HIGH RISK POPULATION PROTECTION AMENDMENTS

2020 FIFTH SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill enacts provisions related to testing and the collection and use of data relating to populations at high risk for COVID-19.

Highlighted Provisions:

This bill:

- allows the Department of Health and local health departments to share certain data regarding COVID-19 patients with state agencies for analysis;
- enacts provisions relating to COVID-19 testing of certain individuals at care facilities; and
- requires the Department of Health to collect and publish information relating to risk factors for COVID-19.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-6-27, as last amended by Laws of Utah 2012, Chapters 150 and 391

ENACTS:

26-6-32, Utah Code Annotated 1953

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

Section 1. Section **26-6-27** is amended to read:

26-6-27. Information regarding communicable or reportable diseases confidentiality -- Exceptions.

(1) Information collected pursuant to this chapter in the possession of the department or local health departments relating to an individual who has or is suspected of having a disease designated by the department as a communicable or reportable disease under this chapter shall be held by the department and local health departments as strictly confidential. The department and local health departments may not release or make public that information upon subpoena, search warrant, discovery proceedings, or otherwise, except as provided by this section.

(2) The information described in Subsection (1) may be released by the department or local health departments only in accordance with the requirements of this chapter and as follows:

(a) specific medical or epidemiological information may be released with the written consent of the individual identified in that information or, if that individual is deceased, his next-of-kin;

(b) specific medical or epidemiological information may be released to medical personnel or peace officers in a medical emergency, as determined by the department in accordance with guidelines it has established, only to the extent necessary to protect the health or life of the individual identified in the information, or of the attending medical personnel or law enforcement or public safety officers;

(c) specific medical or epidemiological information may be released to authorized personnel within the department, local health departments, public health authorities, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention (CDC), or when necessary to continue patient services or to undertake public health efforts to interrupt the transmission of disease;

(d) if the individual identified in the information is under the age of 18, the information may be released to the Division of Child and Family Services within the Department of Human Services in accordance with Section 62A-4a-403. If that information is required in a court

proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, Offenses Against the Person, the information shall be disclosed in camera and sealed by the court upon conclusion of the proceedings;

(e) specific medical or epidemiological information may be released to authorized personnel in the department or in local health departments, and to the courts, to carry out the provisions of this title, and rules adopted by the department in accordance with this title;

(f) specific medical or epidemiological information may be released to blood banks, organ and tissue banks, and similar institutions for the purpose of identifying individuals with communicable diseases. The department may, by rule, designate the diseases about which information may be disclosed under this subsection, and may choose to release the name of an infected individual to those organizations without disclosing the specific disease;

(g) specific medical or epidemiological information may be released in such a way that no individual is identifiable;

(h) specific medical or epidemiological information may be released to a "health care provider" as defined in Section 78B-3-403, health care personnel, and public health personnel who have a legitimate need to have access to the information in order to assist the patient, or to protect the health of others closely associated with the patient;

(i) specific medical or epidemiological information regarding a health care provider, as defined in Section 78B-3-403, may be released to the department, the appropriate local health department, and the Division of Occupational and Professional Licensing within the Department of Commerce, if the identified health care provider is endangering the safety or life of any individual by his continued practice of health care; [~~and~~]

(j) specific medical or epidemiological information may be released in accordance with Section 26-6-31 if an individual is not identifiable[~~.~~]; and

(k) specific medical or epidemiological information may be released to a state agency as defined in Section 67-25-102, to perform the analysis described in Subsection 26-6-32(4) if the state agency agrees to act in accordance with the requirements in this chapter.

(3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is

intended only to aid health care providers in their treatment and containment of infectious disease.

Section 2. Section **26-6-32** is enacted to read:

26-6-32. Testing for COVID-19 for high-risk individuals at care facilities -- Collection and release of information regarding risk factors and comorbidities for COVID-19.

(1) As used in this section:

(a) "Care facility" means a facility described in Subsections 26-6-6(2) through (6).

(b) "COVID-19" means the same as that term is defined in Section 78B-4-517.

(2) (a) At the request of the department or a local health department, an individual who meets the criteria established by the department under Subsection (2)(b) shall submit to testing for COVID-19.

(b) The department:

(i) shall establish protocols to identify and test individuals who are present at a care facility and are at high risk for contracting COVID-19;

(ii) may establish criteria to identify care facilities where individuals are at high risk for COVID-19; and

(iii) may establish who is responsible for the costs of the testing.

(c) (i) The protocols described in Subsection (2)(b)(i) shall:

(A) notwithstanding Subsection (2)(a), permit an individual who is a resident of a care facility to refuse testing; and

(B) specify criteria for when an individual's refusal to submit to testing under Subsection (2)(c)(i)(A) endangers the health or safety of other individuals at the care facility.

(ii) Notwithstanding any other provision of state law, a care facility may discharge a resident who declines testing requested by the department under Subsection (2)(a) if:

(A) under the criteria specified by the department under Subsection (2)(c)(i)(B), the resident's refusal to submit to testing endangers the health or safety of other individuals at the care facility; and

(B) discharging the resident does not violate federal law.

(3) The department may establish protocols to collect information regarding the individual's age and relevant comorbidities from an individual who receives a positive test result for COVID-19.

(4) (a) The department shall publish deidentified information regarding comorbidities and other risk factors for COVID-19 in a manner that is accessible to the public.

(b) The department may work with a state agency as defined in Section 67-25-102, to perform the analysis or publish the information described in Subsection (4)(a).

Section 3. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.