

**MENTAL HEALTH PROFESSIONAL AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ryan D. Wilcox**

Senate Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill modifies provisions related to mental health professionals.

**Highlighted Provisions:**

This bill:

- ▶ creates and modifies definitions;
- ▶ modifies state postretirement reemployment restrictions for a retiree who was a mental health therapist or substance use disorder counselor;
- ▶ expands the Utah Health Care Workforce Financial Assistance Program to apply to certain mental health professionals; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

- 26-46-101**, as last amended by Laws of Utah 2020, Chapter 56
- 26-46-102**, as last amended by Laws of Utah 2020, Chapter 56
- 49-11-1202**, as last amended by Laws of Utah 2020, Chapter 449
- 49-11-1205**, as last amended by Laws of Utah 2021, Chapter 193



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

Section 1. Section **26-46-101** is amended to read:

**26-46-101. Definitions.**

(1) "Eligible professional" means a geriatric professional ~~[or]~~, a health care professional, or a mental health professional who is eligible to participate in the program.

(2) "Geriatric professional" means a person who:

(a) is a licensed:

(i) health care professional;

(ii) social worker;

(iii) occupational therapist;

(iv) pharmacist;

(v) physical therapist; or

(vi) psychologist; and

(b) is determined by the department to have adequate advanced training in geriatrics to prepare the person to provide specialized geriatric care within the scope of the person's profession.

(3) "Health care professional" means:

(a) a licensed:

(i) physician;

(ii) physician assistant;

(iii) nurse; or

(iv) dentist; or

~~[(v) mental health therapist; or]~~

(b) another licensed health care professional designated by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) "Mental health professional" means:

(a) a mental health therapist, as defined in Section [58-60-102](#); or

(b) an individual practicing within the scope of practice described in Title 58, Chapter 60, Part 5, Substance Use Disorder Counselor Act.

~~[(4)]~~ (5) "Program" means the Utah Health Care Workforce Financial Assistance

59 Program created in Section 26-46-102.

60 ~~[(5)]~~ (6) "Underserved area" means an area designated by the department as  
61 underserved by health care professionals, based upon the results of a needs assessment  
62 developed by the department in consultation with the Utah Health Care Workforce Financial  
63 Assistance Program Advisory Committee created under Section 26-46-103.

64 Section 2. Section 26-46-102 is amended to read:

65 **26-46-102. Creation of program -- Duties of department.**

66 (1) There is created within the department the Utah Health Care Workforce Financial  
67 Assistance Program to provide, within funding appropriated by the Legislature for the  
68 following purposes:

69 (a) professional education scholarships and loan repayment assistance to health care  
70 professionals and mental health professionals who locate or continue to practice in underserved  
71 areas; and

72 (b) loan repayment assistance to geriatric professionals who locate or continue to  
73 practice in underserved areas.

74 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
75 department shall make rules governing the administration of the program, including rules that  
76 address:

77 (a) application procedures;

78 (b) eligibility criteria;

79 (c) selection criteria;

80 (d) service conditions, which at a minimum shall include professional service in an  
81 underserved area for a minimum period of time by any ~~[person]~~ individual receiving a  
82 scholarship or loan repayment assistance;

83 (e) penalties for failure to comply with service conditions or other terms of a  
84 scholarship or loan repayment contract;

85 (f) criteria for modifying or waiving service conditions or penalties in case of extreme  
86 hardship or other good cause; and

87 (g) administration of contracts entered into before the effective date of this act,  
88 between the department and scholarship or loan repayment recipients, as authorized by law.

89 (3) The department may provide education loan repayment assistance to an eligible

90 professional if the eligible professional:

91 (a) agrees to practice in an underserved area for the duration of the eligible  
92 professional's participation in the program; and

93 (b) submits a written commitment from the health care facility employing the eligible  
94 professional that the health care facility will provide education loan repayment assistance to the  
95 eligible professional in an amount equal to 20% of the total award amount provided to the  
96 eligible professional.

97 (4) The department shall seek and consider the recommendations of the Utah Health  
98 Care Workforce Financial Assistance Program Advisory Committee created under Section  
99 26-46-103 as [it] the department develops and modifies rules made in accordance with Title  
100 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program.

101 (5) Funding for the program:

102 (a) shall be a line item within the appropriations act;

103 (b) shall be nonlapsing unless designated otherwise by the Legislature; and

104 (c) may be used to cover administrative costs of the program, including reimbursement  
105 expenses of the Utah Health Care Workforce Financial Assistance Program Advisory  
106 Committee created under Section 26-46-103.

107 (6) Refunds for loan repayment assistance, penalties for breach of contract, and other  
108 payments to the program are dedicated credits to the program.

109 (7) The department shall prepare an annual report on the revenues, expenditures, and  
110 outcomes of the program.

111 Section 3. Section 49-11-1202 is amended to read:

112 **49-11-1202. Definitions.**

113 As used in this part:

114 (1) (a) "Affiliated emergency services worker" means a person who:

115 (i) is employed by a participating employer;

116 (ii) performs emergency services for another participating employer that is a different  
117 agency;

118 (iii) is trained in techniques and skills required for the emergency service;

119 (iv) continues to receive regular training required for the service;

120 (v) is on the rolls as a trained affiliated emergency services worker of the participating

121 employer; and

122 (vi) provides ongoing service for a participating employer, which service may include  
123 service as a volunteer firefighter, reserve law enforcement officer, search and rescue worker,  
124 emergency medical technician, ambulance worker, park ranger, or public utilities worker.

125 (b) "Affiliated emergency services worker" does not include a person who performs  
126 work or service but does not meet the requirements of Subsection (1)(a).

127 (2) "Amortization rate" means the amortization rate, as defined in Section [49-11-102](#),  
128 to be applied to the system that would have covered the retiree if the retiree's reemployed  
129 position were deemed to be an eligible, full-time position within that system.

130 (3) "Mental health professional" means:

131 (a) a mental health therapist, as defined in Section [58-60-102](#); or

132 (b) an individual practicing within the scope of practice described in Title 58, Chapter  
133 60, Part 5, Substance Use Disorder Counselor Act.

134 (4) "Mental health professional retiree" means a retiree who:

135 (a) is, at the time of retirement, a mental health professional; and

136 (b) retires from the system described in:

137 (i) Chapter 12, Public Employees' Contributory Retirement Act;

138 (ii) Chapter 13, Public Employees' Noncontributory Retirement Act; or

139 (iii) Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

140 [~~3~~] (5) "Part-time appointed or elected board member" means an individual who:

141 (a) serves in a position:

142 (i) as a member of a board, commission, council, committee, panel, or other body of a  
143 participating employer; and

144 (ii) that is designated in the participating employer's governing statute, charter, creation  
145 document, or similar document;

146 (b) is appointed or elected to the position for a definite and fixed term of office by  
147 official and duly recorded action of the participating employer;

148 (c) except for the service in the position, does not perform other work or service for  
149 compensation for the participating employer, whether as an employee or under a contract; and

150 (d) retires from a participating employer that is different than the participating  
151 employer with the position in which the person serves.

152           ~~[(4)]~~ (6) (a) "Reemployed," "reemploy," or "reemployment" means work or service  
153 performed for a participating employer after retirement, in exchange for compensation.

154           (b) Reemployment includes work or service performed on a contract for a participating  
155 employer if the retiree is:

- 156           (i) listed as the contractor; or
- 157           (ii) an owner, partner, or principal of the contractor.

158           ~~[(5)]~~ (7) "Retiree":

159           (a) means a person who:

- 160           (i) retired from a participating employer; and
- 161           (ii) begins reemployment on or after July 1, 2010, with a participating employer; and

162           (b) does not include a person:

- 163           (i) (A) who was reemployed by a participating employer before July 1, 2010; and
- 164           (B) whose participating employer that reemployed the person under Subsection ~~[(5)]~~  
165 (7)(b)(i)(A) was dissolved, consolidated, merged, or structurally changed in accordance with  
166 Section [49-11-621](#) on or after July 1, 2010; or

167           (ii) who is working under a phased retirement agreement in accordance with ~~[Title 49,]~~  
168 Chapter 11, Part 13, Phased Retirement.

169           Section 4. Section **49-11-1205** is amended to read:

170           **49-11-1205. Postretirement reemployment restriction exceptions.**

171           (1) (a) The office may not cancel the retirement allowance of a retiree who is  
172 reemployed with a participating employer within one year of the retiree's retirement date ~~[if]~~:

173           (i) if the retiree is not reemployed by a participating employer for a period of at least 60  
174 days from the retiree's retirement date;

175           (ii) if, upon reemployment after the break in service under Subsection (1)(a)(i), the  
176 retiree does not receive any employer paid benefits, including:

177           (A) retirement service credit or retirement-related contributions;

178           (B) medical benefits;

179           (C) dental benefits;

180           (D) other insurance benefits except for workers' compensation as provided under Title  
181 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease  
182 Act, and withholdings required by federal or state law for social security, Medicare, and

183 unemployment insurance; or

184 (E) paid time off, including sick, annual, or other type of leave; and

185 (iii) (A) if the retiree is not a mental health professional retiree, the retiree [~~does not~~  
186 ~~earn~~] earns in any calendar year of reemployment an amount [~~in excess of~~] that is no more than  
187 the lesser of \$15,000 or one-half of the retiree's final average salary upon which the retiree's  
188 retirement allowance is based; [~~or~~]

189 (B) if the retiree is a mental health professional retiree, the retiree earns in any calendar  
190 year of reemployment an amount no more than \$30,000; or

191 [~~(B)~~] (C) if the retiree is reemployed as a judge as defined under Section 78A-11-102.

192 (b) The board shall adjust the amounts under Subsection (1)(a)(iii) by the annual  
193 change in the Consumer Price Index during the previous calendar year as measured by a United  
194 States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

195 (2) A retiree shall be considered as having completed the one-year separation from  
196 employment with a participating employer required under Section 49-11-1204, if the retiree:

197 (a) before retiring:

198 (i) was employed with a participating employer as a public safety service employee as  
199 defined in Section 49-14-102, 49-15-102, or 49-23-102;

200 (ii) during the employment under Subsection (2)(a)(i), suffered a physical injury  
201 resulting from external force or violence while performing the duties of the employment, for  
202 which injury the retiree would have been approved for total disability in accordance with the  
203 provisions under Chapter 21, Public Employees' Long-Term Disability Act, if years of service  
204 are not considered;

205 (iii) had less than 30 years of service credit but had sufficient service credit to retire,  
206 with an unreduced allowance making the public safety service employee ineligible for  
207 long-term disability payments under Chapter 21, Public Employees' Long-Term Disability Act,  
208 or a substantially similar long-term disability program;

209 (iv) does not receive any long-term disability benefits from any participating employer;

210 and

211 (v) is at least 50 years old; and

212 (b) is reemployed by a different participating employer.

213 (3) (a) The office may not cancel the retirement allowance of a retiree who is employed

214 as an affiliated emergency services worker within one year of the retiree's retirement date if the  
215 affiliated emergency services worker does not receive any compensation, except for:

216 (i) a nominal fee, stipend, discount, tax credit, voucher, or other fixed sum of money or  
217 cash equivalent payment not tied to productivity and paid periodically for services;

218 (ii) a length-of-service award;

219 (iii) insurance policy premiums paid by the participating employer in the event of death  
220 of an affiliated emergency services worker or a line-of-duty accidental death or disability; or

221 (iv) reimbursement of expenses incurred in the performance of duties.

222 (b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax  
223 credits, vouchers, and payments to an affiliated emergency services worker may not exceed  
224 \$500 per month.

225 (c) The board shall adjust the amount under Subsection (3)(b) by the annual change in  
226 the Consumer Price Index during the previous calendar year as measured by a United States  
227 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

228 (d) A retiree is eligible for an exemption from the requirement to cease service without  
229 cancellation of a retirement allowance under this Subsection (3) only if the retiree, at the time  
230 of retirement, is at least:

231 (i) 50 years old, if the retiree is retiring from a public safety system or a firefighter  
232 system; or

233 (ii) 55 years old.

234 (4) (a) The office may not cancel the retirement allowance of a retiree employed as a  
235 part-time appointed or elected board member within one year after the retiree's retirement date  
236 if the part-time appointed or elected board member does not receive any compensation  
237 exceeding the amount described in this Subsection (4).

238 (b) A retiree who is a part-time appointed or elected board member for one or more  
239 boards, commissions, councils, committees, panels, or other bodies of participating employers:

240 (i) may receive an aggregate amount of compensation, remuneration, a stipend, or other  
241 benefit for service on a single or multiple boards, commissions, councils, committees, panels,  
242 or other bodies of no more than \$5,000 per year; and

243 (ii) may not receive an employer paid retirement service credit or retirement-related  
244 contribution.



- 245 (c) For purposes of Subsection (4)(b)(i):
- 246 (i) a part-time appointed or elected board member's compensation includes:
- 247 (A) an amount paid for the part-time appointed or elected board member's coverage in
- 248 a group insurance plan provided by the participating employer; and
- 249 (B) the part-time appointed or elected board member's receipt of any other benefit
- 250 provided by the participating employer; and
- 251 (ii) the part-time appointed or elected board member's compensation does not include:
- 252 (A) an amount the participating employer pays for employer-matching employment
- 253 taxes, if the participating employer treats the part-time appointed or elected board member as
- 254 an employee for federal tax purposes; or
- 255 (B) an amount that the part-time appointed or elected board member receives for per
- 256 diem and travel expenses for up to 12 approved meetings or activities of the government board
- 257 per year, if the per diem and travel expenses do not exceed the amounts established by the
- 258 Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#) or by rules made by the
- 259 Division of Finance according to Sections [63A-3-106](#) and [63A-3-107](#).
- 260 (d) The board shall adjust the amount under Subsection (4)(b)(i) by the annual change
- 261 in the Consumer Price Index during the previous calendar year as measured by a United States
- 262 Bureau of Labor Statistics Consumer Price Index average, as determined by the board.
- 263 (5) (a) If a retiree is reemployed under the provisions of Subsection (1) or (4), the
- 264 termination date of the reemployment, as confirmed in writing by the participating employer, is
- 265 considered the retiree's retirement date for the purpose of calculating the separation
- 266 requirement under Section [49-11-1204](#).
- 267 (b) The office shall cancel the retirement allowance of a retiree for the remainder of the
- 268 calendar year if the reemployment with a participating employer exceeds the limitation under
- 269 Subsection (1)(a)(iii), (3)(b), or (4)(b).
- 270 **Section 5. Effective date.**
- 271 (1) Except as provided in Subsection (2), this bill takes effect on May 4, 2022.
- 272 (2) The amendments to Sections [49-11-1202](#) and [49-11-1205](#) take effect on January 1,
- 273 2023.