

58-83-302 Qualifications for licensure.

- (1) Each applicant for licensure as an online prescriber under this chapter shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504;
 - (c) be of good moral character;
 - (d) document that the applicant holds a Utah license that is active and in good standing and authorizes the licensee to engage in the assessment, diagnosis, and treatment of human ailments and the prescription of medications;
 - (e) document that any other professional license the applicant possesses from other jurisdictions is in good standing;
 - (f)
 - (i) submit to the division an outline of the applicant's proposed online assessment, diagnosis, and prescribing tool, such as a branching questionnaire; and
 - (ii) demonstrate the proposed online assessment, diagnosis, and prescribing tool to the board and establish to the board's satisfaction that the utilization of that assessment tool to facilitate the prescription of the drugs approved for online prescribing under Section 58-83-305 does not compromise the public's health, safety, or welfare;
 - (g) submit policies and procedures that address patient confidentiality, including measures that will be taken to ensure that the age and other identifying information of the person completing the online branching questionnaire are accurate;
 - (h) describe the mechanism by which the online prescriber and patient will communicate with one another, including electronic and telephonic communication;
 - (i) describe how the online prescriber/patient relationship will be established and maintained;
 - (j) submit the name, address, and contact person of the Internet facilitator with whom the online prescriber has contracted to provide services that the online prescriber will use to engage in online assessment, diagnosis, and prescribing; and
 - (k) submit documentation satisfactory to the board regarding public health, safety, and welfare demonstrating:
 - (i) how the online prescriber will comply with the requirements of Section 58-83-305;
 - (ii) the contractual services arrangement between the online prescriber and:
 - (A) the Internet facilitator; and
 - (B) the online contract pharmacy; and
 - (iii) how the online prescriber will allow and facilitate the division's ability to conduct audits in accordance with Section 58-83-308.
- (2) An online prescriber may not use the services of an Internet facilitator or online contract pharmacy whose license is not active and in good standing.
- (3) Each applicant for licensure as an online contract pharmacy under this chapter shall:
 - (a) be licensed in good standing in Utah as a Class A Retail Pharmacy or a Class B Closed Door Pharmacy;
 - (b) submit a written application in the form prescribed by the division;
 - (c) pay a fee as determined by the department under Section 63J-1-504;
 - (d) submit any contract between the applicant and the Internet facilitator with which the applicant is or will be affiliated;
 - (e) submit proof of liability insurance acceptable to the division that expressly covers all activities the online contract pharmacy will engage in under this chapter, which coverage shall be in a minimum amount of \$1,000,000 per occurrence with a policy limit of not less than \$3,000,000;

- (f) submit a signed affidavit to the division attesting that the online contract pharmacy will not dispense a drug that is prescribed by an online prescriber engaged in the delivery of online pharmaceutical services under the provisions of this chapter unless:
 - (i) the drug is specifically approved by the division under Section 58-83-306; and
 - (ii) both the prescribing and the dispensing of the drug were facilitated by the Internet facilitator with whom the Internet contract pharmacy is associated under Subsection 58-83-302(3)(d);
 - (g) document that any other professional license the applicant possesses from other jurisdictions is active and in good standing; and
 - (h) demonstrate to the division that the applicant has satisfied any background check required by Section 58-17b-307, and each owner, officer, or manager of the applicant online contract pharmacy has not engaged in any act, practice, or omission, which when considered with the duties and responsibilities of a licensee under this chapter indicates there is cause to believe that issuing a license under this chapter is inconsistent with the public's health, safety, or welfare.
- (4) Each applicant for licensure as an Internet facilitator under this chapter shall:
- (a) submit a written application in the form prescribed by the division;
 - (b) pay a fee as determined by the department under Section 63J-1-504;
 - (c) submit any contract between the applicant and the following with which the applicant will be affiliated:
 - (i) each online prescriber; and
 - (ii) the single online contract pharmacy;
 - (d) submit written policies and procedures satisfactory to the division that:
 - (i) address patient privacy, including compliance with 45 C.F.R. Parts 160, 162, and 164, Health Insurance Portability and Accountability Act of 1996;
 - (ii) ensure compliance with all applicable laws by health care personnel and the online prescriber who will process patient communications;
 - (iii) list the hours of operation;
 - (iv) describe the types of services that will be permitted electronically;
 - (v) describe the required patient information to be included in the communication, such as patient name, identification number, and type of transaction;
 - (vi) establish procedures for archiving and retrieving information; and
 - (vii) establish quality oversight mechanisms;
 - (e) submit written documentation of the applicant's security measures to ensure the confidentiality and integrity of any user-identifiable medical information;
 - (f) submit a description of the mechanism for:
 - (i) patients to access, supplement, and amend patient-provided personal health information;
 - (ii) back-up regarding the Internet facilitator electronic interface;
 - (iii) the quality of information and services provided via the interface; and
 - (iv) patients to register complaints regarding the Internet facilitator, the online prescriber, or the online contract pharmacy;
 - (g) submit a copy of the Internet facilitator's website;
 - (h) sign an affidavit attesting that:
 - (i) the applicant will not access any medical records or information contained in the medical record except as necessary to administer the website and the branching questionnaire; and
 - (ii) the applicant and its principals, and any entities affiliated with them, will only use the services of a single online contract pharmacy named on the license approved by the division; and
 - (i) submit any other information required by the division.

Enacted by Chapter 180, 2010 General Session