medicaid program — Violation a misdemeanor.
26-18-4.	Department standards for eligibility under Medicaid — Funds for abortions.	26-18-10.	Utah Medical Assistance Program — Policies and standards.
26-18-5.	Contracts for provision of medical services — Federal provisions	26-18-11.	Rural hospitals.

26-18-1. Short title.

This chapter shall be known and may be cited as the “Medical Assistance Act.”

History: C. 1953, 26-18-1, enacted by L. 1981, ch. 126, § 17.

Repeals and Reenactments. — Laws 1981, ch. 126, § 1 repealed former §§ 26-18-1 to

26-18-4 (L. 1963, ch. 38, §§ 1 to 4; 1969, ch. 197, §§ 64, 65; 1971, ch. 53, § 1), relating to use of confidential information in research. Present §§ 26-18-1 to 26-18-10 were enacted

by § 17 of the act. For present provisions relating to confidential information, see Chapter 25 of this title.

26-18-2. Definitions.

As used in this chapter:

- (1) "Applicant" means any person who requests assistance under the medical programs of the state.
- (2) "Division" means the Division of Health Care Financing within the department, established under Section 26-18-2.1.
- (3) "Client" means a person who the department has determined to be eligible for assistance under the Medicaid program or the Utah Medical Assistance Program established under Section 26-18-10.
- (4) "Medicaid program" means the state program for medical assistance for persons who are eligible under the state plan adopted pursuant to Title XIX of the federal Social Security Act.
- (5) "Medical or hospital assistance" means services furnished or payments made to or on behalf of recipients of medical or hospital assistance under state medical programs.
- (6) "Recipient" means a person who has received medical or hospital assistance under the Medicaid program or the Utah Medical Assistance Program established under Section 26-18-10.

History: C. 1953, 26-18-2, enacted by L. 1981, ch. 126, § 17; 1988, ch. 21, § 1.

Amendment Notes. — The 1988 amendment, effective July 1, 1988, added present Subsections (2) and (3), designated former Subsections (2) and (3) as Subsections (5) and (6), and, in Subsection (6), substituted "has received medical or hospital assistance under the

Medicaid program or the Utah Medical Assistance Program established under Section 26-18-10" for "the department has determined to be eligible for medical or hospital assistance under the medical programs of the state."

Social Security Act. — Title XIX of the federal Social Security Act is compiled as 42 U.S.C. § 1396 et seq.

26-18-2.1. Division — Creation.

There is created, within the department, the Division of Health Care Financing which shall be responsible for implementing, organizing, and maintaining the Medicaid program and the Utah Medical Assistance Program established in Section 26-18-10, in accordance with the provisions of this chapter and applicable federal law.

History: C. 1953, 26-18-2.1, enacted by L. 1988, ch. 21, § 2.

Effective Dates. — Laws 1988, ch. 21, § 10 makes the act effective on July 1, 1988.

26-18-2.2. Director — Appointment — Responsibilities.

The director of the division shall be appointed by the executive director of the department. The director of the division may employ other employees as necessary to implement the provisions of this chapter, and shall:

- (1) administer the responsibilities of the division as set forth in this chapter;
- (2) prepare and administer the division's budget; and
- (3) establish and maintain a state plan for the Medicaid program in compliance with federal law and regulations.

History: C. 1953, 26-18-2.2, enacted by L. 1988, ch. 21, § 3.

Effective Dates. — Laws 1988, ch. 21, § 10 makes the act effective on July 1, 1988.

26-18-2.3. Division responsibilities — Emphasis — Periodic assessment.

(1) In accordance with the requirements of Title XIX of the Social Security Act and applicable federal regulations, the division is responsible for the effective and impartial administration of this chapter in an efficient, economical manner. The division shall establish, on a statewide basis, a program to safeguard against unnecessary or inappropriate use of Medicaid services, excessive payments, and unnecessary or inappropriate hospital admissions or lengths of stay. The division shall deny any provider claim for services that fail to meet criteria established by the division concerning medical necessity appropriateness. The division shall place its emphasis on high quality care to recipients in the most economical and cost-effective manner possible, with regard to both publicly and privately provided services.

(2) The division shall implement and utilize cost-containment methods, where possible, which may include, but are not limited to:

(a) prepayment and postpayment review systems to determine if utilization is reasonable and necessary;

(b) preadmission certification of nonemergency admissions;

(c) mandatory outpatient, rather than inpatient, surgery in appropriate cases;

(d) second surgical opinions;

(e) procedures for encouraging the use of outpatient services;

(f) coordination of benefits; and

(g) review and exclusion of providers who are not cost effective or who have abused the Medicaid program, in accordance with the procedures and provisions of federal law and regulation.

(3) The director of the division shall periodically assess the cost effectiveness and health implications of the existing Medicaid program, and consider alternative approaches to the provision of covered health and medical services through the Medicaid program, in order to reduce unnecessary or unreasonable utilization.

History: C. 1953, 26-18-2.3, enacted by L. 1988, ch. 21, § 4.

Effective Dates. — Laws 1988, ch. 21, § 10 makes the act effective July 1, 1988.

Social Security Act. — Title XIX of the federal Social Security Act is compiled as 42 U.S.C. § 1396 et seq.

26-18-3. Administration of Medicaid program by department.

(1) The department shall be the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

(2) The department shall develop implementing policy in conformity with this chapter, the requirements of Title XIX, and applicable federal regulations.

(3) The department may, in its discretion, contract with the Department of Social Services or other qualified agencies for services in connection with the administration of the Medicaid program, including but not limited to the determination of the eligibility of individuals for the program, recovery of overpayments, and enforcement of fraud and abuse laws to the extent permitted by law and quality control services.

(4) The department may provide by rule for disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided that sanctions imposed administratively shall not extend beyond termination from the program or recovery of claim reimbursements incorrectly paid.

History: C. 1953, 26-18-3, enacted by L. 1981, ch. 126, § 17; 1988, ch. 21, § 5.

Amendment Notes. — The 1988 amendment, effective July 1, 1988, in Subsection (2) substituted "this chapter, the requirements of Title XIX, and applicable federal regulations" for "the requirements of Title XIX and with

regulations adopted pursuant thereto by the federal agency" and made various minor phraseology and stylistic changes.

Social Security Act. — Title XIX of the federal Social Security Act is compiled as 42 U.S.C. § 1396 et seq.

COLLATERAL REFERENCES

C.J.S. — 81 C.J.S. Social Security and Public Welfare § 126.

Key Numbers. — Social Security ⇌ 241.

26-18-3.5. Copayments by health service recipients, spouses, and parents.

The department shall selectively provide for enrollment fees, premiums, deductions, cost sharing or other similar charges to be paid by recipients, their spouses, and parents, within the limitations of federal law and regulation.

History: C. 1953, 26-18-3.5, enacted by L. 1983, ch. 135, § 1.

COLLATERAL REFERENCES

Utah Law Review. — Utah Legislative Survey — 1983, 1984 Utah L. Rev. 115, 169.

26-18-4. Department standards for eligibility under Medicaid — Funds for abortions.

(1) The department may develop standards and administer policies relating to eligibility under the Medicaid program. An applicant receiving Medicaid assistance may be limited to particular types of care or services or to payment of part or all costs of care determined to be medically necessary.

(2) The department shall not provide any funds for medical, hospital, or other medical expenditures or medical services to otherwise eligible persons where the purpose of the assistance is to perform an abortion, unless the life of the mother would be endangered if an abortion were not performed.

(3) Any employee of the department who authorizes payment for an abortion contrary to the provisions of this section is guilty of a class B misdemeanor and subject to forfeiture of office.

(4) Any person or organization that, under the guise of other medical treatment, provides an abortion under auspices of the Medicaid program is guilty of a third degree felony and subject to forfeiture of license to practice medicine or authority to provide medical services and treatment.

History: C. 1953, 26-18-4, enacted by L. 1981, ch. 126, § 17; 1987, ch. 181, § 2.

Amendment Notes. — The 1987 amendment deleted former Subsection (1), relating to the responsibility of counties, redesignated the subsequent subsections accordingly and made

minor changes in phraseology throughout the section.

Cross-References. — Penalties for misdemeanors, §§ 76-3-204, 76-3-301.

Sentencing for felonies, §§ 76-3-201, 76-3-203, 76-3-301.

26-18-5. Contracts for provision of medical services — Federal provisions modifying department rules — Compliance with Social Security Act.

(1) The department may contract with other public or private agencies to purchase or provide medical services in connection with the programs of the division. Where these programs are used by other state agencies, contracts shall provide that other state agencies transfer the state matching funds to the department in amounts sufficient to satisfy needs of the specified program.

(2) All contracts for the provision or purchase of medical services shall be established on the basis of the state's fiscal year and shall remain uniform during the fiscal year insofar as possible. Contract terms shall include provisions for maintenance, administration, and service costs.

(3) If a federal legislative or executive provision requires modifications or revisions in an eligibility factor established under this chapter as a condition for participation in medical assistance, the department may modify or change its rules as necessary to qualify for participation; providing, the provisions of this section shall not apply to department rules governing abortion.

(4) The department shall comply with all pertinent requirements of the Social Security Act and all orders, rules, and regulations adopted thereunder when required as a condition of participation in benefits under the Social Security Act.

History: C. 1953, 26-18-5, enacted by L. 1981, ch. 126, § 17; 1988, ch. 21, § 6.

Amendment Notes. — The 1988 amendment, effective July 1, 1988, in the first sentence of Subsection (1) substituted "division" for "department" and in Subsection (3) substi-

tuted "its rules as necessary" for "department rules necessary."

Social Security Act. — The federal Social Security Act is codified as 42 U.S.C. § 301 et seq.

26-18-6. Federal aid — Authority of executive director.

The executive director, with the approval of the governor, may bind the state to any executive or legislative provisions promulgated or enacted by the federal government which invite the state to participate in the distribution, disbursement or administration of any fund or service advanced, offered or contributed in whole or in part by the federal government for purposes consistent with the powers and duties of the department. Such funds shall be used as provided in this chapter and be administered by the department for purposes related to medical assistance programs.

History: C. 1953, 26-18-6, enacted by L. 1981, ch. 126, § 17.

26-18-7. Medical vendor rates.

Medical vendor payments made to providers of services for and in behalf of recipient households shall be based upon predetermined rates from standards developed by the division in cooperation with providers of services for each type of service purchased by the division. As far as possible, the rates paid for services shall be established in advance of the fiscal year for which funds are to be requested.

History: C. 1953, 26-18-7, enacted by L. 1981, ch. 126, § 17; 1988, ch. 21, § 7.

Amendment Notes. — The 1988 amend-

ment, effective July 1, 1988, in the first sentence twice substituted "division" for "department."

26-18-8. Enforcement of public assistance statutes — Contract with Office of Recovery Services.

(1) The department shall enforce or contract for the enforcement of the provisions of Sections 62A-9-121, 62A-9-129, 62A-9-131 through 62A-9-133, and 62A-9-135 insofar as these sections pertain to benefits conferred or administered by the division under this chapter.

(2) The department may contract for services covered in Part 1, Chapter 11, Title 62A insofar as that chapter pertains to benefits conferred or administered by the division under this chapter.

History: C. 1953, 26-18-8, enacted by L. 1981, ch. 126, § 17; 1988, ch. 1, § 2; 1988, ch. 21, § 8.

Amendment Notes. — The 1988 amendment by Chapter 1, effective January 19, 1988, substituted the present statutory references for "Sections 55-15a-24, and 55-15a-29 through 55-15a-33" in Subsection (1) and "Chapter 15c of Title 55" in Subsection (2).

The 1988 amendment by Chapter 21, effective July 1, 1988, substituted "division" for "department" throughout the section.

This section has been reconciled by the Office of Legislative Research and General Counsel.

26-18-9. Prohibited acts of state or local employees of Medicaid program — Violation a misdemeanor.

Each state or local employee responsible for the expenditure of funds under the state Medicaid program, each individual who formerly was such an officer or employee, and each partner of such an officer or employee is prohibited for a period of one year after termination of such responsibility from committing any act, the commission of which by an officer or employee of the United States Government, an individual who was such an officer or employee, or a partner of such an officer or employee is prohibited by Section 207 or Section 208 of Title 18, United States Code. Violation of this section is a class A misdemeanor.

History: C. 1953, 26-18-9, enacted by L. 1981, ch. 126, § 17.

Compiler's Notes. — 18 U.S.C. §§ 207 and 208 deal respectively with participation by former federal officers or employees in matters involving the government and with involve-

ment by federal officers or employees in their official capacity in matters in which they have a personal financial interest.

Cross-References. — Penalty for misdemeanors, §§ 76-3-204, 76-3-301.

26-18-10. Utah Medical Assistance Program — Policies and standards.

(1) The division shall develop a medical assistance program, which shall be known as the Utah Medical Assistance Program, for low income persons who are not eligible under the state plan for Medicaid under Title XIX of the Social Security Act or Medicare under Title XVIII of that act.

(2) Persons in the custody of prisons, jails, halfway houses, and other non-medical government institutions are not eligible for services provided under this section.

(3) The department shall develop standards and administer policies relating to eligibility requirements for participation in the program, and for payment of medical claims for eligible persons.

(4) The program shall be a payor of last resort. Before assistance is rendered the division shall investigate the availability of the resources of the spouse, father, mother, and adult children of the person making application.

(5) The department shall determine what medically necessary care or services are covered under the program, including duration of care, and method of payment, which may be partial or in full.

(6) The department shall not provide public assistance for medical, hospital, or other medical expenditures or medical services to otherwise eligible persons where the purpose of the assistance is for the performance of an abortion, unless the life of the mother would be endangered if an abortion were not performed.

(7) The department may establish rules to carry out the provisions of this section.

History: C. 1953, 26-18-10, enacted by L. 1982, ch. 26, § 1; 1985, ch. 165, § 38; 1987, ch. 181, § 3; 1988, ch. 21, § 9.

Repeals and Reenactments. — Laws 1982, ch. 26, § 1 repealed former § 26-18-10 (C. 1953, 26-18-10, enacted by L. 1981, ch. 126,

§ 17), relating to duties of the department, and enacted present § 26-18-10.

Amendment Notes. — The 1985 amendment substituted "equivalent of .00005" for "equivalent of 1/4 mill" in two places in Subsection (6).

The 1987 amendment, effective July 1, 1987, in Subsection (1), substituted "Medicare under Title XVIII of that act" for "Medicare under Title XVII of said act," deleted former Subsection (6), which provided for relief of the obligation of counties to provide medical care to the indigent, and made minor changes in phraseology and punctuation throughout the section.

The 1988 amendment, effective July 1, 1988, substituted "division" for "department" in Sub-

sections (1) and (4) and in Subsection (1) inserted "which shall be known as the Utah Medical Assistance Program."

Social Security Act. — Title XIX of the federal Social Security Act, cited in Subsection (1), appears as 42 U.S.C. §§ 1396 to 1396s. Title XVIII of the act appears as 42 U.S.C. §§ 1395 to 1395ccc.

COLLATERAL REFERENCES

Journal of Contemporary Law. — Utah's Medicaid Program: A Senior's Eligibility

Guide for Private Practitioners, 14 J. Contemp. L. 1 (1988).

26-18-11. Rural hospitals.

(1) For purposes of this section "rural hospital" means a hospital located outside of a standard metropolitan statistical area, as designated by the United States Bureau of the Census.

(2) For purposes of the Medicaid program and the Utah Medical Assistance Program, the Division of Health Care Financing shall not discriminate among rural hospitals on the basis of size.

History: C. 1953, 26-18-11, enacted by L. 1988, ch. 12, § 1.

Effective Dates. — Laws 1988, ch. 12, § 2 makes the act effective on July 1, 1988.

CHAPTER 19

MEDICAL BENEFITS RECOVERY ACT

Section		Section	
26-19-1.	Short title.		policy not to limit time allowed for recovery.
26-19-2.	Definitions.		
26-19-3.	Program established by department — Promulgation of rules.	26-19-9 to 26-19-12.	Repealed.
26-19-4.	Repealed.	26-19-13.	Recovery of medical assistance payments from recipient — Lien against estate — Recovery of incorrectly paid amounts.
26-19-5.	Recovery of medical assistance from third party liable for payment — Notice — Action — Compromise or waiver — Recipient's right to action protected — Limit on payment for liability.	26-19-14.	Insurance policies not to deny or reduce benefits of persons eligible for state medical assistance — Exemptions.
26-19-6.	Action by department — Notice to recipient.	26-19-15.	Attorney general or county attorney to represent department.
26-19-7.	Action or claim by recipient — Consent of department required — Department's right to intervene — Department's interests protected — Attorney's fees and costs.	26-19-16.	Department's right to attorney's fees and costs.
26-19-8.	Statute of limitations — Survival of right of action — Insurance	26-19-17.	Application of provisions contrary to federal law prohibited.
		26-19-18.	Release of medical billing information by provider restricted — Liability for violation.