

CONTROLLED SUBSTANCE REVISIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Raymond P. Ward

Senate Sponsor: _____

LONG TITLE

General Description:

This bill revises provisions relating to controlled substances.

Highlighted Provisions:

This bill:

- ▶ amends provisions concerning the controlled substance database, including:
 - timing requirements for pharmacist data entry into the database;
 - changes to certain password requirements for the database;
 - access to certain prescription information; and
 - the circumstances under which a prescriber shall check the database for information about a patient;
- ▶ imposes requirements on certain outpatient clinics that administer controlled substances for substance use disorder treatment;
- ▶ amends the Division of Professional Licensing's (division) educational duties regarding best practices for controlled substances;
- ▶ revises requirements for the controlled substance database online tutorial;
- ▶ amends the division's notification requirements to practitioners concerning certain adverse events; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **58-37d-3**, as last amended by Laws of Utah 2019, Chapter 420

33 **58-37f-201**, as last amended by Laws of Utah 2023, Chapters 329, 415

34 **58-37f-203**, as last amended by Laws of Utah 2021, Chapter 340

35 **58-37f-301**, as last amended by Laws of Utah 2023, Chapter 329

36 **58-37f-303**, as last amended by Laws of Utah 2021, Chapter 340

37 **58-37f-304**, as last amended by Laws of Utah 2020, Chapter 147

38 **58-37f-402**, as last amended by Laws of Utah 2018, Chapter 318

39 **58-37f-702**, as last amended by Laws of Utah 2023, Chapter 329

40 **58-37f-703**, as last amended by Laws of Utah 2023, Chapter 415

41 REPEALS:

42 **58-37f-501**, as enacted by Laws of Utah 2010, Chapter 287 and last amended by

43 Coordination Clause, Laws of Utah 2010, Chapter 287



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

46 Section 1. Section **58-37d-3** is amended to read:

47 **58-37d-3. Definitions.**

48 (1) As used in this chapter:

49 (a) (i) "Booby trap" means a concealed or camouflaged device designed to cause bodily
50 injury when triggered by the action of a person making contact with the device.

51 (ii) "Booby trap" includes guns, ammunition, or explosive devices attached to trip
52 wires or other triggering mechanisms, sharpened stakes, nails, spikes, electrical devices, lines
53 or wires with hooks attached, and devices for the production of toxic fumes or gases.

54 (b) "Clandestine laboratory operation" means the:

55 (i) purchase or procurement of chemicals, supplies, equipment, or laboratory location
56 for the illegal manufacture of specified controlled substances;

57 (ii) transportation or arranging for the transportation of chemicals, supplies, or
58 equipment for the illegal manufacture of specified controlled substances;

59 (iii) setting up of equipment or supplies in preparation for the illegal manufacture of
60 specified controlled substances;

61 (iv) activity of compounding, synthesis, concentration, purification, separation,
62 extraction, or other physical or chemical processing of a substance, including a controlled
63 substance precursor, or the packaging, repackaging, labeling, or relabeling of a container
64 holding a substance that is a product of any of these activities, when the substance is to be used
65 for the illegal manufacture of specified controlled substances;

66 (v) illegal manufacture of specified controlled substances; or

67 (vi) distribution or disposal of chemicals, equipment, supplies, or products used in or
68 produced by the illegal manufacture of specified controlled substances.

69 (c) "Controlled substance precursor" means those chemicals designated in Title 58,
70 Chapter 37c, Utah Controlled Substance Precursor Act, except those substances designated in
71 Subsections [58-37c-3\(1\)\(kk\)](#) and (ll).

72 (d) "Counterfeit opioid" means an opioid or container or labeling of an opioid that:

73 (i) (A) without authorization bears the trademark, trade name, or other identifying
74 mark, imprint, number, device, or any likeness of them, of a manufacturer, distributor, or
75 dispenser other than the person or persons who in fact manufactured, distributed, or dispensed
76 the substance which falsely purports to be an opioid distributed by another manufacturer,
77 distributor, or dispenser; and

78 (B) a reasonable person would believe to be an opioid distributed by an authorized
79 manufacturer, distributor, or dispenser based on the appearance of the substance as described
80 under this Subsection (1)(d)(i) or the appearance of the container or labeling of the opioid; or

81 (ii) (A) is falsely represented to be any legally or illegally manufactured opioid; and

82 (B) a reasonable person would believe to be a legal or illegal opioid.

83 (e) "Disposal" means the abandonment, discharge, deposit, injection, dumping,
84 spilling, leaking, or placing of hazardous or dangerous material into or on property, land, or
85 water so that the material may enter the environment, be emitted into the air, or discharged into
86 any waters, including groundwater.

87 (f) "Hazardous or dangerous material" means a substance that because of its quantity,
88 concentration, physical characteristics, or chemical characteristics may cause or significantly
89 contribute to an increase in mortality, an increase in serious illness, or may pose a substantial

90 present or potential future hazard to human health or the environment when improperly treated,
91 stored, transported, disposed of, or otherwise improperly managed.

92 (g) "Illegal manufacture of specified controlled substances" means in violation of Title
93 58, Chapter 37, Utah Controlled Substances Act, the:

94 (i) compounding, synthesis, concentration, purification, separation, extraction, or other
95 physical or chemical processing for the purpose of producing methamphetamine, other
96 amphetamine compounds as listed in Schedule I of the Utah Controlled Substances Act,
97 phencyclidine, narcotic analgesic analogs as listed in Schedule I of the Utah Controlled
98 Substances Act, lysergic acid diethylamide, mescaline, tetrahydrocannabinol, or counterfeit
99 opioid;

100 (ii) conversion of cocaine or methamphetamine to their base forms; or

101 (iii) extraction, concentration, or synthesis of tetrahydrocannabinol.

102 (h) "Opioid" means ~~[the same as that term is defined in Section 58-37f-303]~~ any
103 substance listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).

104 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section
105 58-37-3.6.

106 (2) Unless otherwise specified, the definitions in Section 58-37-2 also apply to this
107 chapter.

108 Section 2. Section 58-37f-201 is amended to read:

109 **58-37f-201. Controlled substance database -- Creation -- Purpose.**

110 (1) There is created within the division a controlled substance database.

111 (2) The division shall administer and direct the functioning of the database in
112 accordance with this chapter.

113 (3) The division may, under state procurement laws, contract with another state agency
114 or a private entity to establish, operate, or maintain the database.

115 (4) The division shall, in collaboration with the board, determine whether to operate
116 the database within the division or contract with another entity to operate the database, based
117 on an analysis of costs and benefits.

118 (5) The purpose of the database is to contain:

119 (a) the data described in Section 58-37f-203 regarding prescriptions for dispensed
120 controlled substances;

121 (b) data reported to the division under Section 26B-2-225 regarding poisoning or
122 overdose;

123 (c) data reported to the division under Subsection 41-6a-502(5) or 41-6a-502.5(5)(b)
124 regarding convictions for driving under the influence of a prescribed controlled substance or
125 impaired driving; ~~and~~

126 (d) data reported to the division under Subsection 58-37-8(1)(e) or 58-37-8(2)(g)
127 regarding certain violations of Chapter 37, Utah Controlled Substances Act[-]; and

128 (e) data described in Section 58-37f-203 regarding prescriptions administered to
129 methadone or other outpatient treatment clinics.

130 (6) The division shall maintain the database in an electronic file or by other means
131 established by the division to facilitate use of the database for identification of:

132 (a) prescribing practices and patterns of prescribing and dispensing controlled
133 substances;

134 (b) practitioners prescribing controlled substances in an unprofessional or unlawful
135 manner;

136 (c) individuals receiving prescriptions for controlled substances from licensed
137 practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet
138 in quantities or with a frequency inconsistent with generally recognized standards of dosage for
139 that controlled substance;

140 (d) individuals presenting forged or otherwise false or altered prescriptions for
141 controlled substances to a pharmacy;

142 (e) individuals admitted to a general acute hospital for poisoning or overdose involving
143 a prescribed controlled substance; and

144 (f) individuals convicted for:

145 (i) driving under the influence of a prescribed controlled substance that renders the
146 individual incapable of safely operating a vehicle;

147 (ii) driving while impaired, in whole or in part, by a prescribed controlled substance; or

148 (iii) certain violations of Chapter 37, Utah Controlled Substances Act.

149 Section 3. Section 58-37f-203 is amended to read:

150 **58-37f-203. Submission, collection, and maintenance of data.**

151 (1) (a) The division shall implement on a statewide basis, including non-resident

152 pharmacies as defined in Section 58-17b-102, the following two options for a pharmacist to
153 submit information:

154 (i) real-time submission of the information required to be submitted under this part to
155 the controlled substance database; and

156 (ii) [~~24-hour daily or next business day, whichever is later,~~] batch submission of the
157 information required to be submitted under this part to the controlled substance database before
158 midnight on the day of the transaction, or by midnight of the following business day if the day
159 of the transaction is not a business day.

160 (b) A pharmacist shall comply with either:

161 (i) the submission time requirements established by the division under Subsection
162 (1)(a)(i); or

163 (ii) the submission time requirements established by the division under Subsection
164 (1)(a)(ii).

165 (c) Notwithstanding the time requirements described in Subsection (1)(a), a pharmacist
166 may submit corrections to data that the pharmacist has submitted to the controlled substance
167 database within seven business days after the day on which the division notifies the pharmacist
168 that data is incomplete or corrections to the data are otherwise necessary.

169 (d) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

170 (2) (a) The pharmacist-in-charge and the pharmacist of the drug outlet where a
171 controlled substance is dispensed shall submit the data described in this section to the division
172 in accordance with:

173 (i) the requirements of this section;

174 (ii) the procedures established by the division;

175 (iii) additional types of information or data fields established by the division; and

176 (iv) the format established by the division.

177 (b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing
178 Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with
179 the provisions of this section and the dispensing medical practitioner shall assume the duties of
180 the pharmacist under this chapter.

181 (3) (a) Except as provided in Subsection (3)(b), the pharmacist-in-charge and the
182 pharmacist described in Subsection (2)(a) shall, for each controlled substance dispensed by a

183 pharmacist under the pharmacist's supervision, submit to the division any type of information
184 or data field established by the division by rule in accordance with Subsection [~~(6)~~] (7)
185 regarding:

186 (i) each controlled substance that is dispensed by the pharmacist or under the
187 pharmacist's supervision; and

188 (ii) each noncontrolled substance that is:

189 (A) designated by the division under Subsection [~~(8)(a)~~] (9)(a); and

190 (B) dispensed by the pharmacist or under the pharmacist's supervision.

191 (b) Subsection (3)(a) does not apply to a drug that is dispensed for administration to, or
192 use by, a patient at a health care facility, including a patient in an outpatient setting at the health
193 care facility.

194 (4) An individual whose records are in the database may obtain those records upon
195 submission of a written request to the division.

196 (5) (a) A patient whose record is in the database may contact the division in writing to
197 request correction of any of the patient's database information that is incorrect.

198 (b) The division shall grant or deny the request within 30 days from receipt of the
199 request and shall advise the requesting patient of [~~its~~] the division's decision within 35 days of
200 receipt of the request.

201 (c) If the division denies a request under this Subsection (5) or does not respond within
202 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days
203 after the patient's written request for a correction under this Subsection (5).

204 (6) An administrator or designee of a methadone or other outpatient clinic that
205 administers controlled substances for substance use disorder treatment shall comply with the
206 requirements under this section.

207 [~~(6)~~] (7) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
208 Administrative Rulemaking Act, to establish submission requirements under this part,
209 including:

210 (a) electronic format;

211 (b) submission procedures; and

212 (c) required information and data fields.

213 [~~(7)~~] (8) The division shall ensure that the database system records and maintains for

214 reference:

215 (a) the identification of each individual who requests or receives information from the
216 database;

217 (b) the information provided to each individual; and

218 (c) the date and time that the information is requested or provided.

219 ~~[(8)]~~ (9) (a) The division, in collaboration with the Utah Controlled Substance
220 Advisory Committee created in Section 58-38a-201, shall designate a list of noncontrolled
221 substances described in Subsection ~~[(8)(b)]~~ (9)(b) by rule made in accordance with Title 63G,
222 Chapter 3, Utah Administrative Rulemaking Act.

223 (b) To determine whether a prescription drug should be designated in the schedules of
224 controlled substances under this chapter, the division may collect information about a
225 prescription drug as defined in Section 58-17b-102 that is not designated in the schedules of
226 controlled substances under this chapter.

227 Section 4. Section 58-37f-301 is amended to read:

228 **58-37f-301. Access to database.**

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

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

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

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

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

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

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

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

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

252 (c) a board member if:

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

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

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

258 (i) the person the division authorizes is limited to obtaining information from the
259 database regarding the person whose conduct is the subject of the division's consideration; and

260 (ii) the conduct that is the subject of the division's consideration includes a violation or
261 a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant
262 violation or potential violation under this title;

263 (e) in accordance with a written agreement entered into with the department,
264 employees of the Department of Health and Human Services:

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

269 (ii) when the information is requested by the Department of Health and Human
270 Services in relation to a person or provider whom the Department of Health and Human
271 Services suspects may be improperly obtaining or providing a controlled substance; or

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

273 (f) in accordance with a written agreement entered into with the department, a designee
274 of the director of the Department of Health and Human Services, who is not an employee of the
275 Department of Health and Human Services, whom the director of the Department of Health and

276 Human Services assigns to conduct scientific studies regarding the use or abuse of controlled
277 substances pursuant to an application process established in rule by the Department of Health
278 and Human Services, if:

279 (i) the designee provides explicit information to the Department of Health and Human
280 Services regarding the purpose of the scientific studies;

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

282 (A) fit within the responsibilities of the Department of Health and Human Services for
283 health and welfare;

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

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

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

290 (iii) the designee protects the information as a business associate of the Department of
291 Health and Human Services; and

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

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

298 (i) the managed care organization contracts with the Department of Health and Human
299 Services under the provisions of Section [26B-3-202](#) and the contract includes provisions that:

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

302 (B) limit the authorized employee of the managed care organization to requesting
303 either the division or the Department of Health and Human Services to conduct a search of the
304 database regarding a specific Medicaid enrollee and to report the results of the search to the
305 authorized employee; and

306 (ii) the information is requested by an authorized employee of the managed care

307 organization in relation to a person who is enrolled in the Medicaid program with the managed
308 care organization, and the managed care organization suspects the person may be improperly
309 obtaining or providing a controlled substance;

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

312 (i) (A) relates specifically to a current or prospective patient of the practitioner; and
313 (B) is provided to or sought by the practitioner for the purpose of:

314 (I) prescribing or considering prescribing any controlled substance to the current or
315 prospective patient;

316 (II) diagnosing the current or prospective patient;

317 (III) providing medical treatment or medical advice to the current or prospective
318 patient; or

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

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

321 or

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

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

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

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

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

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

336 (vi) relates to any use of the practitioner's Drug Enforcement Administration
337 identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a

338 controlled substance;

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

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

343 (ii) the practitioner provides written notice to the division of the identity of the
344 employee; and

345 (iii) the division[:] grants the employee access to the database;

346 [~~(A) grants the employee access to the database; and~~]

347 [~~(B) provides the employee with a password that is unique to that employee to access
348 the database in order to permit the division to comply with the requirements of Subsection
349 58-37f-203(7) with respect to the employee;~~]

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

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

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

356 (iii) the division[:] grants the employee access to the database;

357 [~~(A) grants the employee access to the database; and~~]

358 [~~(B) provides the employee with a password that is unique to that employee to access
359 the database in order to permit the division to comply with the requirements of Subsection
360 58-37f-203(7) with respect to the employee;~~]

361 (k) a licensed pharmacist having authority to dispense a controlled substance, or a
362 licensed pharmacy intern or pharmacy technician working under the general supervision of a
363 licensed pharmacist, to the extent the information is provided or sought for the purpose of:

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

365 (ii) determining whether a person:

366 (A) is attempting to fraudulently obtain a controlled substance from the pharmacy,
367 practitioner, or health care facility; or

368 (B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled

369 substance from the pharmacy, practitioner, or health care facility;

370 (iii) reporting to the controlled substance database; or

371 (iv) verifying the accuracy of the data submitted to the controlled substance database

372 on behalf of a pharmacy where the licensed pharmacist, pharmacy intern, or pharmacy

373 technician is employed;

374 (l) pursuant to a valid search warrant, federal, state, and local law enforcement officers

375 and state and local prosecutors who are engaged in an investigation related to:

376 (i) one or more controlled substances; and

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

378 (m) subject to Subsection (7), a probation or parole officer, employed by the

379 Department of Corrections or by a political subdivision, to gain access to database information

380 necessary for the officer's supervision of a specific probationer or parolee who is under the

381 officer's direct supervision;

382 (n) employees of the Office of Internal Audit within the Department of Health and

383 Human Services who are engaged in their specified duty of ensuring Medicaid program

384 integrity under Section [26B-3-104](#);

385 (o) a mental health therapist, if:

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

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

388 (B) receiving treatment from, or under the direction of, the mental health therapist as

389 part of the patient's participation in the licensed substance abuse treatment program described

390 in Subsection (2)(o)(i)(A);

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

392 using a controlled substance while the patient is enrolled in the licensed substance abuse

393 treatment program described in Subsection (2)(o)(i)(A); and

394 (iii) the licensed substance abuse treatment program described in Subsection

395 (2)(o)(i)(A) is associated with a practitioner who:

396 (A) is a physician, a physician assistant, an advance practice registered nurse, or a

397 pharmacist; and

398 (B) is available to consult with the mental health therapist regarding the information

399 obtained by the mental health therapist, under this Subsection (2)(o), from the database;

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

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

407 (r) the inspector general, or a designee of the inspector general, of the Office of
408 Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in
409 Title 63A, Chapter 13, Part 2, Office and Powers;

410 (s) the following licensed physicians for the purpose of reviewing and offering an
411 opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter
412 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

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

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

416 (iii) a physician offering a second opinion regarding treatment;

417 (t) members of Utah's Opioid Fatality Review Committee, for the purpose of reviewing
418 a specific fatality due to opioid use and recommending policies to reduce the frequency of
419 opioid use fatalities;

420 (u) a licensed pharmacist who is authorized by a managed care organization as defined
421 in Section [31A-1-301](#) to access the information on behalf of the managed care organization, if:

422 (i) the managed care organization believes that an enrollee of the managed care
423 organization has obtained or provided a controlled substance in violation of a medication
424 management program contract between the enrollee and the managed care organization; and

425 (ii) the managed care organization included a description of the medication
426 management program in the enrollee's outline of coverage described in Subsection
427 [31A-22-605\(7\)](#); and

428 (v) the Utah Medicaid Fraud Control Unit of the attorney general's office for the
429 purpose of investigating active cases, in exercising the unit's authority to investigate and
430 prosecute Medicaid fraud, abuse, neglect, or exploitation under 42 U.S.C. Sec. 1396b(q).

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

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

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

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

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

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

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

447 (i) is employed or privileged to work in the emergency department;

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

449 and

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

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

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

459 (i) the employee is designated by the hospital as an individual authorized to access the
460 information on behalf of the emergency department practitioner;

461 (ii) the hospital operating the emergency department provide written notice to the

462 division of the identity of the designated employee; and

463 (iii) the division[;]

464 [~~(A)~~] grants the employee access to the database[; ~~and~~].

465 [~~(B) provides the employee with a password that is unique to that employee to access~~
466 ~~the database.~~]

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

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

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

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

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

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

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

484 (ii) The division shall:

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

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

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

491 (b) An individual who is granted access to the database based on the fact that the
492 individual is a designated employee of a licensed practitioner shall be denied access to the

493 database when the practitioner is no longer licensed.

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

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

499 (a) to protect patient privacy;

500 (b) to reduce inappropriate access; and

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

504 (9) Any person who knowingly and intentionally accesses the database without express
505 authorization under this section is guilty of a class A misdemeanor.

506 Section 5. Section **58-37f-303** is amended to read:

507 **58-37f-303. Access to controlled substance prescription information via an**
508 **electronic data system.**

509 (1) As used in this section:

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

511 (b) "EDS user":

512 (i) means:

513 (A) a prescriber;

514 (B) a pharmacist;

515 (C) a pharmacy intern;

516 (D) a pharmacy technician; or

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

518 and

519 (ii) does not mean an individual whose access to the database has been revoked by the
520 division pursuant to Subsection [58-37f-301\(5\)\(c\)](#).

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

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

523 (ii) a pharmacist, pharmacy intern, or pharmacy technician working under the general

524 supervision of a licensed pharmacist, for the purpose of:

525 (A) managing the dispensing of prescription drugs; or

526 (B) providing pharmaceutical care as defined in Section 58-17b-102 to a patient.

527 [~~(d)~~] "~~Opioid~~" means any substance listed in Subsection ~~58-37-4(2)(b)(i) or (2)(b)(ii)~~;

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

529 [~~(f)~~] (e) "Prescriber" means a practitioner, as that term is defined in Section 58-37-2,

530 who is licensed under Section 58-37-6 to prescribe [~~an opioid~~] a controlled substance.

531 [~~(g)~~] (f) "Prescription drug" means the same as that term is defined in Section

532 58-17b-102.

533 (2) Subject to Subsections (3) through (6), no later than January 1, 2017, the division
534 shall make [~~opioid~~] controlled substance prescription information in the database available to
535 an EDS user via the user's electronic data system.

536 (3) An electronic data system may be used to make [~~opioid~~] controlled substance
537 prescription information in the database available to an EDS user only if the electronic data
538 system complies with rules established by the division under Subsection (4).

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

541 (i) an electronic data system's:

542 (A) allowable access to and use of [~~opioid~~] controlled substance prescription
543 information in the database; and

544 (B) minimum actions that must be taken to ensure that [~~opioid~~] controlled substance
545 prescription information accessed from the database is protected from inappropriate disclosure
546 or use; and

547 (ii) an EDS user's:

548 (A) allowable access to [~~opioid~~] controlled substance prescription information in the
549 database via an electronic data system; and

550 (B) allowable use of the information.

551 (b) The rules shall establish:

552 (i) minimum user identification requirements that in substance are the same as the
553 database identification requirements in Section 58-37f-301;

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

555 requirements in Section [58-37f-301](#); and

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

560 (5) The division may not make [~~opioid~~] controlled substance prescription information
561 in the database available to an EDS user via the user's electronic data system if:

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

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

566 (6) (a) The division shall periodically audit the use of [~~opioid~~] controlled substance
567 prescription information made available to an EDS user via the user's electronic data system.

568 (b) The audit shall review compliance by:

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

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

572 (c) (i) If the division determines by audit or other means that an electronic data system
573 is not in compliance with rules established by the division under Subsection (4), the division
574 shall immediately suspend or revoke the electronic data system's access to [~~opioid~~] controlled
575 substance prescription information in the database.

576 (ii) If the division determines by audit or other means that an EDS user is not in
577 compliance with rules established by the division under Subsection (4), the division shall
578 immediately suspend or revoke the EDS user's access to [~~opioid~~] controlled substance
579 prescription information in the database via an electronic data system.

580 (iii) If the division suspends or revokes access to [~~opioid~~] controlled substance
581 prescription information in the database under Subsection (6)(c)(i) or (6)(c)(ii), the division
582 shall also take any other appropriate corrective or disciplinary action authorized by this chapter
583 or title.

584 Section 6. Section [58-37f-304](#) is amended to read:

585 **[58-37f-304. Database utilization.](#)**

586 (1) As used in this section:

587 (a) "Dispenser" means a licensed pharmacist, as described in Section 58-17b-303, the
588 pharmacist's licensed intern, as described in Section 58-17b-304, or licensed pharmacy
589 technician, as described in Section 58-17b-305, working under the supervision of a licensed
590 pharmacist who is also licensed to dispense a controlled substance under Title 58, Chapter 37,
591 Utah Controlled Substances Act.

592 (b) "Outpatient" means a setting in which an individual visits a licensed healthcare
593 facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a
594 licensed healthcare facility for an overnight stay.

595 (c) "Prescriber" means an individual authorized to prescribe a controlled substance
596 under Title 58, Chapter 37, Utah Controlled Substances Act.

597 (d) "Schedule II [~~opioid~~] controlled substance" means those substances listed in
598 Subsection [~~58-37-4(2)(b)(i) or (2)(b)(ii)~~] 58-37-4(2)(b).

599 (e) "Schedule III [~~opioid~~] controlled substance" means those substances listed in
600 Subsection 58-37-4(2)(c) [~~that are opioids~~].

601 (2) (a) A prescriber shall check the database for information about a patient before the
602 first time the prescriber gives a prescription to a patient for a Schedule II [~~opioid~~] controlled
603 substance or a Schedule III [~~opioid~~] controlled substance.

604 (b) If a prescriber is repeatedly prescribing a Schedule II [~~opioid~~] controlled substance
605 or Schedule III [~~opioid~~] controlled substance to a patient, the prescriber shall periodically
606 review information about the patient in:

607 (i) the database; or

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

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

611 (d) (i) A prescriber may comply with the requirements in Subsections (2)(a) and (b) by
612 checking an electronic health record system if the electronic health record system:

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

615 (B) displays the information from the database in a prominent manner for the
616 prescriber.

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

619 (e) A prescriber is not in violation of the requirements of Subsection (2)(a) or (b) if the
620 failure to comply with Subsection (2)(a) or (b):

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

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

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

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

626 (i) December 31, 2018; or

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

630 (3) The division shall, in collaboration with the licensing boards for prescribers and
631 dispensers:

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

635 (b) reduce or waive the division's continuing education requirements regarding [~~opioid~~]
636 controlled substance prescriptions, described in Section 58-37-6.5, including the online tutorial
637 and test relating to the database, for prescribers and dispensers whose individual utilization of
638 the database, as determined by the division, demonstrates substantial compliance with this
639 section.

640 (4) If the dispenser's access and review of the database suggest that the individual
641 seeking [~~an opioid~~] a controlled substance may be obtaining [~~opioids~~] a controlled substance in
642 quantities or frequencies inconsistent with generally recognized standards as provided in this
643 section and Section 58-37f-201, the dispenser shall reasonably attempt to contact the prescriber
644 to obtain the prescriber's informed, current, and professional decision regarding whether the
645 prescribed [~~opioid~~] controlled substance is medically justified, notwithstanding the results of
646 the database search.

647 (5) (a) The division shall review the database to identify any prescriber who has a

648 pattern of prescribing [~~opioids~~] controlled substances not in accordance with the
649 recommendations of:

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

652 (ii) the Utah Clinical Guidelines on Prescribing Opioids for Treatment of Pain,
653 published by the Department of Health and Human Services; or

654 (iii) other publications describing best practices related to prescribing [~~opioids~~]
655 controlled substances as identified by division rule in accordance with Title 63G, Chapter 3,
656 Utah Administrative Rulemaking Act, and in consultation with the Physicians Licensing Board.

657 (b) The division shall offer [~~education~~] educational materials to a prescriber identified
658 under this Subsection (5) regarding best practices in the prescribing of [~~opioids~~] controlled
659 substances.

660 (c) A decision by a prescriber to accept or not accept the education offered by the
661 division under this Subsection (5) is voluntary.

662 (d) The division may not use an identification the division has made under this
663 Subsection (5) or the decision by a prescriber to accept or not accept education offered by the
664 division under this Subsection (5) in a licensing investigation or action by the division.

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

667 (6) The division may consult with a prescriber or health care system to assist the
668 prescriber or health care system in following evidence-based guidelines regarding the
669 prescribing of controlled substances, including the recommendations listed in Subsection
670 (5)(a).

671 Section 7. Section ~~58-37f-402~~ is amended to read:

672 **58-37f-402. Online tutorial and test relating to the database -- Fees -- Rulemaking**
673 **authority -- Continuing professional education credit.**

674 (1) The division shall develop an online tutorial and an online test for registration to
675 use the database that provides instruction regarding, and tests, the following:

676 (a) the purpose of the database;

677 (b) how to access and use the database; and

678 (c) the law relating to:

- 679 (i) the use of the database; and
680 (ii) the information submitted to, and obtained from, the database~~[-and].~~
681 ~~[(d) basic knowledge that is important for all people who prescribe controlled~~
682 ~~substances to know in order to help ensure the health and safety of an individual to whom a~~
683 ~~controlled substance is prescribed.]~~
- 684 (2) The division shall design the test described in this section as follows:
685 (a) an individual shall answer all of the questions correctly in order to pass the test;
686 (b) an individual shall be permitted to immediately retake the portion of the test that
687 the individual answers incorrectly as many times as necessary for the individual to pass the test;
688 and
689 (c) after an individual takes the test, the test software shall:
690 (i) immediately inform the individual of the number of questions that were answered
691 incorrectly;
692 (ii) provide the correct answers;
693 (iii) replay the portion of the tutorial that relates to the incorrectly answered questions;
694 and
695 (iv) ask the individual the incorrectly answered questions again.
- 696 (3) The division shall design the tutorial and test so that it is possible to take the
697 tutorial and complete the test in 20 minutes or less, if the individual answers all of the
698 questions correctly on the first attempt.
- 699 (4) The division shall ensure that the tutorial and test described in this section are fully
700 functional and available for use online on or before November 1, 2010.
- 701 (5) The division shall impose a fee, in accordance with Section [63J-1-504](#), on an
702 individual who takes the test described in this section, to pay the costs incurred by the division
703 to:
704 (a) develop, implement, and administer the tutorial and test described in this section;
705 and
706 (b) fulfill the other duties imposed on the division under this part.
- 707 (6) The division may make rules, in accordance with Title 63G, Chapter 3, Utah
708 Administrative Rulemaking Act, to:
709 (a) develop, implement, and administer the tutorial and test described in this section;

710 and

711 (b) fulfill the other duties imposed on the division under this part.

712 ~~[(7) The Department of Health shall assist the division in developing the portion of the~~
713 ~~test described in Subsection (1)(d).]~~

714 Section 8. Section **58-37f-702** is amended to read:

715 **58-37f-702. Reporting prescribed controlled substance poisoning or overdose to a**
716 **practitioner.**

717 (1) (a) The division shall take the actions described in Subsection (1)(b) if the division
718 receives a report from a general acute hospital under Section [26B-2-225](#) regarding admission to
719 a general acute hospital for poisoning or overdose involving a prescribed controlled substance.

720 (b) The division shall, within ~~[three]~~ five business days after the day on which a report
721 in Subsection (1)(a) is received:

722 (i) attempt to identify, through the database, each practitioner who may have prescribed
723 the controlled substance to the patient; and

724 (ii) ~~[provide]~~ alert each practitioner identified under Subsection (1)(b)(i) ~~[withr:]~~
725 concerning the information described in this Subsection (1).

726 ~~[(A) a copy of the report provided by the general acute hospital under Section~~
727 ~~[26B-2-225](#), and]~~

728 ~~[(B) the information obtained from the database that led the division to determine that~~
729 ~~the practitioner receiving the information may have prescribed the controlled substance to the~~
730 ~~person named in the report.]~~

731 (2) (a) When the division receives a report from the medical examiner under Section
732 [26B-8-210](#) regarding a death caused by poisoning or overdose involving a prescribed
733 controlled substance, for each practitioner identified by the medical examiner under Subsection
734 [26B-8-210](#)(1)(c), the division:

735 (i) shall, within five business days after the day on which the division receives the
736 report, provide the practitioner with a copy of the report; and

737 (ii) may offer the practitioner an educational visit to review the report.

738 (b) A practitioner may decline an educational visit described in Subsection (2)(a)(ii).

739 (c) The division may not use, in a licensing investigation or action by the division:

740 (i) information from an educational visit described in Subsection (2)(a)(ii); or

741 (ii) a practitioner's decision to decline an educational visit described in Subsection
742 (2)(a)(ii).

743 (3) It is the intent of the Legislature that the information provided under Subsection (1)
744 or (2) is provided for the purpose of assisting the practitioner in:

745 (a) discussing with the patient or others issues relating to the poisoning or overdose;

746 (b) advising the patient or others of measures that may be taken to avoid a future
747 poisoning or overdose; and

748 (c) making decisions regarding future prescriptions written for the patient or others.

749 (4) Any record created by the division as a result of an educational visit described in
750 Subsection (2)(a)(ii) is a protected record for purposes of Title 63G, Chapter 2, Government
751 Records Access and Management Act.

752 (5) Beginning on July 1, 2010, the division shall, in accordance with Section
753 [63J-1-504](#), increase the licensing fee described in Subsection [58-37-6\(1\)\(b\)](#) to pay the startup
754 and ongoing costs of the division for complying with the requirements of this section.

755 Section 9. Section [58-37f-703](#) is amended to read:

756 **[58-37f-703. Entering certain convictions into the database and reporting them to](#)**
757 **[practitioners.](#)**

758 (1) When the division receives a report from a court under Subsection [41-6a-502\(5\)](#) or
759 [41-6a-502.5\(5\)\(b\)](#) relating to a conviction for driving under the influence of, or while impaired
760 by, a prescribed controlled substance, the division shall:

761 (a) [~~daily~~] within five business days enter into the database the information supplied in
762 the report, including the date on which the person was convicted;

763 (b) attempt to identify, through the database, each practitioner who may have
764 prescribed the controlled substance to the convicted person; and

765 (c) [~~provide~~] alert each practitioner identified under Subsection (1)(b) [~~with:~~]
766 concerning the information described in this Subsection (1).

767 [~~(i) a copy of the information provided by the court; and]~~

768 [~~(ii) the information obtained from the database that led the division to determine that~~
769 ~~the practitioner receiving the information may have prescribed the controlled substance to the~~
770 ~~convicted person.]~~

771 (2) It is the intent of the Legislature that the information provided under Subsection

772 (1)(b) is provided for the purpose of assisting the practitioner in:

773 (a) discussing the manner in which the controlled substance may impact the convicted
774 person's driving;

775 (b) advising the convicted person on measures that may be taken to avoid adverse
776 impacts of the controlled substance on future driving; and

777 (c) making decisions regarding future prescriptions written for the convicted person.

778 (3) Beginning on July 1, 2010, the division shall, in accordance with Section
779 63J-1-504, increase the licensing fee described in Subsection 58-37-6(1)(b) to pay the startup
780 and ongoing costs of the division for complying with the requirements of this section.

781 Section 10. **Repealer.**

782 This bill repeals:

783 Section 58-37f-501, **Costs of operating database and recording and submitting**
784 **data.**

785 Section 11. **Effective date.**

786 This bill takes effect on May 1, 2024.