

**OPIOID TREATMENT PROGRAMS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brad M. Daw**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to opioid treatment programs.

**Highlighted Provisions:**

This bill:

- ▶ defines a term;
- ▶ requires pharmacists and others who dispense methadone to a patient for the treatment of a substance use disorder to check the controlled substances database;
- ▶ addresses penalties for failure to check the database;
- ▶ requires the Division of Substance Abuse and Mental Health to work collaboratively with opioid treatment programs to:
  - establish a registry of patients for the purpose of protecting the health and safety of patients;
  - review and approve exceptions to federal and state dosage policies and procedures; and
  - coordinate patients' access to medication during a crisis or emergency; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **58-37f-304**, as last amended by Laws of Utah 2018, Chapters 281 and 32731 **62A-15-102**, as last amended by Laws of Utah 2018, Chapter 41432 **62A-15-103**, as last amended by Laws of Utah 2018, Chapter 32233 

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34 *Be it enacted by the Legislature of the state of Utah:*35 Section 1. Section **58-37f-304** is amended to read:36 **58-37f-304. Database utilization.**

37 (1) As used in this section:

38 (a) "Dispenser" means a licensed pharmacist, as described in Section **58-17b-303**, or  
39 the pharmacist's licensed intern, as described in Section **58-17b-304**, who is also licensed to  
40 dispense a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.41 ~~[(b) "Outpatient" means a setting in which an individual visits a licensed healthcare  
42 facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a  
43 licensed healthcare facility for an overnight stay.]~~44 ~~[(c)]~~ (b) "Prescriber" means an individual authorized to prescribe a controlled  
45 substance under Title 58, Chapter 37, Utah Controlled Substances Act.46 ~~[(d)]~~ (c) "Schedule II opioid" means ~~[those substances]~~ a substance listed in Subsection  
47 **58-37-4(2)(b)(i)** or **(2)(b)(ii)**.48 ~~[(e)]~~ (d) "Schedule III opioid" means ~~[those substances]~~ a substance listed in  
49 Subsection **58-37-4(2)(c)** that ~~[are opioids]~~ is an opioid.50 (e) "Treatment dispenser" means a dispenser who dispenses methadone for the  
51 treatment of a substance use disorder, as defined in Section **62A-15-1202**.52 (2) (a) A prescriber shall check the database for information about a patient before the  
53 first time the prescriber gives a prescription to a patient for a Schedule II opioid or a Schedule  
54 III opioid.55 (b) If a prescriber is repeatedly prescribing a Schedule II opioid or Schedule III opioid  
56 to a patient, the prescriber shall periodically review information about the patient in:

57 (i) the database; or

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

59 (c) A prescriber may assign the access and review required under Subsection (2)(a) to  
60 one or more employees in accordance with Subsections 58-37f-301(2)(i) and (j).

61 (d) (i) A prescriber may comply with [~~the requirements in~~] Subsections (2)(a) and (b)  
62 by checking an electronic health record system if the electronic health record system:

63 (A) is connected to the database through a connection that has been approved by the  
64 division; and

65 (B) displays the information from the database in a prominent manner for the  
66 prescriber.

67 (ii) The division may not approve a connection to the database if the connection does  
68 not satisfy the requirements established by the division under Section 58-37f-301.

69 (e) A prescriber is not in violation of [~~the requirements of~~] Subsection (2)(a) or (b) if  
70 the failure to comply with Subsection (2)(a) or (b):

71 (i) is necessary due to an emergency situation;

72 (ii) is caused by a suspension or disruption in the operation of the database; or

73 (iii) is caused by a failure in the operation or availability of the Internet.

74 (f) The division may not take action against the license of a prescriber for failure to  
75 comply with this Subsection (2) unless the failure occurs after the earlier of:

76 (i) December 31, 2018; or

77 (ii) the date that the division has the capability to establish a connection that meets the  
78 requirements established by the division under Section 58-37f-301 between the database and an  
79 electronic health record system.

80 (3) (a) A treatment dispenser shall check the database for information about a patient  
81 before the first time the treatment dispenser dispenses methadone to the patient.

82 (b) If a treatment dispenser is repeatedly dispensing methadone to a patient, the  
83 treatment dispenser shall, at least each calendar month that the treatment dispenser dispenses  
84 methadone to the patient, review information about the patient in:

85 (i) the database; or

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

87 (c) (i) A treatment dispenser may comply with Subsections (3)(a) and (b) by checking  
88 an electronic health record system if the electronic health record system:

89 (A) is connected to the database through a connection that has been approved by the

90 division; and

91 (B) displays the information from the database in a prominent manner for the treatment  
92 dispenser.

93 (ii) The division may not approve a connection to the database if the connection does  
94 not satisfy the requirements established by the division under Section 58-37f-301.

95 (d) A treatment dispenser is not in violation of Subsection (3)(a) or (b) if the failure to  
96 comply with Subsection (3)(a) or (b):

97 (i) is necessary due to an emergency situation;

98 (ii) is caused by a suspension or disruption in the operation of the database; or

99 (iii) is caused by a failure in the operation or availability of the Internet.

100 (e) The division may not take action against the license of a treatment dispenser for  
101 failure to comply with this Subsection (3) unless the failure occurs after the earlier of:

102 (i) December 31, 2019; or

103 (ii) the date that the division has the capability to establish a connection that meets the  
104 requirements established by the division under Section 58-37f-301 between the database and an  
105 electronic health record system.

106 ~~[(3)]~~ (4) The division shall, in collaboration with the licensing boards for prescribers  
107 and dispensers:

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

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

115 ~~[(4)]~~ (5) If the dispenser's access and review of the database suggest that the individual  
116 seeking an opioid may be obtaining opioids in quantities or frequencies inconsistent with  
117 generally recognized standards as provided in this section and Section 58-37f-201, the  
118 dispenser shall reasonably attempt to contact the prescriber to obtain the prescriber's informed,  
119 current, and professional decision regarding whether the prescribed opioid is medically  
120 justified, notwithstanding the results of the database search.

121           ~~[(5)]~~ (6) (a) The division shall review the database to identify any prescriber who has a  
122 pattern of prescribing opioids not in accordance with the recommendations of:

123           (i) the CDC Guideline for Prescribing Opioids for Chronic Pain, published by the  
124 Centers for Disease Control and Prevention;

125           (ii) the Utah Clinical Guidelines on Prescribing Opioids for Treatment of Pain,  
126 published by the Department of Health; or

127           (iii) other publications describing best practices related to prescribing opioids as  
128 identified by division rule in accordance with Title 63G, Chapter 3, Utah Administrative  
129 Rulemaking Act, and in consultation with the Physicians Licensing Board.

130           (b) The division shall offer education to a prescriber identified under this Subsection  
131 ~~[(5)]~~ (6) regarding best practices in the prescribing of opioids.

132           (c) A decision by a prescriber to accept or not accept the education offered by the  
133 division under this Subsection ~~[(5)]~~ (6) is voluntary.

134           (d) The division may not use an identification the division has made under this  
135 Subsection ~~[(5)]~~ (6) or the decision by a prescriber to accept or not accept education offered by  
136 the division under this Subsection ~~[(5)]~~ (6) in a licensing investigation or action by the  
137 division.

138           (e) Any record created by the division as a result of this Subsection ~~[(5)]~~ (6) is a  
139 protected record under Section [63G-2-305](#).

140           Section 2. Section **62A-15-102** is amended to read:

141           **62A-15-102. Definitions.**

142           As used in this chapter:

143           (1) "Criminal risk factors" means a person's characteristics and behaviors that:

144           (a) affect the person's risk of engaging in criminal behavior; and

145           (b) are diminished when addressed by effective treatment, supervision, and other  
146 support resources, resulting in reduced risk of criminal behavior.

147           (2) "Director" means the director of the Division of Substance Abuse and Mental  
148 Health.

149           (3) "Division" means the Division of Substance Abuse and Mental Health established  
150 in Section [62A-15-103](#).

151           (4) "Local mental health authority" means a county legislative body.

- 152 (5) "Local substance abuse authority" means a county legislative body.
- 153 (6) "Mental health crisis" means:
- 154 (a) a mental health condition that manifests in an individual by symptoms of sufficient
- 155 severity that a prudent layperson who possesses an average knowledge of mental health issues
- 156 could reasonably expect the absence of immediate attention or intervention to result in:
- 157 (i) serious danger to the individual's health or well-being; or
- 158 (ii) a danger to the health or well-being of others; or
- 159 (b) a mental health condition that, in the opinion of a mental health therapist or the
- 160 therapist's designee, requires direct professional observation or intervention.
- 161 (7) "Mental health crisis response training" means community-based training that
- 162 educates laypersons and professionals on the warning signs of a mental health crisis and how to
- 163 respond.
- 164 (8) "Mental health crisis services" means an array of services provided to an individual
- 165 who experiences a mental health crisis, which may include:
- 166 (a) direct mental health services;
- 167 (b) on-site intervention provided by a mobile crisis outreach team;
- 168 (c) the provision of safety and care plans;
- 169 (d) prolonged mental health services for up to 90 days after the day on which an
- 170 individual experiences a mental health crisis;
- 171 (e) referrals to other community resources;
- 172 (f) local mental health crisis lines; and
- 173 (g) the statewide mental health crisis line.
- 174 (9) "Mental health therapist" means the same as that term is defined in Section
- 175 [58-60-102](#).
- 176 (10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and
- 177 mental health professionals that, in coordination with local law enforcement and emergency
- 178 medical service personnel, provides mental health crisis services.
- 179 (11) "Opioid treatment program" means a program or practitioner engaged in opioid
- 180 treatment of individuals with an opioid agonist treatment medication registered under 21
- 181 U.S.C. Sec. 823(g)(1).
- 182 [(H)] (12) (a) "Public funds" means federal money received from the Department of

183 Human Services or the Department of Health, and state money appropriated by the Legislature  
184 to the Department of Human Services, the Department of Health, a county governing body, or a  
185 local substance abuse authority, or a local mental health authority for the purposes of providing  
186 substance abuse or mental health programs or services.

187 (b) "Public funds" include federal and state money that has been transferred by a local  
188 substance abuse authority or a local mental health authority to a private provider under an  
189 annual or otherwise ongoing contract to provide comprehensive substance abuse or mental  
190 health programs or services for the local substance abuse authority or local mental health  
191 authority. The money maintains the nature of "public funds" while in the possession of the  
192 private entity that has an annual or otherwise ongoing contract with a local substance abuse  
193 authority or a local mental health authority to provide comprehensive substance abuse or  
194 mental health programs or services for the local substance abuse authority or local mental  
195 health authority.

196 (c) Public funds received for the provision of services pursuant to substance abuse or  
197 mental health service plans may not be used for any other purpose except those authorized in  
198 the contract between the local mental health or substance abuse authority and provider for the  
199 provision of plan services.

200 [~~(12)~~] (13) "Severe mental disorder" means schizophrenia, major depression, bipolar  
201 disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by  
202 the division.

203 [~~(13)~~] (14) "Statewide mental health crisis line" means the same as that term is defined  
204 in Section [63C-18-102](#).

205 Section 3. Section **62A-15-103** is amended to read:

206 **62A-15-103. Division -- Creation -- Responsibilities.**

207 (1) There is created the Division of Substance Abuse and Mental Health within the  
208 department, under the administration and general supervision of the executive director. The  
209 division is the substance abuse authority and the mental health authority for this state.

210 (2) The division shall:

211 (a) (i) educate the general public regarding the nature and consequences of substance  
212 abuse by promoting school and community-based prevention programs;

213 (ii) render support and assistance to public schools through approved school-based

214 substance abuse education programs aimed at prevention of substance abuse;

215 (iii) promote or establish programs for the prevention of substance abuse within the  
216 community setting through community-based prevention programs;

217 (iv) cooperate with and assist treatment centers, recovery residences, and other  
218 organizations that provide services to individuals recovering from a substance abuse disorder,  
219 by identifying and disseminating information about effective practices and programs;

220 (v) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
221 Rulemaking Act, to develop, in collaboration with public and private programs, minimum  
222 standards for public and private providers of substance abuse and mental health programs  
223 licensed by the department under Title 62A, Chapter 2, Licensure of Programs and Facilities;

224 (vi) promote integrated programs that address an individual's substance abuse, mental  
225 health, physical health, and criminal risk factors;

226 (vii) establish and promote an evidence-based continuum of screening, assessment,  
227 prevention, treatment, and recovery support services in the community for individuals with  
228 substance use disorder and mental illness that addresses criminal risk factors;

229 (viii) evaluate the effectiveness of programs described in this Subsection (2);

230 (ix) consider the impact of the programs described in this Subsection (2) on:

231 (A) emergency department utilization;

232 (B) jail and prison populations;

233 (C) the homeless population; and

234 (D) the child welfare system; and

235 (x) promote or establish programs for education and certification of instructors to  
236 educate persons convicted of driving under the influence of alcohol or drugs or driving with  
237 any measurable controlled substance in the body;

238 (b) (i) collect and disseminate information pertaining to mental health;

239 (ii) provide direction over the state hospital including approval of its budget,  
240 administrative policy, and coordination of services with local service plans;

241 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
242 Rulemaking Act, to educate families concerning mental illness and promote family  
243 involvement, when appropriate, and with patient consent, in the treatment program of a family  
244 member; and



245 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
246 Rulemaking Act, to direct that an individual receiving services through a local mental health  
247 authority or the Utah State Hospital be informed about and, if desired by the individual,  
248 provided assistance in the completion of a declaration for mental health treatment in  
249 accordance with Section [62A-15-1002](#);

250 (c) (i) consult and coordinate with local substance abuse authorities and local mental  
251 health authorities regarding programs and services;

252 (ii) provide consultation and other assistance to public and private agencies and groups  
253 working on substance abuse and mental health issues;

254 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,  
255 medical and social agencies, public health authorities, law enforcement agencies, education and  
256 research organizations, and other related groups;

257 (iv) promote or conduct research on substance abuse and mental health issues, and  
258 submit to the governor and the Legislature recommendations for changes in policy and  
259 legislation;

260 (v) receive, distribute, and provide direction over public funds for substance abuse and  
261 mental health services;

262 (vi) monitor and evaluate programs provided by local substance abuse authorities and  
263 local mental health authorities;

264 (vii) examine expenditures of local, state, and federal funds;

265 (viii) monitor the expenditure of public funds by:

266 (A) local substance abuse authorities;

267 (B) local mental health authorities; and

268 (C) in counties where they exist, a private contract provider that has an annual or  
269 otherwise ongoing contract to provide comprehensive substance abuse or mental health  
270 programs or services for the local substance abuse authority or local mental health authority;

271 (ix) contract with local substance abuse authorities and local mental health authorities  
272 to provide a comprehensive continuum of services that include community-based services for  
273 individuals involved in the criminal justice system, in accordance with division policy, contract  
274 provisions, and the local plan;

275 (x) contract with private and public entities for special statewide or nonclinical

276 services, or services for individuals involved in the criminal justice system, according to  
277 division rules;

278 (xi) review and approve each local substance abuse authority's plan and each local  
279 mental health authority's plan in order to ensure:

280 (A) a statewide comprehensive continuum of substance abuse services;

281 (B) a statewide comprehensive continuum of mental health services;

282 (C) services result in improved overall health and functioning;

283 (D) a statewide comprehensive continuum of community-based services designed to  
284 reduce criminal risk factors for individuals who are determined to have substance abuse or  
285 mental illness conditions or both, and who are involved in the criminal justice system;

286 (E) compliance, where appropriate, with the certification requirements in Subsection  
287 (2)(j); and

288 (F) appropriate expenditure of public funds;

289 (xii) review and make recommendations regarding each local substance abuse  
290 authority's contract with the local substance abuse authority's provider of substance abuse  
291 programs and services and each local mental health authority's contract with the local mental  
292 health authority's provider of mental health programs and services to ensure compliance with  
293 state and federal law and policy;

294 (xiii) monitor and ensure compliance with division rules and contract requirements;  
295 and

296 (xiv) withhold funds from local substance abuse authorities, local mental health  
297 authorities, and public and private providers for contract noncompliance, failure to comply  
298 with division directives regarding the use of public funds, or for misuse of public funds or  
299 money;

300 (d) ensure that the requirements of this part are met and applied uniformly by local  
301 substance abuse authorities and local mental health authorities across the state;

302 (e) require each local substance abuse authority and each local mental health authority,  
303 in accordance with Subsections 17-43-201(5)(b) and 17-43-301[(5)](6)(a)(ii), to submit a plan  
304 to the division on or before May 15 of each year;

305 (f) conduct an annual program audit and review of each local substance abuse authority  
306 and each local substance abuse authority's contract provider, and each local mental health

307 authority and each local mental health authority's contract provider, including:

308 (i) a review and determination regarding whether:

309 (A) public funds allocated to the local substance abuse authority or the local mental

310 health authorities are consistent with services rendered by the authority or the authority's

311 contract provider, and with outcomes reported by the authority's contract provider; and

312 (B) each local substance abuse authority and each local mental health authority is

313 exercising sufficient oversight and control over public funds allocated for substance use

314 disorder and mental health programs and services; and

315 (ii) items determined by the division to be necessary and appropriate; and

316 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,

317 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

318 (h) (i) train and certify an adult as a peer support specialist, qualified to provide peer

319 supports services to an individual with:

320 (A) a substance use disorder;

321 (B) a mental health disorder; or

322 (C) a substance use disorder and a mental health disorder;

323 (ii) certify a person to carry out, as needed, the division's duty to train and certify an

324 adult as a peer support specialist;

325 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

326 Rulemaking Act, that:

327 (A) establish training and certification requirements for a peer support specialist;

328 (B) specify the types of services a peer support specialist is qualified to provide;

329 (C) specify the type of supervision under which a peer support specialist is required to

330 operate; and

331 (D) specify continuing education and other requirements for maintaining or renewing

332 certification as a peer support specialist; and

333 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

334 Rulemaking Act, that:

335 (A) establish the requirements for a person to be certified to carry out, as needed, the

336 division's duty to train and certify an adult as a peer support specialist; and

337 (B) specify how the division shall provide oversight of a person certified to train and

338 certify a peer support specialist;

339 (i) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative  
340 Rulemaking Act, minimum standards and requirements for the provision of substance use  
341 disorder and mental health treatment to an individual who is required to participate in treatment  
342 by the court or the Board of Pardons and Parole, or who is incarcerated, including:

343 (i) collaboration with the Department of Corrections and the Utah Substance Use and  
344 Mental Health Advisory Council to develop and coordinate the standards, including standards  
345 for county and state programs serving individuals convicted of class A and class B  
346 misdemeanors;

347 (ii) determining that the standards ensure available treatment, including the most  
348 current practices and procedures demonstrated by recognized scientific research to reduce  
349 recidivism, including focus on the individual's criminal risk factors; and

350 (iii) requiring that all public and private treatment programs meet the standards  
351 established under this Subsection (2)(i) in order to receive public funds allocated to the  
352 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice  
353 for the costs of providing screening, assessment, prevention, treatment, and recovery support;

354 (j) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative  
355 Rulemaking Act, the requirements and procedures for the certification of licensed public and  
356 private providers who provide, as part of their practice, substance use disorder and mental  
357 health treatment to an individual involved in the criminal justice system, including:

358 (i) collaboration with the Department of Corrections, the Utah Substance Use and  
359 Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate,  
360 and implement the certification process;

361 (ii) basing the certification process on the standards developed under Subsection (2)(i)  
362 for the treatment of an individual involved in the criminal justice system; and

363 (iii) the requirement that a public or private provider of treatment to an individual  
364 involved in the criminal justice system shall obtain certification on or before July 1, 2016, and  
365 shall renew the certification every two years, in order to qualify for funds allocated to the  
366 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice  
367 on or after July 1, 2016;

368 (k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and

369 provide recommendations to the Legislature regarding:

370 (i) pretrial services and the resources needed to reduce recidivism;

371 (ii) county jail and county behavioral health early-assessment resources needed for an  
372 offender convicted of a class A or class B misdemeanor; and

373 (iii) the replacement of federal dollars associated with drug interdiction law  
374 enforcement task forces that are reduced;

375 (l) (i) establish performance goals and outcome measurements for all treatment  
376 programs for which minimum standards are established under Subsection (2)(i), including  
377 recidivism data and data regarding cost savings associated with recidivism reduction and the  
378 reduction in the number of inmates, that are obtained in collaboration with the Administrative  
379 Office of the Courts and the Department of Corrections; and

380 (ii) collect data to track and determine whether the goals and measurements are being  
381 attained and make this information available to the public;

382 (m) work collaboratively with opioid treatment programs to establish a registry of  
383 patients in opioid treatment programs for the purpose of protecting the health and safety of  
384 patients;

385 (n) if designated as the specific state authority under 21 U.S.C. Sec. 823(j), coordinate  
386 patients' access to medication during a crisis or emergency;

387 (o) if designated by the governor as the state authority under 42 C.F.R. Sec. 8.2 to  
388 exercise the responsibility and authority within the state for governing the treatment of opioid  
389 use disorder with an opioid drug;

390 (i) review and approve exceptions to federal and state dosage policies as provided in 42  
391 C.F.R. Sec. 8.11; and

392 (ii) consult with the Substance Abuse and Mental Health Services Administration  
393 regarding applications for certification or renewal of certification of an opioid treatment  
394 program as provided in 42 C.F.R. Sec. 8.11;

395 [~~m~~] (p) in the division's discretion, use the data to make decisions regarding the use  
396 of funds allocated to the division, the Administrative Office of the Courts, and the Department  
397 of Corrections to provide treatment for which standards are established under Subsection (2)(i);  
398 and

399 [~~m~~] (q) annually, on or before August 31, submit the data collected under Subsection

400 (2)(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of  
401 findings based on the data and provide the report to the Judiciary Interim Committee, the  
402 Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice  
403 Interim Committee, and the related appropriations subcommittees.

404 (3) (a) The division may refuse to contract with and may pursue legal remedies against  
405 any local substance abuse authority or local mental health authority that fails, or has failed, to  
406 expend public funds in accordance with state law, division policy, contract provisions, or  
407 directives issued in accordance with state law.

408 (b) The division may withhold funds from a local substance abuse authority or local  
409 mental health authority if the authority's contract provider of substance abuse or mental health  
410 programs or services fails to comply with state and federal law or policy.

411 (4) Before reissuing or renewing a contract with any local substance abuse authority or  
412 local mental health authority, the division shall review and determine whether the local  
413 substance abuse authority or local mental health authority is complying with the oversight and  
414 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and  
415 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and  
416 liability described in Section 17-43-303 and to the responsibility and liability described in  
417 Section 17-43-203.

418 (5) In carrying out the division's duties and responsibilities, the division may not  
419 duplicate treatment or educational facilities that exist in other divisions or departments of the  
420 state, but shall work in conjunction with those divisions and departments in rendering the  
421 treatment or educational services that those divisions and departments are competent and able  
422 to provide.

423 (6) The division may accept in the name of and on behalf of the state donations, gifts,  
424 devises, or bequests of real or personal property or services to be used as specified by the  
425 donor.

426 (7) The division shall annually review with each local substance abuse authority and  
427 each local mental health authority the authority's statutory and contract responsibilities  
428 regarding:

- 429 (a) use of public funds;
- 430 (b) oversight of public funds; and

431 (c) governance of substance use disorder and mental health programs and services.

432 (8) The Legislature may refuse to appropriate funds to the division upon the division's  
433 failure to comply with the provisions of this part.

434 (9) If a local substance abuse authority contacts the division under Subsection  
435 [17-43-201](#)(10) for assistance in providing treatment services to a pregnant woman or pregnant  
436 minor, the division shall:

437 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the  
438 capacity to provide the treatment services; or

439 (b) otherwise ensure that treatment services are made available to the pregnant woman  
440 or pregnant minor.