

PHARMACY AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sandra Hollins

Senate Sponsor: _____

LONG TITLE

General Description:

This bill authorizes a pharmacist to dispense HIV post-exposure prophylaxis pursuant to a standing prescription drug order issued by a physician.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ specifies that this bill does not create a duty or standard of care for a person to prescribe or dispense HIV post-exposure prophylaxis;
- ▶ authorizes a pharmacist to dispense HIV post-exposure prophylaxis pursuant to a standing prescription drug order issued by a physician;
- ▶ specifies the conditions under which certain physicians may issue a standing prescription drug order authorizing the dispensing of HIV post-exposure prophylaxis;
- ▶ specifies requirements for dispensing HIV post-exposure prophylaxis;
- ▶ requires rulemaking; and
- ▶ creates an exemption from civil liability.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 ENACTS:

30 **26-67-101**, Utah Code Annotated 1953

31 **26-67-102**, Utah Code Annotated 1953

32 **26-67-103**, Utah Code Annotated 1953

33 **26-67-104**, Utah Code Annotated 1953

34 **26-67-105**, Utah Code Annotated 1953

35 **26-67-106**, Utah Code Annotated 1953

36 **26-67-107**, Utah Code Annotated 1953

37 **26-67-108**, Utah Code Annotated 1953



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

40 Section 1. Section **26-67-101** is enacted to read:

41 **CHAPTER 67. HIV POST-EXPOSURE PROPHYLAXIS ACCESS ACT**

42 **26-67-101. Title.**

43 This chapter is known as "HIV Post-Exposure Prophylaxis Access Act."

44 Section 2. Section **26-67-102** is enacted to read:

45 **26-67-102. Definitions.**

46 As used in this chapter:

47 (1) "CDC guidelines" means "Updated Guidelines for Antiretroviral Postexposure
48 Prophylaxis After Sexual, Injection Drug Use, or Other Nonoccupational Exposure to
49 HIV-United States, 2016," published by the Centers for Disease Control and Prevention.

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

51 (3) "Division" means the Division of Occupational and Professional Licensing created
52 in Section [58-1-103](#).

53 (4) "HIV" means human immunodeficiency virus.

54 (5) "HIV post-exposure prophylaxis" means:

55 (a) tenofovir disoproxil fumarate (300 mg) with emtricitabine (200 mg), taken once
56 daily and used in combination with:

57 (i) raltegravir (400 mg), taken twice daily; or

58 (ii) dolutegravir (50 mg), taken once daily;

59 (b) tenofovir disoproxil fumarate (300 mg) and emtricitabine (200 mg), taken once
60 daily and used in combination with:

61 (i) darunavir (800 mg), taken once daily; and

62 (ii) ritonavir (100 mg), taken once daily; or

63 (c) a drug or drug combination that:

64 (i) complies with CDC guidelines; and

65 (ii) is approved by the division under Section [26-67-107](#).

66 (6) "HIV test" means a test:

67 (a) for exposure to HIV; and

68 (b) classified as waived under 42 U.S.C. Sec. 263a.

69 (7) "Local health department" means:

70 (a) a local health department, as defined in Section [26A-1-102](#); or

71 (b) a multicounty local health department, as defined in Section [26A-1-102](#).

72 (8) "Patient counseling" means the same as that term is defined in Section [58-17b-102](#).

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

74 (10) "Pharmacy intern" means the same as that term is defined in Section [58-17b-102](#).

75 (11) "Physician" means the same as that term is defined in Section [58-67-102](#).

76 (12) "Prescribe" means the same as that term is defined in Section [58-17b-102](#).

77 Section 3. Section **26-67-103** is enacted to read:

78 **26-67-103. Voluntary participation.**

79 This chapter does not create a duty or standard of care for a person to prescribe or
80 dispense HIV post-exposure prophylaxis.

81 Section 4. Section **26-67-104** is enacted to read:

82 **26-67-104. Authorization to dispense HIV post-exposure prophylaxis.**

83 Notwithstanding any other provision of law, an individual licensed to dispense HIV
84 post-exposure prophylaxis under Title 58, Chapter 17b, Pharmacy Practice Act, may dispense
85 HIV post-exposure prophylaxis:

86 (1) to a patient who is 18 years old or older;

87 (2) under a standing prescription drug order made in accordance with Section
88 [26-67-105](#);

89 (3) without any other prescription drug order from an individual licensed to prescribe

90 HIV post-exposure prophylaxis; and

91 (4) in accordance with the dispensing guidelines in Section [26-67-106](#).

92 Section 5. Section **26-67-105** is enacted to read:

93 **26-67-105. Standing prescription drug orders for HIV post-exposure prophylaxis.**

94 A physician who is licensed to prescribe HIV post-exposure prophylaxis, including a
95 physician acting in the physician's capacity as an employee of the department or as the medical
96 director of a local health department, may issue a standing prescription drug order authorizing
97 the dispensing of HIV post-exposure prophylaxis in accordance with a protocol that:

98 (1) requires the physician to specify the individuals, by professional license number,
99 authorized to dispense HIV post-exposure prophylaxis;

100 (2) requires the physician to review at least annually the dispensing practices of each
101 individual authorized by the physician to dispense HIV post-exposure prophylaxis;

102 (3) requires an individual authorized by the physician to dispense HIV post-exposure
103 prophylaxis to make and retain a record of each patient to whom HIV post-exposure
104 prophylaxis is dispensed, including:

105 (a) the name of the patient;

106 (b) the drug dispensed to the patient; and

107 (c) other relevant information regarding the drug or the patient; and

108 (4) is approved by the division under Section [26-67-107](#).

109 Section 6. Section **26-67-106** is enacted to read:

110 **26-67-106. Requirements for dispensing HIV post-exposure prophylaxis.**

111 (1) A pharmacist or a pharmacy intern who is authorized under Section [26-67-104](#) to
112 dispense HIV post-exposure prophylaxis may not dispense HIV post-exposure prophylaxis
113 under Section [26-67-104](#) unless:

114 (a) the patient completes a self-screening risk assessment questionnaire that is
115 approved by the division under Section [26-67-107](#);

116 (b) the results of the questionnaire in Subsection (1)(a) indicate that the patient is not a
117 high-risk patient;

118 (c) (i) the patient submits to an HIV test provided to the patient by the pharmacist or
119 pharmacy intern; or

120 (ii) the patient expresses a willingness to submit to an HIV test at a future date and

- 121 report the results to the patient's health care provider; and
- 122 (d) the pharmacist or pharmacy intern dispenses a 28-day supply to the patient.
- 123 (2) A pharmacist or a pharmacy intern may not dispense HIV post-exposure
- 124 prophylaxis under Section 26-67-104 more than one time to each patient in a 12-month period.
- 125 (3) If a pharmacist or pharmacy intern dispenses HIV post-exposure prophylaxis to a
- 126 patient under Section 26-67-104, the pharmacist or pharmacy intern shall:
- 127 (a) provide patient counseling that is consistent with CDC guidelines, including
- 128 information regarding:
- 129 (i) the appropriate administration and storage of the HIV post-exposure prophylaxis;
- 130 (ii) the potential side effects and risks of the HIV post-exposure prophylaxis, including,
- 131 as appropriate, during pregnancy or breastfeeding;
- 132 (iii) when to seek emergency medical attention;
- 133 (iv) as appropriate, the importance of timely testing and treatment, for HIV and
- 134 sexually transmitted diseases;
- 135 (v) the importance of consulting a physician for follow-up care; and
- 136 (vi) the availability of HIV pre-exposure prophylaxis for individuals who are at
- 137 substantial risk of acquiring HIV;
- 138 (b) provide the patient with:
- 139 (i) written information regarding the importance of the patient visiting the patient's
- 140 primary care practitioner for follow-up care; and
- 141 (ii) a copy of the record of the encounter with the patient that includes:
- 142 (A) the patient's completed self-screening risk assessment questionnaire;
- 143 (B) the results of an HIV test completed under Subsection (1)(c)(i); and
- 144 (C) a description of the HIV post-exposure prophylaxis dispensed; and
- 145 (c) (i) if the patient consents, notify the patient's primary care practitioner that the
- 146 pharmacist has dispensed HIV post-exposure prophylaxis to the patient; and
- 147 (ii) if the patient does not consent or the patient does not have a primary care
- 148 practitioner, provide the patient with a list of health care providers who are able to provide the
- 149 patient with follow-up care for HIV post-exposure prophylaxis.
- 150 (4) A patient may not waive the patient counseling required in Subsection (3)(a).
- 151 (5) If a pharmacist or pharmacy intern refuses to dispense HIV post-exposure

152 prophylaxis to a patient under Section 26-67-104, the pharmacist or pharmacy intern shall
153 explain to the patient the reason for the refusal.

154 Section 7. Section 26-67-107 is enacted to read:

155 **26-67-107. Rulemaking.**

156 The division shall make rules in accordance with Title 63G, Chapter 3, Utah

157 Administrative Rulemaking Act, regarding:

- 158 (1) additional drugs or drug combinations that comply with CDC guidelines;
159 (2) a standing prescription drug order protocol for use under Section 26-67-105; and
160 (3) a self-screening risk assessment questionnaire that includes a question regarding
161 whether the patient:

162 (a) was exposed to HIV within the previous 72 hours; and

163 (b) satisfies the criteria for HIV post-exposure prophylaxis described in CDC
164 guidelines.

165 Section 8. Section 26-67-108 is enacted to read:

166 **26-67-108. Limited civil liability.**

167 A physician who issues a standing prescription drug order in accordance with Section
168 26-67-105 is not liable for any civil damages for acts or omissions resulting from the
169 dispensing of HIV post-exposure prophylaxis under this chapter.