

Part 2 Drug Utilization Review Board

26-18-101 Definitions.

As used in this part:

- (1) "Appropriate and medically necessary" means, regarding drug prescribing, dispensing, and patient usage, that it is in conformity with the criteria and standards developed in accordance with this part.
- (2) "Board" means the Drug Utilization Review Board created in Section 26-18-102.
- (3) "Compendia" means resources widely accepted by the medical profession in the efficacious use of drugs, including "American Hospital Formulary Services Drug Information," "U.S. Pharmacopeia - Drug Information," "A.M.A. Drug Evaluations," peer-reviewed medical literature, and information provided by manufacturers of drug products.
- (4) "Counseling" means the activities conducted by a pharmacist to inform Medicaid recipients about the proper use of drugs, as required by the board under this part.
- (5) "Criteria" means those predetermined and explicitly accepted elements used to measure drug use on an ongoing basis in order to determine if the use is appropriate, medically necessary, and not likely to result in adverse medical outcomes.
- (6) "Drug-disease contraindications" means that the therapeutic effect of a drug is adversely altered by the presence of another disease condition.
- (7) "Drug-interactions" means that two or more drugs taken by a recipient lead to clinically significant toxicity that is characteristic of one or any of the drugs present, or that leads to interference with the effectiveness of one or any of the drugs.
- (8) "Drug Utilization Review" or "DUR" means the program designed to measure and assess, on a retrospective and prospective basis, the proper use of outpatient drugs in the Medicaid program.
- (9) "Intervention" means a form of communication utilized by the board with a prescriber or pharmacist to inform about or influence prescribing or dispensing practices.
- (10) "Overutilization" or "underutilization" means the use of a drug in such quantities that the desired therapeutic goal is not achieved.
- (11) "Pharmacist" means a person licensed in this state to engage in the practice of pharmacy under Title 58, Chapter 17b, Pharmacy Practice Act.
- (12) "Physician" means a person licensed in this state to practice medicine and surgery under Section 58-67-301 or osteopathic medicine under Section 58-68-301.
- (13) "Prospective DUR" means that part of the drug utilization review program that occurs before a drug is dispensed, and that is designed to screen for potential drug therapy problems based on explicit and predetermined criteria and standards.
- (14) "Retrospective DUR" means that part of the drug utilization review program that assesses or measures drug use based on an historical review of drug use data against predetermined and explicit criteria and standards, on an ongoing basis with professional input.
- (15) "Standards" means the acceptable range of deviation from the criteria that reflects local medical practice and that is tested on the Medicaid recipient database.
- (16) "SURS" means the Surveillance Utilization Review System of the Medicaid program.
- (17) "Therapeutic appropriateness" means drug prescribing and dispensing based on rational drug therapy that is consistent with criteria and standards.

- (18) "Therapeutic duplication" means prescribing and dispensing the same drug or two or more drugs from the same therapeutic class where periods of drug administration overlap and where that practice is not medically indicated.

Amended by Chapter 280, 2004 General Session

26-18-102 DUR Board -- Creation and membership -- Expenses.

- (1) There is created a 12-member Drug Utilization Review Board responsible for implementation of a retrospective and prospective DUR program.
- (2)
- (a) Except as required by Subsection (2)(b), as terms of current board members expire, the executive director shall appoint each new member or reappointed member to a four-year term.
 - (b) Notwithstanding the requirements of Subsection (2)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
 - (c) Persons appointed to the board may be reappointed upon completion of their terms, but may not serve more than two consecutive terms.
 - (d) The executive director shall provide for geographic balance in representation on the board.
- (3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (4) The membership shall be comprised of the following:
- (a) four physicians who are actively engaged in the practice of medicine or osteopathic medicine in this state, to be selected from a list of nominees provided by the Utah Medical Association;
 - (b) one physician in this state who is actively engaged in academic medicine;
 - (c) three pharmacists who are actively practicing in retail pharmacy in this state, to be selected from a list of nominees provided by the Utah Pharmaceutical Association;
 - (d) one pharmacist who is actively engaged in academic pharmacy;
 - (e) one person who shall represent consumers;
 - (f) one person who shall represent pharmaceutical manufacturers, to be recommended by the Pharmaceutical Manufacturers Association; and
 - (g) one dentist licensed to practice in this state under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act, who is actively engaged in the practice of dentistry, nominated by the Utah Dental Association.
- (5) Physician and pharmacist members of the board shall have expertise in clinically appropriate prescribing and dispensing of outpatient drugs.
- (6) The board shall elect a chair from among its members who shall serve a one-year term, and may serve consecutive terms.
- (7) A member 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 pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 286, 2010 General Session

Amended by Chapter 324, 2010 General Session

26-18-103 DUR Board -- Responsibilities.

The board shall:

- (1) develop rules necessary to carry out its responsibilities as defined in this part;
- (2) oversee the implementation of a Medicaid retrospective and prospective DUR program in accordance with this part, including responsibility for approving provisions of contractual agreements between the Medicaid program and any other entity that will process and review Medicaid drug claims and profiles for the DUR program in accordance with this part;
- (3) develop and apply predetermined criteria and standards to be used in retrospective and prospective DUR, ensuring that the criteria and standards are based on the compendia, and that they are developed with professional input, in a consensus fashion, with provisions for timely revision and assessment as necessary. The DUR standards developed by the board shall reflect the local practices of physicians in order to monitor:
 - (a) therapeutic appropriateness;
 - (b) overutilization or underutilization;
 - (c) therapeutic duplication;
 - (d) drug-disease contraindications;
 - (e) drug-drug interactions;
 - (f) incorrect drug dosage or duration of drug treatment; and
 - (g) clinical abuse and misuse;
- (4) develop, select, apply, and assess interventions and remedial strategies for physicians, pharmacists, and recipients that are educational and not punitive in nature, in order to improve the quality of care;
- (5) disseminate information to physicians and pharmacists to ensure that they are aware of the board's duties and powers;
- (6) provide written, oral, or electronic reminders of patient-specific or drug-specific information, designed to ensure recipient, physician, and pharmacist confidentiality, and suggest changes in prescribing or dispensing practices designed to improve the quality of care;
- (7) utilize face-to-face discussions between experts in drug therapy and the prescriber or pharmacist who has been targeted for educational intervention;
- (8) conduct intensified reviews or monitoring of selected prescribers or pharmacists;
- (9) create an educational program using data provided through DUR to provide active and ongoing educational outreach programs to improve prescribing and dispensing practices, either directly or by contract with other governmental or private entities;
- (10) provide a timely evaluation of intervention to determine if those interventions have improved the quality of care;
- (11) publish an annual report, subject to public comment prior to its issuance, and submit that report to the United States Department of Health and Human Services by December 1 of each year. That report shall also be submitted to the executive director, the president of the Utah Pharmaceutical Association, and the president of the Utah Medical Association by December 1 of each year. The report shall include:
 - (a) an overview of the activities of the board and the DUR program;
 - (b) a description of interventions used and their effectiveness, specifying whether the intervention was a result of underutilization or overutilization of drugs, without disclosing the identities of individual physicians, pharmacists, or recipients;
 - (c) the costs of administering the DUR program;
 - (d) any fiscal savings resulting from the DUR program;
 - (e) an overview of the fiscal impact of the DUR program to other areas of the Medicaid program such as hospitalization or long-term care costs;

- (f) a quantifiable assessment of whether DUR has improved the recipient's quality of care;
 - (g) a review of the total number of prescriptions, by drug therapeutic class;
 - (h) an assessment of the impact of educational programs or interventions on prescribing or dispensing practices; and
 - (i) recommendations for DUR program improvement;
- (12) develop a working agreement with related boards or agencies, including the State Board of Pharmacy, Physicians' Licensing Board, and SURS staff within the division, in order to clarify areas of responsibility for each, where those areas may overlap;
- (13) establish a grievance process for physicians and pharmacists under this part, in accordance with Title 63G, Chapter 4, Administrative Procedures Act;
- (14) publish and disseminate educational information to physicians and pharmacists concerning the board and the DUR program, including information regarding:
- (a) identification and reduction of the frequency of patterns of fraud, abuse, gross overuse, inappropriate, or medically unnecessary care among physicians, pharmacists, and recipients;
 - (b) potential or actual severe or adverse reactions to drugs;
 - (c) therapeutic appropriateness;
 - (d) overutilization or underutilization;
 - (e) appropriate use of generics;
 - (f) therapeutic duplication;
 - (g) drug-disease contraindications;
 - (h) drug-drug interactions;
 - (i) incorrect drug dosage and duration of drug treatment;
 - (j) drug allergy interactions; and
 - (k) clinical abuse and misuse;
- (15) develop and publish, with the input of the State Board of Pharmacy, guidelines and standards to be used by pharmacists in counseling Medicaid recipients in accordance with this part. The guidelines shall ensure that the recipient may refuse counseling and that the refusal is to be documented by the pharmacist. Items to be discussed as part of that counseling include:
- (a) the name and description of the medication;
 - (b) administration, form, and duration of therapy;
 - (c) special directions and precautions for use;
 - (d) common severe side effects or interactions, and therapeutic interactions, and how to avoid those occurrences;
 - (e) techniques for self-monitoring drug therapy;
 - (f) proper storage;
 - (g) prescription refill information; and
 - (h) action to be taken in the event of a missed dose; and
- (16) establish procedures in cooperation with the State Board of Pharmacy for pharmacists to record information to be collected under this part. The recorded information shall include:
- (a) the name, address, age, and gender of the recipient;
 - (b) individual history of the recipient where significant, including disease state, known allergies and drug reactions, and a comprehensive list of medications and relevant devices;
 - (c) the pharmacist's comments on the individual's drug therapy;
 - (d) name of prescriber; and
 - (e) name of drug, dose, duration of therapy, and directions for use.

Amended by Chapter 167, 2013 General Session

26-18-104 Confidentiality of records.

- (1) Information obtained under this part shall be treated as confidential or controlled information under Title 63G, Chapter 2, Government Records Access and Management Act.
- (2) The board shall establish procedures insuring that the information described in Subsection 26-18-103(16) is held confidential by the pharmacist, being provided to the physician only upon request.
- (3) The board shall adopt and implement procedures designed to ensure the confidentiality of all information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the DUR program, that identifies individual physicians, pharmacists, or recipients. The board may have access to identifying information for purposes of carrying out intervention activities, but that identifying information may not be released to anyone other than a member of the board. The board may release cumulative nonidentifying information for research purposes.

Amended by Chapter 382, 2008 General Session

26-18-105 Drug prior approval program.

- (1) A drug prior approval program approved or implemented by the board shall meet the following conditions:
 - (a) except as provided in Subsection (2), a drug may not be placed on prior approval for other than medical reasons;
 - (b) the board shall hold a public hearing at least 30 days prior to placing a drug on prior approval;
 - (c) notwithstanding the provisions of Section 52-4-202, the board shall provide not less than 14 days' notice to the public before holding a public hearing under Subsection (1)(b);
 - (d) the board shall consider written and oral comments submitted by interested parties prior to or during the hearing held in accordance with Subsection (1)(b);
 - (e) the board shall provide evidence that placing a drug class on prior approval:
 - (i) will not impede quality of recipient care; and
 - (ii) that the drug class is subject to clinical abuse or misuse;
 - (f) the board shall reconsider its decision to place a drug on prior approval:
 - (i) no later than nine months after any drug class is placed on prior approval; and
 - (ii) at a public hearing with notice as provided in Subsection (1)(b);
 - (g) the program shall provide an approval or denial of a request for prior approval:
 - (i) by either:
 - (A) fax;
 - (B) telephone; or
 - (C) electronic transmission;
 - (ii) at least Monday through Friday, except for state holidays; and
 - (iii) within 24 hours after receipt of the prior approval request;
 - (h) the program shall provide for the dispensing of at least a 72-hour supply of the drug on the prior approval program:
 - (i) in an emergency situation; or
 - (ii) on weekends or state holidays;
 - (i) the program may be applied to allow acceptable medical use of a drug on prior approval for appropriate off-label indications; and
 - (j) before placing a drug class on the prior approval program, the board shall:
 - (i) determine that the requirements of Subsections (1)(a) through (i) have been met; and
 - (ii) by majority vote, place the drug class on prior approval.

- (2) The board may, only after complying with Subsections (1)(b) through (j), consider the cost:
- (a) of a drug when placing a drug on the prior approval program; and
 - (b) associated with including, or excluding a drug from the prior approval process, including:
 - (i) potential side effects associated with a drug; or
 - (ii) potential hospitalizations or other complications that may occur as a result of a drug's inclusion on the prior approval process.

Amended by Chapter 205, 2010 General Session

26-18-106 Advisory committees.

The board may establish advisory committees to assist it in carrying out its duties under this part.

Enacted by Chapter 273, 1992 General Session

26-18-107 Retrospective and prospective DUR.

- (1) The board, in cooperation with the division, shall include in its state plan the creation and implementation of a retrospective and prospective DUR program for Medicaid outpatient drugs to ensure that prescriptions are appropriate, medically necessary, and not likely to result in adverse medical outcomes.
- (2) The retrospective and prospective DUR program shall be operated under guidelines established by the board under Subsections (3) and (4).
- (3) The retrospective DUR program shall be based on guidelines established by the board, using the mechanized drug claims processing and information retrieval system to analyze claims data in order to:
- (a) identify patterns of fraud, abuse, gross overuse, and inappropriate or medically unnecessary care; and
 - (b) assess data on drug use against explicit predetermined standards that are based on the compendia and other sources for the purpose of monitoring:
 - (i) therapeutic appropriateness;
 - (ii) overutilization or underutilization;
 - (iii) therapeutic duplication;
 - (iv) drug-disease contraindications;
 - (v) drug-drug interactions;
 - (vi) incorrect drug dosage or duration of drug treatment; and
 - (vii) clinical abuse and misuse.
- (4) The prospective DUR program shall be based on guidelines established by the board and shall provide that, before a prescription is filled or delivered, a review will be conducted by the pharmacist at the point of sale to screen for potential drug therapy problems resulting from:
- (a) therapeutic duplication;
 - (b) drug-drug interactions;
 - (c) incorrect dosage or duration of treatment;
 - (d) drug-allergy interactions; and
 - (e) clinical abuse or misuse.
- (5) In conducting the prospective DUR, a pharmacist may not alter the prescribed outpatient drug therapy without the consent of the prescribing physician. This section does not effect the ability of a pharmacist to substitute a generic equivalent.

Enacted by Chapter 273, 1992 General Session

26-18-108 Penalties.

Any person who violates the confidentiality provisions of this part is guilty of a class B misdemeanor.

Enacted by Chapter 273, 1992 General Session

26-18-109 Immunity.

There is no liability on the part of, and no cause of action of any nature arises against any member of the board, its agents, or employees for any action or omission by them in effecting the provisions of this part.

Enacted by Chapter 273, 1992 General Session