

UTAH PROFESSIONALS HEALTH PROGRAM

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad M. Daw

Senate Sponsor: Keith Grover

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

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;

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

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

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

162 (a) describe the alleged misconduct;

163 (b) set a time and place for a hearing before an administrative law judge to determine

164 whether the licensee's program contract should be terminated; and

165 (c) contain all of the information required by a notice of agency action in Subsection

166 [63G-4-201](#)(2).

167 (3) Proceedings to terminate a program contract shall comply with the rules for a

168 formal proceeding described in Title 63G, Chapter 4, Administrative Procedures Act, except

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

170 (4) In accordance with Subsection [63G-4-205](#)(1), the division shall make rules for

171 discovery adequate to permit all parties to obtain all relevant information necessary to support

172 their claims or defenses.

173 (5) During a proceeding to terminate a program contract, the licensee, the licensee's

174 legal representative, and the division shall have access to information contained in the

175 division's program file as permitted by law.

176 (6) The director shall terminate the program contract and place the licensee on

177 probation for a period of five years, with probationary terms matching the terms of the program

178 contract, if, during the administrative proceedings described in Subsection (3), the

179 administrative law judge finds that the licensee has:

180 (a) violated the program contract;

181 (b) made an intentional material misrepresentation of fact in the program contract; or

182 (c) violated a law or rule governing the licensee's profession.

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

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

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

190 **58-4a-108. Emergency order.**

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

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

194 **58-4a-109. Public meetings.**

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

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

198 **58-4a-110. Fees -- Fines.**

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

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

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

206 **58-4a-111. Reporting.**

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

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

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

214 **58-37f-301. Access to database.**

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

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

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

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

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

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

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

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

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

238 (c) a board member if:

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

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

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

244 (d) a person the division authorizes to obtain that information on behalf of the Utah

245 Professionals Health Program established in Subsection 58-4a-103(1) if:

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

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

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

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

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

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

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

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

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

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

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

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

274 (D) are conducted in a research facility, as defined by division rule, that is associated
275 with a university or college accredited by one or more regional or national accrediting agencies

276 recognized by the United States Department of Education;

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

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

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

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

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

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

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

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

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

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

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

303 (II) diagnosing the current or prospective patient;

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

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

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

308 or

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

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

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

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

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

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

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

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

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

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

332 (iii) the division:

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

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

337 (j) an employee of the same business that employs a licensed practitioner under

338 Subsection (2)(h) if:

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

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

343 (iii) the division:

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

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

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

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

351 (ii) determining whether a person:

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

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

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

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

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

362 (iii) the division:

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

364 (B) provides the employee with a password that is unique to that employee to access
365 the database in order to permit the division to comply with the requirements of Subsection
366 [58-37f-203\(5\)](#) with respect to the employee;

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

- 369 (i) one or more controlled substances; and
- 370 (ii) a specific person who is a subject of the investigation;
- 371 (n) subject to Subsection (7), a probation or parole officer, employed by the
- 372 Department of Corrections or by a political subdivision, to gain access to database information
- 373 necessary for the officer's supervision of a specific probationer or parolee who is under the
- 374 officer's direct supervision;
- 375 (o) employees of the Office of Internal Audit and Program Integrity within the
- 376 Department of Health who are engaged in their specified duty of ensuring Medicaid program
- 377 integrity under Section [26-18-2.3](#);
- 378 (p) a mental health therapist, if:
- 379 (i) the information relates to a patient who is:
- 380 (A) enrolled in a licensed substance abuse treatment program; and
- 381 (B) receiving treatment from, or under the direction of, the mental health therapist as
- 382 part of the patient's participation in the licensed substance abuse treatment program described
- 383 in Subsection (2)(p)(i)(A);
- 384 (ii) the information is sought for the purpose of determining whether the patient is
- 385 using a controlled substance while the patient is enrolled in the licensed substance abuse
- 386 treatment program described in Subsection (2)(p)(i)(A); and
- 387 (iii) the licensed substance abuse treatment program described in Subsection
- 388 (2)(p)(i)(A) is associated with a practitioner who:
- 389 (A) is a physician, a physician assistant, an advance practice registered nurse, or a
- 390 pharmacist; and
- 391 (B) is available to consult with the mental health therapist regarding the information
- 392 obtained by the mental health therapist, under this Subsection (2)(p), from the database;
- 393 (q) an individual who is the recipient of a controlled substance prescription entered into
- 394 the database, upon providing evidence satisfactory to the division that the individual requesting
- 395 the information is in fact the individual about whom the data entry was made;
- 396 (r) an individual under Subsection (2)(q) for the purpose of obtaining a list of the
- 397 persons and entities that have requested or received any information from the database
- 398 regarding the individual, except if the individual's record is subject to a pending or current
- 399 investigation as authorized under this Subsection (2);

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

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

406 (i) a member of the medical panel described in Section 34A-2-601;

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

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

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

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

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

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

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

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

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

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

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

431 the individual is designated under Subsection (4)(c) and the licensed practitioner:

432 (i) is employed in the emergency department;

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

434 and

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

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

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

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

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

448 (iii) the division:

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

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

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

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

460 (ii) The division shall upon receipt of the request under this Subsection (5)(a) advise
461 the individual in writing that the individual may direct the division to discontinue providing the

462 information to a third party and that notice of the individual's direction to discontinue will be
463 provided to the third party.

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

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

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

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

470 (ii) The division shall:

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

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

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

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

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

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

485 (a) to protect patient privacy;

486 (b) to reduce inappropriate access; and

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

490 **Section 13. Repealer.**

491 This bill repeals:

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