

1 **UTAH PROFESSIONALS HEALTH PROGRAM**

2 2020 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Brad M. Daw**

5 Senate Sponsor: Keith Grover

7 **LONG TITLE**

8 **General Description:**

9 This bill enacts a health program for health care professionals to provide an alternative
10 to public disciplinary action for licensees who have substance use disorders.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ establishes the Utah Professionals Health Program;
- 15 ▶ establishes advisory committees to advise the division;
- 16 ▶ establishes requirements for a program contract;
- 17 ▶ explains the effect that entering into a program contract has on other disciplinary
18 proceedings;
- 19 ▶ sets a procedure to follow if a licensee violates a program contract;
- 20 ▶ enables the Division of Occupational and Professional Licensing to set fines and
21 fees to run the program;
- 22 ▶ establishes a reporting requirement; and
- 23 ▶ makes technical changes.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **58-37f-301**, as last amended by Laws of Utah 2018, Chapter 123

31 ENACTS:

32 **58-4a-101**, Utah Code Annotated 1953

33 **58-4a-102**, Utah Code Annotated 1953

34 **58-4a-103**, Utah Code Annotated 1953

35 **58-4a-104**, Utah Code Annotated 1953

36 **58-4a-105**, Utah Code Annotated 1953

37 **58-4a-106**, Utah Code Annotated 1953

38 **58-4a-107**, Utah Code Annotated 1953

39 **58-4a-108**, Utah Code Annotated 1953

40 **58-4a-109**, Utah Code Annotated 1953

41 **58-4a-110**, Utah Code Annotated 1953

42 **58-4a-111**, Utah Code Annotated 1953

43 REPEALS:

44 **58-1-404**, as last amended by Laws of Utah 2013, Chapter 262



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

47 Section 1. Section **58-4a-101** is enacted to read:

48 **CHAPTER 4a. UTAH PROFESSIONALS HEALTH PROGRAM**

49 **58-4a-101. Title.**

50 This chapter is known as the "Utah Professionals Health Program."

51 Section 2. Section **58-4a-102** is enacted to read:

52 **58-4a-102. Definitions.**

53 As used in this chapter:

54 (1) "Diversion agreement" means a written agreement entered into by a licensee and
55 the division that describes the requirements of the licensee's monitoring regimen and that was
56 entered into before May 12, 2020.

57 (2) "Licensee" means an individual licensed to practice under:

- 58 (a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- 59 (b) Title 58, Chapter 17b, Pharmacy Practice Act;
- 60 (c) Title 58, Chapter 28, Veterinary Practice Act;
- 61 (d) Title 58, Chapter 31b, Nurse Practice Act;
- 62 (e) Title 58, Chapter 67, Utah Medical Practice Act;
- 63 (f) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
- 64 (g) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; or
- 65 (h) Title 58, Chapter 70a, Utah Physician Assistant Act.
- 66 (3) "Program" means the Utah Professionals Health Program.
- 67 (4) "Program contract" means a written agreement entered into by a licensee and the
- 68 division that allows the licensee to participate in the program.

69 (5) "Substance use disorder" means the same as that term is defined in Section
70 [62A-15-1202](#).

71 Section 3. Section **58-4a-103** is enacted to read:

72 **58-4a-103. Program established.**

73 (1) The division, in accordance with Title 63G, Chapter 3, Utah Administrative
74 Rulemaking Act, shall establish the Utah Professionals Health Program to provide an
75 alternative to public disciplinary action for licensees who have substance use disorders.

76 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
77 division shall make rules governing the criteria for:

- 78 (a) entry into and participation of licensees in the program;
- 79 (b) successful completion of the program;
- 80 (c) expulsion from the program; and
- 81 (d) disqualifying a licensee from participation in the program.

82 (3) The division shall promote the program by:

- 83 (a) engaging in wellness education and outreach to licensees, students, and the
84 community in order to make them aware of the existence and purpose of the program;
- 85 (b) partnering with health care organizations, universities, trade associations, and other

86 stakeholder groups to promote professional awareness and wellness; and

87 (c) providing guidance to employers, colleagues, and family members on initiating
88 conversations with licensees about substance use.

89 Section 4. Section **58-4a-104** is enacted to read:

90 **58-4a-104. Committees.**

91 (1) In accordance with Section 58-1-203, the division shall establish an executive
92 advisory committee consisting of nine members as follows:

93 (a) the executive director of the Department of Commerce, or the designee of the
94 executive director of the Department of Commerce, who shall serve as chair;

95 (b) the director of the Division of Substance Abuse and Mental Health or the director's
96 designee; and

97 (c) the following members appointed by the director of the division:

98 (i) one member of the public; and

99 (ii) six licensees.

100 (2) The executive advisory committee shall:

101 (a) advise the division and make recommendations to the division on policy;

102 (b) serve without compensation, travel costs, or per diem for their services; and

103 (c) perform other duties as directed by the division.

104 (3) Members of the executive advisory committee are immune from civil liability for
105 any actions or judgments made in the execution of duties performed in service of the executive
106 committee.

107 (4) In accordance with Section 58-1-203, the director shall establish and appoint
108 members of a clinical advisory committee consisting of community members who have expert
109 knowledge in the diagnosis and treatment of substance use disorders.

110 (5) The clinical advisory committee shall:

111 (a) advise the division and make recommendations to the division on actions regarding
112 specific program contracts;

113 (b) perform duties as assigned by the division; and

114 (c) serve without compensation, travel costs, or per diem for their services.

115 (6) The committees described in Subsections (1) and (4) and the division may seek
116 input from other licensing boards.

117 Section 5. Section **58-4a-105** is enacted to read:

118 **58-4a-105. Program contract.**

119 (1) A licensee may enter into a program contract:

120 (a) any time before the conclusion of a hearing under Section [63G-4-206](#); and

121 (b) if the licensee who enters into the program contract has a substance use disorder.

122 (2) A licensee may enter into a program contract to replace a diversion agreement the
123 licensee previously entered into with the department.

124 (3) A licensee who does not have a substance use disorder may not enter into a
125 program contract with the division.

126 (4) The committees described in Section [58-4a-104](#) may assist the division in
127 evaluating or verifying documentation showing completion of or compliance with a program
128 contract.

129 (5) A decision by the program not to permit a licensee to participate in the program is
130 not subject to appeal, agency review, or judicial review.

131 Section 6. Section **58-4a-106** is enacted to read:

132 **58-4a-106. Effect on other disciplinary proceedings.**

133 (1) Findings of fact stipulated to in a program contract are binding admissions on the
134 licensee in any proceeding to terminate the program contract or any other division disciplinary
135 administrative proceeding.

136 (2) If the program contract is entered into after an adjudicative proceeding has
137 commenced, the adjudicative proceeding shall be stayed pending successful completion of the
138 program contract.

139 (3) Acceptance of a licensee into the program does not preclude the division from
140 investigating or taking disciplinary action against the licensee for other misconduct that:

141 (a) is not included in the program contract; or

142 (b) was committed at any time before or after the licensee entered into the program
143 contract.

144 (4) The period described in Subsection 58-1-401(6) is tolled during any period during
145 which a licensee applies to participate in the program or is operating under a program contract.

146 (5) In any proceedings to determine disciplinary sanctions under Title 58, Chapter 1,
147 Part 4, License Denial, the division may consider:

148 (a) successful completion of the program;

149 (b) failure to complete the program; or

150 (c) the contents of the program contract.

151 (6) A licensee terminated from the program may have disciplinary action taken against
152 the licensee for misconduct committed before, during, or after the licensee's participation in the
153 program.

154 Section 7. Section **58-4a-107** is enacted to read:

155 **58-4a-107. Violation of a program contract -- Adjudicative proceedings --**

156 **Penalties.**

157 (1) The division shall serve an order to show cause on the licensee if the licensee:

158 (a) violates any term or condition of the program contract or diversion agreement;

159 (b) makes an intentional, material misrepresentation of fact in the program contract or
160 diversion agreement; or

161 (c) violates any rule or law governing the licensee's profession.

162 (2) The order to show cause described in Subsection (1) shall:

163 (a) describe the alleged misconduct;

164 (b) set a time and place for a hearing before an administrative law judge to determine
165 whether the licensee's program contract should be terminated; and

166 (c) contain all of the information required by a notice of agency action in Subsection
167 63G-4-201(2).

168 (3) Proceedings to terminate a program contract shall comply with the rules for a
169 formal proceeding described in Title 63G, Chapter 4, Administrative Procedures Act, except

170 the notice of agency action shall be in the form of the order to show cause in Subsection (2).

171 (4) In accordance with Subsection 63G-4-205(1), the division shall make rules for
172 discovery adequate to permit all parties to obtain all relevant information necessary to support
173 their claims or defenses.

174 (5) During a proceeding to terminate a program contract, the licensee, the licensee's
175 legal representative, and the division shall have access to information contained in the
176 division's program file as permitted by law.

177 (6) The director shall terminate the program contract and place the licensee on
178 probation for a period of five years, with probationary terms matching the terms of the program
179 contract, if, during the administrative proceedings described in Subsection (3), the
180 administrative law judge finds that the licensee has:

- 181 (a) violated the program contract;
- 182 (b) made an intentional material misrepresentation of fact in the program contract; or
- 183 (c) violated a law or rule governing the licensee's profession.

184 (7) If, during the proceedings described in Subsection (3), the administrative law judge
185 finds that the licensee has engaged in especially egregious misconduct, the director may revoke
186 the licensee's license.

187 (8) A licensee who is terminated from the program may have disciplinary action taken
188 under Title 58, Chapter 1, Part 4, License Denial, for misconduct committed before, during, or
189 after the licensee's participation in the program.

190 Section 8. Section **58-4a-108** is enacted to read:

191 **58-4a-108. Emergency order.**

192 Nothing in this chapter precludes the division from issuing an emergency order
193 pursuant to Section 63G-4-502 regarding a licensee's participation in the program.

194 Section 9. Section **58-4a-109** is enacted to read:

195 **58-4a-109. Public meetings.**

196 Program meetings and hearings are not subject to Title 52, Chapter 4, Open and Public
197 Meetings Act.

198 Section 10. Section **58-4a-110** is enacted to read:

199 **58-4a-110. Fees -- Fines.**

200 (1) The division, in accordance with Section [63J-1-504](#), shall establish fees in an
201 amount to pay the costs to the division of operating the program.

202 (2) The division may, for a licensee who has entered into a program contract, assess a
203 fine for a violation of a program contract, in accordance with a fine schedule the division
204 establishes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
205 Rulemaking Act.

206 Section 11. Section **58-4a-111** is enacted to read:

207 **58-4a-111. Reporting.**

208 (1) Program contracts shall allow the division to report regularly to the licensee's Utah
209 professional licensing board regarding the licensee's progress in the program to the extent that
210 reporting does not violate HIPAA.

211 (2) The executive advisory committee and the clinical advisory committee described in
212 Section [58-4a-104](#) may assist Utah professional licensing boards and division staff in
213 monitoring the compliance of a licensee who has entered into a program contract.

214 Section 12. Section **58-37f-301** is amended to read:

215 **58-37f-301. Access to database.**

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

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

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

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

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

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

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

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

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

239 (c) a board member if:

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

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

243 [~~(d) a member of a diversion committee established in accordance with Subsection~~
244 ~~58-1-404(2) if:~~]

245 (d) a person the division authorizes to obtain that information on behalf of the Utah
246 Professionals Health Program established in Subsection 58-4a-103(1) if:

247 (i) the [~~diversion committee member~~] person the division authorizes is limited to
248 obtaining information from the database regarding the person whose conduct is the subject of
249 the [~~committee's~~] division's consideration; and

250 (ii) the conduct that is the subject of the [~~committee's~~] division's consideration includes
251 a violation or a potential violation of Chapter 37, Utah Controlled Substances Act, or another
252 relevant violation or potential violation under this title;

253 (e) in accordance with a written agreement entered into with the department,

254 employees of the Department of Health:

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

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

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

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

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

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

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

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

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

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

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

280 (iv) the identity of the prescribers, patients, and pharmacies in the database are
281 de-identified, confidential, not disclosed in any manner to the designee or to any individual

282 who is not directly involved in the scientific studies;

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

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

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

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

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

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

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

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

302 (I) prescribing or considering prescribing any controlled substance to the current or
303 prospective patient;

304 (II) diagnosing the current or prospective patient;

305 (III) providing medical treatment or medical advice to the current or prospective
306 patient; or

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

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

309 or

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

312 (ii) (A) relates specifically to a former patient of the practitioner; and
313 (B) is provided to or sought by the practitioner for the purpose of determining whether
314 the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a
315 controlled substance from the practitioner;

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

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

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

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

327 (i) in accordance with Subsection (3)(a), an employee of a practitioner described in
328 Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:

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

331 (ii) the practitioner provides written notice to the division of the identity of the
332 employee; and

333 (iii) the division:

334 (A) grants the employee access to the database; and
335 (B) provides the employee with a password that is unique to that employee to access
336 the database in order to permit the division to comply with the requirements of Subsection
337 [58-37f-203\(5\)](#) with respect to the employee;

338 (j) an employee of the same business that employs a licensed practitioner under
339 Subsection (2)(h) if:

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

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

344 (iii) the division:

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

346 (B) provides the employee with a password that is unique to that employee to access
347 the database in order to permit the division to comply with the requirements of Subsection
348 [58-37f-203\(5\)](#) with respect to the employee;

349 (k) a licensed pharmacist having authority to dispense a controlled substance to the
350 extent the information is provided or sought for the purpose of:

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

352 (ii) determining whether a person:

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

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

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

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

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

363 (iii) the division:

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

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

366 the database in order to permit the division to comply with the requirements of Subsection
367 [58-37f-203\(5\)](#) with respect to the employee;

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

370 (i) one or more controlled substances; and

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

372 (n) subject to Subsection (7), a probation or parole officer, employed by the
373 Department of Corrections or by a political subdivision, to gain access to database information
374 necessary for the officer's supervision of a specific probationer or parolee who is under the
375 officer's direct supervision;

376 (o) employees of the Office of Internal Audit and Program Integrity within the
377 Department of Health who are engaged in their specified duty of ensuring Medicaid program
378 integrity under Section [26-18-2.3](#);

379 (p) a mental health therapist, if:

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

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

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

385 (ii) the information is sought for the purpose of determining whether the patient is
386 using a controlled substance while the patient is enrolled in the licensed substance abuse
387 treatment program described in Subsection (2)(p)(i)(A); and

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

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

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

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

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

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

404 (t) the following licensed physicians for the purpose of reviewing and offering an
405 opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter
406 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

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

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

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

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

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

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

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

420 (i) establish background check procedures to determine whether an employee
421 designated under Subsection (2)(i), (2)(j), or (4)(c) should be granted access to the database;

422 [~~and~~]

423 (ii) establish the information to be provided by an emergency department employee
424 under Subsection (4); and

425 (iii) facilitate providing controlled substance prescription information to a third party
426 under Subsection (5).

427 (c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), or
428 (4)(c) access to the database, unless the division determines, based on a background check, that
429 the employee poses a security risk to the information contained in the database.

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

433 (i) is employed in the emergency department;

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

435 and

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

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

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

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

447 (ii) the practitioner and the hospital operating the emergency department provide
448 written notice to the division of the identity of the designated employee; and

449 (iii) the division:

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

451 (B) provides the employee with a password that is unique to that employee to access
452 the database in order to permit the division to comply with the requirements of Subsection
453 [58-37f-203\(5\)](#) with respect to the employee.

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

458 (5) (a) (i) An individual may request that the division provide the information under
459 Subsection (5)(b) to a third party who is designated by the individual each time a controlled
460 substance prescription for the individual is dispensed.

461 (ii) The division shall upon receipt of the request under this Subsection (5)(a) advise
462 the individual in writing that the individual may direct the division to discontinue providing the
463 information to a third party and that notice of the individual's direction to discontinue will be
464 provided to the third party.

465 (b) The information the division shall provide under Subsection (5)(a) is:

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

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

469 (c) (i) An individual who has made a request under Subsection (5)(a) may direct that
470 the division discontinue providing information to the third party.

471 (ii) The division shall:

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

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

475 (6) (a) An individual who is granted access to the database based on the fact that the
476 individual is a licensed practitioner or a mental health therapist shall be denied access to the
477 database when the individual is no longer licensed.

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

481 (7) A probation or parole officer is not required to obtain a search warrant to access the
482 database in accordance with Subsection (2)(n).

483 (8) The division shall review and adjust the database programming which
484 automatically logs off an individual who is granted access to the database under Subsections
485 (2)(h), (2)(i), (2)(j), and (4)(c) to maximize the following objectives:

486 (a) to protect patient privacy;

487 (b) to reduce inappropriate access; and

488 (c) to make the database more useful and helpful to a person accessing the database
489 under Subsections (2)(h), (2)(i), (2)(j), and (4)(c), especially in high usage locations such as an
490 emergency department.

491 **Section 13. Repealer.**

492 This bill repeals:

493 Section **58-1-404, Diversion -- Procedure.**