

**Representative LaVar Christensen** proposes the following substitute bill:

**PRESCRIPTION DRUG ABUSE AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: LaVar Christensen**

Senate Sponsor: Brian E. Shiozawa

---

---

**LONG TITLE**

**General Description:**

This bill requires prescribers and dispensers to use the controlled substance database to determine whether a patient may be abusing opioids.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends the Controlled Substances Database Act to promote utilization of the controlled substances database to prevent opioid abuse;
- ▶ requires a dispenser to contact the prescriber if the controlled substance database suggests potential prescription drug abuse;
- ▶ limits liability for prescribers and dispensers who contribute to and use the database; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



26 AMENDS:

27 58-37f-701, as enacted by Laws of Utah 2010, Chapter 287

28 ENACTS:

29 58-37f-303, Utah Code Annotated 1953



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

32 Section 1. Section **58-37f-303** is enacted to read:

33 **Part 3. Access and Utilization**

34 **58-37f-303. Database utilization.**

35 (1) As used in this section:

36 (a) "Dispenser" means a licensed pharmacist, as described in Section 58-17b-303, or  
37 the pharmacist's licensed intern, as described in Section 58-17b-304, who is also licensed to  
38 dispense a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

39 (b) "Opioid" means those substances listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).

40 (c) "Outpatient" means a setting in which an individual visits a licensed healthcare  
41 facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a  
42 licensed healthcare facility for an overnight stay.

43 (d) "Prescriber" means an individual authorized to prescribe a controlled substance  
44 under Title 58, Chapter 37, Utah Controlled Substances Act.

45 (2) To address the serious public health concern of life-altering and life-threatening  
46 opioid abuse and overdose, and to achieve the purposes of this chapter and as described in  
47 Section 58-37f-201, which includes identifying and reducing the prescribing and dispensing of  
48 opioids in an unprofessional or unlawful manner or in quantities or frequencies inconsistent  
49 with generally recognized standards of dosage for an opioid, through utilization of the carefully  
50 developed and highly respected database:

51 (a) A prescriber or dispenser of an opioid for ~~the~~ **individual** ~~outpatient~~ usage shall  
51a access and review  
52 the database ~~as necessary in the prescriber's or dispenser's professional judgment and~~  
52a to achieve the purpose of this chapter as described in Section 58-37f-201.

53 (b) a prescriber may assign the access and review required under Subsection (3)(a) to  
54 an employees, in accordance with Subsections 58-37f-301(2)(g) and (h).

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

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

60 (b) reduce or waive the division's continuing education requirements regarding opioid  
 61 prescriptions, described in Section 58-37-6.5, including the online tutorial and test relating to  
 62 the database, for prescribers and dispensers whose individual utilization of the database  
 63 contribute to the life-saving and public safety purposes of this section and as described in  
 64 Subsection (2).

65 (4) If the dispenser's access and review of the database suggest that the individual  
 66 seeking an opioid may be obtaining opioids in quantities or frequencies inconsistent with  
 67 generally recognized standards as provided in this section and Section 58-37f-201, the  
 68 dispenser shall reasonably attempt to contact the prescriber to obtain the prescriber's informed,  
 69 current, and professional decision regarding whether the prescribed opioid is medically  
 70 justified, notwithstanding the results of the database search.

71 Section 2. Section 58-37f-701 is amended to read:

72 **58-37f-701. Immunity from liability.**

73 (1) An individual who has submitted information to or accessed and reviewed the  
 74 database in accordance with this [section] chapter may not be held civilly liable [for having  
 75 submitted the information], including under Title 78B, Chapter 3, Part 4, Utah Health Care  
 76 Malpractice Act, for such actions, or a lack of action, which are protected and are not subject to  
 77 civil discovery, as provided in Section 58-37f-302.

78 (2) Notwithstanding any other provision of law, any action or lack of action by a  
 79 prescriber or dispenser to meet the requirements of Section 58-37f-303 may not be used by the  
 80 division in any action against the prescriber or dispenser.

81 (3) Nothing in Section 58-37f-303 establishes a minimum standard of care for  
 82 prescribers  $\hat{S}$ → and dispensers ← $\hat{S}$  .