

Chapter 38a
Controlled Substances Advisory Committee Act

Part 1
General Provisions

58-38a-101 Title.

This chapter is referred to as the "Controlled Substances Advisory Committee Act."

Enacted by Chapter 231, 2010 General Session

58-38a-102 Definitions.

- (1) "Committee" means the Controlled Substances Advisory Committee created in this chapter.
- (2) "Controlled substance schedule" or "schedule" means a schedule as defined under Section 58-37-4.

Enacted by Chapter 231, 2010 General Session

Part 2
Controlled Substances Advisory Committee

58-38a-201 Controlled Substances Advisory Committee.

There is created within the Division of Occupational and Professional Licensing the Controlled Substances Advisory Committee. The committee consists of:

- (1) the director of the Department of Health or the director's designee;
- (2) the State Medical Examiner or the examiner's designee;
- (3) the commissioner of the Department of Public Safety or the commissioner's designee;
- (4) one physician who is a member of the Physicians Licensing Board and is designated by that board;
- (5) one pharmacist who is a member of the Utah State Board of Pharmacy and is designated by that board;
- (6) one dentist who is a member of the Dentist and Dental Hygienist Licensing Board and is designated by that board;
- (7) one physician who is currently licensed and practicing in the state, to be appointed by the governor;
- (8) one psychiatrist who is currently licensed and practicing in the state, to be appointed by the governor;
- (9) one individual with expertise in substance abuse addiction, to be appointed by the governor;
- (10) one representative from the Statewide Association of Prosecutors, to be designated by that association;
- (11) one naturopathic physician who is currently licensed and practicing in the state, to be appointed by the governor;
- (12) one advanced practice registered nurse who is currently licensed and practicing in this state, to be appointed by the governor; and
- (13) one member of the public, to be appointed by the governor.

Amended by Chapter 60, 2011 General Session

58-38a-202 Terms of committee service.

- (1)
 - (a) Members of the advisory committee shall serve terms of four years, except that the members under Subsections 58-38a-201(1), (2), and (3) shall serve during their terms as appointed officials.
 - (b) Vacancies in the committee occurring otherwise than by the expiration of a term shall be filled for the unexpired term in the same manner as original appointments.
- (2) 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.
- (3)
 - (a) The director of the Department of Health, or the director's designee, is the chair of the committee.
 - (b) The advisory committee meets at the call of the chair or at the call of a majority of the committee members.
 - (c) The advisory committee meets annually and more often as required to carry out its duties under this chapter.
 - (d) Seven members of the advisory committee constitute a quorum.
 - (e) Action by the committee requires a majority vote of a quorum.

Amended by Chapter 60, 2011 General Session

58-38a-203 Duties of the committee.

- (1) The committee serves as a consultative and advisory body to the Legislature regarding:
 - (a) the movement of a controlled substance from one schedule or list to another;
 - (b) the removal of a controlled substance from any schedule or list; and
 - (c) the designation of a substance as a controlled substance and the placement of the substance in a designated schedule or list.
- (2) On or before September 30 of each year, the committee shall submit to the Health and Human Services Interim Committee a written report:
 - (a) describing any substances recommended by the committee for scheduling, rescheduling, listing, or deletion from the schedules or list by the Legislature; and
 - (b) stating the reasons for the recommendation.
- (3) In advising the Legislature regarding the need to add, delete, relist, or reschedule a substance, the committee shall consider:
 - (a) the actual or probable abuse of the substance, including:
 - (i) the history and current pattern of abuse both in Utah and in other states;
 - (ii) the scope, duration, and significance of abuse;
 - (iii) the degree of actual or probable detriment to public health which may result from abuse of the substance; and
 - (iv) the probable physical and social impact of widespread abuse of the substance;
 - (b) the biomedical hazard of the substance, including:
 - (i) its pharmacology, including the effects and modifiers of the effects of the substance;

- (ii) its toxicology, acute and chronic toxicity, interaction with other substances, whether controlled or not, and the degree to which it may cause psychological or physiological dependence; and
- (iii) the risk to public health and the particular susceptibility of segments of the population;
- (c) whether the substance is an immediate precursor, as defined in Section 58-37-2, of a substance that is currently a controlled substance;
- (d) the current state of scientific knowledge regarding the substance, including whether there is any acceptable means to safely use the substance under medical supervision;
- (e) the relationship between the use of the substance and criminal activity, including whether:
 - (i) persons engaged in illicit trafficking of the substance are also engaged in other criminal activity;
 - (ii) the nature and relative profitability of manufacturing or delivering the substance encourages illicit trafficking in the substance;
 - (iii) the commission of other crimes is one of the recognized effects of abuse of the substance; and
 - (iv) addiction to the substance relates to the commission of crimes to facilitate the continued use of the substance;
- (f) whether the substance has been scheduled by other states; and
- (g) whether the substance has any accepted medical use in treatment in the United States.
- (4) The committee's duties under this chapter do not include tobacco products as defined in Section 59-14-102 or alcoholic beverages as defined in Section 32B-1-102.

Amended by Chapter 12, 2011 General Session

Amended by Chapter 340, 2011 General Session

58-38a-204 Guidelines for scheduling or listing drugs.

- (1)
 - (a) The committee shall recommend placement of a substance in Schedule I if it finds:
 - (i) that the substance has high potential for abuse; and
 - (ii) that an accepted standard has not been established for safe use in treatment for medical purposes.
 - (b) The committee may recommend placement of a substance in Schedule I under Section 58-37-4 if it finds that the substance is classified as a controlled substance in Schedule I under federal law.
- (2)
 - (a) The committee shall recommend placement of a substance in Schedule II if it finds that:
 - (i) the substance has high potential for abuse;
 - (ii) the substance has a currently accepted medical use in treatment in the United States, or a currently accepted medical use subject to severe restrictions; and
 - (iii) the abuse of the substance may lead to severe psychological or physiological dependence.
 - (b) The committee may recommend placement of a substance in Schedule II if it finds that the substance is classified as a controlled substance in Schedule II under federal law.
- (3)
 - (a) The committee shall recommend placement of a substance in Schedule III if it finds that:
 - (i) the substance has a potential for abuse that is less than the potential for substances listed in Schedules I and II;
 - (ii) the substance has a currently accepted medical use in treatment in the United States; and

- (iii) abuse of the substance may lead to moderate or low physiological dependence or high psychological dependence.
 - (b) The committee may recommend placement of a substance in Schedule III if it finds that the substance is classified as a controlled substance in Schedule III under federal law.
- (4)
- (a) The committee shall recommend placement of a substance in Schedule IV if it finds that:
 - (i) the substance has a low potential for abuse relative to substances in Schedule III;
 - (ii) the substance has currently accepted medical use in treatment in the United States; and
 - (iii) abuse of the substance may lead to limited physiological dependence or psychological dependence relative to the substances in Schedule III.
 - (b) The committee may recommend placement of a substance in Schedule IV if it finds that the substance is classified as a controlled substance in Schedule IV under federal law.
- (5)
- (a) The committee shall recommend placement of a substance in Schedule V if it finds that:
 - (i) the substance has low potential for abuse relative to the controlled substances listed in Schedule IV;
 - (ii) the substance has currently accepted medical use in treatment in the United States; and
 - (iii) the substance has limited physiological dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.
 - (b) The committee may recommend placement of a substance in Schedule V under this chapter if it finds that the substance is classified as a controlled substance in Schedule V under federal law.
- (6) The committee may recommend placement of a substance on a controlled substance list if it finds that the substance has a potential for abuse and that an accepted standard has not been established for safe use in treatment for medical purposes.

Amended by Chapter 12, 2011 General Session