

Senator Daniel McCay proposes the following substitute bill:

OPIOID TREATMENT PROGRAMS AND CONTROLLED

SUBSTANCE DATABASE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad M. Daw

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions relating to opioid treatment programs and the controlled substance database.

Highlighted Provisions:

This bill:

- ▶ defines a term;
- ▶ modifies requirements relating to access to the controlled substance database for emergency departments in hospitals and opioid treatment programs;
- ▶ 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



- 26 • coordinate patients' access to medication during a crisis or emergency; and
- 27 ▶ makes technical and conforming changes.

28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **58-37f-301**, as last amended by Laws of Utah 2018, Chapter 123

35 **58-37f-303**, as enacted by Laws of Utah 2016, Chapter 112

36 **58-37f-304**, as last amended by Laws of Utah 2018, Chapters 281 and 327

37 **58-37f-601**, as last amended by Laws of Utah 2016, Chapters 112 and 238

38 **62A-15-102**, as last amended by Laws of Utah 2018, Chapter 414

39 **62A-15-103**, as last amended by Laws of Utah 2018, Chapter 322



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

42 Section 1. Section **58-37f-301** is amended to read:

43 **58-37f-301. Access to database.**

44 (1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
45 Administrative Rulemaking Act, to:

46 (a) effectively enforce the limitations on access to the database as described in this
47 part; and

48 (b) establish standards and procedures to ensure accurate identification of individuals
49 requesting information or receiving information without request from the database.

50 (2) The division shall make information in the database and information obtained from
51 other state or federal prescription monitoring programs by means of the database available only
52 to the following individuals, in accordance with the requirements of this chapter and division
53 rules:

54 (a) (i) personnel of the division specifically assigned to conduct investigations related
55 to controlled substance laws under the jurisdiction of the division; and

56 (ii) the following law enforcement officers, but the division may only provide

57 nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding
58 individuals for whom a controlled substance has been prescribed or to whom a controlled
59 substance has been dispensed:

60 (A) a law enforcement agency officer who is engaged in a joint investigation with the
61 division; and

62 (B) a law enforcement agency officer to whom the division has referred a suspected
63 criminal violation of controlled substance laws;

64 (b) authorized division personnel engaged in analysis of controlled substance
65 prescription information as a part of the assigned duties and responsibilities of their
66 employment;

67 (c) a board member if:

68 (i) the board member is assigned to monitor a licensee on probation; and

69 (ii) the board member is limited to obtaining information from the database regarding
70 the specific licensee on probation;

71 (d) a member of a diversion committee established in accordance with Subsection
72 58-1-404(2) if:

73 (i) the diversion committee member is limited to obtaining information from the
74 database regarding the person whose conduct is the subject of the committee's consideration;
75 and

76 (ii) the conduct that is the subject of the committee's consideration includes a violation
77 or a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant
78 violation or potential violation under this title;

79 (e) in accordance with a written agreement entered into with the department,
80 employees of the Department of Health:

81 (i) whom the director of the Department of Health assigns to conduct scientific studies
82 regarding the use or abuse of controlled substances, if the identity of the individuals and
83 pharmacies in the database are confidential and are not disclosed in any manner to any
84 individual who is not directly involved in the scientific studies;

85 (ii) when the information is requested by the Department of Health in relation to a
86 person or provider whom the Department of Health suspects may be improperly obtaining or
87 providing a controlled substance; or

88 (iii) in the medical examiner's office;

89 (f) in accordance with a written agreement entered into with the department, a designee
90 of the director of the Department of Health, who is not an employee of the Department of
91 Health, whom the director of the Department of Health assigns to conduct scientific studies
92 regarding the use or abuse of controlled substances pursuant to an application process
93 established in rule by the Department of Health, if:

94 (i) the designee provides explicit information to the Department of Health regarding
95 the purpose of the scientific studies;

96 (ii) the scientific studies to be conducted by the designee:

97 (A) fit within the responsibilities of the Department of Health for health and welfare;

98 (B) are reviewed and approved by an Institutional Review Board that is approved for
99 human subject research by the United States Department of Health and Human Services; and

100 (C) are not conducted for profit or commercial gain; and

101 (D) are conducted in a research facility, as defined by division rule, that is associated
102 with a university or college accredited by one or more regional or national accrediting agencies
103 recognized by the United States Department of Education;

104 (iii) the designee protects the information as a business associate of the Department of
105 Health; and

106 (iv) the identity of the prescribers, patients, and pharmacies in the database are
107 de-identified, confidential, not disclosed in any manner to the designee or to any individual
108 who is not directly involved in the scientific studies;

109 (g) in accordance with the written agreement entered into with the department and the
110 Department of Health, authorized employees of a managed care organization, as defined in 42
111 C.F.R. Sec. 438, if:

112 (i) the managed care organization contracts with the Department of Health under the
113 provisions of Section 26-18-405 and the contract includes provisions that:

114 (A) require a managed care organization employee who will have access to information
115 from the database to submit to a criminal background check; and

116 (B) limit the authorized employee of the managed care organization to requesting
117 either the division or the Department of Health to conduct a search of the database regarding a
118 specific Medicaid enrollee and to report the results of the search to the authorized employee;

119 and

120 (ii) the information is requested by an authorized employee of the managed care
121 organization in relation to a person who is enrolled in the Medicaid program with the managed
122 care organization, and the managed care organization suspects the person may be improperly
123 obtaining or providing a controlled substance;

124 (h) a licensed practitioner having authority to prescribe controlled substances, to the
125 extent the information:

126 (i) (A) relates specifically to a current or prospective patient of the practitioner; and

127 (B) is provided to or sought by the practitioner for the purpose of:

128 (I) prescribing or considering prescribing any controlled substance to the current or
129 prospective patient;

130 (II) diagnosing the current or prospective patient;

131 (III) providing medical treatment or medical advice to the current or prospective
132 patient; or

133 (IV) determining whether the current or prospective patient:

134 (Aa) is attempting to fraudulently obtain a controlled substance from the practitioner;

135 or

136 (Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled
137 substance from the practitioner;

138 (ii) (A) relates specifically to a former patient of the practitioner; and

139 (B) is provided to or sought by the practitioner for the purpose of determining whether
140 the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a
141 controlled substance from the practitioner;

142 (iii) relates specifically to an individual who has access to the practitioner's Drug
143 Enforcement Administration identification number, and the practitioner suspects that the
144 individual may have used the practitioner's Drug Enforcement Administration identification
145 number to fraudulently acquire or prescribe a controlled substance;

146 (iv) relates to the practitioner's own prescribing practices, except when specifically
147 prohibited by the division by administrative rule;

148 (v) relates to the use of the controlled substance database by an employee of the
149 practitioner, described in Subsection (2)(i); or

- 150 (vi) relates to any use of the practitioner's Drug Enforcement Administration
151 identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a
152 controlled substance;
- 153 (i) in accordance with Subsection (3)(a), an employee of a practitioner described in
154 Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:
- 155 (i) the employee is designated by the practitioner as an individual authorized to access
156 the information on behalf of the practitioner;
- 157 (ii) the practitioner provides written notice to the division of the identity of the
158 employee; and
- 159 (iii) the division:
- 160 (A) grants the employee access to the database; and
- 161 (B) provides the employee with a password that is unique to that employee to access
162 the database [~~in order to permit the division to comply with the requirements of Subsection~~
163 ~~58-37f-203(5) with respect to the employee~~];
- 164 (j) an employee of the same business that employs a licensed practitioner under
165 Subsection (2)(h) if:
- 166 (i) the employee is designated by the practitioner as an individual authorized to access
167 the information on behalf of the practitioner;
- 168 (ii) the practitioner and the employing business provide written notice to the division of
169 the identity of the designated employee; and
- 170 (iii) the division:
- 171 (A) grants the employee access to the database; and
- 172 (B) provides the employee with a password that is unique to that employee to access
173 the database [~~in order to permit the division to comply with the requirements of Subsection~~
174 ~~58-37f-203(5) with respect to the employee~~];
- 175 (k) a licensed pharmacist having authority to dispense a controlled substance to the
176 extent the information is provided or sought for the purpose of:
- 177 (i) dispensing or considering dispensing any controlled substance; or
- 178 (ii) determining whether a person:
- 179 (A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or
- 180 (B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled

181 substance from the pharmacist;

182 (l) in accordance with Subsection (3)(a), a licensed pharmacy technician and pharmacy
183 intern who is an employee of a pharmacy as defined in Section 58-17b-102, for the purposes
184 described in Subsection (2)(j)(i) or (ii), if:

185 (i) the employee is designated by the pharmacist-in-charge as an individual authorized
186 to access the information on behalf of a licensed pharmacist employed by the pharmacy;

187 (ii) the pharmacist-in-charge provides written notice to the division of the identity of
188 the employee; and

189 (iii) the division:

190 (A) grants the employee access to the database; and

191 (B) provides the employee with a password that is unique to that employee to access
192 the database [~~in order to permit the division to comply with the requirements of Subsection~~
193 ~~58-37f-203(5) with respect to the employee~~];

194 (m) pursuant to a valid search warrant, federal, state, and local law enforcement
195 officers and state and local prosecutors who are engaged in an investigation related to:

196 (i) one or more controlled substances; and

197 (ii) a specific person who is a subject of the investigation;

198 (n) subject to Subsection [~~(7)~~] (8), a probation or parole officer, employed by the
199 Department of Corrections or by a political subdivision, to gain access to database information
200 necessary for the officer's supervision of a specific probationer or parolee who is under the
201 officer's direct supervision;

202 (o) employees of the Office of Internal Audit and Program Integrity within the
203 Department of Health who are engaged in their specified duty of ensuring Medicaid program
204 integrity under Section 26-18-2.3;

205 (p) a mental health therapist, if:

206 (i) the information relates to a patient who is:

207 (A) enrolled in a licensed substance abuse treatment program; and

208 (B) receiving treatment from, or under the direction of, the mental health therapist as
209 part of the patient's participation in the licensed substance abuse treatment program described
210 in Subsection (2)(p)(i)(A);

211 (ii) the information is sought for the purpose of determining whether the patient is

212 using a controlled substance while the patient is enrolled in the licensed substance abuse
213 treatment program described in Subsection (2)(p)(i)(A); and

214 (iii) the licensed substance abuse treatment program described in Subsection
215 (2)(p)(i)(A) is associated with a practitioner who:

216 (A) is a physician, a physician assistant, an advance practice registered nurse, or a
217 pharmacist; and

218 (B) is available to consult with the mental health therapist regarding the information
219 obtained by the mental health therapist, under this Subsection (2)(p), from the database;

220 (q) an individual who is the recipient of a controlled substance prescription entered into
221 the database, upon providing evidence satisfactory to the division that the individual requesting
222 the information is in fact the individual about whom the data entry was made;

223 (r) an individual under Subsection (2)(q) for the purpose of obtaining a list of the
224 persons and entities that have requested or received any information from the database
225 regarding the individual, except if the individual's record is subject to a pending or current
226 investigation as authorized under this Subsection (2);

227 (s) the inspector general, or a designee of the inspector general, of the Office of
228 Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in
229 Title 63A, Chapter 13, Part 2, Office and Powers;

230 (t) the following licensed physicians for the purpose of reviewing and offering an
231 opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter
232 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

233 (i) a member of the medical panel described in Section [34A-2-601](#);

234 (ii) a physician employed as medical director for a licensed workers' compensation
235 insurer or an approved self-insured employer; or

236 (iii) a physician offering a second opinion regarding treatment; and

237 (u) members of Utah's Opioid Fatality Review Committee, for the purpose of
238 reviewing a specific fatality due to opioid use and recommending policies to reduce the
239 frequency of opioid use fatalities.

240 (3) (a) (i) A practitioner described in Subsection (2)(h) may designate one or more
241 employees to access information from the database under Subsection (2)(i), (2)(j), ~~or~~ (4)(c),
242 or (5)(c).

243 (ii) A pharmacist described in Subsection (2)(k) who is a pharmacist-in-charge may
244 designate up to five employees to access information from the database under Subsection (2)(l).

245 (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
246 Administrative Rulemaking Act, to:

247 (i) establish background check procedures to determine whether an employee
248 designated under Subsection (2)(i), (2)(j), [~~or~~] (4)(c), or (5)(c) should be granted access to the
249 database; and

250 (ii) establish the information to be provided by an emergency department employee or
251 an opioid treatment program employee under [~~Subsection~~] Subsections (4) and (5); and

252 (iii) facilitate providing controlled substance prescription information to a third party
253 under Subsection [~~(5)~~] (6).

254 (c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), [~~or~~]
255 (4)(c), or (5)(c) access to the database, unless the division determines, based on a background
256 check, that the employee poses a security risk to the information contained in the database.

257 (4) (a) An individual who is employed in the emergency department of a hospital may
258 exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if
259 the individual is designated under Subsection (4)(c) and the licensed practitioner:

260 (i) is employed in the emergency department;

261 (ii) is treating an emergency department patient for an emergency medical condition;
262 and

263 (iii) requests that an individual employed in the emergency department and designated
264 under Subsection (4)(c) obtain information regarding the patient from the database as needed in
265 the course of treatment.

266 (b) The emergency department employee obtaining information from the database
267 shall, when gaining access to the database, provide to the database the name and any additional
268 identifiers regarding the requesting practitioner as required by division administrative rule
269 established under Subsection (3)(b).

270 (c) An individual employed in the emergency department under this Subsection (4)
271 may obtain information from the database as provided in Subsection (4)(a) if:

272 (i) the employee is designated by the [~~practitioner~~] hospital operating the emergency
273 department as an individual authorized to access the information on behalf of the practitioner;

274 (ii) ~~[the practitioner and]~~ the hospital operating the emergency department ~~[provide]~~
275 provides written notice to the division of the identity of the designated employee; and

276 (iii) the division:

277 (A) grants the employee access to the database; and

278 (B) provides the employee with a password that is unique to that employee to access
279 the database ~~[in order to permit the division to comply with the requirements of Subsection~~
280 ~~58-37f-203(5) with respect to the employee]~~.

281 (d) The division may impose a fee, in accordance with Section 63J-1-504, on a
282 practitioner or a hospital who designates an employee under Subsection (2)(i), (2)(j), or (4)(c)
283 to pay for the costs incurred by the division to conduct the background check and make the
284 determination described in Subsection (3)(b).

285 (5) (a) An individual who is employed by an opioid treatment program, as defined in
286 Section 62A-15-102, may access the database under this Subsection (5) on behalf of a licensed
287 practitioner if the individual is designated under Subsection (5)(c) and the licensed practitioner:

288 (i) is employed in the opioid treatment program;

289 (ii) is treating an opioid treatment program patient for an opioid use disorder; and

290 (iii) requests that an individual employed in the opioid treatment program and
291 designated under Subsection (5)(c) obtain information regarding the patient from the database
292 as needed in the course of treatment.

293 (b) The opioid treatment program employee obtaining information from the database
294 shall, when gaining access to the database, provide to the database the name and any additional
295 identifiers regarding the requesting practitioner as required by division administrative rule
296 established under Subsection (3)(b).

297 (c) An individual employed in the opioid treatment program under this Subsection (5)
298 may obtain information from the database as provided in Subsection (5)(a) if:

299 (i) the employee is designated by the director or the practitioner of the opioid treatment
300 program as an individual authorized to access the information on behalf of the practitioner;

301 (ii) the director or the practitioner provides written notice to the division of the identity
302 of the designated employee; and

303 (iii) the division:

304 (A) grants the employee access to the database; and

305 (B) provides the employee with a password that is unique to that employee to access
306 the database.

307 (d) The division may impose a fee, in accordance with Section 63J-1-504, on an opioid
308 treatment program that designates an employee under Subsection (5)(c) to pay for the costs
309 incurred by the division to conduct the background check and make the determination
310 described in Subsection (3)(b).

311 [~~5~~] (6) (a) (i) An individual may request that the division provide the information
312 under Subsection [~~5~~] (6)(b) to a third party who is designated by the individual each time a
313 controlled substance prescription for the individual is dispensed.

314 (ii) The division shall upon receipt of the request under this Subsection [~~5~~] (6)(a)
315 advise the individual in writing that the individual may direct the division to discontinue
316 providing the information to a third party and that notice of the individual's direction to
317 discontinue will be provided to the third party.

318 (b) The information the division shall provide under Subsection [~~5~~] (6)(a) is:

319 (i) the fact a controlled substance has been dispensed to the individual, but without
320 identifying the controlled substance; and

321 (ii) the date the controlled substance was dispensed.

322 (c) (i) An individual who has made a request under Subsection [~~5~~] (6)(a) may direct
323 that the division discontinue providing information to the third party.

324 (ii) The division shall:

325 (A) notify the third party that the individual has directed the division to no longer
326 provide information to the third party; and

327 (B) discontinue providing information to the third party.

328 [~~6~~] (7) (a) An individual who is granted access to the database based on the fact that
329 the individual is a licensed practitioner or a mental health therapist shall be denied access to the
330 database when the individual is no longer licensed.

331 (b) An individual who is granted access to the database based on the fact that the
332 individual is a designated employee of a licensed practitioner shall be denied access to the
333 database when the practitioner is no longer licensed.

334 [~~7~~] (8) A probation or parole officer is not required to obtain a search warrant to
335 access the database in accordance with Subsection (2)(n).

336 ~~[(8)]~~ (9) The division shall review and adjust the database programming which
337 automatically logs off an individual who is granted access to the database under ~~[Subsections]~~
338 Subsection (2)(h), (2)(i), (2)(j), ~~[and]~~ (4)(c), or (5)(c) to maximize the following objectives:

- 339 (a) to protect patient privacy;
340 (b) to reduce inappropriate access; and
341 (c) to make the database more useful and helpful to a person accessing the database
342 under ~~[Subsections]~~ Subsection (2)(h), (2)(i), (2)(j), ~~[and]~~ (4)(c), or (5)(c), especially in high
343 usage locations such as an emergency department.

344 Section 2. Section **58-37f-303** is amended to read:

345 **58-37f-303. Access to opioid prescription information via an electronic data**
346 **system.**

347 (1) As used in this section:

348 (a) "Dispense" means the same as that term is defined in Section [58-17b-102](#).

349 (b) (i) "EDS user" means:

350 ~~[(i) means:]~~

351 (A) a prescriber;

352 (B) a pharmacist; or

353 (C) an individual granted access to the database under Subsection [58-37f-301\(3\)\(c\)](#);

354 and

355 (ii) "EDS user" does not ~~[mean]~~ include an individual whose access to the database has
356 been revoked by the division pursuant to Subsection [58-37f-301](#)~~[(5)]~~(6)(b).

357 (c) "Electronic data system" means a software product or an electronic service used by:

358 (i) a prescriber to manage electronic health records; or

359 (ii) a pharmacist to manage the dispensing of prescription drugs.

360 (d) "Opioid" means any substance listed in Subsection [58-37-4\(2\)\(b\)\(i\)](#) or (2)(b)(ii).

361 (e) "Pharmacist" means the same as that term is defined in Section [58-17b-102](#).

362 (f) "Prescriber" means a practitioner, as that term is defined in Section [58-37-2](#), who is
363 licensed under Section [58-37-6](#) to prescribe an opioid.

364 (g) "Prescription drug" means the same as that term is defined in Section [58-17b-102](#).

365 (2) Subject to Subsections (3) through (6), no later than January 1, 2017, the division
366 shall make opioid prescription information in the database available to an EDS user via the

367 user's electronic data system.

368 (3) An electronic data system may be used to make opioid prescription information in
369 the database available to an EDS user only if the electronic data system complies with rules
370 established by the division under Subsection (4).

371 (4) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
372 Administrative Rulemaking Act, specifying:

373 (i) an electronic data system's:

374 (A) allowable access to and use of opioid prescription information in the database; and

375 (B) minimum actions that must be taken to ensure that opioid prescription information
376 accessed from the database is protected from inappropriate disclosure or use; and

377 (ii) an EDS user's:

378 (A) allowable access to opioid prescription information in the database via an
379 electronic data system; and

380 (B) allowable use of the information.

381 (b) The rules shall establish:

382 (i) minimum user identification requirements that in substance are the same as the
383 database identification requirements in Section [58-37f-301](#);

384 (ii) user access restrictions that in substance are the same as the database identification
385 requirements in Section [58-37f-301](#); and

386 (iii) any other requirements necessary to ensure that in substance the provisions of
387 Sections [58-37f-301](#) and [58-37f-302](#) apply to opioid prescription information in the database
388 that has been made available to an EDS user via an electronic data system.

389 (5) The division may not make opioid prescription information in the database
390 available to an EDS user via the user's electronic data system if:

391 (a) the electronic data system does not comply with the rules established by the
392 division under Subsection (4); or

393 (b) the EDS user does not comply with the rules established by the division under
394 Subsection (4).

395 (6) (a) The division shall periodically audit the use of opioid prescription information
396 made available to an EDS user via the user's electronic data system.

397 (b) The audit shall review compliance by:

398 (i) the electronic data system with rules established by the division under Subsection
399 (4); and

400 (ii) the EDS user with rules established by the division under Subsection (4).

401 (c) (i) If the division determines by audit or other means that an electronic data system
402 is not in compliance with rules established by the division under Subsection (4), the division
403 shall immediately suspend or revoke the electronic data system's access to opioid prescription
404 information in the database.

405 (ii) If the division determines by audit or other means that an EDS user is not in
406 compliance with rules established by the division under Subsection (4), the division shall
407 immediately suspend or revoke the EDS user's access to opioid prescription information in the
408 database via an electronic data system.

409 (iii) If the division suspends or revokes access to opioid prescription information in the
410 database under Subsection (6)(c)(i) or (6)(c)(ii), the division shall also take any other
411 appropriate corrective or disciplinary action authorized by this chapter or title.

412 Section 3. Section **58-37f-304** is amended to read:

413 **58-37f-304. Database utilization.**

414 (1) As used in this section:

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

418 ~~[(b) "Outpatient" means a setting in which an individual visits a licensed healthcare
419 facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a
420 licensed healthcare facility for an overnight stay.]~~

421 ~~[(c)]~~ (b) "Prescriber" means an individual authorized to prescribe a controlled
422 substance under Title 58, Chapter 37, Utah Controlled Substances Act.

423 ~~[(d)]~~ (c) "Schedule II opioid" means ~~[those substances]~~ a substance listed in Subsection
424 [58-37-4\(2\)\(b\)\(i\)](#) or (2)(b)(ii).

425 ~~[(e)]~~ (d) "Schedule III opioid" means ~~[those substances]~~ a substance listed in
426 Subsection [58-37-4\(2\)\(c\)](#) that ~~[are opioids]~~ is an opioid.

427 (e) "Treatment dispenser" means a dispenser who dispenses methadone for the
428 treatment of a substance use disorder, as defined in Section [62A-15-1202](#).

429 (2) (a) A prescriber shall check the database for information about a patient before the
430 first time the prescriber gives a prescription to a patient for a Schedule II opioid or a Schedule
431 III opioid.

432 (b) If a prescriber is repeatedly prescribing a Schedule II opioid or Schedule III opioid
433 to a patient, the prescriber shall periodically review information about the patient in:

434 (i) the database; or

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

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

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

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

442 (B) displays the information from the database in a prominent manner for the
443 prescriber.

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

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

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

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

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

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

453 (i) December 31, 2018; or

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

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

459 (b) If a treatment dispenser is repeatedly dispensing methadone to a patient, the

460 treatment dispenser shall, at least each calendar month that the treatment dispenser dispenses
461 methadone to the patient, review information about the patient in:

462 (i) the database; or

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

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

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

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

470 (ii) The division may not approve a connection to the database if the connection does
471 not satisfy the requirements established by the division under Section [58-37f-301](#).

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

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

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

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

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

479 (i) December 31, 2019; or

480 (ii) the date that the division has the capability to establish a connection that meets the
481 requirements established by the division under Section [58-37f-301](#) between the database and an
482 electronic health record system.

483 ~~[(3)]~~ (4) The division shall, in collaboration with the licensing boards for prescribers
484 and dispensers:

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

488 (b) reduce or waive the division's continuing education requirements regarding opioid
489 prescriptions, described in Section [58-37-6.5](#), including the online tutorial and test relating to
490 the database, for prescribers and dispensers whose individual utilization of the database, as

491 determined by the division, demonstrates substantial compliance with this section.

492 ~~[(4)]~~ (5) If the dispenser's access and review of the database suggest that the individual
493 seeking an opioid may be obtaining opioids in quantities or frequencies inconsistent with
494 generally recognized standards as provided in this section and Section 58-37f-201, the
495 dispenser shall reasonably attempt to contact the prescriber to obtain the prescriber's informed,
496 current, and professional decision regarding whether the prescribed opioid is medically
497 justified, notwithstanding the results of the database search.

498 ~~[(5)]~~ (6) (a) The division shall review the database to identify any prescriber who has a
499 pattern of prescribing opioids not in accordance with the recommendations of:

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

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

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

507 (b) The division shall offer education to a prescriber identified under this Subsection
508 ~~[(5)]~~ (6) regarding best practices in the prescribing of opioids.

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

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

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

517 Section 4. Section 58-37f-601 is amended to read:

518 **58-37f-601. Unlawful release or use of database information -- Criminal and civil**
519 **penalties.**

520 (1) (a) Any person who knowingly and intentionally releases:

521 (i) any information in the database or any information obtained from other state or

522 federal prescription monitoring programs by means of the database in violation of the
523 limitations under Part 3, Access and Utilization, is guilty of a third degree felony; or

524 (ii) any information in the database accessed under Section 58-37f-303 by an electronic
525 data system, or accessed by a person via an electronic data system, in violation of rules
526 established by the division under Subsection 58-37f-303(4) is guilty of a third degree felony.

527 (b) Any person who negligently or recklessly releases:

528 (i) any information in the database or any information obtained from other state or
529 federal prescription monitoring programs by means of the database in violation of the
530 limitations under Part 3, Access and Utilization, is guilty of a class C misdemeanor; or

531 (ii) any information in the database accessed under Section 58-37f-303 by an electronic
532 data system, or accessed by a person via an electronic data system, in violation of rules
533 established by the division under Subsection 58-37f-303(4) is guilty of a class C misdemeanor.

534 (2) (a) Any person who obtains or attempts to obtain the following by
535 misrepresentation or fraud is guilty of a third degree felony:

536 (i) information from the database;

537 (ii) information from any other state or federal prescription monitoring program by
538 means of the database; or

539 (iii) information from the database or any other state or federal prescription monitoring
540 program via an electronic data system under Section 58-37f-303.

541 (b) Any person who obtains or attempts to obtain information from the database,
542 including via an electronic data system under Section 58-37f-303 that has access to the
543 database, for a purpose other than a purpose authorized by this chapter or by rule is guilty of a
544 third degree felony.

545 (3) (a) Except as provided in Subsection (3)(e), a person may not knowingly and
546 intentionally use, release, publish, or otherwise make available to any other person the
547 following information for any purpose other than those specified in Part 3, Access and
548 Utilization:

549 (i) information obtained from the database;

550 (ii) information obtained from any other state or federal prescription monitoring
551 program by means of the database; or

552 (iii) information in the database accessed under Section 58-37f-303 by:

- 553 (A) an electronic data system; or
554 (B) a person via an electronic data system.
- 555 (b) Each separate violation of this Subsection (3) is a third degree felony and is also
556 subject to a civil penalty not to exceed \$5,000.
- 557 (c) The procedure for determining a civil violation of this Subsection (3) is in
558 accordance with Section 58-1-108, regarding adjudicative proceedings within the division.
- 559 (d) Civil penalties assessed under this Subsection (3) shall be deposited in the General
560 Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).
- 561 (e) This Subsection (3) does not prohibit a person who obtains information from the
562 database under Subsection 58-37f-301(2) (h), (i), (k), [or] (4)(c), or (5)(c) from:
- 563 (i) including the information in the person's medical chart or file for access by a person
564 authorized to review the medical chart or file; or
- 565 (ii) providing the information to a person in accordance with the requirements of the
566 Health Insurance Portability and Accountability Act of 1996.
- 567 Section 5. Section 62A-15-102 is amended to read:
- 568 **62A-15-102. Definitions.**
- 569 As used in this chapter:
- 570 (1) "Criminal risk factors" means a person's characteristics and behaviors that:
- 571 (a) affect the person's risk of engaging in criminal behavior; and
572 (b) are diminished when addressed by effective treatment, supervision, and other
573 support resources, resulting in reduced risk of criminal behavior.
- 574 (2) "Director" means the director of the Division of Substance Abuse and Mental
575 Health.
- 576 (3) "Division" means the Division of Substance Abuse and Mental Health established
577 in Section 62A-15-103.
- 578 (4) "Local mental health authority" means a county legislative body.
- 579 (5) "Local substance abuse authority" means a county legislative body.
- 580 (6) "Mental health crisis" means:
- 581 (a) a mental health condition that manifests in an individual by symptoms of sufficient
582 severity that a prudent layperson who possesses an average knowledge of mental health issues
583 could reasonably expect the absence of immediate attention or intervention to result in:

- 584 (i) serious danger to the individual's health or well-being; or
585 (ii) a danger to the health or well-being of others; or
586 (b) a mental health condition that, in the opinion of a mental health therapist or the
587 therapist's designee, requires direct professional observation or intervention.
- 588 (7) "Mental health crisis response training" means community-based training that
589 educates laypersons and professionals on the warning signs of a mental health crisis and how to
590 respond.
- 591 (8) "Mental health crisis services" means an array of services provided to an individual
592 who experiences a mental health crisis, which may include:
- 593 (a) direct mental health services;
594 (b) on-site intervention provided by a mobile crisis outreach team;
595 (c) the provision of safety and care plans;
596 (d) prolonged mental health services for up to 90 days after the day on which an
597 individual experiences a mental health crisis;
598 (e) referrals to other community resources;
599 (f) local mental health crisis lines; and
600 (g) the statewide mental health crisis line.
- 601 (9) "Mental health therapist" means the same as that term is defined in Section
602 [58-60-102](#).
- 603 (10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and
604 mental health professionals that, in coordination with local law enforcement and emergency
605 medical service personnel, provides mental health crisis services.
- 606 (11) "Opioid treatment program" means a program or practitioner that is:
- 607 (a) engaged in opioid treatment of individuals with an opioid agonist treatment
608 medication registered under 21 U.S.C. Sec. 823(g)(1);
609 (b) licensed by the Office of Licensing, within the Department of Human Services,
610 created in Section [62A-2-103](#); and
611 (c) certified by the Substance Abuse and Mental Health Services Administration in
612 accordance with 42 C.F.R. 8.11.
- 613 [(H)] (12) (a) "Public funds" means federal money received from the Department of
614 Human Services or the Department of Health, and state money appropriated by the Legislature

615 to the Department of Human Services, the Department of Health, a county governing body, or a
616 local substance abuse authority, or a local mental health authority for the purposes of providing
617 substance abuse or mental health programs or services.

618 (b) "Public funds" include federal and state money that has been transferred by a local
619 substance abuse authority or a local mental health authority to a private provider under an
620 annual or otherwise ongoing contract to provide comprehensive substance abuse or mental
621 health programs or services for the local substance abuse authority or local mental health
622 authority. The money maintains the nature of "public funds" while in the possession of the
623 private entity that has an annual or otherwise ongoing contract with a local substance abuse
624 authority or a local mental health authority to provide comprehensive substance abuse or
625 mental health programs or services for the local substance abuse authority or local mental
626 health authority.

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

631 [~~(12)~~] (13) "Severe mental disorder" means schizophrenia, major depression, bipolar
632 disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by
633 the division.

634 [~~(13)~~] (14) "Statewide mental health crisis line" means the same as that term is defined
635 in Section [63C-18-102](#).

636 Section 6. Section **62A-15-103** is amended to read:

637 **62A-15-103. Division -- Creation -- Responsibilities.**

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

641 (2) The division shall:

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

644 (ii) render support and assistance to public schools through approved school-based
645 substance abuse education programs aimed at prevention of substance abuse;

- 646 (iii) promote or establish programs for the prevention of substance abuse within the
647 community setting through community-based prevention programs;
- 648 (iv) cooperate with and assist treatment centers, recovery residences, and other
649 organizations that provide services to individuals recovering from a substance abuse disorder,
650 by identifying and disseminating information about effective practices and programs;
- 651 (v) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
652 Rulemaking Act, to develop, in collaboration with public and private programs, minimum
653 standards for public and private providers of substance abuse and mental health programs
654 licensed by the department under Title 62A, Chapter 2, Licensure of Programs and Facilities;
- 655 (vi) promote integrated programs that address an individual's substance abuse, mental
656 health, physical health, and criminal risk factors;
- 657 (vii) establish and promote an evidence-based continuum of screening, assessment,
658 prevention, treatment, and recovery support services in the community for individuals with
659 substance use disorder and mental illness that addresses criminal risk factors;
- 660 (viii) evaluate the effectiveness of programs described in this Subsection (2);
- 661 (ix) consider the impact of the programs described in this Subsection (2) on:
- 662 (A) emergency department utilization;
- 663 (B) jail and prison populations;
- 664 (C) the homeless population; and
- 665 (D) the child welfare system; and
- 666 (x) promote or establish programs for education and certification of instructors to
667 educate persons convicted of driving under the influence of alcohol or drugs or driving with
668 any measurable controlled substance in the body;
- 669 (b) (i) collect and disseminate information pertaining to mental health;
- 670 (ii) provide direction over the state hospital including approval of its budget,
671 administrative policy, and coordination of services with local service plans;
- 672 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
673 Rulemaking Act, to educate families concerning mental illness and promote family
674 involvement, when appropriate, and with patient consent, in the treatment program of a family
675 member; and
- 676 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

677 Rulemaking Act, to direct that an individual receiving services through a local mental health
678 authority or the Utah State Hospital be informed about and, if desired by the individual,
679 provided assistance in the completion of a declaration for mental health treatment in
680 accordance with Section [62A-15-1002](#);

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

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

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

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

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

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

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

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

697 (A) local substance abuse authorities;

698 (B) local mental health authorities; and

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

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

706 (x) contract with private and public entities for special statewide or nonclinical
707 services, or services for individuals involved in the criminal justice system, according to

708 division rules;

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

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

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

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

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

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

719 (F) appropriate expenditure of public funds;

720 (xii) review and make recommendations regarding each local substance abuse
721 authority's contract with the local substance abuse authority's provider of substance abuse
722 programs and services and each local mental health authority's contract with the local mental
723 health authority's provider of mental health programs and services to ensure compliance with
724 state and federal law and policy;

725 (xiii) monitor and ensure compliance with division rules and contract requirements;
726 and

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

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

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

736 (f) conduct an annual program audit and review of each local substance abuse authority
737 and each local substance abuse authority's contract provider, and each local mental health
738 authority and each local mental health authority's contract provider, including:

- 739 (i) a review and determination regarding whether:
- 740 (A) public funds allocated to the local substance abuse authority or the local mental
- 741 health authorities are consistent with services rendered by the authority or the authority's
- 742 contract provider, and with outcomes reported by the authority's contract provider; and
- 743 (B) each local substance abuse authority and each local mental health authority is
- 744 exercising sufficient oversight and control over public funds allocated for substance use
- 745 disorder and mental health programs and services; and
- 746 (ii) items determined by the division to be necessary and appropriate; and
- 747 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,
- 748 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;
- 749 (h) (i) train and certify an adult as a peer support specialist, qualified to provide peer
- 750 supports services to an individual with:
- 751 (A) a substance use disorder;
- 752 (B) a mental health disorder; or
- 753 (C) a substance use disorder and a mental health disorder;
- 754 (ii) certify a person to carry out, as needed, the division's duty to train and certify an
- 755 adult as a peer support specialist;
- 756 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
- 757 Rulemaking Act, that:
- 758 (A) establish training and certification requirements for a peer support specialist;
- 759 (B) specify the types of services a peer support specialist is qualified to provide;
- 760 (C) specify the type of supervision under which a peer support specialist is required to
- 761 operate; and
- 762 (D) specify continuing education and other requirements for maintaining or renewing
- 763 certification as a peer support specialist; and
- 764 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
- 765 Rulemaking Act, that:
- 766 (A) establish the requirements for a person to be certified to carry out, as needed, the
- 767 division's duty to train and certify an adult as a peer support specialist; and
- 768 (B) specify how the division shall provide oversight of a person certified to train and
- 769 certify a peer support specialist;

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

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

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

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

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

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

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

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

799 (k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and
800 provide recommendations to the Legislature regarding:

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

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

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

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

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

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

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

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

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

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

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

830 [~~m~~] (q) annually, on or before August 31, submit the data collected under Subsection
831 (2)(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of

832 findings based on the data and provide the report to the Judiciary Interim Committee, the
833 Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice
834 Interim Committee, and the related appropriations subcommittees.

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

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

842 (4) Before reissuing or renewing a contract with any local substance abuse authority or
843 local mental health authority, the division shall review and determine whether the local
844 substance abuse authority or local mental health authority is complying with the oversight and
845 management responsibilities described in Sections [17-43-201](#), [17-43-203](#), [17-43-303](#), and
846 [17-43-309](#). Nothing in this Subsection (4) may be used as a defense to the responsibility and
847 liability described in Section [17-43-303](#) and to the responsibility and liability described in
848 Section [17-43-203](#).

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

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

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

860 (a) use of public funds;

861 (b) oversight of public funds; and

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

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

865 (9) If a local substance abuse authority contacts the division under Subsection
866 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant
867 minor, the division shall:

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

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