

1 **PHARMACEUTICAL DISPENSING AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Evan J. Vickers**

5 House Sponsor: Stewart Barlow

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Pharmacy Practice Act to create a dispensing medical practitioner
10 license and a license classification for a dispensing medical practitioner clinic
11 pharmacy.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ establishes the license classification "dispensing medical practitioner" under the
16 Pharmacy Practice Act for medical practitioners who prescribe and dispense a drug;
- 17 ▶ establishes the pharmacy facility license classification "dispensing medical
18 practitioner clinic pharmacy" under the Pharmacy Practice Act;
- 19 ▶ creates Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner
20 Clinic Pharmacy;
- 21 ▶ removes the exemption from the Pharmacy Practice Act for medical practitioners
22 who prescribe and dispense a cosmetic drug, injectable weight loss drug, or a cancer
23 drug treatment regimen;
- 24 ▶ requires the Board of Pharmacy to work in conjunction with the affected
25 practitioner governing boards:
 - 26 • for discipline or hearings related to a dispensing medical practitioner; and
 - 27 • to develop the administrative rules in the Pharmacy Practice Act related to a



- 28 dispensing medical practitioner and a dispensing medical practitioner clinic pharmacy;
- 29 ▶ establishes that practice as a dispensing medical practitioner does not include:
- 30 • the use of a vending-type dispensing device; or
- 31 • the prescription of controlled substances, except as permitted for cancer drug
- 32 treatment regimens;
- 33 ▶ amends the reporting requirements for the controlled substance database;
- 34 ▶ amends unlawful and unprofessional conduct provisions; and
- 35 ▶ makes technical changes.

36 **Money Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 This bill takes effect on July 1, 2014.

40 **Utah Code Sections Affected:**

41 AMENDS:

- 42 **58-17b-102**, as last amended by Laws of Utah 2013, Chapters 52, 166, and 423
- 43 **58-17b-301**, as last amended by Laws of Utah 2013, Chapter 52
- 44 **58-17b-302**, as last amended by Laws of Utah 2013, Chapter 52
- 45 **58-17b-309**, as last amended by Laws of Utah 2013, Chapter 278
- 46 **58-17b-309.6**, as enacted by Laws of Utah 2013, Chapter 52
- 47 **58-17b-612**, as last amended by Laws of Utah 2013, Chapters 52 and 166
- 48 **58-31b-502**, as last amended by Laws of Utah 2012, Chapter 234
- 49 **58-37f-203**, as enacted by Laws of Utah 2010, Chapter 287
- 50 **58-67-502**, as last amended by Laws of Utah 2012, Chapter 234
- 51 **58-68-502**, as last amended by Laws of Utah 2012, Chapter 234
- 52 **58-70a-502**, as last amended by Laws of Utah 2012, Chapter 234
- 53 **58-70a-503**, as last amended by Laws of Utah 2010, Chapter 37
- 54 **58-83-502**, as last amended by Laws of Utah 2012, Chapter 344
- 55 **63I-1-258**, as last amended by Laws of Utah 2013, Chapters 55, 87, 222, 278, and 351

56 ENACTS:

- 57 **58-17b-801**, Utah Code Annotated 1953
- 58 **58-17b-802**, Utah Code Annotated 1953

59 [58-17b-803](#), Utah Code Annotated 1953

60 [58-17b-804](#), Utah Code Annotated 1953

61 [58-17b-805](#), Utah Code Annotated 1953

62 REPEALS:

63 [58-17b-309.5](#), as enacted by Laws of Utah 2012, Chapter 234



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

66 Section 1. Section **58-17b-102** is amended to read:

67 **58-17b-102. Definitions.**

68 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

69 (1) "Administering" means:

70 (a) the direct application of a prescription drug or device, whether by injection,
71 inhalation, ingestion, or by any other means, to the body of a human patient or research subject
72 by another person; or

73 (b) the placement by a veterinarian with the owner or caretaker of an animal or group
74 of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other
75 means directed to the body of the animal by the owner or caretaker in accordance with written
76 or verbal directions of the veterinarian.

77 (2) "Adulterated drug or device" means a drug or device considered adulterated under
78 21 U.S.C.S. Sec. 351 (2003).

79 (3) (a) "Analytical laboratory" means a facility in possession of prescription drugs for
80 the purpose of analysis.

81 (b) "Analytical laboratory" does not include a laboratory possessing prescription drugs
82 used as standards and controls in performing drug monitoring or drug screening analysis if the
83 prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid
84 components, organic solvents, or inorganic buffers at a concentration not exceeding one
85 milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic
86 use.

87 (4) "Animal euthanasia agency" means an agency performing euthanasia on animals by
88 the use of prescription drugs.

89 (5) "Automated pharmacy systems" includes mechanical systems which perform

90 operations or activities, other than compounding or administration, relative to the storage,
91 packaging, dispensing, or distribution of medications, and which collect, control, and maintain
92 all transaction information.

93 (6) "Beyond use date" means the date determined by a pharmacist and placed on a
94 prescription label at the time of dispensing that indicates to the patient or caregiver a time
95 beyond which the contents of the prescription are not recommended to be used.

96 (7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created
97 in Section [58-17b-201](#).

98 (8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically
99 underserved area, used for the storage and dispensing of prescription drugs, which is dependent
100 upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and
101 approved by the division as the parent pharmacy.

102 (9) "Centralized prescription processing" means the processing by a pharmacy of a
103 request from another pharmacy to fill or refill a prescription drug order or to perform
104 processing functions such as dispensing, drug utilization review, claims adjudication, refill
105 authorizations, and therapeutic interventions.

106 (10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a
107 retail pharmacy to compound or dispense a drug or dispense a device to the public under a
108 prescription order.

109 (11) "Class B pharmacy":

110 (a) means a pharmacy located in Utah:

111 (i) that is authorized to provide pharmaceutical care for patients in an institutional
112 setting; and

113 (ii) whose primary purpose is to provide a physical environment for patients to obtain
114 health care services; and

115 (b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

116 (ii) pharmaceutical administration and sterile product preparation facilities.

117 (12) "Class C pharmacy" means a pharmacy located in Utah that is authorized to
118 engage in the manufacture, production, wholesale, or distribution of drugs or devices.

119 (13) "Class D pharmacy" means a nonresident pharmacy.

120 (14) "Class E pharmacy" means all other pharmacies.

121 (15) "Closed-door pharmacy" means a pharmacy that provides pharmaceutical care to a
122 defined and exclusive group of patients who have access to the services of the pharmacy
123 because they are treated by or have an affiliation with a specific entity, including a health
124 maintenance organization or an infusion company, but not including a hospital pharmacy, a
125 retailer of goods to the general public, or the office of a practitioner.

126 (16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or
127 more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or
128 more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical
129 care functions authorized by the practitioner or practitioners under certain specified conditions
130 or limitations.

131 (17) "Collaborative pharmacy practice agreement" means a written and signed
132 agreement between one or more pharmacists and one or more practitioners that provides for
133 collaborative pharmacy practice for the purpose of drug therapy management of patients and
134 prevention of disease of human subjects.

135 (18) (a) "Compounding" means the preparation, mixing, assembling, packaging, or
136 labeling of a limited quantity drug, sterile product, or device:

137 (i) as the result of a practitioner's prescription order or initiative based on the
138 practitioner, patient, or pharmacist relationship in the course of professional practice;

139 (ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and
140 not for sale or dispensing; or

141 (iii) in anticipation of prescription drug orders based on routine, regularly observed
142 prescribing patterns.

143 (b) "Compounding" does not include:

144 (i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to
145 another pharmacist or pharmaceutical facility;

146 (ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a
147 dosage form which is regularly and commonly available from a manufacturer in quantities and
148 strengths prescribed by a practitioner; or

149 (iii) the preparation of a prescription drug, sterile product, or device which has been
150 withdrawn from the market for safety reasons.

151 (19) "Confidential information" has the same meaning as "protected health

152 information" under the Standards for Privacy of Individually Identifiable Health Information,
153 45 C.F.R. Parts 160 and 164.

154 (20) "Controlled substance" has the same definition as in Section 58-37-2.

155 (21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter
156 417, Sec. 3a(ff) which is incorporated by reference.

157 (22) "Dispense" means the interpretation, evaluation, and implementation of a
158 prescription drug order or device or nonprescription drug or device under a lawful order of a
159 practitioner in a suitable container appropriately labeled for subsequent administration to or use
160 by a patient, research subject, or an animal.

161 (23) "Dispensing medical practitioner" means an individual who is:

162 (a) currently licensed as:

163 (i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

164 (ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical
165 Practice Act;

166 (iii) a physician assistant under Chapter 70a, Physician Assistant Act;

167 (iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

168 (v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist
169 is acting within the scope of practice for an optometrist; and

170 (b) licensed by the division under the Pharmacy Practice Act to engage in the practice
171 of a dispensing medical practitioner.

172 (24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy
173 located within a licensed dispensing medical practitioner's place of practice.

174 [~~23~~] (25) "Distribute" means to deliver a drug or device other than by administering
175 or dispensing.

176 [~~24~~] (26) (a) "Drug" means:

177 (i) a substance recognized in the official United States Pharmacopoeia, Official
178 Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any
179 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or
180 prevention of disease in humans or animals;

181 (ii) a substance that is required by any applicable federal or state law or rule to be
182 dispensed by prescription only or is restricted to administration by practitioners only;

183 (iii) a substance other than food intended to affect the structure or any function of the
184 body of humans or other animals; and

185 (iv) substances intended for use as a component of any substance specified in
186 Subsections [~~(24)~~] (26)(a)(i), (ii), (iii), and (iv).

187 (b) "Drug" does not include dietary supplements.

188 [~~(25)~~] (27) "Drug regimen review" includes the following activities:

189 (a) evaluation of the prescription drug order and patient record for:

190 (i) known allergies;

191 (ii) rational therapy-contraindications;

192 (iii) reasonable dose and route of administration; and

193 (iv) reasonable directions for use;

194 (b) evaluation of the prescription drug order and patient record for duplication of
195 therapy;

196 (c) evaluation of the prescription drug order and patient record for the following
197 interactions:

198 (i) drug-drug;

199 (ii) drug-food;

200 (iii) drug-disease; and

201 (iv) adverse drug reactions; and

202 (d) evaluation of the prescription drug order and patient record for proper utilization,
203 including over- or under-utilization, and optimum therapeutic outcomes.

204 [~~(26)~~] (28) "Drug sample" means a prescription drug packaged in small quantities
205 consistent with limited dosage therapy of the particular drug, which is marked "sample", is not
206 intended to be sold, and is intended to be provided to practitioners for the immediate needs of
207 patients for trial purposes or to provide the drug to the patient until a prescription can be filled
208 by the patient.

209 [~~(27)~~] (29) "Electronic signature" means a trusted, verifiable, and secure electronic
210 sound, symbol, or process attached to or logically associated with a record and executed or
211 adopted by a person with the intent to sign the record.

212 [~~(28)~~] (30) "Electronic transmission" means transmission of information in electronic
213 form or the transmission of the exact visual image of a document by way of electronic

214 equipment.

215 ~~[(29)]~~ (31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to
216 inpatients of a general acute hospital or specialty hospital licensed by the Department of Health
217 under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

218 ~~[(30)]~~ (32) "Legend drug" has the same meaning as prescription drug.

219 ~~[(31)]~~ (33) "Licensed pharmacy technician" means an individual licensed with the
220 division, that may, under the supervision of a pharmacist, perform the activities involved in the
221 technician practice of pharmacy.

222 ~~[(32)]~~ (34) "Manufacturer" means a person or business physically located in Utah
223 licensed to be engaged in the manufacturing of drugs or devices.

224 ~~[(33)]~~ (35) (a) "Manufacturing" means:

225 (i) the production, preparation, propagation, conversion, or processing of a drug or
226 device, either directly or indirectly, by extraction from substances of natural origin or
227 independently by means of chemical or biological synthesis, or by a combination of extraction
228 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling
229 or relabeling of its container; and

230 (ii) the promotion and marketing of such drugs or devices.

231 (b) "Manufacturing" includes the preparation and promotion of commercially available
232 products from bulk compounds for resale by pharmacies, practitioners, or other persons.

233 (c) "Manufacturing" does not include the preparation or compounding of a drug by a
234 pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation,
235 compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical
236 analysis.

237 ~~[(34)]~~ (36) "Medical order" means a lawful order of a practitioner which may include a
238 prescription drug order.

239 ~~[(35)]~~ (37) "Medication profile" or "profile" means a record system maintained as to
240 drugs or devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to
241 analyze the profile to provide pharmaceutical care.

242 ~~[(36)]~~ (38) "Misbranded drug or device" means a drug or device considered
243 misbranded under 21 U.S.C.S. Sec. 352 (2003).

244 ~~[(37)]~~ (39) (a) "Nonprescription drug" means a drug which:

245 (i) may be sold without a prescription; and
246 (ii) is labeled for use by the consumer in accordance with federal law.
247 (b) "Nonprescription drug" includes homeopathic remedies.
248 [~~38~~] (40) "Nonresident pharmacy" means a pharmacy located outside of Utah that
249 sells to a person in Utah.
250 [~~39~~] (41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical
251 service.
252 [~~40~~] (42) "Out-of-state mail service pharmacy" means a pharmaceutical facility
253 located outside the state that is licensed and in good standing in another state, that:
254 (a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in
255 this state pursuant to a lawfully issued prescription;
256 (b) provides information to a patient in this state on drugs or devices which may
257 include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses;
258 or
259 (c) counsels pharmacy patients residing in this state concerning adverse and therapeutic
260 effects of drugs.
261 [~~41~~] (43) "Patient counseling" means the written and oral communication by the
262 pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure
263 proper use of drugs, devices, and dietary supplements.
264 [~~42~~] (44) "Pharmaceutical administration facility" means a facility, agency, or
265 institution in which:
266 (a) prescription drugs or devices are held, stored, or are otherwise under the control of
267 the facility or agency for administration to patients of that facility or agency;
268 (b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist
269 or pharmacy intern with whom the facility has established a prescription drug supervising
270 relationship under which the pharmacist or pharmacy intern provides counseling to the facility
271 or agency staff as required, and oversees drug control, accounting, and destruction; and
272 (c) prescription drugs are professionally administered in accordance with the order of a
273 practitioner by an employee or agent of the facility or agency.
274 [~~43~~] (45) (a) "Pharmaceutical care" means carrying out the following in collaboration
275 with a prescribing practitioner, and in accordance with division rule:

276 (i) designing, implementing, and monitoring a therapeutic drug plan intended to
277 achieve favorable outcomes related to a specific patient for the purpose of curing or preventing
278 the patient's disease;

279 (ii) eliminating or reducing a patient's symptoms; or

280 (iii) arresting or slowing a disease process.

281 (b) "Pharmaceutical care" does not include prescribing of drugs without consent of a
282 prescribing practitioner.

283 ~~[(44)]~~ (46) "Pharmaceutical facility" means a business engaged in the dispensing,
284 delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within
285 or into this state.

286 ~~[(45)]~~ (47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical
287 facility engaged in the business of wholesale vending or selling of a prescription drug or device
288 to other than a consumer or user of the prescription drug or device that the pharmaceutical
289 facility has not produced, manufactured, compounded, or dispensed.

290 (b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical
291 facility carrying out the following business activities:

292 (i) intracompany sales;

293 (ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,
294 purchase, or trade a prescription drug or device, if the activity is carried out between one or
295 more of the following entities under common ownership or common administrative control, as
296 defined by division rule:

297 (A) hospitals;

298 (B) pharmacies;

299 (C) chain pharmacy warehouses, as defined by division rule; or

300 (D) other health care entities, as defined by division rule;

301 (iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,
302 purchase, or trade a prescription drug or device, for emergency medical reasons, including
303 supplying another pharmaceutical facility with a limited quantity of a drug, if:

304 (A) the facility is unable to obtain the drug through a normal distribution channel in
305 sufficient time to eliminate the risk of harm to a patient that would result from a delay in
306 obtaining the drug; and

307 (B) the quantity of the drug does not exceed an amount reasonably required for
308 immediate dispensing to eliminate the risk of harm;

309 (iv) the distribution of a prescription drug or device as a sample by representatives of a
310 manufacturer; and

311 (v) the distribution of prescription drugs, if:

312 (A) the dosage units distributed during a calendar year do not exceed five percent of
313 the sum of the dosage units distributed by the facility during the calendar year and the dosage
314 units dispensed by the facility during the calendar year; and

315 (B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

316 [~~(46)~~] (48) "Pharmacist" means an individual licensed by this state to engage in the
317 practice of pharmacy.

318 [~~(47)~~] (49) "Pharmacist-in-charge" means a pharmacist currently licensed in good
319 standing who accepts responsibility for the operation of a pharmacy in conformance with all
320 laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is
321 personally in full and actual charge of the pharmacy and all personnel.

322 [~~(48)~~] (50) "Pharmacist preceptor" means a licensed pharmacist in good standing with
323 one or more years of licensed experience. The preceptor serves as a teacher, example of
324 professional conduct, and supervisor of interns in the professional practice of pharmacy.

325 [~~(49)~~] (51) "Pharmacy" means any place where:

326 (a) drugs are dispensed;

327 (b) pharmaceutical care is provided;

328 (c) drugs are processed or handled for eventual use by a patient; or

329 (d) drugs are used for the purpose of analysis or research.

330 [~~(50)~~] (52) "Pharmacy benefits manager or coordinator" means a person or entity that
331 provides pharmacy benefit management services as defined in Section 49-20-502 on behalf of a
332 self-insured employer, insurance company, health maintenance organization, or other plan
333 sponsor, as defined by rule.

334 [~~(51)~~] (53) "Pharmacy intern" means an individual licensed by this state to engage in
335 practice as a pharmacy intern.

336 [~~(52)~~] (54) "Pharmacy technician training program" means an approved technician
337 training program providing education for pharmacy technicians.

338 (55) (a) "Practice as a dispensing medical practitioner" means the practice of pharmacy,
339 specifically relating to the dispensing of a prescription drug in accordance with Part 8,
340 Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and
341 division rule adopted after consultation with the Board of Pharmacy and the governing boards
342 of the practitioners described in Subsection (23)(a).

343 (b) "Practice as a dispensing medical practitioner" does not include:

344 (i) using a vending-type of dispenser as defined by the division by administrative rule;

345 or

346 (ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as
347 defined in Section 58-37-2.

348 ~~[(53)]~~ (56) (a) "Practice as a licensed pharmacy technician" means engaging in practice
349 as a pharmacy technician under the general supervision of a licensed pharmacist and in
350 accordance with a scope of practice defined by division rule made in collaboration with the
351 board.

352 (b) "Practice as a licensed pharmacy technician" does not include:

353 (i) performing a drug utilization review, prescription drug order clarification from a
354 prescriber, final review of the prescription, dispensing of the drug, or counseling a patient with
355 respect to a prescription drug;

356 (ii) except as permitted by rules made by the division in consultation with the board,
357 final review of a prescribed drug prepared for dispensing;

358 (iii) counseling regarding nonprescription drugs and dietary supplements unless
359 delegated by the supervising pharmacist; or

360 (iv) receiving new prescription drug orders when communicating telephonically or
361 electronically unless the original information is recorded so the pharmacist may review the
362 prescription drug order as transmitted.

363 ~~[(54)]~~ (57) "Practice of pharmacy" includes the following:

364 (a) providing pharmaceutical care;

365 (b) collaborative pharmacy practice in accordance with a collaborative pharmacy
366 practice agreement;

367 (c) compounding, packaging, labeling, dispensing, administering, and the coincident
368 distribution of prescription drugs or devices, provided that the administration of a prescription

369 drug or device is:

370 (i) pursuant to a lawful order of a practitioner when one is required by law; and

371 (ii) in accordance with written guidelines or protocols:

372 (A) established by the licensed facility in which the prescription drug or device is to be
373 administered on an inpatient basis; or

374 (B) approved by the division, in collaboration with the board and the Physicians
375 Licensing Board, created in Section 58-67-201, if the prescription drug or device is to be
376 administered on an outpatient basis solely by a licensed pharmacist;

377 (d) participating in drug utilization review;

378 (e) ensuring proper and safe storage of drugs and devices;

379 (f) maintaining records of drugs and devices in accordance with state and federal law
380 and the standards and ethics of the profession;

381 (g) providing information on drugs or devices, which may include advice relating to
382 therapeutic values, potential hazards, and uses;

383 (h) providing drug product equivalents;

384 (i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy
385 technicians;

386 (j) providing patient counseling, including adverse and therapeutic effects of drugs;

387 (k) providing emergency refills as defined by rule;

388 (l) telepharmacy; and

389 (m) formulary management intervention.

390 [~~55~~] (58) "Practice of telepharmacy" means the practice of pharmacy through the use
391 of telecommunications and information technologies.

392 [~~56~~] (59) "Practice of telepharmacy across state lines" means the practice of
393 pharmacy through the use of telecommunications and information technologies that occurs
394 when the patient is physically located within one jurisdiction and the pharmacist is located in
395 another jurisdiction.

396 [~~57~~] (60) "Practitioner" means an individual currently licensed, registered, or
397 otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the
398 course of professional practice.

399 [~~58~~] (61) "Prescribe" means to issue a prescription:

400 (a) orally or in writing; or
401 (b) by telephone, facsimile transmission, computer, or other electronic means of
402 communication as defined by division rule.

403 [~~(59)~~] (62) "Prescription" means an order issued:

404 (a) by a licensed practitioner in the course of that practitioner's professional practice or
405 by collaborative pharmacy practice agreement; and

406 (b) for a controlled substance or other prescription drug or device for use by a patient
407 or an animal.

408 [~~(60)~~] (63) "Prescription device" means an instrument, apparatus, implement, machine,
409 contrivance, implant, in vitro reagent, or other similar or related article, and any component
410 part or accessory, which is required under federal or state law to be prescribed by a practitioner
411 and dispensed by or through a person or entity licensed under this chapter or exempt from
412 licensure under this chapter.

413 [~~(61)~~] (64) "Prescription drug" means a drug that is required by federal or state law or
414 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

415 [~~(62)~~] (65) "Research using pharmaceuticals" means research:

416 (a) conducted in a research facility, as defined by division rule, that is associated with a
417 university or college in the state accredited by the Northwest Commission on Colleges and
418 Universities;

419 (b) requiring the use of a controlled substance, prescription drug, or prescription
420 device;

421 (c) that uses the controlled substance, prescription drug, or prescription device in
422 accordance with standard research protocols and techniques, including, if required, those
423 approved by an institutional review committee; and

424 (d) that includes any documentation required for the conduct of the research and the
425 handling of the controlled substance, prescription drug, or prescription device.

426 [~~(63)~~] (66) "Retail pharmacy" means a pharmaceutical facility dispensing prescription
427 drugs and devices to the general public.

428 [~~(64)~~] (67) "Self-audit" means an internal evaluation of a pharmacy to determine
429 compliance with this chapter.

430 [~~(65)~~] (68) "Supervising pharmacist" means a pharmacist who is overseeing the

431 operation of the pharmacy during a given day or shift.

432 [(66)] (69) "Supportive personnel" means unlicensed individuals who:

433 (a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed
 434 pharmacy technician in nonjudgmental duties not included in the definition of the practice of
 435 pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as
 436 those duties may be further defined by division rule adopted in collaboration with the board;
 437 and

438 (b) are supervised by a pharmacist in accordance with rules adopted by the division in
 439 collaboration with the board.

440 [(67)] (70) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-17b-501.

441 [(68)] (71) "Unprofessional conduct" is as defined in Sections 58-1-501 and
 442 58-17b-502 and may be further defined by rule.

443 [(69)] (72) "Veterinary pharmaceutical facility" means a pharmaceutical facility that
 444 dispenses drugs intended for use by animals or for sale to veterinarians for the administration
 445 for animals.

446 Section 2. Section 58-17b-301 is amended to read:

447 **58-17b-301. License required -- License classifications for individuals.**

448 (1) A license is required to engage in the practice of pharmacy, telepharmacy, [~~or the~~
 449 ~~practice of a~~] pharmacy technician, or dispensing medical practitioner except as specifically
 450 provided in Section 58-1-307[;] or 58-17b-309[, ~~or 58-17-309.6~~].

451 (2) The division shall issue to an individual who qualifies under this chapter a license
 452 in the classification of:

453 (a) pharmacist;

454 (b) pharmacy intern; [~~or~~]

455 (c) pharmacy technician[-]; or

456 (d) dispensing medical practitioner.

457 Section 3. Section 58-17b-302 is amended to read:

458 **58-17b-302. License required -- License classifications for pharmacy facilities.**

459 (1) A license is required to act as a pharmacy, except as specifically exempted from
 460 licensure under Section 58-1-307 [~~or 58-17-309.6~~].

461 (2) The division shall issue a pharmacy license to a facility that qualifies under this

462 chapter in the classification of a:

- 463 (a) class A pharmacy;
- 464 (b) class B pharmacy;
- 465 (c) class C pharmacy;
- 466 (d) class D pharmacy; [~~or~~]
- 467 (e) class E pharmacy[~~;~~]; or
- 468 (f) dispensing medical practitioner clinic pharmacy.

469 (3) Each place of business shall require a separate license. If multiple pharmacies exist
470 at the same address, a separate license shall be required for each pharmacy.

471 (4) The division may further define or supplement the classifications of pharmacies.
472 The division may impose restrictions upon classifications to protect the public health, safety,
473 and welfare.

474 (5) Each pharmacy shall have a pharmacist-in-charge, except as otherwise provided by
475 rule.

476 (6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy,
477 the pharmacist-in-charge and the owner of the pharmacy shall be responsible for all activities
478 of the pharmacy, regardless of the form of the business organization.

479 Section 4. Section **58-17b-309** is amended to read:

480 **58-17b-309. Exemptions from licensure.**

481 [~~(1) For purposes of this section:~~]

482 [~~(a) "Cosmetic drug":~~]

483 [~~(i) means a prescription drug that is:~~]

484 [~~(A) for the purpose of promoting attractiveness or altering the appearance of an
485 individual; and]~~

486 [~~(B) listed as a cosmetic drug subject to the exemption under this section by the
487 division by administrative rule or has been expressly approved for online dispensing, whether
488 or not it is dispensed online or through a physician's office; and]~~

489 [~~(ii) does not include a prescription drug that is:~~]

490 [~~(A) a controlled substance;~~]

491 [~~(B) compounded by the physician; or]~~

492 [~~(C) prescribed or used for the patient for the purpose of diagnosing, curing, or~~

493 preventing a disease.]

494 ~~[(b) "Injectable weight loss drug":]~~

495 ~~[(i) means an injectable prescription drug:]~~

496 ~~[(A) prescribed to promote weight loss; and]~~

497 ~~[(B) listed as an injectable prescription drug subject to exemption under this section by~~

498 ~~the division by administrative rule; and]~~

499 ~~[(ii) does not include a prescription drug that is a controlled substance:]~~

500 ~~[(c) "Prescribing practitioner" means an individual licensed under:]~~

501 ~~[(i) Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse with~~

502 ~~prescriptive practice;]~~

503 ~~[(ii) Chapter 67, Utah Medical Practice Act;]~~

504 ~~[(iii) Chapter 68, Utah Osteopathic Medical Practice Act; or]~~

505 ~~[(iv) Chapter 70a, Physician Assistant Act.]~~

506 ~~[(2)]~~ (1) In addition to the exemptions from licensure in [Sections] [Section 58-1-307](#)

507 ~~[and [58-17b-309.5](#)]~~, the following individuals may engage in the acts or practices described in

508 this section without being licensed under this chapter:

509 ~~[(a) if the individual is described in Subsections (2)(b), (d), or (e), the individual~~

510 ~~notifies the division in writing of the individual's intent to dispense a drug under this~~

511 ~~subsection;]~~

512 ~~[(b)]~~ (a) a person selling or providing contact lenses in accordance with Section

513 [58-16a-801](#); or

514 ~~[(c)]~~ (b) an individual engaging in the practice of pharmacy technician under the direct

515 personal supervision of a pharmacist while making satisfactory progress in an approved

516 program as defined in division rule[;].

517 ~~[(d) a prescribing practitioner who prescribes and dispenses a cosmetic drug or an~~

518 ~~injectable weight loss drug to the prescribing practitioner's patient in accordance with~~

519 ~~Subsection (4); or]~~

520 ~~[(e) an optometrist, as defined in Section [58-16a-102](#), acting within the optometrist's~~

521 ~~scope of practice as defined in Section [58-16a-601](#), who prescribes and dispenses a cosmetic~~

522 ~~drug to the optometrist's patient in accordance with Subsection (4).]~~

523 ~~[(3)]~~ (2) In accordance with Subsection [58-1-303](#)(1)(a), an individual exempt under

524 Subsection ~~[(2)(c)]~~ (1)(b) must take all examinations as required by division rule following
525 completion of an approved curriculum of education, within the required time frame. This
526 exemption expires immediately upon notification of a failing score of an examination, and the
527 individual may not continue working as a pharmacy technician even under direct supervision.

528 ~~[(4) A prescribing practitioner or optometrist is exempt from licensing under the~~
529 ~~provisions of this part if the prescribing practitioner or optometrist:]~~

530 ~~[(a) (i) writes a prescription for a drug the prescribing practitioner or optometrist has~~
531 ~~the authority to dispense under Subsection (4)(b); and]~~

532 ~~[(ii) informs the patient:]~~

533 ~~[(A) that the prescription may be filled at a pharmacy or dispensed in the prescribing~~
534 ~~practitioner's or optometrist's office;]~~

535 ~~[(B) of the directions for appropriate use of the drug;]~~

536 ~~[(C) of potential side-effects to the use of the drug; and]~~

537 ~~[(D) how to contact the prescribing practitioner or optometrist if the patient has~~
538 ~~questions or concerns regarding the drug;]~~

539 ~~[(b) dispenses a cosmetic drug or injectable weight loss drug only to the prescribing~~
540 ~~practitioner's patients or for an optometrist, dispenses a cosmetic drug only to the optometrist's~~
541 ~~patients;]~~

542 ~~[(c) follows labeling, record keeping, patient counseling, storage, purchasing and~~
543 ~~distribution, operating, treatment, and quality of care requirements established by~~
544 ~~administrative rule adopted by the division in consultation with the boards listed in Subsection~~
545 ~~(5)(a); and]~~

546 ~~[(d) follows USP-NF 797 standards for sterile compounding if the drug dispensed to~~
547 ~~patients is reconstituted or compounded:]~~

548 ~~[(5) (a) The division, in consultation with the board under this chapter and the relevant~~
549 ~~professional board, including the Physician Licensing Board, the Osteopathic Physician~~
550 ~~Licensing Board, the Physician Assistant Licensing Board, the Board of Nursing, the~~
551 ~~Optometrist Licensing Board, or the Online Prescribing, Dispensing, and Facilitation Board,~~
552 ~~shall adopt administrative rules pursuant to Title 63G, Chapter 3, Utah Administrative~~
553 ~~Rulemaking Act to designate:]~~

554 ~~[(i) the prescription drugs that may be dispensed as a cosmetic drug or weight loss drug~~

555 under this section; and]

556 [~~(ii) the requirements under Subsection (4)(c).]~~

557 [~~(b) When making a determination under Subsection (1)(a), the division and boards~~
558 ~~listed in Subsection (5)(a) may consider any federal Food and Drug Administration indications~~
559 ~~or approval associated with a drug when adopting a rule to designate a prescription drug that~~
560 ~~may be dispensed under this section.]~~

561 [~~(c) The division may inspect the office of a prescribing practitioner or optometrist~~
562 ~~who is dispensing under the provisions of this section, in order to determine whether the~~
563 ~~prescribing practitioner or optometrist is in compliance with the provisions of this section. If a~~
564 ~~prescribing practitioner or optometrist chooses to dispense under the provisions of this section,~~
565 ~~the prescribing practitioner or optometrist consents to the jurisdiction of the division to inspect~~
566 ~~the prescribing practitioner's or optometrist's office and determine if the provisions of this~~
567 ~~section are being met by the prescribing practitioner or optometrist.]~~

568 [~~(d) If a prescribing practitioner or optometrist violates a provision of this section, the~~
569 ~~prescribing practitioner or optometrist may be subject to discipline under:]~~

570 [~~(i) this chapter; and]~~

571 [~~(ii) (A) Chapter 16a, Utah Optometry Practice Act;]~~

572 [~~(B) Chapter 31b, Nurse Practice Act;]~~

573 [~~(C) Chapter 67, Utah Medical Practice Act;]~~

574 [~~(D) Chapter 68, Utah Osteopathic Medical Practice Act;]~~

575 [~~(E) Chapter 70a, Physician Assistant Act; or]~~

576 [~~(F) Chapter 83, Online Prescribing, Dispensing, and Facilitation Act.]~~

577 [~~(6) Except as provided in Subsection (2)(c), this section does not restrict or limit the~~
578 ~~scope of practice of an optometrist or optometric physician licensed under Chapter 16a, Utah~~
579 ~~Optometry Practice Act.]~~

580 Section 5. Section **58-17b-309.6** is amended to read:

581 **58-17b-309.6. Exemptions from licensure for research using pharmaceuticals.**

582 Research using pharmaceuticals, as defined in Subsection **58-17b-102**~~[(64)]~~[(65)], is
583 exempt from licensure under Sections **58-17b-301** and **58-17b-302**.

584 Section 6. Section **58-17b-612** is amended to read:

585 **58-17b-612. Supervision -- Pharmacist-in-charge.**

586 (1) (a) Any pharmacy, except a wholesaler, distributor, out-of-state mail service
587 pharmacy, or class E pharmacy, shall be under the general supervision of at least one
588 pharmacist licensed to practice in Utah. One pharmacist licensed in Utah shall be designated
589 as the pharmacist-in-charge, whose responsibility it is to oversee the operation of the pharmacy.

590 (b) Notwithstanding Subsection 58-17b-102[(65)](68), a supervising pharmacist does
591 not have to be in the pharmacy or care facility but shall be available via a telepharmacy system
592 for immediate contact with the supervised pharmacy technician or pharmacy intern if:

593 (i) the pharmacy is located in:

594 (A) a remote rural hospital, as defined in Section 26-21-13.6; or

595 (B) a clinic located in a remote rural county with less than 20 people per square mile;

596 (ii) the supervising pharmacist described in Subsection (1)(a) is not available; and

597 (iii) the telepharmacy system maintains records and files quarterly reports as required
598 by division rule to assure that patient safety is not compromised.

599 (2) Each out-of-state mail service pharmacy shall designate and identify to the division
600 a pharmacist holding a current license in good standing issued by the state in which the
601 pharmacy is located and who serves as the pharmacist-in-charge for all purposes under this
602 chapter.

603 Section 7. Section 58-17b-801 is enacted to read:

604 **Part 8. Dispensing Medical Practitioner and Dispensing Medical**
605 **Practitioner Clinic Pharmacy**

606 **58-17b-801. Title.**

607 This part is known as "Dispensing Medical Practitioner and Dispensing Medical
608 Practitioner Clinic Pharmacy."

609 Section 8. Section 58-17b-802 is enacted to read:

610 **58-17b-802. Qualifications for licensure as a dispensing medical practitioner --**

611 **Scope of practice.**

612 (1) An applicant for a license as a dispensing medical practitioner shall:

613 (a) be licensed in good standing under at least one of the chapters listed in Subsection
614 58-17b-102(23)(a); and

615 (b) submit an application for a license as a dispensing medical practitioner in a form
616 prescribed by the division and pay a fee established by the department.

617 (2) The division shall accept the licensing in good standing under Subsection (1) in lieu
618 of requiring an applicant for a license under this part to comply with Sections [58-17b-303](#) and
619 [58-17b-307](#).

620 (3) A dispensing medical practitioner may prescribe and dispense a legend drug or a
621 cancer drug treatment regimen to the dispensing medical practitioner's patient in accordance
622 with this part.

623 (4) A dispensing medical practitioner:

624 (a) shall:

625 (i) disclose to the practitioner's patient that the drug dispensed by the practitioner may
626 be obtained from a pharmacy unaffiliated with the practitioner; and

627 (ii) report to the controlled substance database in the same manner as required in
628 Section [58-37f-203](#); and

629 (b) may delegate the dispensing of the drug if the individual to whom the dispensing
630 was delegated is:

631 (i) employed by the dispensing medical practitioner or the outpatient clinic setting in
632 which the dispensing medical practitioner works; and

633 (ii) acting under the direction of a dispensing medical practitioner who is immediately
634 available on site for any necessary consultation.

635 Section 9. Section **58-17b-803** is enacted to read:

636 **58-17b-803. Qualifications for licensure as a dispensing medical practitioner clinic**
637 **pharmacy.**

638 (1) An applicant for a license as a dispensing medical practitioner clinic pharmacy shall
639 comply with Section [58-17b-306](#).

640 (2) (a) Notwithstanding Section [58-17b-302](#), a pharmacy licensed under this part is not
641 required to have a pharmacist-in-charge if:

642 (i) the pharmacy has designated a dispensing medical practitioner as responsible for all
643 activities of the pharmacy; and

644 (ii) the pharmacy complies with administrative rules adopted by the division in
645 consultation with the Board of Pharmacy and the governing bodies of the practitioners
646 described in Subsection [58-17b-102\(23\)\(a\)](#).

647 (b) Notwithstanding Subsection [58-17b-306\(1\)\(e\)](#), the division, in consultation with

648 the Board of Pharmacy and the governing boards of the practitioners described in Subsection
649 58-17b-102(23)(a), may modify the operating standards for a dispensing medical practitioner
650 clinic pharmacy.

651 Section 10. Section **58-17b-804** is enacted to read:

652 **58-17b-804. Dispensing medical practitioner -- Cancer drug treatment regimen.**

653 (1) For purposes of this section:

654 (a) "Cancer drug treatment regimen" means a prescription drug used to treat cancer,
655 manage its symptoms, or provide continuity of care for a cancer patient.

656 (b) "Cancer drug treatment regimen" includes:

657 (i) a chemotherapy drug administered intravenously, orally, rectally, or by dermal
658 methods; and

659 (ii) a drug used to support cancer treatment, including a drug to treat, alleviate, or
660 minimize physical and psychological symptoms or pain, or to improve patient tolerance of
661 cancer treatments or prepare a patient for a subsequent course of therapy.

662 (c) "Cancer drug treatment regimen" does not mean a drug listed under federal law as a
663 Schedule I, II, or III drug.

664 (2) An individual may be licensed as a dispensing medical practitioner with a scope of
665 practice that permits the dispensing medical practitioner to prescribe and dispense a cancer
666 drug treatment regimen if the individual:

667 (a) is licensed as described in Subsections 58-17b-102(23)(a)(i) and (ii); and

668 (b) is certified or eligible to be certified by the American Board of Internal Medicine in
669 medical oncology.

670 (3) A dispensing medical practitioner authorized to prescribe and dispense a cancer
671 drug treatment regimen under this section may prescribe and dispense a cancer drug treatment
672 regimen:

673 (a) to the practitioner's patient who is currently undergoing chemotherapy in an
674 outpatient clinic setting; and

675 (b) if the practitioner determines that providing the cancer drug treatment regimen to
676 the patient in the outpatient clinic setting is in the best interest of the patient or provides better
677 access to care for the patient.

678 Section 11. Section **58-17b-805** is enacted to read:

679 **58-17b-805. Dispensing medical practitioner -- Dispensing medical practitioner**
680 **clinic pharmacy -- Unprofessional and Unlawful conduct.**

681 (1) The Board of Pharmacy shall:

682 (a) report a violation of this chapter by a dispensing medical practitioner to the
683 dispensing medical practitioner's appropriate licensing board as designated in Subsection
684 58-17b-102(23)(a); and

685 (b) assist the licensing board for the dispensing medical practitioner with reviewing the
686 violations of the provisions of this chapter.

687 (2) The division, in collaboration with the Board of Pharmacy, may take appropriate
688 action against a dispensing medical practitioner, in accordance with this chapter, if the
689 licensing board designated in Subsection 58-17b-102(23)(a) recommends to the Board of
690 Pharmacy that action be taken under this chapter.

691 (3) The Board of Pharmacy is the primary enforcer under this chapter for a dispensing
692 medical practitioner clinic pharmacy licensed under Section 58-17b-803.

693 Section 12. Section **58-31b-502** is amended to read:

694 **58-31b-502. Unprofessional conduct.**

695 "Unprofessional conduct" includes:

696 (1) failure to safeguard a patient's right to privacy as to the patient's person, condition,
697 diagnosis, personal effects, or any other matter about which the licensee is privileged to know
698 because of the licensee's or person with a certification's position or practice as a nurse or
699 practice as a medication aide certified;

700 (2) failure to provide nursing service or service as a medication aide certified in a
701 manner that demonstrates respect for the patient's human dignity and unique personal character
702 and needs without regard to the patient's race, religion, ethnic background, socioeconomic
703 status, age, sex, or the nature of the patient's health problem;

704 (3) engaging in sexual relations with a patient during any:

705 (a) period when a generally recognized professional relationship exists between the
706 person licensed or certified under this chapter and patient; or

707 (b) extended period when a patient has reasonable cause to believe a professional
708 relationship exists between the person licensed or certified under the provisions of this chapter
709 and the patient;

710 (4) (a) as a result of any circumstance under Subsection (3), exploiting or using
711 information about a patient or exploiting the licensee's or the person with a certification's
712 professional relationship between the licensee or holder of a certification under this chapter and
713 the patient; or

714 (b) exploiting the patient by use of the licensee's or person with a certification's
715 knowledge of the patient obtained while acting as a nurse or a medication aide certified;

716 (5) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

717 (6) unauthorized taking or personal use of nursing supplies from an employer;

718 (7) unauthorized taking or personal use of a patient's personal property;

719 (8) knowingly entering into any medical record any false or misleading information or
720 altering a medical record in any way for the purpose of concealing an act, omission, or record
721 of events, medical condition, or any other circumstance related to the patient and the medical or
722 nursing care provided;

723 (9) unlawful or inappropriate delegation of nursing care;

724 (10) failure to exercise appropriate supervision of persons providing patient care
725 services under supervision of the licensed nurse;

726 (11) employing or aiding and abetting the employment of an unqualified or unlicensed
727 person to practice as a nurse;

728 (12) failure to file or record any medical report as required by law, impeding or
729 obstructing the filing or recording of such a report, or inducing another to fail to file or record
730 such a report;

731 (13) breach of a statutory, common law, regulatory, or ethical requirement of
732 confidentiality with respect to a person who is a patient, unless ordered by a court;

733 (14) failure to pay a penalty imposed by the division;

734 (15) prescribing a schedule II-III controlled substance without a consulting physician or
735 outside of a consultation and referral plan;

736 (16) violating Section [58-31b-801](#); and

737 (17) violating the dispensing requirements of Section [58-17b-309](#) or [[58-17b-309.5](#)]

738 Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner
739 Clinic Pharmacy, if applicable.

740 Section 13. Section **58-37f-203** is amended to read:

741 **58-37f-203. Submission, collection, and maintenance of data.**

742 (1) (a) The pharmacist in charge of the drug outlet where a controlled substance is
743 dispensed shall submit the data described in this section to the division:

744 [~~(a)~~] (i) in accordance with the requirements of this section;

745 [~~(b)~~] (ii) in accordance with the procedures established by the division; and

746 [~~(c)~~] (iii) in the format established by the division.

747 (b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing

748 Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with

749 the provisions of this section and the dispensing medical practitioner shall assume the duties of

750 the pharmacist under this chapter.

751 (2) The pharmacist described in Subsection (1) shall, for each controlled substance
752 dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an
753 inpatient at a health care facility, submit to the division the following information:

754 (a) the name of the prescribing practitioner;

755 (b) the date of the prescription;

756 (c) the date the prescription was filled;

757 (d) the name of the individual for whom the prescription was written;

758 (e) positive identification of the individual receiving the prescription, including the
759 type of identification and any identifying numbers on the identification;

760 (f) the name of the controlled substance;

761 (g) the quantity of the controlled substance prescribed;

762 (h) the strength of the controlled substance;

763 (i) the quantity of the controlled substance dispensed;

764 (j) the dosage quantity and frequency as prescribed;

765 (k) the name of the drug outlet dispensing the controlled substance;

766 (l) the name of the pharmacist dispensing the controlled substance; and

767 (m) other relevant information as required by division rule.

768 (3) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
769 Administrative Rulemaking Act, to establish the electronic format in which the information
770 required under this section shall be submitted to the division.

771 (b) The division shall ensure that the database system records and maintains for

772 reference:

773 (i) the identification of each individual who requests or receives information from the
774 database;

775 (ii) the information provided to each individual; and

776 (iii) the date and time that the information is requested or provided.

777 Section 14. Section **58-67-502** is amended to read:

778 **58-67-502. Unprofessional conduct.**

779 "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

780 (1) using or employing the services of any individual to assist a licensee in any manner
781 not in accordance with the generally recognized practices, standards, or ethics of the
782 profession, state law, or division rule;

783 (2) making a material misrepresentation regarding the qualifications for licensure under
784 Section 58-67-302.7; or

785 (3) violating the dispensing requirements of Section 58-17b-309 or [58-17b-309.5]
786 Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner
787 Clinic Pharmacy, if applicable.

788 Section 15. Section **58-68-502** is amended to read:

789 **58-68-502. Unprofessional conduct.**

790 "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

791 (1) using or employing the services of any individual to assist a licensee in any manner
792 not in accordance with the generally recognized practices, standards, or ethics of the
793 profession, state law, or division rule; or

794 (2) violating the dispensing requirements of Section 58-17b-309 or [58-17b-309.5]
795 Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner
796 Clinic Pharmacy, if applicable.

797 Section 16. Section **58-70a-502** is amended to read:

798 **58-70a-502. Unlawful conduct.**

799 "Unlawful conduct" includes[:(+)] engaging in practice as a licensed physician assistant
800 while not under the supervision of a supervising physician or substitute supervising physician[:
801 or].

802 [~~2~~] violating the drug dispensing requirements of Section 58-17b-309 or

803 ~~58-17b-309.5, if applicable.]~~

804 Section 17. Section **58-70a-503** is amended to read:

805 **58-70a-503. Unprofessional conduct.**

806 "Unprofessional conduct" includes:

807 (1) violation of a patient confidence to any person who does not have a legal right and
808 a professional need to know the information concerning the patient;

809 (2) knowingly prescribing, selling, giving away, or directly or indirectly administering,
810 or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for
811 a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts
812 prescribed or provided;

813 (3) prescribing prescription drugs for himself or administering prescription drugs to
814 himself, except those that have been legally prescribed for him by a licensed practitioner and
815 that are used in accordance with the prescription order for the condition diagnosed;

816 (4) failure to maintain at the practice site a delegation of services agreement that
817 accurately reflects current practices;

818 (5) failure to make the delegation of services agreement available to the division for
819 review upon request; ~~and]~~

820 (6) in a practice that has physician assistant ownership interests, failure to allow the
821 supervising physician the independent final decision making authority on patient treatment
822 decisions, as set forth in the delegation of services agreement or as defined by rule[-]; and

823 (7) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
824 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable.

825 Section 18. Section **58-83-502** is amended to read:

826 **58-83-502. Unprofessional conduct.**

827 "Unprofessional conduct" includes, in addition to the definition in Section ~~58-1-501~~ and
828 as may be further defined by administrative rule:

829 (1) online prescribing, dispensing, or facilitation with respect to a person under the age
830 of 18 years;

831 (2) using the name or official seal of the state, the Utah Department of Commerce, or
832 the Utah Division of Occupational and Professional Licensing, or their boards, in an
833 unauthorized manner;

834 (3) failing to respond promptly to a request by the division for information including:

835 (a) an audit of the website; or

836 (b) records of the online prescriber, the Internet facilitator, or the online contract

837 pharmacy;

838 (4) using an online prescriber, online contract pharmacy, or Internet facilitator without
839 approval of the division;

840 (5) failing to inform a patient of the patient's freedom of choice in selecting who will
841 dispense a prescription in accordance with Subsection 58-83-305(1)(n);

842 (6) failing to keep the division informed of the name and contact information of the
843 Internet facilitator or online contract pharmacy; and

844 (7) violating the dispensing and labeling requirements of [~~Section 58-17b-309~~] Chapter
845 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic

846 Pharmacy.

847 Section 19. Section 63I-1-258 is amended to read:

848 **63I-1-258. Repeal dates, Title 58.**

849 (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
850 repealed July 1, 2016.

851 (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2015.

852 (3) [~~Section 58-17b-309.5 is repealed July 1, 2015.~~ (4)] Title 58, Chapter 20a,
853 Environmental Health Scientist Act, is repealed July 1, 2018.

854 [(5)] (4) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1,
855 2023.

856 [(6)] (5) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing
857 Act, is repealed July 1, 2019.

858 [(7)] (6) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1,
859 2015.

860 [(8)] (7) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is
861 repealed July 1, 2023.

862 [(9)] (8) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2014.

863 [(10)] (9) Section 58-69-302.5 is repealed on July 1, 2015.

864 [(11)] (10) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

865 Section 20. **Repealer.**

866 This bill repeals:

867 Section **58-17b-309.5**, **Exemption for prescribing practitioner of cancer drug**
868 **regimen -- Division study of dispensing practitioners.**

869 Section 21. **Effective date.**

870 This bill takes effect on July 1, 2014.

Legislative Review Note
as of 2-4-14 2:00 PM

Office of Legislative Research and General Counsel