

Effective 5/12/2020

58-37f-304 Database utilization.

(1) As used in this section:

- (a) "Dispenser" means a licensed pharmacist, as described in Section 58-17b-303, the pharmacist's licensed intern, as described in Section 58-17b-304, or licensed pharmacy technician, as described in Section 58-17b-305, working under the supervision of a licensed pharmacist who is also licensed to dispense a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.
- (b) "Outpatient" means a setting in which an individual visits a licensed healthcare facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a licensed healthcare facility for an overnight stay.
- (c) "Prescriber" means an individual authorized to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.
- (d) "Schedule II opioid" means those substances listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).
- (e) "Schedule III opioid" means those substances listed in Subsection 58-37-4(2)(c) that are opioids.

(2)

- (a) A prescriber shall check the database for information about a patient before the first time the prescriber gives a prescription to a patient for a Schedule II opioid or a Schedule III opioid.
- (b) If a prescriber is repeatedly prescribing a Schedule II opioid or Schedule III opioid to a patient, the prescriber shall periodically review information about the patient in:
 - (i) the database; or
 - (ii) other similar records of controlled substances the patient has filled.
- (c) A prescriber may assign the access and review required under Subsection (2)(a) to one or more employees in accordance with Subsections 58-37f-301(2)(i) and (j).
- (d)
 - (i) A prescriber may comply with the requirements in Subsections (2)(a) and (b) by checking an electronic health record system if the electronic health record system:
 - (A) is connected to the database through a connection that has been approved by the division; and
 - (B) displays the information from the database in a prominent manner for the prescriber.
 - (ii) The division may not approve a connection to the database if the connection does not satisfy the requirements established by the division under Section 58-37f-301.
- (e) A prescriber is not in violation of the requirements of Subsection (2)(a) or (b) if the failure to comply with Subsection (2)(a) or (b):
 - (i) is necessary due to an emergency situation;
 - (ii) is caused by a suspension or disruption in the operation of the database; or
 - (iii) is caused by a failure in the operation or availability of the Internet.
- (f) The division may not take action against the license of a prescriber for failure to comply with this Subsection (2) unless the failure occurs after the earlier of:
 - (i) December 31, 2018; or
 - (ii) the date that the division has the capability to establish a connection that meets the requirements established by the division under Section 58-37f-301 between the database and an electronic health record system.

(3) The division shall, in collaboration with the licensing boards for prescribers and dispensers:

- (a) develop a system that gathers and reports to prescribers and dispensers the progress and results of the prescriber's and dispenser's individual access and review of the database, as provided in this section; and

- (b) reduce or waive the division's continuing education requirements regarding opioid prescriptions, described in Section 58-37-6.5, including the online tutorial and test relating to the database, for prescribers and dispensers whose individual utilization of the database, as determined by the division, demonstrates substantial compliance with this section.
- (4) If the dispenser's access and review of the database suggest that the individual seeking an opioid may be obtaining opioids in quantities or frequencies inconsistent with generally recognized standards as provided in this section and Section 58-37f-201, the dispenser shall reasonably attempt to contact the prescriber to obtain the prescriber's informed, current, and professional decision regarding whether the prescribed opioid is medically justified, notwithstanding the results of the database search.
- (5)
 - (a) The division shall review the database to identify any prescriber who has a pattern of prescribing opioids not in accordance with the recommendations of:
 - (i) the CDC Guideline for Prescribing Opioids for Chronic Pain, published by the Centers for Disease Control and Prevention;
 - (ii) the Utah Clinical Guidelines on Prescribing Opioids for Treatment of Pain, published by the Department of Health; or
 - (iii) other publications describing best practices related to prescribing opioids as identified by division rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the Physicians Licensing Board.
 - (b) The division shall offer education to a prescriber identified under this Subsection (5) regarding best practices in the prescribing of opioids.
 - (c) A decision by a prescriber to accept or not accept the education offered by the division under this Subsection (5) is voluntary.
 - (d) The division may not use an identification the division has made under this Subsection (5) or the decision by a prescriber to accept or not accept education offered by the division under this Subsection (5) in a licensing investigation or action by the division.
 - (e) Any record created by the division as a result of this Subsection (5) is a protected record under Section 63G-2-305.
- (6) The division may consult with a prescriber or health care system to assist the prescriber or health care system in following evidence-based guidelines regarding the prescribing of controlled substances, including the recommendations listed in Subsection (5)(a).

Amended by Chapter 147, 2020 General Session