

1 **PRESCRIPTION DRUG ABUSE AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: LaVar Christensen**

5 Senate Sponsor: Brian E. Shiozawa

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

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

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **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

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

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

Part 3. Access and Utilization

58-37f-303. Database utilization.

(1) As used in this section:

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

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

(c) "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.

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

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

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

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

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

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

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

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

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

73 **58-37f-701. Immunity from liability.**

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

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

82 (3) Nothing in Section 58-37f-303 establishes a minimum standard of care for
83 prescribers and dispensers.