

Joint Interim Standing Committee on Health and Human Services
August 12, 2024

Agenda Item V(9) – Health Care Workforce

Part of the following recommendation on health care workforce is based on Senate Bill 26 of the Utah Legislature, which passed during its 2024 Legislative Session. Among other provisions, the bill established the Behavioral Health Board (see also *Utah Code* Section 58-60-102.5), a multi-professional board to replace certain individual licensing boards of various behavioral health professions. The Board is comprised of at least six licensed behavioral health providers, two other licensed providers, and four members of the public. The Board’s responsibilities and powers include overseeing behavioral health licensees and recommending statutory changes to support workforce adequacy, public safety, and revisions to burdensome regulations, among others.

Senate Bill 26 also established three advisory committees—Qualifications and Professional Development, Background and Investigations, and Probation and Compliance—to advise the Board on licensure, professional development, criteria for license applicants with criminal backgrounds, and probation compliance. Additionally, the measure authorizes Utah’s Division of Integrated Healthcare, Utah Department of Health and Human Services—in consultation with the Behavioral Health Board—to establish standing or ad hoc subcommittees to address various aspects of licensing such as client or patient access to qualified licensees; education, examination, and supervision of applicants for licensure; continuing education requirements; et cetera. Finally, the bill made multiple other changes to behavioral health licensing.

Request the drafting of a legislative measure (BDR) to:

- a. Establish the State Office of Health Care Workforce and Licensing within DPBH;
- b. Move to the State Office of Health Care Workforce and Licensing from the Office of Science, Innovation and Technology, Office of the Governor, all funding, power, and responsibilities pertaining to the Graduate Medical Education Grant Program and the Advisory Council on Graduate Medical Education established in Chapter 223 (“Governor”) of NRS;
- c. Create under the State Office of Health Care Workforce and Licensing a Behavioral Health Board and advisory committees modeled after *Utah Code Section* 58-60-102.5 and consolidate under the Behavioral Health Board the following boards established in:
 - i. Chapter 641 (“Psychologists”) of NRS;
 - ii. Chapter 641A (“Marriage and Family Therapists and Clinical Professional Counselors”) of NRS;
 - iii. Chapter 641B (“Social Workers”) of NRS;
 - iv. Chapter 641C (“Alcohol, Drug and Gambling Counselors”) of NRS; and
 - v. Chapter 641D (“Applied Behavior Analysis”) of NRS.

- d. Require the Behavioral Health Board to assume responsibility for administration of licensure, investigations, and complaint resolution for all behavioral health professionals currently licensed in Chapters 641, 641A, 641B, 641C, and 641D of NRS;
- e. Redirect board fees and funds generated through licensure and other funding streams from boards established pursuant to Chapters 641, 641A, 641B, 641C and 641D of NRS to the Behavioral Health Board to support the activities of licensure administration, investigation, and regulatory oversight for behavioral health professionals;
- f. Require the Behavioral Health Board to make necessary regulatory changes to existing regulations in Chapters 641, 641A, 641B, 641C, and 641D of NAC, and develop new regulations to comply with these legislative changes;
- g. Establish that any laws and regulations pertaining to disciplinary processes adopted by boards established pursuant to Chapters 641, 641A, 641B, 641C, and 641D of NRS remain in effect and may be enforced by the Behavioral Health Board until the Behavioral Health Board adopts regulations to repeal or replace those regulations;
- h. Provide that contracts and agreements, disciplinary and administrative actions, and licenses issued by such boards remain in effect as if taken by the officer or entity to which the responsibility for the enforcement of such action has been transferred;
- i. Require DPBH to:
 - 1. Develop a plan for transitioning from the existing licensing structure of the professions in Chapters 641, 641A, 641B, 641C, and 641D of NRS to the Behavioral Health Board, so licensees and the public can follow and participate in the transition process. The plan must be presented at a meeting in compliance with the Open Meeting Law and adopted at a second meeting in compliance with the Open Meeting Law. Provisions of Chapter 233B (“Nevada Administrative Procedure Act”) of NRS do not apply to this transition plan. The transitioning must be completed in such a manner that the Behavioral Health Board starts to conduct its business no later than January 1, 2027; and
 - 2. Develop and provide recommendations to the JISC HHS during the 2025–2026 Interim that outline the consolidation of all other health care licensing boards and other health care professions under the State Office of Health Care Workforce and Licensing. Health care licensing board or profession means a licensing authority as established in:
 - a. Chapters 641, 641A, 641B, 641C, and 641D of NRS;
 - b. Chapter 630 (“Physicians, Physician Assistants, Medical Assistants, Perfusionists, Anesthesiologist Assistants and Practitioners of Respiratory Care”);
 - c. Chapter 630A (“Homeopathic Physicians, Advanced Practitioners of Homeopathy and Homeopathic Assistants”);

- d. Chapter 631 (“Dentistry, Dental Hygiene, Dental Therapy and Expanded Function Dental Assistance”);
- e. Chapter 632 (“Nursing”);
- f. Chapter 633 (“Osteopathic Medicine”);
- g. Chapter 634 (“Chiropractic Physicians and Chiropractic Assistants”);
- h. Chapter 634A (“Doctors of Oriental Medicine”);
- i. Chapter 634B (“Narpaths”);
- j. Chapter 635 (“Podiatric Physicians and Podiatry Hygienists”);
- k. Chapter 636 (“Optometry”);
- l. Chapter 637 (“Dispensing Opticians”);
- m. Chapter 637B (“Audiologists, Speech-Language Pathologists and Hearing Aid Specialists”);
- n. Chapter 639 (“Pharmacists and Pharmacy”);
- o. Chapter 640 (“Physical Therapists, Physical Therapist Assistants and Physical Therapist Technicians”);
- p. Chapter 640A (“Occupational Therapists and Occupational Therapy Assistants”);
- q. Chapter 640B (“Athletic Trainers”);
- r. Chapter 640C (“Massage Therapy”);
- s. Chapter 640D (“Music Therapists”);
- t. Chapter 640E (“Dietitians”);
- u. Chapter 652 (“Medical Laboratories”);
- v. Chapter 653 (“Radiation Therapy and Radiologic Imaging”); and
- w. Chapter 654 (“Administrators of Facilities for Long-Term Care”).

Recommendation proposed by Chair Doñate in consultation with Committee staff. (See Attachment A.)

Attachment A

Utah Code

Effective 5/1/2024

58-60-102.5 Behavioral Health Board -- Advisory committees.

- (1) There is created the Behavioral Health Board consisting of:
 - (a) no less than six behavioral health care providers licensed in Utah to practice as a:
 - (i) clinical social worker;
 - (ii) marriage and family therapist;
 - (iii) clinical mental health counselor;
 - (iv) master addiction counselor;
 - (v) psychologist under Chapter 61, Psychologist Licensing Act; or
 - (vi) behavior analyst or specialist;
 - (b) no less than two other behavioral health care providers licensed in Utah to practice as:
 - (i) a certified social worker;
 - (ii) a social service worker;
 - (iii) an associate marriage and family therapist;
 - (iv) an associate clinical mental health counselor;
 - (v) an associate master addiction counselor;
 - (vi) an advanced substance use disorder counselor;
 - (vii) a substance use disorder counselor;
 - (viii) a certified psychology resident; or
 - (ix) an assistant behavior analyst or specialist;
 - (c) no less than four public members:
 - (i) who comprise no less than 1/3 of the total membership of the board;
 - (ii) who are not licensed to practice under:
 - (A) this chapter; or
 - (B) Chapter 61, Psychologist Licensing Act;
 - (iii) two of whom shall, at the time of appointment to the board, hold a leadership position with:
 - (A) a behavioral health consumer advocacy organization;

- (B) a behavioral health employer;
 - (C) a behavioral health payor;
 - (D) an academic institution conducting research related to the behavioral health licenses under Subsection (3)(b), including public health, epidemiology, economics, and the health care workforce;
 - (E) a training institution providing education credentials required for a license under Subsection (3)(b);
 - (F) a licensed health care facility as defined in Section 26B-2-201; or
 - (G) a licensed human services program as defined in Section 26B-2-101;
- (iv) one of whom the executive director of the Department of Health and Human Services appoints; and
- (v) one of whom is licensed in Utah to practice as a:
- (A) physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;
 - (B) physician assistant under Chapter 70a, Utah Physician Assistant Act; or
 - (C) nurse under Chapter 31b, Nurse Practice Act, or Chapter 31e, Nurse Licensure Compact - Revised.
- (2) Board members shall be appointed, serve terms, and be compensated in accordance with Section 58-1-201.
- (3) The board shall:
- (a) operate in accordance with Section 58-1-202, unless otherwise provided in this section;
 - (b) oversee licenses under:
 - (i) this chapter; and
 - (ii) Chapter 61, Psychologist Licensing Act;
 - (c) recommend to the appropriate legislative committee statutory changes to:
 - (i) ensure that regulation supports an adequate workforce to meet consumer demand for behavioral health services; and
 - (ii) prevent harm to the health, safety, and financial welfare of the public;
 - (d) recommend to the appropriate legislative committee statutory changes to remove regulations that are no longer necessary or effective in protecting the public and enhancing commerce; and
 - (e) disqualify any member from acting as a presiding officer in any administrative procedure in which that member has previously reviewed the complaint or advised the division.

(4)

- (a) There are created the following advisory committees to the board:
 - (i) the Qualifications and Professional Development Advisory Committee;
 - (ii) the Background and Investigations Advisory Committee; and
 - (iii) the Probation and Compliance Advisory Committee.
- (b) Each advisory committee shall consist of:
 - (i) a committee chair who is a member of the Behavioral Health Board;
 - (ii) a member of each profession regulated under this chapter;
 - (iii) Chapter 61, Psychologist Licensing Act; and
 - (iv) as determined by the division in rule, additional members from the professions licensed under this chapter or Chapter 61, Psychologist Licensing Act.
- (c) In addition to the requirements of Subsection (4)(b):
 - (i) the Qualifications and Professional Development Advisory Committee shall also consist of an educator for each profession regulated under this chapter and Chapter 61, Psychologist Licensing Act; and
 - (ii) the Background and Investigations Advisory Committee shall also consist of a criminal justice professional.
- (d) The Qualifications and Professional Development Advisory Committee shall:
 - (i) advise the division regarding qualifications for licensure, including passing scores for applicant examinations and standards of supervision for students or persons in training to become licensed;
 - (ii) recommend evidence-based ongoing professional development requirements for licensure that:
 - (A) ensure an adequate workforce to meet consumer demand; and
 - (B) prevent harm to the health, safety, and financial welfare of the public;
 - (iii) advise the division on the licensing, renewal, reinstatement, and relicensure of:
 - (A) internationally trained applicants;
 - (B) applicants applying via licensure by endorsement; and
 - (C) applicants applying using an alternate pathway to licensure including a non-exam or equivalent field degree path;
 - (iv) draw on additional profession-specific advisors as needed;
 - (v) make policy recommendations to the board regarding qualifications for licensure or renewal for a specific profession, including the committee chair assigning at least one

committee member licensed under that profession to serve as a subject matter expert;
and

(vi) make recommendations to the board related to an individual applicant for a specific license, including the committee chair assigning at least one committee member licensed under the same profession as the applicant to serve as a subject matter expert.

(e) The Background and Investigations Advisory Committee shall:

(i) advise the division on establishing criteria for licensure for those with a criminal conviction according to Section 58-1-401;

(ii) advise the division on establishing criteria for referral to the Utah Professionals Health Program under Chapter 4a, Utah Professionals Health Program;

(iii) screen applicants with a criminal history for licensing, renewal, reinstatement, and relicensure and recommending licensing, renewal, reinstatement, and relicensure actions to the division;

(iv) advise the division on investigative practices and procedures and administrative sanctions for consistency and fairness across relevant occupations;

(v) make recommendations to the board for sanctions against individual licensees and certificate holders and referral to the Utah Professionals Health Program under Chapter 4a, Utah Professionals Health Program;

(vi) draw on additional profession-specific advisors as needed; and

(vii) make recommendations to the board related to the disposition for any specific applicant or licensee, including the committee chair assigning at least one committee member licensed under the same profession as the applicant or licensee to serve as a subject matter expert.

(f) The Probation and Compliance Advisory Committee shall:

(i) review compliance with probationary orders;

(ii) review early termination and make any recommendations as requested by the board;

(iii) advise the board regarding the screening of applicants previously sanctioned for licensing, renewal, reinstatement, and relicensure, including recommending licensing, renewal, reinstatement, and relicensure actions to the board;

(iv) establish procedures for monitoring sanctioned licensees or certificate holders;

(v) draw on additional profession-specific advisors as needed; and

(vi) make recommendations to the board related to the disposition for any specific licensee or certification holder, including the committee chair assigning a committee member licensed under the same profession as the licensee or certification holder to serve as a subject matter expert related to that disposition.

- (5) The division, in consultation with the board, may establish one or more standing or ad hoc subcommittees to consider and advise the board regarding any aspect of licensing, including:
 - (a) client or patient access to qualified licensees;
 - (b) education, examination, and supervision of applicants for licensure;
 - (c) verification of applicant for licensure qualifications;
 - (d) continuing education requirements;
 - (e) alternate pathways to licensure; and
 - (f) probation and recovery assistance.
- (6) The division may consult with licensed psychologists on matters specific to the oversight of doctoral-level licensed psychologists.
- (7) Members of the board and any subcommittees created under this section 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 under Sections 63A-3-106 and 63A-3-107.
- (8) The division shall consult with the Physicians Licensing Board created in Section 58-67-201 on any matters relating to:
 - (a) the licensing of individual certified prescribing psychologists and provisional prescribing psychologists; and
 - (b) rulemaking related to the occupation of prescribing psychology.

Enacted by Chapter 420, 2024 General Session