

Senator Todd Weiler 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;
- ▶ modifies access to database information through the Department of Health;
- ▶ 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



26 procedures; and

27 • coordinate patients' access to medication during a crisis or emergency; and

28 ▶ makes technical and conforming changes.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **58-37f-301**, as last amended by Laws of Utah 2018, Chapter 123

36 **58-37f-303**, as enacted by Laws of Utah 2016, Chapter 112

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

38 **58-37f-601**, as last amended by Laws of Utah 2016, Chapters 112 and 238

39 **62A-15-102**, as last amended by Laws of Utah 2018, Chapter 414

40 **62A-15-103**, as last amended by Laws of Utah 2018, Chapter 322



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

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

44 **58-37f-301. Access to database.**

45 (1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah

46 Administrative Rulemaking Act, to:

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

48 part; and

49 (b) establish standards and procedures to ensure accurate identification of individuals

50 requesting information or receiving information without request from the database.

51 (2) The division shall make information in the database and information obtained from

52 other state or federal prescription monitoring programs by means of the database available only

53 to the following individuals, in accordance with the requirements of this chapter and division

54 rules:

55 (a) (i) personnel of the division specifically assigned to conduct investigations related

56 to controlled substance laws under the jurisdiction of the division; and

57 (ii) the following law enforcement officers, but the division may only provide
58 nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding
59 individuals for whom a controlled substance has been prescribed or to whom a controlled
60 substance has been dispensed:

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

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

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

68 (c) a board member if:

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

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

72 (d) a member of a diversion committee established in accordance with Subsection
73 58-1-404(2) if:

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

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

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

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

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

88 providing a controlled substance; or

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

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

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

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

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

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

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

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

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

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

110 (g) in accordance with a written agreement entered into with the department, a
111 designee of the executive director of the Department of Health, who is not an employee of the
112 Department of Health, whom the executive director of the Department of Health assigns to
113 conduct scientific analyses regarding the use or abuse of controlled substances in accordance
114 with an application process established in rule made by the Department of Health, if:

115 (i) the designee provides explicit information to the Department of Health regarding
116 the purpose of the scientific analyses;

117 (ii) the scientific analyses to be conducted by the designee fit within the responsibilities
118 of the Department of Health for health and welfare;

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

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

124 [~~g~~] (h) in accordance with the written agreement entered into with the department and
125 the Department of Health, authorized employees of a managed care organization, as defined in
126 42 C.F.R. Sec. 438, if:

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

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

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

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

139 [~~h~~] (i) a licensed practitioner having authority to prescribe controlled substances, to
140 the extent the information:

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

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

143 (I) prescribing or considering prescribing any controlled substance to the current or
144 prospective patient;

145 (II) diagnosing the current or prospective patient;

146 (III) providing medical treatment or medical advice to the current or prospective
147 patient; or

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

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

150 or

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

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

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

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

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

163 (v) relates to the use of the controlled substance database by an employee of the
164 practitioner, described in Subsection (2)(~~(i)~~)(j); or

165 (vi) relates to any use of the practitioner's Drug Enforcement Administration
166 identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a
167 controlled substance;

168 ~~(i)~~ (j) in accordance with Subsection (3)(a), an employee of a practitioner described
169 in Subsection (2)(h), for a purpose described in Subsection (2)(~~(h)~~)(i)(i) or (ii), if:

170 (i) the employee is designated by the practitioner as an individual authorized to access
171 the information on behalf of the practitioner;

172 (ii) the practitioner provides written notice to the division of the identity of the
173 employee; and

174 (iii) the division:

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

176 (B) provides the employee with a password that is unique to that employee to access
177 the database [~~in order to permit the division to comply with the requirements of Subsection~~
178 ~~58-37f-203(5) with respect to the employee];~~

179 ~~(j)~~ (k) an employee of the same business that employs a licensed practitioner under
180 Subsection (2)(~~(h)~~)(i) if:

181 (i) the employee is designated by the practitioner as an individual authorized to access
182 the information on behalf of the practitioner;

183 (ii) the practitioner and the employing business provide written notice to the division of
184 the identity of the designated employee; and

185 (iii) the division:

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

187 (B) provides the employee with a password that is unique to that employee to access
188 the database [~~in order to permit the division to comply with the requirements of Subsection~~

189 ~~58-37f-203(5) with respect to the employee~~];

190 [~~(k)~~] (l) a licensed pharmacist having authority to dispense a controlled substance to
191 the extent the information is provided or sought for the purpose of:

192 (i) dispensing or considering dispensing any controlled substance; or

193 (ii) determining whether a person:

194 (A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or

195 (B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled
196 substance from the pharmacist;

197 [~~(j)~~] (m) in accordance with Subsection (3)(a), a licensed pharmacy technician and
198 pharmacy intern who is an employee of a pharmacy as defined in Section ~~58-17b-102~~, for the
199 purposes described in Subsection (2)[~~(j)~~](k)(i) or (ii), if:

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

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

204 (iii) the division:

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

206 (B) provides the employee with a password that is unique to that employee to access
207 the database [~~in order to permit the division to comply with the requirements of Subsection~~

208 ~~58-37f-203(5) with respect to the employee~~];

209 [~~(m)~~] (n) pursuant to a valid search warrant, federal, state, and local law enforcement
210 officers and state and local prosecutors who are engaged in an investigation related to:

211 (i) one or more controlled substances; and

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

213 ~~[(m)]~~ (o) subject to Subsection ~~[(7)]~~ (8), a probation or parole officer, employed by the
214 Department of Corrections or by a political subdivision, to gain access to database information
215 necessary for the officer's supervision of a specific probationer or parolee who is under the
216 officer's direct supervision;

217 ~~[(o)]~~ (p) employees of the Office of Internal Audit and Program Integrity within the
218 Department of Health who are engaged in their specified duty of ensuring Medicaid program
219 integrity under Section 26-18-2.3;

220 ~~[(p)]~~ (q) a mental health therapist, if:

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

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

223 (B) receiving treatment from, or under the direction of, the mental health therapist as
224 part of the patient's participation in the licensed substance abuse treatment program described
225 in Subsection (2)~~[(p)]~~(q)(i)(A);

226 (ii) the information is sought for the purpose of determining whether the patient is
227 using a controlled substance while the patient is enrolled in the licensed substance abuse
228 treatment program described in Subsection (2)~~[(p)]~~(q)(i)(A); and

229 (iii) the licensed substance abuse treatment program described in Subsection
230 (2)~~[(p)]~~(q)(i)(A) is associated with a practitioner who:

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

233 (B) is available to consult with the mental health therapist regarding the information
234 obtained by the mental health therapist, under this Subsection (2)~~[(p)]~~(q), from the database;

235 ~~[(q)]~~ (r) an individual who is the recipient of a controlled substance prescription
236 entered into the database, upon providing evidence satisfactory to the division that the
237 individual requesting the information is in fact the individual about whom the data entry was
238 made;

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

243 ~~[(s)]~~ (t) the inspector general, or a designee of the inspector general, of the Office of
 244 Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in
 245 Title 63A, Chapter 13, Part 2, Office and Powers;

246 ~~[(t)]~~ (u) the following licensed physicians for the purpose of reviewing and offering an
 247 opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter
 248 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

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

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

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

253 ~~[(t)]~~ (v) members of Utah's Opioid Fatality Review Committee, for the purpose of
 254 reviewing a specific fatality due to opioid use and recommending policies to reduce the
 255 frequency of opioid use fatalities.

256 (3) (a) (i) A practitioner described in Subsection (2)~~[(t)]~~(i) may designate one or more
 257 employees to access information from the database under Subsection (2)~~[(t)]~~(j), (2)~~[(t)]~~(k), ~~[(or)]~~
 258 (4)(c), or (5)(c).

259 (ii) A pharmacist described in Subsection (2)~~[(t)]~~(l) who is a pharmacist-in-charge
 260 may designate up to five employees to access information from the database under Subsection
 261 (2)~~[(t)]~~(m).

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

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

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

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

271 (c) The division shall grant an employee designated under Subsection (2)~~[(t)]~~(j),
 272 (2)~~[(t)]~~(k), ~~[(or)]~~ (4)(c), or (5)(c) access to the database, unless the division determines, based on
 273 a background check, that the employee poses a security risk to the information contained in the

274 database.

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

278 (i) is employed in the emergency department;

279 (ii) is treating an emergency department patient for an emergency medical condition;

280 and

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

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

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

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

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

294 (iii) the division:

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

296 (B) provides the employee with a password that is unique to that employee to access
297 the database ~~[in order to permit the division to comply with the requirements of Subsection~~
298 58-37f-203(5) with respect to the employee].

299 (d) The division may impose a fee, in accordance with Section 63J-1-504, on a
300 practitioner or a hospital who designates an employee under Subsection (2)~~[(j)]~~(j), (2)~~[(k)]~~(k),
301 or (4)(c) to pay for the costs incurred by the division to conduct the background check and
302 make the determination described in Subsection (3)(b).

303 (5) (a) An individual who is employed by an opioid treatment program, as defined in
304 Section 62A-15-102, may access the database under this Subsection (5) on behalf of a licensed

305 practitioner if the individual is designated under Subsection (5)(c) and the licensed practitioner:

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

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

308 (iii) requests that an individual employed in the opioid treatment program and

309 designated under Subsection (5)(c) obtain information regarding the patient from the database

310 as needed in the course of treatment.

311 (b) The opioid treatment program employee obtaining information from the database

312 shall, when gaining access to the database, provide to the database the name and any additional

313 identifiers regarding the requesting practitioner as required by division administrative rule

314 established under Subsection (3)(b).

315 (c) An individual employed in the opioid treatment program under this Subsection (5)

316 may obtain information from the database as provided in Subsection (5)(a) if:

317 (i) the employee is designated by the director or the practitioner of the opioid treatment

318 program as an individual authorized to access the information on behalf of the practitioner;

319 (ii) the director or the practitioner provides written notice to the division of the identity

320 of the designated employee; and

321 (iii) the division:

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

323 (B) provides the employee with a password that is unique to that employee to access

324 the database.

325 (d) The division may impose a fee, in accordance with Section [63J-1-504](#), on an opioid

326 treatment program that designates an employee under Subsection (5)(c) to pay for the costs

327 incurred by the division to conduct the background check and make the determination

328 described in Subsection (3)(b).

329 ~~[(5)]~~ (6) (a) (i) An individual may request that the division provide the information

330 under Subsection ~~[(5)]~~ (6)(b) to a third party who is designated by the individual each time a

331 controlled substance prescription for the individual is dispensed.

332 (ii) The division shall upon receipt of the request under this Subsection ~~[(5)]~~ (6)(a)

333 advise the individual in writing that the individual may direct the division to discontinue

334 providing the information to a third party and that notice of the individual's direction to

335 discontinue will be provided to the third party.

336 (b) The information the division shall provide under Subsection ~~[(5)]~~ (6)(a) is:
337 (i) the fact a controlled substance has been dispensed to the individual, but without
338 identifying the controlled substance; and
339 (ii) the date the controlled substance was dispensed.
340 (c) (i) An individual who has made a request under Subsection ~~[(5)]~~ (6)(a) may direct
341 that the division discontinue providing information to the third party.

342 (ii) The division shall:
343 (A) notify the third party that the individual has directed the division to no longer
344 provide information to the third party; and
345 (B) discontinue providing information to the third party.

346 ~~[(6)]~~ (7) (a) An individual who is granted access to the database based on the fact that
347 the individual is a licensed practitioner or a mental health therapist shall be denied access to the
348 database when the individual is no longer licensed.

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

352 ~~[(7)]~~ (8) A probation or parole officer is not required to obtain a search warrant to
353 access the database in accordance with Subsection (2)~~[(n)]~~(o).

354 ~~[(8)]~~ (9) The division shall review and adjust the database programming which
355 automatically logs off an individual who is granted access to the database under ~~[Subsections~~
356 ~~(2)(h), (2)(i), (2)(j), and (4)(c)]~~ Subsection (2)(i), (2)(j), (2)(k), (4)(c), or (5)(c), to maximize
357 the following objectives:

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

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

364 **58-37f-303. Access to opioid prescription information via an electronic data**
365 **system.**

366 (1) As used in this section:

- 367 (a) "Dispense" means the same as that term is defined in Section 58-17b-102.
- 368 (b) (i) "EDS user" means:
- 369 [~~(i) means:~~]
- 370 (A) a prescriber;
- 371 (B) a pharmacist; or
- 372 (C) an individual granted access to the database under Subsection 58-37f-301(3)(c);
- 373 and
- 374 (ii) "EDS user" does not [~~mean~~] include an individual whose access to the database has
- 375 been revoked by the division pursuant to Subsection 58-37f-301[~~(5)~~](6)(b).
- 376 (c) "Electronic data system" means a software product or an electronic service used by:
- 377 (i) a prescriber to manage electronic health records; or
- 378 (ii) a pharmacist to manage the dispensing of prescription drugs.
- 379 (d) "Opioid" means any substance listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).
- 380 (e) "Pharmacist" means the same as that term is defined in Section 58-17b-102.
- 381 (f) "Prescriber" means a practitioner, as that term is defined in Section 58-37-2, who is
- 382 licensed under Section 58-37-6 to prescribe an opioid.
- 383 (g) "Prescription drug" means the same as that term is defined in Section 58-17b-102.
- 384 (2) Subject to Subsections (3) through (6), no later than January 1, 2017, the division
- 385 shall make opioid prescription information in the database available to an EDS user via the
- 386 user's electronic data system.
- 387 (3) An electronic data system may be used to make opioid prescription information in
- 388 the database available to an EDS user only if the electronic data system complies with rules
- 389 established by the division under Subsection (4).
- 390 (4) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
- 391 Administrative Rulemaking Act, specifying:
- 392 (i) an electronic data system's:
- 393 (A) allowable access to and use of opioid prescription information in the database; and
- 394 (B) minimum actions that must be taken to ensure that opioid prescription information
- 395 accessed from the database is protected from inappropriate disclosure or use; and
- 396 (ii) an EDS user's:
- 397 (A) allowable access to opioid prescription information in the database via an

398 electronic data system; and

399 (B) allowable use of the information.

400 (b) The rules shall establish:

401 (i) minimum user identification requirements that in substance are the same as the

402 database identification requirements in Section 58-37f-301;

403 (ii) user access restrictions that in substance are the same as the database identification

404 requirements in Section 58-37f-301; and

405 (iii) any other requirements necessary to ensure that in substance the provisions of

406 Sections 58-37f-301 and 58-37f-302 apply to opioid prescription information in the database

407 that has been made available to an EDS user via an electronic data system.

408 (5) The division may not make opioid prescription information in the database

409 available to an EDS user via the user's electronic data system if:

410 (a) the electronic data system does not comply with the rules established by the

411 division under Subsection (4); or

412 (b) the EDS user does not comply with the rules established by the division under

413 Subsection (4).

414 (6) (a) The division shall periodically audit the use of opioid prescription information

415 made available to an EDS user via the user's electronic data system.

416 (b) The audit shall review compliance by:

417 (i) the electronic data system with rules established by the division under Subsection

418 (4); and

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

420 (c) (i) If the division determines by audit or other means that an electronic data system

421 is not in compliance with rules established by the division under Subsection (4), the division

422 shall immediately suspend or revoke the electronic data system's access to opioid prescription

423 information in the database.

424 (ii) If the division determines by audit or other means that an EDS user is not in

425 compliance with rules established by the division under Subsection (4), the division shall

426 immediately suspend or revoke the EDS user's access to opioid prescription information in the

427 database via an electronic data system.

428 (iii) If the division suspends or revokes access to opioid prescription information in the

429 database under Subsection (6)(c)(i) or (6)(c)(ii), the division shall also take any other
430 appropriate corrective or disciplinary action authorized by this chapter or title.

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

432 **58-37f-304. Database utilization.**

433 (1) As used in this section:

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

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

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

442 ~~[(d)]~~ (c) "Schedule II opioid" means ~~[those substances]~~ a substance listed in Subsection
443 [58-37-4\(2\)\(b\)\(i\)](#) or (2)(b)(ii).

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

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

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

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

453 (i) the database; or

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

455 (c) A prescriber may assign the access and review required under Subsection (2)(a) to
456 one or more employees in accordance with Subsections [58-37f-301\(2\)\[\(i\)\]\(j\)](#) and [58-37f-301\(2\)\[\(j\)\]\(k\)](#).

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

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

460 division; and

461 (B) displays the information from the database in a prominent manner for the
462 prescriber.

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

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

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

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

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

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

472 (i) December 31, 2018; or

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

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

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

481 (i) the database; or

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

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

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

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

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

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

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

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

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

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

498 (i) December 31, 2019; or

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

502 [~~3~~] (4) The division shall, in collaboration with the licensing boards for prescribers
503 and dispensers:

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

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

511 [~~4~~] (5) If the dispenser's access and review of the database suggest that the individual
512 seeking an opioid may be obtaining opioids in quantities or frequencies inconsistent with
513 generally recognized standards as provided in this section and Section 58-37f-201, the
514 dispenser shall reasonably attempt to contact the prescriber to obtain the prescriber's informed,
515 current, and professional decision regarding whether the prescribed opioid is medically
516 justified, notwithstanding the results of the database search.

517 [~~5~~] (6) (a) The division shall review the database to identify any prescriber who has a
518 pattern of prescribing opioids not in accordance with the recommendations of:

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

521 (ii) the Utah Clinical Guidelines on Prescribing Opioids for Treatment of Pain,

522 published by the Department of Health; or

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

526 (b) The division shall offer education to a prescriber identified under this Subsection
527 [~~(5)~~] (6) regarding best practices in the prescribing of opioids.

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

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

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

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

537 **58-37f-601. Unlawful release or use of database information -- Criminal and civil**
538 **penalties.**

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

540 (i) any information in the database or any information obtained from other state or
541 federal prescription monitoring programs by means of the database in violation of the
542 limitations under Part 3, Access and Utilization, is guilty of a third degree felony; or

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

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

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

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

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

555 (i) information from the database;

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

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

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

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

568 (i) information obtained from the database;

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

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

572 (A) an electronic data system; or

573 (B) a person via an electronic data system.

574 (b) Each separate violation of this Subsection (3) is a third degree felony and is also
575 subject to a civil penalty not to exceed \$5,000.

576 (c) The procedure for determining a civil violation of this Subsection (3) is in
577 accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

578 (d) Civil penalties assessed under this Subsection (3) shall be deposited in the General
579 Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

580 (e) This Subsection (3) does not prohibit a person who obtains information from the
581 database under Subsection 58-37f-301(2)(i), ~~(1), (i), (k), or~~ (2)(j), (2)(l), (4)(c), or (5)(c) from:

582 (i) including the information in the person's medical chart or file for access by a person
583 authorized to review the medical chart or file; or

584 (ii) providing the information to a person in accordance with the requirements of the
585 Health Insurance Portability and Accountability Act of 1996.

586 Section 5. Section **62A-15-102** is amended to read:

587 **62A-15-102. Definitions.**

588 As used in this chapter:

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

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

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

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

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

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

598 (5) "Local substance abuse authority" means a county legislative body.

599 (6) "Mental health crisis" means:

600 (a) a mental health condition that manifests in an individual by symptoms of sufficient
601 severity that a prudent layperson who possesses an average knowledge of mental health issues
602 could reasonably expect the absence of immediate attention or intervention to result in:

603 (i) serious danger to the individual's health or well-being; or

604 (ii) a danger to the health or well-being of others; or

605 (b) a mental health condition that, in the opinion of a mental health therapist or the
606 therapist's designee, requires direct professional observation or intervention.

607 (7) "Mental health crisis response training" means community-based training that
608 educates laypersons and professionals on the warning signs of a mental health crisis and how to
609 respond.

610 (8) "Mental health crisis services" means an array of services provided to an individual
611 who experiences a mental health crisis, which may include:

612 (a) direct mental health services;

613 (b) on-site intervention provided by a mobile crisis outreach team;

614 (c) the provision of safety and care plans;

615 (d) prolonged mental health services for up to 90 days after the day on which an
616 individual experiences a mental health crisis;

617 (e) referrals to other community resources;

618 (f) local mental health crisis lines; and

619 (g) the statewide mental health crisis line.

620 (9) "Mental health therapist" means the same as that term is defined in Section
621 [58-60-102](#).

622 (10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and
623 mental health professionals that, in coordination with local law enforcement and emergency
624 medical service personnel, provides mental health crisis services.

625 (11) "Opioid treatment program" means a program or practitioner that is:

626 (a) engaged in opioid treatment of individuals with an opioid agonist treatment
627 medication registered under 21 U.S.C. Sec. 823(g)(1);

628 (b) licensed by the Office of Licensing, within the Department of Human Services,
629 created in Section [62A-2-103](#); and

630 (c) certified by the Substance Abuse and Mental Health Services Administration in
631 accordance with 42 C.F.R. 8.11.

632 [(H)] (12) (a) "Public funds" means federal money received from the Department of
633 Human Services or the Department of Health, and state money appropriated by the Legislature
634 to the Department of Human Services, the Department of Health, a county governing body, or a
635 local substance abuse authority, or a local mental health authority for the purposes of providing
636 substance abuse or mental health programs or services.

637 (b) "Public funds" include federal and state money that has been transferred by a local
638 substance abuse authority or a local mental health authority to a private provider under an
639 annual or otherwise ongoing contract to provide comprehensive substance abuse or mental
640 health programs or services for the local substance abuse authority or local mental health
641 authority. The money maintains the nature of "public funds" while in the possession of the
642 private entity that has an annual or otherwise ongoing contract with a local substance abuse
643 authority or a local mental health authority to provide comprehensive substance abuse or
644 mental health programs or services for the local substance abuse authority or local mental
645 health authority.

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

650 ~~[(12)]~~ (13) "Severe mental disorder" means schizophrenia, major depression, bipolar
651 disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by
652 the division.

653 ~~[(13)]~~ (14) "Statewide mental health crisis line" means the same as that term is defined
654 in Section [63C-18-102](#).

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

656 **62A-15-103. Division -- Creation -- Responsibilities.**

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

660 (2) The division shall:

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

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

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

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

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

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

676 (vii) establish and promote an evidence-based continuum of screening, assessment,

677 prevention, treatment, and recovery support services in the community for individuals with
678 substance use disorder and mental illness that addresses criminal risk factors;

679 (viii) evaluate the effectiveness of programs described in this Subsection (2);
680 (ix) consider the impact of the programs described in this Subsection (2) on:

681 (A) emergency department utilization;
682 (B) jail and prison populations;
683 (C) the homeless population; and
684 (D) the child welfare system; and

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

688 (b) (i) collect and disseminate information pertaining to mental health;
689 (ii) provide direction over the state hospital including approval of its budget,
690 administrative policy, and coordination of services with local service plans;
691 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
692 Rulemaking Act, to educate families concerning mental illness and promote family
693 involvement, when appropriate, and with patient consent, in the treatment program of a family
694 member; and

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

700 (c) (i) consult and coordinate with local substance abuse authorities and local mental
701 health authorities regarding programs and services;
702 (ii) provide consultation and other assistance to public and private agencies and groups
703 working on substance abuse and mental health issues;
704 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
705 medical and social agencies, public health authorities, law enforcement agencies, education and
706 research organizations, and other related groups;
707 (iv) promote or conduct research on substance abuse and mental health issues, and

708 submit to the governor and the Legislature recommendations for changes in policy and
709 legislation;

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

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

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

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

716 (A) local substance abuse authorities;

717 (B) local mental health authorities; and

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

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

725 (x) contract with private and public entities for special statewide or nonclinical
726 services, or services for individuals involved in the criminal justice system, according to
727 division rules;

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

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

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

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

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

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

738 (F) appropriate expenditure of public funds;

739 (xii) review and make recommendations regarding each local substance abuse
740 authority's contract with the local substance abuse authority's provider of substance abuse
741 programs and services and each local mental health authority's contract with the local mental
742 health authority's provider of mental health programs and services to ensure compliance with
743 state and federal law and policy;

744 (xiii) monitor and ensure compliance with division rules and contract requirements;
745 and

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

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

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

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

758 (i) a review and determination regarding whether:

759 (A) public funds allocated to the local substance abuse authority or the local mental
760 health authorities are consistent with services rendered by the authority or the authority's
761 contract provider, and with outcomes reported by the authority's contract provider; and

762 (B) each local substance abuse authority and each local mental health authority is
763 exercising sufficient oversight and control over public funds allocated for substance use
764 disorder and mental health programs and services; and

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

766 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,
767 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

768 (h) (i) train and certify an adult as a peer support specialist, qualified to provide peer
769 supports services to an individual with:

- 770 (A) a substance use disorder;
- 771 (B) a mental health disorder; or
- 772 (C) a substance use disorder and a mental health disorder;
- 773 (ii) certify a person to carry out, as needed, the division's duty to train and certify an
- 774 adult as a peer support specialist;
- 775 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
- 776 Rulemaking Act, that:
- 777 (A) establish training and certification requirements for a peer support specialist;
- 778 (B) specify the types of services a peer support specialist is qualified to provide;
- 779 (C) specify the type of supervision under which a peer support specialist is required to
- 780 operate; and
- 781 (D) specify continuing education and other requirements for maintaining or renewing
- 782 certification as a peer support specialist; and
- 783 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
- 784 Rulemaking Act, that:
- 785 (A) establish the requirements for a person to be certified to carry out, as needed, the
- 786 division's duty to train and certify an adult as a peer support specialist; and
- 787 (B) specify how the division shall provide oversight of a person certified to train and
- 788 certify a peer support specialist;
- 789 (i) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative
- 790 Rulemaking Act, minimum standards and requirements for the provision of substance use
- 791 disorder and mental health treatment to an individual who is required to participate in treatment
- 792 by the court or the Board of Pardons and Parole, or who is incarcerated, including:
- 793 (i) collaboration with the Department of Corrections and the Utah Substance Use and
- 794 Mental Health Advisory Council to develop and coordinate the standards, including standards
- 795 for county and state programs serving individuals convicted of class A and class B
- 796 misdemeanors;
- 797 (ii) determining that the standards ensure available treatment, including the most
- 798 current practices and procedures demonstrated by recognized scientific research to reduce
- 799 recidivism, including focus on the individual's criminal risk factors; and
- 800 (iii) requiring that all public and private treatment programs meet the standards

801 established under this Subsection (2)(i) in order to receive public funds allocated to the
802 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice
803 for the costs of providing screening, assessment, prevention, treatment, and recovery support;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

849 [~~m~~] (q) annually, on or before August 31, submit the data collected under Subsection
850 (2)(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of
851 findings based on the data and provide the report to the Judiciary Interim Committee, the
852 Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice
853 Interim Committee, and the related appropriations subcommittees.

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

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

861 (4) Before reissuing or renewing a contract with any local substance abuse authority or
862 local mental health authority, the division shall review and determine whether the local

863 substance abuse authority or local mental health authority is complying with the oversight and
864 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and
865 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and
866 liability described in Section 17-43-303 and to the responsibility and liability described in
867 Section 17-43-203.

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

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

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

- 879 (a) use of public funds;
- 880 (b) oversight of public funds; and
- 881 (c) governance of substance use disorder and mental health programs and services.

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

884 (9) If a local substance abuse authority contacts the division under Subsection
885 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant
886 minor, the division shall:

- 887 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
888 capacity to provide the treatment services; or
- 889 (b) otherwise ensure that treatment services are made available to the pregnant woman
890 or pregnant minor.