LEGISLATIVE GENERAL COUNSEL
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**H.B. 399**

# OPIOID ABUSE PREVENTION AND TREATMENT AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Steve Eliason**

Senate Sponsor: Evan J. Vickers

**LONG TITLE**

**General Description:**

This bill requires a warning label and informational pamphlet to be distributed with an opiate prescription.

**Highlighted Provisions:**

This bill:

- requires the Department of Health to develop a pamphlet with information about opiates; and
- requires a pharmacist who is filling a prescription for an opiate to affix a warning label and include an informational brochure.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**58-17b-502**, as last amended by Laws of Utah 2016, Chapter 405

**58-37-7**, as last amended by Laws of Utah 2004, Chapter 241

ENACTS:

**26-55-109**, Utah Code Annotated 1953

H.B. 399

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

Section 1. Section **26-55-109** is enacted to read:

**26-55-109. Opiate abuse prevention pamphlet.**

(1) The department shall produce and distribute, in conjunction with the Division of Substance Abuse and Mental Health, a pamphlet about opiates that includes information regarding:

(a) the risk of dependency and addiction;

(b) methods for proper storage and disposal;

(c) alternative options for pain management;

(d) the benefits of and ways to obtain naloxone; and

(e) resources if the patient believes that the patient has a substance abuse disorder.

(2) The pamphlet described in Subsection (1) shall be:

(a) evaluated periodically for effectiveness at conveying necessary information and revised accordingly;

(b) written in simple and understandable language; and

(c) available in English and other languages that the department determines to be appropriate and necessary.

(3) In accordance with Subsection 58-37-7(4), a pharmacist shall distribute the pamphlet or flyer described in Subsection (1) when dispensing a Schedule II or Schedule III controlled substance that is an opiate.

Section 2. Section **58-17b-502** is amended to read:

**58-17b-502. Unprofessional conduct.**

"Unprofessional conduct" includes:

(1) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

(2) (a) except as provided in Subsection (2)(b):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care

provider, for the purpose of obtaining referrals.

(b) Subsection (2)(a) does not apply to:

(i) giving or receiving price discounts based on purchase volume;

(ii) passing along pharmaceutical manufacturer's rebates; or

(iii) providing compensation for services to a veterinarian.

(3) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(4) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases;

(5) except as provided in Section 58-17b-503 or Part 9, Charitable Prescription Drug Recycling Act, accepting back and redistributing any unused drug, or a part of it, after it has left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section 58-17b-503, or the manufacturer's sealed container, as defined in rule;

(6) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person's professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

(7) violating Federal Title II, P.L. 91, Controlled Substances Act, Title 58, Chapter 37, Utah Controlled Substances Act, or rules or regulations adopted under either act;

(8) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

(9) administering:

(a) without appropriate training, as defined by rule;

(b) without a physician's order, when one is required by law; and

(c) in conflict with a practitioner's written guidelines or written protocol for administering;

(10) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996 or other applicable law;

(11) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

(12) failing to report to the division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section; [~~and~~]

(13) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner[~~.~~]; and

(14) failing to adhere to the labeling and packaging requirements in Section 58-37-7.

Section 3. Section **58-37-7** is amended to read:

**58-37-7. Labeling and packaging controlled substance.**

(1) A person licensed pursuant to this act may not distribute a controlled substance unless it is packaged and labeled in compliance with the requirements of Section 305 of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

(2) No person except a pharmacist for the purpose of filling a prescription shall alter, deface, or remove any label affixed by the manufacturer.

(3) Whenever a pharmacist sells or dispenses any controlled substance on a prescription issued by a practitioner, [~~he~~] the pharmacist shall affix to the container in which the substance is sold or dispensed:

(a) a label showing the:

(i) pharmacy name and address;

(ii) serial number; and

(iii) date of initial filling;

(b) the prescription number, the name of the patient, or if the patient is an animal, the name of the owner of the animal and the species of the animal;

(c) the name of the practitioner by whom the prescription was written;

(d) any directions stated on the prescription; and

(e) any directions required by rules and regulations promulgated by the department.

(4) Whenever a pharmacist sells or dispenses a Schedule II or Schedule III controlled substance that is an opiate, a pharmacist shall:

(a) affix a label to the container or the lid for the container in which the substance is sold or dispensed that:

(i) contains the following text: "Caution: Opioid. Risk of overdose and addiction"; and

(ii) is printed on a conspicuously colored label; and

(b) include with the substance the informational pamphlet developed by the Department of Health pursuant to Section 26-55-109.

[~~(4)~~] (5) A person may not alter the face or remove any label so long as any of the original contents remain.

[~~(5)~~] (6) (a) An individual to whom or for whose use any controlled substance has been prescribed, sold, or dispensed by a practitioner and the owner of any animal for which any controlled substance has been prescribed, sold, or dispensed by a veterinarian may lawfully possess it only in the container in which it was delivered to [~~him~~] the individual by the person selling or dispensing it.

(b) It is a defense to a prosecution under this subsection that the person being prosecuted produces in court a valid prescription for the controlled substance or the original container with the label attached.

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