CONTROLLED SUBSTANCE AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrice M. Arent

House Sponsor: Rebecca D. Lockhart

LONG TITLE

General Description:

This bill amends the Pharmacy Practice Act and the Controlled Substances Act to repeal the Controlled Substance Database Advisory Committee and assign the committee's duties to the State Board of Pharmacy. This bill allows authorized employees of the Department of Health access to the controlled substance database for scientific studies. This bill also allows the division to authorize by rule a prescriber's use of an electronic or digital signature in issuing prescriptions.

Highlighted Provisions:

This bill:

- amends the functions of the State Board of Pharmacy to include its duties regarding the controlled substance database; and
- requires that Department of Health employees having access to the controlled substance database maintain the confidentiality of persons and pharmacies in the database.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-17b-201, as enacted by Chapter 280, Laws of Utah 2004

58-37-6, as last amended by Chapters 241 and 280, Laws of Utah 2004

58-37-7.5, as last amended by Chapter 280, Laws of Utah 2004

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

Section 1. Section **58-17b-201** is amended to read:

58-17b-201. Board -- Membership -- Qualifications -- Terms.

(1) There is created the Utah State Board of Pharmacy consisting of five pharmacists, one pharmacy technician, and one member of the general public.

(a) The public member of the board shall be a Utah resident who:

(i) is 21 years of age or older;

(ii) has never been licensed to engage in the practice of pharmacy;

(iii) has never been the spouse of a person licensed to engage in the practice of pharmacy;

(iv) has never held any material financial interest in pharmacy practice; and

(v) has never engaged in any activity directly related to the practice of pharmacy.

(b) The licensed pharmacist and licensed pharmacy technician members of the board shall:

(i) have been Utah residents continuously for at least three years;

(ii) have at least five years experience in the practice of pharmacy in good standing with the division in Utah after licensure; and

(iii) maintain licensure in good standing to engage in the practice of pharmacy or practice as a pharmacy technician in Utah for the duration of the appointment.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) The duties and responsibilities of the board are in accordance with Sections 58-1-202 and 58-1-203, and as required under Section 58-37-7.5 regarding the controlled substance database. In addition, the board shall designate an appropriate member on a permanent or rotating basis to:

(a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(b) advise the division in its investigation of these complaints.

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

(5) A board member may be removed in accordance with Subsection 58-1-201(2)(e) or upon one of the following grounds:

(a) refusal or inability for any reason of a board member to perform his duties as a member of the Board in an efficient, responsible, and professional manner;

(b) misuse of appointment to obtain personal, pecuniary, or material gain or advantage for himself or another through such appointment; or

(c) violation of the laws governing the practice of pharmacy or Chapter 37, Utah Controlled Substances Act.

Section 2. Section **58-37-6** is amended to read:

58-37-6. License to manufacture, produce, distribute, dispense, administer, or conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records required -- Prescriptions.

(1) (a) The division may adopt rules relating to the licensing and control of the manufacture, distribution, production, prescription, administration, dispensing, conducting of research with, and performing of laboratory analysis upon controlled substances within this state.

(b) The division may assess reasonable fees to defray the cost of issuing original and renewal licenses under this chapter pursuant to Section 63-38-3.2.

(2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses, administers, conducts research with, or performs laboratory analysis upon any controlled substance in Schedules II through V within this state, or who proposes to engage in manufacturing, producing, distributing, prescribing, dispensing, administering, conducting research with, or performing laboratory analysis upon controlled substances included in Schedules II through V within this state shall obtain a license issued by the division.

(ii) The division shall issue each license under this chapter in accordance with a two-year

renewal cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(b) Persons licensed to manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon controlled substances in Schedules II through V within this state may possess, manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon those substances to the extent authorized by their license and in conformity with this chapter.

(c) The following persons are not required to obtain a license and may lawfully possess controlled substances under this section:

(i) an agent or employee, except a sales representative, of any registered manufacturer, distributor, or dispenser of any controlled substance, if the agent or employee is acting in the usual course of his business or employment; however, nothing in this subsection shall be interpreted to permit an agent, employee, sales representative, or detail man to maintain an inventory of controlled substances separate from the location of his employer's registered and licensed place of business;

(ii) a motor carrier or warehouseman, or an employee of a motor carrier or warehouseman, who possesses any controlled substance in the usual course of his business or employment; and

(iii) an ultimate user, or any person who possesses any controlled substance pursuant to a lawful order of a practitioner.

(d) The division may enact rules waiving the license requirement for certain manufacturers, producers, distributors, prescribers, dispensers, administrators, research practitioners, or laboratories performing analysis if consistent with the public health and safety.

(e) A separate license is required at each principal place of business or professional practice where the applicant manufactures, produces, distributes, dispenses, conducts research with, or performs laboratory analysis upon controlled substances.

(f) The division may enact rules providing for the inspection of a licensee or applicant's establishment, and may inspect the establishment according to those rules.

(3) (a) Upon proper application, the division shall license a qualified applicant to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances included in Schedules I through V, unless it determines that issuance of a license is inconsistent with the public interest. The division shall not issue a license to any person to prescribe, dispense, or administer a Schedule I controlled substance. In determining public interest, the division shall consider whether or not the applicant has:

(i) maintained effective controls against diversion of controlled substances and any Schedule I or II substance compounded from any controlled substance into other than legitimate medical, scientific, or industrial channels;

(ii) complied with applicable state and local law;

(iii) been convicted under federal or state laws relating to the manufacture, distribution, or dispensing of substances;

(iv) past experience in the manufacture of controlled dangerous substances;

(v) established effective controls against diversion; and

(vi) complied with any other factors that the division establishes that promote the public health and safety.

(b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances in Schedule I other than those specified in the license.

(c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with substances in Schedules II through V if they are authorized to administer, dispense, or conduct research under the laws of this state.

(ii) The division need not require a separate license for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the licensee is already licensed under this act in another capacity.

(iii) With respect to research involving narcotic substances in Schedules II through V, or where the division by rule requires a separate license for research of nonnarcotic substances in Schedules II through V, a practitioner shall apply to the division prior to conducting research.

(iv) Licensing for purposes of bona fide research with controlled substances by a practitioner considered qualified may be denied only on a ground specified in Subsection (4), or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard adequately his supply of substances against diversion from medical or scientific use.

(v) Practitioners registered under federal law to conduct research in Schedule I substances may conduct research in Schedule I substances within this state upon furnishing the division evidence of federal registration.

(d) Compliance by manufacturers, producers, and distributors with the provisions of federal law respecting registration, excluding fees, entitles them to be licensed under this chapter.

(e) The division shall initially license those persons who own or operate an establishment engaged in the manufacture, production, distribution, dispensation, or administration of controlled substances prior to April 3, 1980, and who are licensed by the state.

(4) (a) Any license pursuant to Subsection (2) or (3) may be denied, suspended, placed on probation, or revoked by the division upon finding that the applicant or licensee has:

(i) materially falsified any application filed or required pursuant to this chapter;

(ii) been convicted of an offense under this chapter or any law of the United States, or any state, relating to any substance defined as a controlled substance;

(iii) been convicted of a felony under any other law of the United States or any state within five years of the date of the issuance of the license;

(iv) had a federal license denied, suspended, or revoked by competent federal authority and is no longer authorized to engage in the manufacturing, distribution, or dispensing of controlled substances;

(v) had his license suspended or revoked by competent authority of another state for violation of laws or regulations comparable to those of this state relating to the manufacture, distribution, or dispensing of controlled substances;

(vi) violated any division rule that reflects adversely on the licensee's reliability and integrity with respect to controlled substances;

(vii) refused inspection of records required to be maintained under this chapter by a

person authorized to inspect them; or

(viii) prescribed, dispensed, administered, or injected an anabolic steroid for the purpose of manipulating human hormonal structure so as to:

(A) increase muscle mass, strength, or weight without medical necessity and without a written prescription by any practitioner in the course of his professional practice; or

(B) improve performance in any form of human exercise, sport, or game.

(b) The division may limit revocation or suspension of a license to a particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and conducted in conjunction with the appropriate representative committee designated by the director of the department.

(ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses, except where the division is designated by law to perform those functions, or, when not designated by law, is designated by the executive director of the Department of Commerce to conduct the proceedings.

(d) (i) The division may suspend any license simultaneously with the institution of proceedings under this section if it finds there is an imminent danger to the public health or safety.

(ii) Suspension shall continue in effect until the conclusion of proceedings, including judicial review, unless withdrawn by the division or dissolved by a court of competent jurisdiction.

(e) (i) If a license is suspended or revoked under this Subsection (4), all controlled substances owned or possessed by the licensee may be placed under seal in the discretion of the division.

(ii) Disposition may not be made of substances under seal until the time for taking an appeal has lapsed, or until all appeals have been concluded, unless a court, upon application, orders the sale of perishable substances and the proceeds deposited with the court.

(iii) If a revocation order becomes final, all controlled substances shall be forfeited.

(f) The division shall notify promptly the Drug Enforcement Administration of all orders suspending or revoking a license and all forfeitures of controlled substances.

(5) (a) Persons licensed under Subsection (2) or (3) shall maintain records and inventories in conformance with the record keeping and inventory requirements of federal and state law and any additional rules issued by the division.

(b) (i) Every physician, dentist, veterinarian, practitioner, or other person who is authorized to administer or professionally use a controlled substance shall keep a record of the drugs received by him and a record of all drugs administered, dispensed, or professionally used by him otherwise than by a prescription.

(ii) A person using small quantities or solutions or other preparations of those drugs for local application has complied with this Subsection (5)(b) if he keeps a record of the quantity, character, and potency of those solutions or preparations purchased or prepared by him, and of the dates when purchased or prepared.

(6) Controlled substances in Schedules I through V may be distributed only by a licensee and pursuant to an order form prepared in compliance with division rules or a lawful order under the rules and regulations of the United States.

(7) (a) A person may not write or authorize a prescription for a controlled substance unless he is:

(i) a practitioner authorized to prescribe drugs and medicine under the laws of this state or under the laws of another state having similar standards; and

(ii) licensed under this chapter or under the laws of another state having similar standards.

(b) A person other than a pharmacist licensed under the laws of this state, or his licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not dispense a controlled substance.

(c) (i) A controlled substance may not be dispensed without the written prescription of a practitioner, if the written prescription is required by the federal Controlled Substances Act.

(ii) That written prescription shall be made in accordance with Subsection (7)(a) and in conformity with Subsection (7)(d).

(iii) In emergency situations, as defined by division rule, controlled substances may be dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms designated by the division and filed by the pharmacy.

(iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with Subsection (7)(d).

(d) Except for emergency situations designated by the division, a person may not issue, fill, compound, or dispense a prescription for a controlled substance unless the prescription is signed by the prescriber in ink or indelible pencil [~~by the prescriber~~] or is signed with an electronic or digital signature of the prescriber as authorized by division rule, and contains the following information:

(i) the name, address, and registry number of the prescriber;

(ii) the name, address, and age of the person to whom or for whom the prescription is issued;

(iii) the date of issuance of the prescription; and

(iv) the name, quantity, and specific directions for use by the ultimate user of the controlled substance.

(e) A prescription may not be written, issued, filled, or dispensed for a Schedule I controlled substance.

(f) Except when administered directly to an ultimate user by a licensed practitioner, controlled substances are subject to the following restrictions:

(i) (A) A prescription for a Schedule II substance may not be refilled.

(B) A Schedule II controlled substance may not be filled in a quantity to exceed a one-month's supply, as directed on the daily dosage rate of the prescriptions.

(ii) A Schedule III or IV controlled substance may be filled only within six months of issuance, and may not be refilled more than six months after the date of its original issuance or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

(iii) All other controlled substances in Schedule V may be refilled as the prescriber's prescription directs, but they may not be refilled one year after the date the prescription was issued unless renewed by the practitioner.

(iv) Any prescription for a Schedule II substance may not be dispensed if it is not presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days after the date the prescription was issued, or 30 days after the dispensing date, if that date is specified separately from the date of issue.

(v) A practitioner may issue more than one prescription at the same time for the same Schedule II controlled substance, but only under the following conditions:

(A) no more than three prescriptions for the same Schedule II controlled substance may be issued at the same time;

(B) no one prescription may exceed a 30-day supply;

(C) a second or third prescription shall include the date of issuance and the date for dispensing; and

(D) unless the practitioner determines there is a valid medical reason to the contrary, the date for dispensing a second or third prescription may not be fewer than 30 days from the dispensing date of the previous prescription.

(vi) Each prescription for a controlled substance may contain only one controlled substance per prescription form and may not contain any other legend drug or prescription item.

(g) An order for a controlled substance in Schedules II through V for use by an inpatient or an outpatient of a licensed hospital is exempt from all requirements of this Subsection (7) if the order is:

(i) issued or made by a prescribing practitioner who holds an unrestricted registration with the federal Drug Enforcement Administration, and an active Utah controlled substance license in good standing issued by the division under this section, or a medical resident who is exempted from licensure under Subsection 58-1-307(1)(c);

(ii) authorized by the prescribing practitioner treating the patient and the prescribing practitioner designates the quantity ordered;

(iii) entered upon the record of the patient, the record is signed by the prescriber affirming his authorization of the order within 48 hours after filling or administering the order, and the patient's record reflects the quantity actually administered; and

(iv) filled and dispensed by a pharmacist practicing his profession within the physical structure of the hospital, or the order is taken from a supply lawfully maintained by the hospital and the amount taken from the supply is administered directly to the patient authorized to receive it.

(h) A practitioner licensed under this chapter may not prescribe, administer, or dispense a controlled substance to a minor, without first obtaining the consent required in Section 78-14-5 of a parent, guardian, or person standing in loco parentis of the minor except in cases of an emergency. For purposes of this Subsection (7)(h), "minor" has the same meaning as defined in Section 78-3a-103, and "emergency" means any physical condition requiring the administration of a controlled substance for immediate relief of pain or suffering.

(i) A practitioner licensed under this chapter may not prescribe or administer dosages of a controlled substance in excess of medically recognized quantities necessary to treat the ailment, malady, or condition of the ultimate user.

(j) A practitioner licensed under this chapter may not prescribe, administer, or dispense any controlled substance to another person knowing that the other person is using a false name, address, or other personal information for the purpose of securing the controlled substance.

(k) A person who is licensed under this chapter to manufacture, distribute, or dispense a controlled substance may not manufacture, distribute, or dispense a controlled substance to another licensee or any other authorized person not authorized by this license.

(l) A person licensed under this chapter may not omit, remove, alter, or obliterate a symbol required by this chapter or by a rule issued under this chapter.

(m) A person licensed under this chapter may not refuse or fail to make, keep, or furnish any record notification, order form, statement, invoice, or information required under this chapter.

(n) A person licensed under this chapter may not refuse entry into any premises for

inspection as authorized by this chapter.

(o) A person licensed under this chapter may not furnish false or fraudulent material information in any application, report, or other document required to be kept by this chapter or willfully make any false statement in any prescription, order, report, or record required by this chapter.

(8) (a) (i) Any person licensed under this chapter who is found by the division to have violated any of the provisions of Subsections (7)(k) through (7)(o) is subject to a penalty not to exceed $5,000. The division shall determine the procedure for adjudication of any violations in accordance with Sections 58-1-106 and 58-1-108.

(ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) in the General Fund as a dedicated credit to be used by the division under Subsection 58-37-7.7(1).

(b) Any person who knowingly and intentionally violates Subsections (7)(h) through (7)(j) is:

(i) upon first conviction, guilty of a class B misdemeanor;

(ii) upon second conviction, guilty of a class A misdemeanor; and

(iii) on third or subsequent conviction, guilty of a third degree felony.

(c) Any person who knowingly and intentionally violates Subsections (7)(k) through (7)(o) shall upon conviction be guilty of a third degree felony.

(9) Any information communicated to any licensed practitioner in an attempt to unlawfully procure, or to procure the administration of, a controlled substance is not considered to be a privileged communication.

Section 3. Section **58-37-7.5** is amended to read:

58-37-7.5. Controlled substance database -- Advisory committee -- Pharmacy reporting requirements -- Access -- Penalties.

(1) As used in this section:

(a) "Committee" means the Controlled Substance Database Advisory Committee created in this section.

(b) "Database" means the controlled substance database created in this section.

(c) "Database manager" means the person responsible for operating the database, or his designee.

(d) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103.

(e) "Health care facility" has the same definition as in Section 26-21-2.

(f) "Pharmacy or pharmaceutical facility" has the same definition as in Section 58-17b-102.

(2) (a) There is created within the division a controlled substance database.

(b) The division shall administer and direct the functioning of the database in accordance with this section. The division may under state procurement laws contract with another state agency or private entity to establish, operate, or maintain the database. The division in collaboration with the board shall determine whether to operate the database within the division or contract with another entity to operate the database, based on an analysis of costs and benefits.

(c) The purpose of the database is to contain data as described in this section regarding every prescription for a controlled substance dispensed in the state to any person other than an inpatient in a licensed health care facility.

(d) Data required by this section shall be submitted in compliance with this section to the manager of the database by the pharmacist in charge of the drug outlet where the controlled substance is dispensed.

[~~(3) (a) There is created the Controlled Substance Database Advisory Committee. The committee members are:~~]

[~~(i) two members representing the Utah Medical Association;~~]

[~~(ii) one member representing the Utah Dental Association;~~]

[~~(iii) two members representing the Utah Pharmaceutical Association;~~]

[~~(iv) one member representing the Department of Public Safety;~~]

[~~(v) one member representing the Utah Association of Chiefs of Police;~~]

[~~(vi) one member representing the Utah Sheriffs Association;~~]

[~~(vii) one member representing the state Office of the Attorney General;~~]

[~~(viii) one member representing the Statewide Association of Public Attorneys; and~~]

[~~(ix) three members representing the general public, and who are not health care providers.~~]

[~~(b) The committee shall be appointed and serve in accordance with Section 58-1-201.~~]

[~~(c)~~] (3) The [~~committee~~] Utah State Board of Pharmacy created in Section 58-17b-201 shall advise the division regarding:

[~~(i)~~] (a) establishing, maintaining, and operating the database;

[~~(ii)~~] (b) access to the database and how access is obtained; and

[~~(iii)~~] (c) control of information contained in the database.

(4) The pharmacist in charge shall, regarding each controlled substance dispensed by a pharmacist under his supervision other than those dispensed for an inpatient at a health care facility, submit to the manager of the database the following information, by a procedure and in a format established by the division:

(a) name of the prescribing practitioner;

(b) date of the prescription;

(c) date the prescription was filled;

(d) name of the person for whom the prescription was written;

(e) positive identification of the person receiving the prescription, including the type of identification and any identifying numbers on the identification;

(f) name of the controlled substance;

(g) quantity of controlled substance prescribed;

(h) strength of controlled substance;

(i) quantity of controlled substance dispensed;

(j) dosage quantity and frequency as prescribed;

(k) name of drug outlet dispensing the controlled substance;

(l) name of pharmacist dispensing the controlled substance; and

(m) other relevant information as required by division rule.

(5) The division shall maintain the database in an electronic file or by other means

established by the division to facilitate use of the database for identification of:

(a) prescribing practices and patterns of prescribing and dispensing controlled substances;

(b) practitioners prescribing controlled substances in an unprofessional or unlawful manner;

(c) individuals receiving prescriptions for controlled substances from licensed practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet in quantities or with a frequency inconsistent with generally recognized standards of dosage for that controlled substance; and

(d) individuals presenting forged or otherwise false or altered prescriptions for controlled substances to a pharmacy.

(6) (a) The division shall by rule establish the electronic format in which the information required under this section shall be submitted to the administrator of the database.

(b) The division shall ensure the database system records and maintains for reference:

(i) identification of each person who requests or receives information from the database;

(ii) the information provided to each person; and

(iii) the date and time the information is requested or provided.

(7) The division shall make rules in collaboration with the committee to:

(a) effectively enforce the limitations on access to the database as described in Subsection (8); and

(b) establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information without request from the database.

(8) The manager of the database shall make information in the database available only to the following persons, and in accordance with the limitations stated and division rules:

(a) personnel of the division specifically assigned to conduct investigations related to controlled substances laws under the jurisdiction of the division;

(b) authorized division personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment;

(c) employees of the Department of Health whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, provided that the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies;

[~~(c)~~] (d) a licensed practitioner having authority to prescribe controlled substances, to the extent the information relates specifically to a current patient of the practitioner, to whom the practitioner is prescribing or considering prescribing any controlled substance;

[~~(d)~~] (e) a licensed pharmacist having authority to dispense controlled substances to the extent the information relates specifically to a current patient to whom that pharmacist is dispensing or considering dispensing any controlled substance;

[~~(e)~~] (f) federal, state, and local law enforcement authorities engaged as a specified duty of their employment in enforcing laws regulating controlled substances; and

[~~(f)~~] (g) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the database manager that the individual requesting the information is in fact the person about whom the data entry was made.

(9) Any person who knowingly and intentionally releases any information in the database in violation of the limitations under Subsection (8) is guilty of a third degree felony.

(10) Any person who obtains or attempts to obtain information from the database by misrepresentation or fraud is guilty of a third degree felony.

(11) (a) A person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person or entity any information obtained from the database for any purpose other than those specified in Subsection (8). Each separate violation of this Subsection (11) is a third degree felony and is also subject to a civil penalty not to exceed $5,000.

(b) The procedure for determining a civil violation of this Subsection (11) shall be in accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

(c) Civil penalties assessed under this Subsection (11) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection 58-37-7.7(1).

(12) (a) The failure of a pharmacist in charge to submit information to the database as required under this section after the division has submitted a specific written request for the information or when the division determines the individual has a demonstrable pattern of failing to submit the information as required is grounds for the division to take the following actions in accordance with Section 58-1-401:

(i) refuse to issue a license to the individual;

(ii) refuse to renew the individual's license;

(iii) revoke, suspend, restrict, or place on probation the license;

(iv) issue a public or private reprimand to the individual;

(v) issue a cease and desist order; and

(vi) impose a civil penalty of not more than $1,000 for each dispensed prescription regarding which the required information is not submitted.

(b) Civil penalties assessed under Subsection (12)(a)(vi) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection 58-37-7.7(1).

(c) The procedure for determining a civil violation of this Subsection (12) shall be in accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

(13) An individual who has submitted information to the database in accordance with this section may not be held civilly liable for having submitted the information.

(14) All department and the division costs necessary to establish and operate the database shall be funded by appropriations from:

(a) the Commerce Service Fund; and

(b) the General Fund.

(15) All costs associated with recording and submitting data as required in this section shall be assumed by the submitting pharmacy.