

**Representative Steve Eliason** proposes the following substitute bill:

**PSYCHOTROPIC MEDICATION OVERSIGHT PILOT**

**PROGRAM AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Steve Eliason**

Senate Sponsor: Michael S. Kennedy

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ removes a repeal date for the psychotropic medication oversight pilot program (program);
- ▶ amends provisions to make the program permanent;
- ▶ adds minors committed to the Division of Juvenile Justice and Youth Services to the program;
- ▶ moves operation of the program from the Division of Child and Family Services to the Division of Integrated Healthcare (division);
- ▶ addresses the membership of the program's oversight team;
- ▶ amends provisions regarding the duties of the oversight team, caseworkers, and case managers;
- ▶ adds certain reporting requirements for the division and the oversight team;
- ▶ requires the Department of Health and Human Services to pay standard Medicaid



26 rates for outpatient behavioral health services for children in foster care and minors committed  
27 to the Division of Juvenile Justice and Youth Services; and

28       ▶ makes technical and conforming changes.

29 **Money Appropriated in this Bill:**

30       None

31 **Other Special Clauses:**

32       None

33 **Utah Code Sections Affected:**

34 AMENDS:

35       **63I-1-280**, as enacted by Laws of Utah 2022, Chapter 335

36       **80-2-503.5**, as last amended by Laws of Utah 2023, Chapter 309



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

39       Section 1. Section **63I-1-280** is amended to read:

40       **63I-1-280. Repeal dates: Title 80.**

41       [Section **80-2-503.5** is repealed July 1, 2024.]

42       Section 2. Section **80-2-503.5** is amended to read:

43       **80-2-503.5. Psychotropic medication oversight program -- Behavioral health**  
44 **service rates for children in foster care.**

45       (1) As used in this section[<sup>5</sup>]:

46       (a) "Advanced practice registered nurse" means an individual licensed to practice as an  
47 advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

48       (b) "Division" means the Division of Integrated Healthcare created in Section  
49 26B-1-204.

50       (c) "HIPAA" means 45 C.F.R. Parts 160, 162, and 164, Health Insurance Portability  
51 and Accountability Act of 1996, as amended.

52       (d) "Physician assistant" means an individual licensed to practice as a physician  
53 assistant in this state under Title 58, Chapter 70a, Utah Physician Assistant Act.

54       (e) [psychotropic] "Psychotropic medication" means medication prescribed to affect  
55 or alter thought processes, mood, or behavior, including antipsychotic, antidepressant,  
56 anxiolytic, or behavior medication.

57 (f) "Qualifying minor" means a minor committed to the Division of Juvenile Justice  
58 and Youth Services under Section 80-6-703.

59 (2) The division shall, through contract with the [~~Department of Health and Human~~  
60 ~~Services~~] University of Utah or another qualified third party, [establish and] operate a  
61 psychotropic medication oversight [pilot] program for children in foster care and qualifying  
62 minors to ensure that [foster children are being] each foster child and qualifying minor is  
63 prescribed psychotropic medication consistent with the foster [children's] child's or qualifying  
64 minor's needs and consistent with clinical best practices.

65 (3) The division shall [~~establish~~] operate an oversight team to manage the psychotropic  
66 medication oversight program, composed of at least the following individuals:

67 (a) a physician assistant with pediatric mental health experience, or an advanced  
68 practice registered nurse[~~, as defined in Section 58-31b-102,~~] with pediatric mental health  
69 experience, contracted with the [~~Department of Health and Human Services~~] division; [and]

70 (b) a child psychiatrist[~~;~~] contracted with the division;

71 (c) a data analyst contracted with the division; and

72 (d) an individual with care coordination experience.

73 (4) The oversight team shall monitor foster children and qualifying minors:

74 (a) six years old or younger who are being prescribed one or more psychotropic  
75 medications; [and]

76 (b) seven years old or older who are being prescribed two or more psychotropic  
77 medications[~~;~~]; and

78 (c) who are prescribed one or more antipsychotic medications.

79 (5) The division shall establish a business associate agreement with the oversight team  
80 by which the oversight team shall, upon request, be given information or records related to the  
81 foster child's or qualifying minor's health care history, including psychotropic medication  
82 history and mental and behavioral health history, from:

83 (a) the division's Medicaid pharmacy program;

84 (b) the department's written and electronic records and databases;

85 (c) the foster child's current or past caseworker, or the qualifying minor's current or  
86 past case manager;

87 [~~(b)~~] (d) the foster child or qualifying minor; or

88 ~~[(e)]~~ (e) the foster child's or qualifying minor's:

89 (i) current or past health care provider;

90 (ii) natural parents; or

91 (iii) foster parents.

92 (6) The oversight team may review and monitor the following information about a  
93 foster child or qualifying minor:

94 (a) the foster child's or qualifying minor's history;

95 (b) the foster child's or qualifying minor's health care, including psychotropic  
96 medication history and mental or behavioral health history;

97 (c) whether there are less invasive treatment options available to meet the foster child's  
98 or qualifying minor's needs;

99 (d) the dosage or dosage range and appropriateness of the foster child's or qualifying  
100 minor's psychotropic medication;

101 (e) the short-term or long-term risks associated with the use of the foster child's or  
102 qualifying minor's psychotropic medication; or

103 (f) the reported benefits of the foster child's or qualifying minor's psychotropic  
104 medication.

105 (7) (a) ~~[The]~~ On at least a quarterly basis, the oversight team ~~[may]~~ shall:

106 (i) review the medical and mental or behavioral health history for each foster child and  
107 qualifying minor overseen by the program;

108 (ii) based on the review under Subsection (7)(a)(i), document the oversight team's  
109 findings and recommendations; and

110 (iii) make written recommendations ~~[to the foster child's health care providers]~~  
111 concerning the foster child's or qualifying minor's psychotropic medication ~~[or]~~ and the foster  
112 child's or qualifying minor's mental or behavioral health, including any recommendation for  
113 psychotherapy treatment.

114 (b) The oversight ~~[team shall provide the]~~ team's recommendations ~~[made]~~ described  
115 in Subsection (7)(a) ~~[to the foster child's parent or guardian after discussing the~~  
116 ~~recommendations with the foster child's current health care providers]~~ shall be provided to the  
117 foster child's current caseworker or the qualifying minor's current case manager, the foster  
118 child's or qualifying minor's parent or guardian, and the foster child's or qualifying minor's

119 current health care providers, in accordance with rules adopted pursuant to Subsection (8) and  
120 in compliance with HIPAA and other relevant state and federal privacy laws.

121 (c) The member of the oversight team described in Subsection (3)(d) shall:

122 (i) provide the recommendations described in Subsection (7)(a) in writing and verbally,  
123 or as otherwise provided in rules adopted pursuant to Subsection (8), to the foster child's or  
124 qualifying minor's current health care providers; and

125 (ii) on at least a semiannual basis, follow up with the foster child's or qualifying  
126 minor's current health care providers to document whether recommendations made by the  
127 oversight team have been implemented.

128 (d) A foster child's caseworker or qualifying minor's case manager shall maintain a  
129 confidential record of recommendations provided under Subsection (7)(b).

130 (8) The division may adopt administrative rules in accordance with Title 63G, Chapter  
131 3, Utah Administrative Rulemaking Act, necessary to administer this section, including the  
132 rules described in Subsection (7)(b).

133 (9) The division shall report regarding the psychotropic medication oversight program:

134 (a) to the Child Welfare Legislative Oversight Panel [~~regarding the psychotropic~~  
135 ~~medication oversight pilot program~~] by October 1 of each even numbered year[-]; and

136 (b) orally to the Health and Human Services Interim Committee, at least once every  
137 two years at or before the October interim meeting.

138 (10) The oversight team shall report:

139 (a) quarterly to the division regarding the number of foster children and qualifying  
140 minors reviewed and the number of recommendations made; and

141 (b) annually to the division regarding outcomes for foster children and qualifying  
142 minors overseen by the program.

143 (11) Beginning on July 1, 2024, the department shall pay for outpatient behavioral  
144 health services for children in foster care and qualifying minors at a rate no lower than the  
145 standard Medicaid fee schedule.

146 Section 3. **Effective date.**

147 This bill takes effect on May 1, 2024.