

1                   **CONTROLLED SUBSTANCE DATABASE ACT AMENDMENTS**

2   2018 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Justin L. Fawson**

5                                   Senate Sponsor: Curtis S. Bramble

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7   **LONG TITLE**

8   **General Description:**

9           This bill amends portions of the Controlled Substance Database Act.

10 **Highlighted Provisions:**

11       This bill:

- 12       ▶ changes the requirements for checking the controlled substances database; and
- 13       ▶ modifies enforcement provisions.

14 **Money Appropriated in this Bill:**

15       None

16 **Other Special Clauses:**

17       None

18 **Utah Code Sections Affected:**

19 AMENDS:

20       **58-37f-304**, as last amended by Laws of Utah 2017, Chapters 181 and 237

21       **58-37f-701**, as last amended by Laws of Utah 2016, Chapter 275

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

24       Section 1. Section **58-37f-304** is amended to read:

25       **58-37f-304. Database utilization.**

26       (1) As used in this section:

27       (a) "Dispenser" means a licensed pharmacist, as described in Section **58-17b-303**, or



28 the pharmacist's licensed intern, as described in Section 58-17b-304, who is also licensed to  
29 dispense a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

30 (b) "Outpatient" means a setting in which an individual visits a licensed healthcare  
31 facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a  
32 licensed healthcare facility for an overnight stay.

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

35 (d) "Schedule II opioid" means those substances listed in Subsection 58-37-4(2)(b)(i)  
36 or (2)(b)(ii).

37 (e) "Schedule III opioid" means those substances listed in Subsection 58-37-4(2)(c)  
38 that are opioids.

39 ~~[(2)(a) A prescriber shall substantially comply with this Subsection (2).]~~

40 ~~[(b) Except as provided in Subsection (2)(b), a]~~

41 (2)(a) A prescriber shall check the database for information about a patient before the  
42 first time the prescriber gives a prescription to a patient for a Schedule II opioid or a Schedule  
43 III opioid, unless the patient is being treated in a licensed general acute hospital.

44 ~~[(c) A prescriber is not required to check the database under Subsection (2)(b) if:]~~

45 ~~[(i) the prescription for a Schedule II opioid or a Schedule III opioid is for three days or~~  
46 ~~fewer on the daily dosage instructions on the prescription;]~~

47 ~~[(ii) the prescriber has prior knowledge of the patient's prescription history based on~~  
48 ~~the prescriber's review of the patient's health record; or]~~

49 ~~[(iii) the prescription for a Schedule II opioid or a Schedule III opioid is a post surgical~~  
50 ~~prescription and the total duration of opioid written after the surgery has been for 30 days or~~  
51 ~~fewer.]~~

52 ~~[(d)]~~ (b) If a prescriber is repeatedly prescribing a Schedule II opioid or Schedule III  
53 opioid to a patient, the prescriber shall periodically review information about the patient in:

54 (i) the database; or

55 (ii) other similar records of controlled substances the patient has filled.

56 ~~[(e)]~~ (c) A prescriber may assign the access and review required under ~~[Subsections~~  
57 ~~(2)(b) and (2)(c)]~~ Subsection (2)(a) to one or more employees in accordance with Subsections  
58 58-37f-301(2)(i) and (j).

59           ~~[(f) The division shall not take action against the license of a prescriber for failure to~~  
60 ~~follow this Subsection (2) if the prescriber demonstrates substantial compliance with the~~  
61 ~~requirements of this Subsection (2).]~~

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

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

67           (b) reduce or waive the division's continuing education requirements regarding opioid  
68 prescriptions, described in Section 58-37-6.5, including the online tutorial and test relating to  
69 the database, for prescribers and dispensers whose individual utilization of the database, as  
70 determined by the division, demonstrates substantial compliance with this section.

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

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

78           **58-37f-701. Immunity from liability.**

79           (1) An individual who has submitted information to or accessed and reviewed the  
80 database in accordance with this chapter may not be held civilly liable, including under Title  
81 78B, Chapter 3, Part 4, Utah Health Care Malpractice Act, for such actions, or a lack of action,  
82 which are protected and are not subject to civil discovery, as provided in Section 58-37f-302.

83           ~~[(2) Notwithstanding any other provision of law, any action or lack of action by a~~  
84 ~~prescriber or dispenser to meet the requirements of Section 58-37f-304 may not be used by the~~  
85 ~~division in any action against the prescriber or dispenser.]~~

86           ~~[(3)]~~ (2) Nothing in Section 58-37f-304 establishes a minimum standard of care for  
87 prescribers and dispensers.

**Legislative Review Note  
Office of Legislative Research and General Counsel**