



**State of Utah**

SPENCER J. COX  
*Governor*

DEIDRE M. HENDERSON  
*Lieutenant Governor*

## Insurance Department

JONATHAN T. PIKE  
*Insurance Commissioner*

October 20, 2021

Senator Michael S. Kennedy, Senate Chair  
Representative Merrill F. Nelson, House Chair  
Health and Human Services Interim Committee  
350 North State Street  
Salt Lake City, Utah 84114

Dear Sen. Kennedy and Rep. Nelson,

Utah Code § 31A-22-615.5 requires a health insurer to submit a report to the Utah Insurance Department indicating whether or not the health insurer has adopted an Opioid Prescribing Policy as described in § 31A-22-615.5(2) and (3). If an Opioid Prescribing Policy has been adopted, the report must also include a general description of the policy. For the past five years, the Insurance Department has submitted to the Health and Human Services Committee a written summary of this information.

Utah Code § 63I-1-103 instructs the Health and Human Services Committee to conduct a Sunset Review of Utah Code § 31A-22-615.5. Enclosed is the report, Utah Code § 31A-22-615.5 – Sunset Review – Opioid Prescribing Policy Reports, which includes a written summary of the Utah Insurance Department's perspective and recommends the sunset of the statute.

I hope this report is useful to the committee. If you or other members of the committee have any questions or concerns with the report, please contact Jeffrey E. Hawley, Ph.D., the department's research consultant, at (801) 957-9284 or [jhawley@utah.gov](mailto:jhawley@utah.gov). I'm always happy to help in any way I can as well. My cell is (435) 632-6892.

Sincerely,

Jonathan T. Pike,  
Insurance Commissioner



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## **Insurance Department**

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# **Utah Code § 31A-22-615.5 – Sunset Review Opioid Prescribing Policy Reports**

September 14, 2021

## Overview

Utah Code § 31A-22-615.5 requires a health insurer to submit a report to the Utah Insurance Department (Department) each year on or before July 15, indicating whether or not the health insurer has adopted an Opioid Prescribing Policy as described in § 31A-22-615.5(2) and (3). If an Opioid Prescribing Policy has been adopted, the report must also include a general description of the policy. The Department is required to submit to the Health and Human Services Committee a written summary of this information each year on or before October 1, 2017, and each year thereafter.

As described in Bulletin 2020-5 and § 31A-22-615.5, “Health insurer” means:

- (i) An insurer who offers health care insurance as that term is defined in Section 31A-1-301;
- (ii) health benefits offered to state employees under Section 49-20-202; and
- (iii) a workers’ compensation insurer:
  - (A) authorized to provide workers’ compensation insurance in the state; or
  - (B) that is a self-insured employer as defined in Section 34A-2-201.

The Department created the Opioid Prescribing Policy Reporting Form to collect the information required in § 31A-22-615.5. This reporting form is available on the Department’s website at: <http://insurance.utah.gov/bulletins>.

For the 2021 reporting year, the Department received 335 Opioid Prescribing Policy Reports from commercial health insurance companies, workers’ compensation insurance companies, and self-insured employers. The data represents the information received from commercial health insurers, workers’ compensation insurers, and self-funded employers that may act as third-party payers for health care that utilizes opioids within the State of Utah during 2021.

**Table 1. Opioid Prescribing Policy Reports for 2021 by Type**

Insurer Type <sup>a</sup>	Total Opioid Prescribing Policy Reports		Included an Opioid Prescribing Policy (YES)		Included an Opioid Prescribing Policy (NO)	
	Count	Percent of Total	Count	Percent of Total	Count	Percent of Total
Health Care Insurance	27	8.1%	18	5.4%	9	2.7%
Workers’ Compensation	284	84.8%	186	55.5%	98	29.3%
Self-Insured Employer	24	7.2%	24	7.2%	0	0.0%
<b>All Health Insurers</b>	<b>335</b>	<b>100.0%</b>	<b>228</b>	<b>68.1%</b>	<b>107</b>	<b>31.9%</b>

Data Source: Utah Insurance Department

Note: Estimates may not total exactly due to rounding.

<sup>a</sup> The data in the table above represents the reports received by the Utah Insurance Department during the 2021 Utah Opioid Prescribing Policy Report collection. This data represents the companies in the Health Care Insurance, Workers’ Compensation, and Self-Insured Employer markets.

As described in Table 1, approximately 68 percent of the Opioid Prescribing Policy Reports received by the Department included some type of Opioid Prescribing Policy as described under § 31A-22-615.5 (see Table 1). Of the 228 reports that included an Opioid Prescribing Policy, about 85 percent included evidence based guidelines from the 2016 Center for Disease Control for Prescribing Opioids for Chronic Pain and about 67 percent included evidence based guidelines from the Utah Clinical Guidelines on Prescribing Opioids for the treatment of pain.

## **Sunset Review**

§ 63I-1-103 instructs the committee to consider:

- (a) the extent to which the statute or agency has operated in the public interest and any areas in which the statute or agency needs to improve its ability to operate in the public interest;
- (b) the extent to which existing statutes interfere with or assist the legitimate functions of the statute or agency, and any other circumstances including budgetary, resource, and personnel matters that have a bearing on the capacity of the statute or agency to serve the public interest;
- (c) the extent to which the public has been encouraged to participate in the adoption of the rules established in connection with the statute or agency;
- (d) the extent to which the statute's provisions or agency's programs and services are duplicative of those offered by other statutes or state agencies;
- (e) the extent to which the objectives of the statute or agency have been accomplished and their public benefit;
- (f) the adverse effect on the public of termination of the statute or agency; and
- (g) any other matter relevant to the review.

## **Recommendation**

The Department has reviewed the statute and recommends that the Utah Legislature allow § 31A-22-615.5 to sunset. This recommendation is based on the following information:

- a) The Department (as of October 1, 2021) has produced five reports summarizing the Opioid Prescribing Policies of health insurers in Utah. These reports were sent to the Health and Human Services Committee as required by § 31A-22-615.5. The reports represent the opioid prescribing policy activity for the major medical and workers' compensation markets along with a limited number of self-funded employers.
- b) The ongoing reporting requirement requires time and resources by health insurers and the Department that could be allocated to other projects.
- c) No rules were required to implement the statute.
- d) The Department is the only state agency collecting this information. The Department is not aware of any duplicate reporting requirements by another state agency.
- e) After creating five reports summarizing the information required by § 31A-22-615.5, the Department has produced an overview of the prevalence and types of Opioid Prescribing Policies in Utah's major medical and workers' compensation markets. Overall, most

health insurers (over 65 percent) have created an Opioid Prescribing Policy. Among those that have an Opioid Prescribing Policy, most included elements of the 2016 CDC Guidelines (over 80 percent) and the Utah Clinical Guidelines (over 65 percent). Also, the content of the reports tends to be similar as companies appear to report similar information each year.

- f) The Department is not aware of any adverse effects on the public if the statute is terminated.
- g) The Department believes that the statute has accomplished its original purpose and no additional information will be generated beyond what has been produced so far.

## **Statute**

### **31A-22-615.5. Insurance coverage for opioids – Policies – Reports.**

- (1) For purposes of this section:
  - (a) "Health care provider" means an individual, other than a veterinarian, who:
    - (i) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and
    - (ii) possesses the authority, in accordance with the individual's scope of practice, to prescribe Schedule II controlled substances and Schedule III controlled substances that are applicable to opioids and benzodiazepines.
  - (b) "Health insurer" means:
    - (i) an insurer who offers health care insurance as that term is defined in Section 31A-1-301;
    - (ii) health benefits offered to state employees under Section 49-20-202; and
    - (iii) a workers' compensation insurer:
      - (A) authorized to provide workers' compensation insurance in the state; or
      - (B) that is a self-insured employer as defined in Section 34A-2-201.
  - (c) "Opioid" has the same meaning as "opiate," as that term is defined in Section 58-37-2.
  - (d) "Prescribing policy" means a policy developed by a health insurer that includes evidence based guidelines for prescribing opioids, and may include the 2016 Center for Disease Control Guidelines for Prescribing Opioids for Chronic Pain, or the Utah Clinical Guidelines on Prescribing Opioids for the treatment of pain.
- (2) A health insurer that provides prescription drug coverage may enact a policy to minimize the risk of opioid addiction and overdose from:
  - (a) chronic co-prescription of opioids with benzodiazepines and other sedating substances;
  - (b) prescription of very high dose opioids in the primary care setting; and
  - (c) the inadvertent transition of short-term opioids for an acute injury into long-term opioid dependence.
- (3) A health insurer that provides prescription drug coverage may enact policies to facilitate:
  - (a) non-narcotic treatment alternatives for patients who have chronic pain; and
  - (b) medication-assisted treatment for patients who have opioid dependence disorder.
- (4) The requirements of this section apply to insurance plans entered into or renewed on or after July 1, 2017.
- (5)
  - (a) A health insurer subject to this section shall on or before July 15, 2020, and before each July 15 thereafter, submit a written report to the Utah Insurance Department regarding whether the insurer has adopted a policy and a general description of the policy.
  - (b) The Utah Insurance Department shall, on or before October 1, 2017, and before each October 1 thereafter, submit a written summary of the information under Subsection (5)(a) to the Health and Human Services Interim Committee.
- (6) A health insurer subject to this section may share the policies developed under this section with other health insurers and the public.
- (7) This section sunsets in accordance with Section 63I-1-231.