

SUBSTANCE ABUSE AND MENTAL HEALTH AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Edward H. Redd

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill amends the Substance Abuse and Mental Health Act.

Highlighted Provisions:

This bill:

- ▶ changes the date by which local substance abuse authorities and local mental health authorities shall annually submit a service plan to the Division of Substance Abuse and Mental Health within the Department of Human Services;
- ▶ expands the division's responsibilities with respect to peer support services to include peer support services for individuals with mental health disorders;
- ▶ amends peer support services provisions;
- ▶ recodifies peer support services provisions;
- ▶ requires rulemaking; and
- ▶ makes technical amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-15-103, as last amended by Laws of Utah 2016, Chapters 113 and 211



REPEALS:

62A-15-402, as enacted by Laws of Utah 2012, Chapter 179

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

Section 1. Section **62A-15-103** is amended to read:

62A-15-103. Division -- Creation -- Responsibilities.

(1) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director. The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

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

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance ~~[abuse]~~ use disorder, by identifying and disseminating information about effective practices and programs;

(v) ~~[promulgate]~~ make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private programs, minimum standards for public and private providers of substance abuse and mental health programs licensed by the ~~[Department of Human Services]~~ department under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(vi) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;

(vii) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance ~~[abuse]~~ use disorder and mental illness that addresses criminal risk factors;

(viii) evaluate the effectiveness of programs described in this Subsection (2);

(ix) consider the impact of the programs described in this Subsection (2) on:

59 (A) emergency department utilization;
60 (B) jail and prison populations;
61 (C) the homeless population; and
62 (D) the child welfare system; and
63 (x) promote or establish programs for education and certification of instructors to
64 educate persons convicted of driving under the influence of alcohol or drugs, or driving with
65 any measurable controlled substance in the body;
66 (b) (i) collect and disseminate information pertaining to mental health;
67 (ii) provide direction over the state hospital, including approval of its budget,
68 administrative policy, and coordination of services with local service plans;
69 (iii) ~~[promulgate]~~ make rules in accordance with Title 63G, Chapter 3, Utah
70 Administrative Rulemaking Act, to educate families concerning mental illness and to promote
71 family involvement, when appropriate[;] and with patient consent, in the treatment program of
72 a family member; and
73 (iv) ~~[promulgate]~~ make rules in accordance with Title 63G, Chapter 3, Utah
74 Administrative Rulemaking Act, to direct that ~~[all individuals]~~ an individual receiving services
75 through a local mental health ~~[authorities]~~ authority or the Utah State Hospital be informed
76 about and, if desired by the individual, provided assistance in the completion of a declaration
77 for mental health treatment in accordance with Section 62A-15-1002;
78 (c) (i) consult and coordinate with local substance abuse authorities and local mental
79 health authorities regarding programs and services;
80 (ii) provide consultation and other assistance to public and private agencies and groups
81 working on substance abuse and mental health issues;
82 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
83 medical and social agencies, public health authorities, law enforcement agencies, education and
84 research organizations, and other related groups;
85 (iv) promote or conduct research on substance abuse and mental health issues, and
86 submit to the governor and the Legislature recommendations for changes in policy and
87 legislation;
88 (v) receive, distribute, and provide direction over public funds for substance abuse and
89 mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of ~~[any]~~ local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, ~~[the]~~ a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health ~~[authorities]~~ authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance abuse services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)~~(f)~~(j); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with ~~[its]~~ the local substance abuse authority's provider of substance abuse programs and services, and each local mental health authority's contract with ~~[its]~~ the local

mental health authority's provider of mental health programs and services, to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or ~~for~~ misuse of public funds or money;

(d) ~~[assure]~~ ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(5)(a)(ii), to submit ~~[its]~~ a plan to the division ~~[by May 1]~~ on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority ~~[in the state and its]~~ and each local substance abuse authority's contract provider, and each local mental health authority ~~[in the state and its]~~ and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse ~~[authorities and]~~ authority or the local mental health ~~[authorities]~~ authority are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by ~~[them or their contract providers]~~ the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance ~~[abuse]~~ use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate; and

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

152 (B) a mental health disorder; or
153 (C) a substance use disorder and a mental health disorder;
154 (ii) certify a person to carry out, as needed, the division's duty to train and certify an
155 adult as a peer support specialist;
156 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
157 Rulemaking Act, that:
158 (A) establish training and certification requirements for a peer support specialist;
159 (B) specify the types of services a peer support specialist is qualified to provide;
160 (C) specify the type of supervision under which a peer support specialist is required to
161 operate; and
162 (D) specify continuing education and other requirements for maintaining or renewing
163 certification as a peer support specialist; and
164 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
165 Rulemaking Act, that:
166 (A) establish the requirements for a person to be certified to carry out, as needed, the
167 division's duty to train and certify an adult as a peer support specialist; and
168 (B) specify how the division shall provide oversight of a person certified to train and
169 certify a peer support specialist;
170 ~~[(h)]~~ (i) establish by rule, in accordance with Title 63G, Chapter 3, Utah
171 Administrative Rulemaking Act, minimum standards and requirements for the provision of
172 substance ~~[abuse]~~ use disorder and mental health treatment to ~~[individuals]~~ an individual who
173 ~~[are]~~ is required to participate in treatment by the court or the Board of Pardons and Parole, or
174 who ~~[are]~~ is incarcerated, including:
175 (i) collaboration with the Department of Corrections~~[-]~~ and the Utah Substance Abuse
176 Advisory Council to develop and coordinate the standards, including standards for county and
177 state programs serving individuals convicted of class A and class B misdemeanors;
178 (ii) determining that the standards ensure available treatment ~~[includes]~~, including the
179 most current practices and procedures demonstrated by recognized scientific research to reduce
180 recidivism, including a focus on the individual's criminal risk factors; and
181 (iii) requiring that all public and private treatment programs meet the standards
182 established under this Subsection (2)~~[(h)]~~(i) in order to receive public funds allocated to the

division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;

~~[(f)]~~ (j) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers who provide, as part of their practice, substance ~~[abuse]~~ use disorder and mental health treatment to ~~[individuals]~~ an individual involved in the criminal justice system, including:

(i) collaboration with the Department of Corrections, the Utah Substance Abuse Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;

(ii) basing the certification process on the standards developed under Subsection (2)~~[(f)]~~(i) for the treatment of ~~[individuals]~~ an individual involved in the criminal justice system; and

(iii) the requirement that ~~[all]~~ a public ~~[and]~~ or private ~~[providers]~~ provider of treatment to ~~[individuals]~~ an individual involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;

~~[(f)]~~ (k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed ~~[for the reduced]~~ to reduce recidivism ~~[efforts]~~;

(ii) county jail and county behavioral health early-assessment resources needed for ~~[offenders]~~ an offender convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

~~[(k)]~~ (l) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)~~[(f)]~~(i), including recidivism data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; and

(ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;

~~[(h)]~~ (m) in ~~[its]~~ the division's discretion, use the data to make decisions regarding the use of funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)~~[(h)]~~(i); and

~~[(m)]~~ (n) annually, on or before August 31, submit the data collected under Subsection (2)~~[(h)]~~(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the ~~[legislative]~~ Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.

(3) (a) The division may refuse to contract with and may pursue ~~[its]~~ legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract ~~[with its]~~ provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.

(4) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with ~~[its]~~ the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(5) In carrying out ~~[its]~~ the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(6) The division may accept in the name of and on behalf of the state donations, gifts,

245 devises, or bequests of real or personal property or services to be used as specified by the
246 donor.

247 (7) The division shall annually review with each local substance abuse authority and
248 each local mental health authority the authority's statutory and contract responsibilities
249 regarding:

250 (a) ~~[the]~~ use of public funds;

251 (b) oversight ~~[responsibilities regarding]~~ of public funds; and

252 (c) governance of substance ~~[abuse]~~ use disorder and mental health programs and
253 services.

254 (8) The Legislature may refuse to appropriate funds to the division upon the division's
255 failure to comply with the provisions of this part.

256 (9) If a local substance abuse authority contacts the division under Subsection
257 [17-43-201](#)(10) for assistance in providing treatment services to a pregnant woman or pregnant
258 minor, the division shall:

259 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
260 capacity to provide the treatment services; or

261 (b) otherwise ensure that treatment services are made available to the pregnant woman
262 or pregnant minor.

263 Section 2. **Repealer.**

264 This bill repeals:

265 Section [62A-15-402](#), **Rules for substance use disorder peer support specialist**
266 **training and certification.**

Legislative Review Note
Office of Legislative Research and General Counsel