

**UTAH HEALTH WORKFORCE ACT**

2022 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

This bill enacts provisions relating to Utah's health workforce.

**Highlighted Provisions:**

This bill:

- defines terms;
- creates the Utah Health Workforce Advisory Council (council);
- requires the council to provide information and recommendations to government entities regarding policy decisions that affect Utah's health workforce;
- creates the Utah Health Workforce Information Center (information center);
- requires the information center to conduct research and analyze data regarding Utah's health workforce;
- modifies the Utah Medical Education Council's duties;
- requires the Department of Commerce to work with the council and the information center to collect data regarding Utah's health workforce; and
- makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

**53B-24-202**, as last amended by Laws of Utah 2015, Chapter 258

**53B-24-302**, as renumbered and amended by Laws of Utah 2013, Chapter 28

**53B-24-303**, as last amended by Laws of Utah 2018, Chapter 354

**53B-24-304**, as renumbered and amended by Laws of Utah 2013, Chapter 28

**53B-26-202**, as last amended by Laws of Utah 2020, Chapter 365

**ENACTS:**

33           **26-69-101**, Utah Code Annotated 1953  
34           **26-69-201**, Utah Code Annotated 1953  
35           **26-69-202**, Utah Code Annotated 1953  
36           **26-69-203**, Utah Code Annotated 1953  
37           **26-69-301**, Utah Code Annotated 1953  
38           **58-1-112**, Utah Code Annotated 1953

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

41           Section 1. Section **26-69-101** is enacted to read:

42                           **CHAPTER 58. UTAH HEALTH WORKFORCE ACT**

43   **Part 1. General Provisions**

44           **26-69-101. Definitions.**

45           As used in this chapter:

46           (1) "Council" means the Utah Health Workforce Advisory Council created in Section  
47 26-69-103.

48           (2) "Health sector" means any place of employment where the primary function is the  
49 delivery of health care services.

50           (3) (a) "Health workforce" means the individuals, collectively and by profession, who  
51 deliver health care services or assist in the delivery of health care services.

52           (b) "Health workforce" includes any health care professional who does not work in the  
53 health sector and any non-health care professional who works in the health sector.

54           Section 2. Section **26-69-201** is enacted to read:

55                           **Part 2. Utah Health Workforce Advisory Council**

56           **26-69-201. Utah Health Workforce Advisory Council creation and membership.**

57           (1) There is created within the department the Utah Health Workforce Advisory  
58 Council.

59           (2) The council shall be comprised of at least 14 but not more than 19 members.

60           (3) The following are members of the council:

61           (a) the executive director or that individual's designee;

62           (b) the executive director of the Department of Workforce Services or that individual's  
63 designee;

(c) the commissioner of higher education of the Utah system of higher education or that individual's designee;

(d) the state superintendent of the state board of education or that individual's designee;

(e) the executive director of the Department of Commerce or that individual's designee;

(f) the director of the Division of Multicultural Affairs or that individual's designee;

(g) the director of the Utah Substance Use and Mental Advisory Council or that individual's designee;

(h) the chair of the Utah Indian Health Advisory Board; and

(i) the chair of the Medical Education Council created in Section 53B-24-302.

(4) The executive director shall appoint at least five but not more than ten additional members that represent diverse perspectives regarding Utah's health workforce.

(5) (a) A member appointed by the executive director under Subsection (4) shall serve a four-year term.

(b) Notwithstanding Subsection (5)(a) for the initial appointments of members described in Subsection (4) the executive director shall appoint at least three but not more than five members to a two-year appointment to ensure that approximately half of the members appointed by the executive director rotate every two years.

(6) The executive director or the executive director's designee shall chair the council.

Section 3. Section **26-69-202** is enacted to read:

**26-69-202. Council and executive director duties.**

(1) The council shall:

(a) meet at least once each quarter;

(b) study and provide recommendations to an entity described in Subsection (2) regarding:

(i) health workforce supply;

(ii) health workforce employment trends and demand;

(iii) options for training and educating the health workforce;

(iv) the implementation or improvement of strategies that entities in the state are using or may use to address health workforce needs including:

(A) shortages;

(B) recruitment; and

- 95           (C) retention; and  
96           (v) other Utah health workforce priorities as determined by the council;  
97           (c) provide guidance to an entity described in Subsection (2) regarding health  
98 workforce related matters;  
99           (d) review and comment on legislation relevant to Utah's health workforce; and  
100           (e) advise the Utah Board of Higher Education and the Legislature on the status and  
101 needs of the health workforce who are in training.  
102           (2) The council shall provide information described in Subsections (1)(b) and (c) to:  
103           (a) the Legislature;  
104           (b) the department;  
105           (c) the Department of Workforce Services;  
106           (d) the Department of Commerce;  
107           (e) the Medical Education Council; and  
108           (f) any other entity the council deems appropriate upon the entity's request.  
109           (3) (a) The Medical Education Council created in Section 53B-24-302 is a  
110 subcommittee of the council.  
111           (b) The council may establish subcommittees to support the work of the council.  
112           (c) A member of the council shall chair a subcommittee created by the council.  
113           (d) Except for the Medical Education Council, the chair of the subcommittee may  
114 appoint any individual to the subcommittee.  
115           (4) For any report created by the council or a subcommittee of the council that pertains  
116 to any duty described in Subsection (1), the council shall:  
117           (a) provide the report to:  
118           (i) the department; and  
119           (ii) any appropriate legislative committee; and  
120           (b) post the report on the council's website.  
121           (5) The executive director shall  
122           (a) ensure the council has adequate staff to support the council and any subcommittee  
123 created by the council; and  
124           (b) provide any available information upon the council's request if:  
125           (i) that information is necessary for the council to fulfill a duty described in Subsection

126 (1); and

127 (ii) the department has access to the information.

128 Section 4. Section **26-69-203** is enacted to read:

129 **26-69-203. Members serve without pay -- Reimbursement for expenses.**

130 A member of the council or a subcommittee created by the council may not receive  
131 compensation or benefits for the member's service but may receive per diem and travel  
132 expenses as allowed in:

133 (1) Section 63A-3-106;

134 (2) Section 63A-3-107; and

135 (3) rules made by the Division of Finance according to Sections 63A-3-106 and  
136 63A-3-107.

137 Section 5. Section **26-69-301** is enacted to read:

138 **Part 3. Utah Health Workforce Information Center**

139 **26-69-301. Utah Health Workforce Information Center.**

140 (1) There is created within the department the Utah Health Workforce Information  
141 Center.

142 (2) The information center shall:

143 (a) under the guidance of the council, work with the Department of Commerce to  
144 design surveys described in Section 58-1-112;

145 (b) analyze data from any available source regarding Utah's health workforce including  
146 data collected by the Department of Commerce under Section 58-1-112;

147 (c) send a report to the council regarding any analysis of health workforce data;

148 (d) conduct research on Utah's health workforce as directed by the council;

149 (e) notwithstanding the provisions of Subsection 35A-4-312(3), receive information  
150 obtained by the Department of Workforce Services under the provisions of Section 35A-4-312  
151 for purposes consistent with the information center's duties, including identifying changes in  
152 Utah's health workforce numbers, types, and geographic distribution;

153 (f) work with the Utah system of higher education to identify and obtain relevant data  
154 and information regarding Utah's health workforce;

155 (g) project the demand for individuals to enter health care professions, including the  
156 nursing profession in accordance with Section 53B-26-202;

(h) subject to Section 26-3-7, share data with any appropriate person as determined by the information center; and

(i) conduct research and provide analysis for any state agency as approved by the executive director or the executive director's designee.

(3) Notwithstanding any other provision of state law, the information center is authorized to obtain data from any state agency if:

(a) the council and the information center deem receiving the data necessary to perform a duty listed under Subsection (2) or 26-69-202(1); and

(b) the information center's access to the data will not:

(i) violate any federal statute or federal regulation; or

(ii) violate a condition a state agency must follow:

(A) to participate in a federal program; or

(B) to receive federal funds.

Section 6. Section **53B-24-202** is amended to read:

**53B-24-202. Medical Education Program.**

(1) There is created a Medical Education Program to be administered by the Medical Education Council in cooperation with the Division of Finance.

(2) The program shall be funded from money received for graduate medical education from:

(a) the federal Centers for Medicare and Medicaid Services or other federal agency;

(b) state appropriations; and

(c) donation or private contributions.

(3) All funding for this program shall be nonlapsing.

(4) Program money may only be expended if:

(a) approved by the council; and

(b) used for graduate medical education in accordance with Subsection

~~[53B-24-303(7)]~~ 53B-24-303(4).

Section 7. Section **53B-24-302** is amended to read:

**53B-24-302. Medical Education Council.**

~~[(1) There is created the Medical Education Council consisting of the following members appointed by the governor:]~~

(1) (a) There is created the Medical Education Council which is a subcommittee of the Utah Health Workforce Advisory Council.

(b) The membership of the council shall consist of the following appointed by the governor:

~~[(a)]~~ (i) the dean of the school of medicine at the University of Utah;

~~[(b) a person]~~ (ii) an individual who represents graduate medical education at the University of Utah;

~~[(c) a person]~~ (iii) an individual from each institution, other than the University of Utah, that sponsors an accredited clinical education program;

~~[(d) a person]~~ (iv) an individual from the health care insurance industry; and

~~[(e)]~~ (v) three members of the general public who are not employed by or affiliated with any institution that offers, sponsors, or finances health care or medical education; however, the governor may appoint an additional member of the public under this Subsection ~~[(1)(e)]~~ (1)(b)(v) for each ~~[person]~~ individual the governor appoints that increases the total number of ~~[persons]~~ individuals appointed under Subsection ~~[(1)(e)]~~ (1)(b)(ii) beyond two.

(2) Except as provided in Subsection ~~[(1)(a) and (b)]~~ (1)(b)(i) and (ii), no two council members may be employed by or affiliated with the same:

(a) institution of higher education;

(b) state agency outside of higher education; or

(c) private entity.

(3) The dean of the school of medicine at the University of Utah:

(a) shall chair the council;

(b) may not be counted in determining the existence of a quorum; and

(c) may only cast a vote on a matter before the council if the vote of the other council members results in a tied vote.

(4) The council shall annually elect a vice chair from among the members of the council.

(5) (a) Consistent with Subsection (6)(b), a majority of the council members constitute a quorum.

(b) The action of a majority of a quorum is the action of the council.

(6) (a) Except as provided in Subsection (6)(b), members are appointed to four-year

219 terms of office.

220 (b) Notwithstanding Subsection (6)(a), the governor shall, at the time of the initial  
221 appointment, adjust the length of terms to ensure that the terms of council members are  
222 staggered so that approximately half of the council is appointed every two years.

223 (c) If a vacancy occurs in the membership for any reason, the replacement shall be  
224 appointed by the governor for the unexpired term in the same manner as the original  
225 appointment was made.

226 (7) A member may not receive compensation or benefits for the member's service, but  
227 may receive per diem and travel expenses in accordance with:

228 (a) Section 63A-3-106;

229 (b) Section 63A-3-107; and

230 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
231 63A-3-107.

232 Section 8. Section **53B-24-303** is amended to read:

233 **53B-24-303. Duties of council.**

234 The council shall:

235 ~~[(1) submit an application in accordance with federal law for a demonstration project to~~  
236 ~~the Centers for Medicare and Medicaid Services before December 31, 1997, for the purpose of~~  
237 ~~receiving and disbursing federal funds for direct and indirect graduate medical education~~  
238 ~~expenses;]~~

239 ~~[(2)] (1)~~ seek private and public contributions for the program;

240 ~~[(3) study and recommend options for financing graduate medical education to the~~  
241 ~~board and the Legislature;]~~

242 ~~[(4) advise the board and the Legislature on the status and needs of health care~~  
243 ~~professionals in training;]~~

244 ~~[(5)] (2)~~ determine the method for reimbursing institutions that sponsor health care  
245 professionals in training;

246 ~~[(6)] (3)~~ determine the number and type of positions for health care professionals in  
247 training for which program money may be used;

248 ~~[(7)] (4)~~ distribute program money for graduate medical education in a manner that:

249 (a) prepares postgraduate medical residents, as defined by the accreditation council on



250 graduate medical education, for inpatient, outpatient, hospital, community, and geographically  
251 diverse settings;

252 (b) encourages the coordination of interdisciplinary clinical training among health care  
253 professionals in training;

254 (c) promotes stable funding for the clinical training of health care professionals in  
255 training; and

256 (d) only funds accredited clinical training programs; and

257 ~~[(8) project the demand for individuals to enter a nursing profession as described in~~  
258 ~~Section 53B-26-202.]~~

259 (5) advise on the implementation of the program.

260 Section 9. Section **53B-24-304** is amended to read:

261 **53B-24-304. Powers of council.**

262 The council may:

263 ~~[(1) conduct surveys, with the assistance of the Division of Occupational and~~  
264 ~~Professional Licensing within the Department of Commerce, to assess and meet changing~~  
265 ~~market and education needs;]~~

266 ~~[(2) notwithstanding the provisions of Subsection 35A-4-312(3), receive information~~  
267 ~~obtained by the Division of Workforce Information and Payment Services under the provisions~~  
268 ~~of Section 35A-4-312 for purposes consistent with the council's duties as identified under~~  
269 ~~Section 53B-24-303, including identifying changes in the medical and health care workforce~~  
270 ~~numbers, types, and geographic distribution;]~~

271 ~~[(3)]~~ (1) appoint advisory committees of broad representation on interdisciplinary  
272 clinical education, workforce mix planning and projections, funding mechanisms, and other  
273 topics as is necessary;

274 ~~[(4)]~~ (2) use federal money for necessary administrative expenses to carry out its duties  
275 and powers as permitted by federal law;

276 ~~[(5)]~~ (3) distribute program money in accordance with Subsection ~~[53B-24-303(7)]~~  
277 53B-24-303(4); and

278 ~~[(6)]~~ (4) as is necessary to carry out ~~[its]~~ the council's duties under Section  
279 53B-24-303:

280 (a) hire employees; and

281 (b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative  
282 Rulemaking Act.

283 Section 10. Section **53B-26-202** is amended to read:

284 **53B-26-202. Nursing initiative -- Reporting requirements -- Proposals -- Funding.**

285 (1) Every even-numbered year, [~~the Medical Education Council created in Section~~  
286 ~~53B-24-302~~] the Utah Health Workforce Information Center created in 26-69-301 shall:

287 (a) project the demand, by license classification, for individuals to enter a nursing  
288 profession in each region;

289 (b) receive input from at least one medical association in developing the projections  
290 described in Subsection (1)(a); and

291 (c) report the projections described in Subsection (1)(a) to:

292 (i) the board; and

293 (ii) the Higher Education Appropriations Subcommittee.

294 (2) To receive funding under this section, on or before January 5, an eligible program  
295 shall submit to the Higher Education Appropriations Subcommittee, through the budget  
296 process for the board, as applicable, a proposal that describes:

297 (a) a program of instruction offered by the eligible program that is responsive to a  
298 projection described in Subsection (1)(a);

299 (b) the following information about the eligible program:

300 (i) expected student enrollment;

301 (ii) attainment rates;

302 (iii) job placement rates; and

303 (iv) passage rates for exams required for licensure for a nursing profession;

304 (c) the instructional cost per full-time equivalent student enrolled in the eligible  
305 program;

306 (d) financial or in-kind contributions to the eligible program from:

307 (i) the health care industry; or

308 (ii) an institution; and

309 (e) a funding request, including justification for the request.

310 (3) The Higher Education Appropriations Subcommittee shall:

311 (a) review a proposal submitted under this section using the following criteria:

312 (i) the proposal:  
313 (A) contains the elements described in Subsection (2);  
314 (B) expands the capacity to meet the projected demand described in Subsection (1)(a);  
315 and  
316 (C) has health care industry or institution support; and  
317 (ii) the program of instruction described in the proposal:  
318 (A) is cost effective;  
319 (B) has support from the health care industry or an institution; and  
320 (C) has high passage rates on exams required for licensure for a nursing profession;  
321 (b) determine the extent to which to fund the proposal; and  
322 (c) make an appropriation recommendation to the Legislature on the amount of money  
323 determined under Subsection (3)(b) to the eligible program's institution.

324 (4) An institution that receives funding under this section shall use the funding to  
325 increase the number of students enrolled in the eligible program for which the institution  
326 receives funding.

327 (5) ~~[On or before November 1, 2020, and annually thereafter,]~~ On or before November  
328 1 of each year, the board shall report to the Higher Education Appropriations Subcommittee on  
329 the elements described in Subsection (2) for each eligible program funded under this section.

330 Section 11. Section **58-1-112** is enacted to read:

331 **58-1-112. Data survey and collection.**

332 (1) As used in this section:

333 (a) "Council" means the Utah Health Workforce Advisory Council created in Section  
334 26-69-201.

335 (b) "Information center" means the Utah Health Workforce Information Center created  
336 in Section 26-69-301.

337 (2) (a) In accordance with Subsection 26-69-301(2)(a), the department shall work with  
338 the information center to develop surveys that assess relevant data pertaining to a profession  
339 described in Subsection (3).

340 (b) The surveys shall attempt to:

341 (i) identify workforce shortages;

342 (ii) identify labor market indicators;

343 (iii) determine the educational background of a licensee; and

344 (iv) determine whether Utah is retaining a stable health workforce.

345 (c) After the council approves a survey, the department shall provide the survey to a  
346 licensee when a licensee applies for a license or renews the licensee's license.

347 (d) The department shall send the information obtained from the surveys to the  
348 information center.

349 (3) (a) The department shall prioritize creating a survey for each profession licensed  
350 under:

351 (i) Title 58, Chapter 31b, Nurse Practice Act;

352 (ii) Title 58, Chapter 60, Mental Health Professional Practice Act;

353 (iii) Title 58, Chapter 61, Psychologist Licensing Act;

354 (iv) Title 58, Chapter 67, Utah Medical Practice Act;

355 (v) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

356 (vi) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; or

357 (vii) Title 58, Chapter 70a, Utah Physician Assistant Act.

358 (b) After the department has created a survey for each profession described in  
359 Subsection (3)(a), the department shall create a survey for each profession licensed under:

360 (i) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

361 (ii) Title 58, Chapter 17b, Pharmacy Practice Act;

362 (iii) Title 58, Chapter 24b, Physical Therapy Practice Act;

363 (iv) Title 58, Chapter 40, Recreational Therapy Practice Act;

364 (v) Title 58, Chapter 41, Speech-Language Pathology and Audiology Act;

365 (vi) Title 58, Chapter 42a, Occupational Therapy Practice Act;

366 (vii) Title 58, Chapter 44a, Nurse Midwife Practice Act;

367 (viii) Title 58, Chapter 54, Radiologic Technologist, Radiologist Assistant, and  
368 Radiology Practical Technician Licensing Act; or

369 (ix) Title 58, Chapter 57, Respiratory Care Practices Act.

370 (c) The department shall administer a survey in accordance with this section to any  
371 health-related occupation or profession that is regulated by the department and is not described  
372 in Subsection (3)(a) or (b) if:

373 (i) funding is available;

374            (ii) the council has identified a need for the survey; and  
375            (iii) a survey has been created for each profession described in Subsections (3)(a) and  
376            (3)(b).  
377            Section 12. **Effective date.**  
378            This bill takes effect on July 1, 2022.