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S.B. 55
2nd Sub. (Salmon)

Representative Stewart Barlow proposes the following substitute bill:

PHARMACEUTICAL DISPENSING AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Stewart Barlow

Cosponsors: Brian E. Shiozawa
Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the Pharmacy Practice Act.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the definition of pharmaceutical wholesaler or distributor in the Pharmacy Practice Act to exclude a facility for which the facility's total distribution-related sales of prescription drugs does not exceed 5% of the facility's total prescription drug sales;
- allows a hospital pharmacy that dispenses a prescription drug in a multidose container to a hospital patient and follows labeling requirements to provide the patient the drug when the patient is discharged;
- establishes the license classification "dispensing medical practitioner" under the Pharmacy Practice Act for medical practitioners who prescribe and dispense a drug;
- establishes the pharmacy facility license classification "dispensing medical

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practitioner clinic pharmacy" under the Pharmacy Practice Act;

- creates Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy;
- removes the exemption from the Pharmacy Practice Act for medical practitioners who prescribe and dispense a cosmetic drug, injectable weight loss drug, or a cancer drug treatment regimen;
- requires a license as a dispensing medical practitioner for a health care practitioner to dispense:
  - a cosmetic drug:
  - a cancer drug treatment regimen; or
  - a prepackaged drug at an employer sponsored clinic;
- requires the Board of Pharmacy to work in conjunction with the affected practitioner governing boards:
  - for discipline or hearings related to a dispensing medical practitioner; and
  - to develop the administrative rules in the Pharmacy Practice Act related to a dispensing medical practitioner and a dispensing medical practitioner clinic pharmacy;
- establishes that practice as a dispensing medical practitioner does not include:
  - the use of a vending-type dispensing device; or
  - the prescription of controlled substances, except as permitted for cancer drug treatment regimens;
- amends the reporting requirements for the controlled substance database;
- amends unlawful and unprofessional conduct provisions; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:

AMENDS:

58-17b-102, as last amended by Laws of Utah 2013, Chapters 52, 166, and 423

58-17b-301, as last amended by Laws of Utah 2013, Chapter 52
58-17b-302, as last amended by Laws of Utah 2013, Chapter 52
58-17b-309, as last amended by Laws of Utah 2013, Chapter 278
58-17b-309.6, as enacted by Laws of Utah 2013, Chapter 52
58-17b-502, as last amended by Laws of Utah 2007, Chapter 279
58-17b-602, as last amended by Laws of Utah 2013, Chapter 79
58-17b-612, as last amended by Laws of Utah 2013, Chapters 52 and 166
58-17b-613, as enacted by Laws of Utah 2004, Chapter 280
58-31b-502, as last amended by Laws of Utah 2012, Chapter 234
58-37f-203, as enacted by Laws of Utah 2010, Chapter 287
58-67-502, as last amended by Laws of Utah 2012, Chapter 234
58-68-502, as last amended by Laws of Utah 2012, Chapter 234
58-70a-502, as last amended by Laws of Utah 2012, Chapter 234
58-70a-503, as last amended by Laws of Utah 2010, Chapter 37
58-83-502, as last amended by Laws of Utah 2012, Chapter 344
63I-1-258, as last amended by Laws of Utah 2013, Chapters 55, 87, 222, 278, and 351

ENACTS:

58-17b-801, Utah Code Annotated 1953
58-17b-802, Utah Code Annotated 1953
58-17b-803, Utah Code Annotated 1953
58-17b-804, Utah Code Annotated 1953
58-17b-805, Utah Code Annotated 1953
58-17b-806, Utah Code Annotated 1953

REPEALS:

58-17b-309.5, as enacted by Laws of Utah 2012, Chapter 234

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

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

58-17b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administering" means:

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

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

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

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

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

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

(5) "Automated pharmacy systems" includes mechanical systems which perform operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of medications, and which collect, control, and maintain all transaction information.

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

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

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

approved by the division as the parent pharmacy.

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

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

(11) "Class B pharmacy":

(a) means a pharmacy located in Utah:

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

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

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

(ii) pharmaceutical administration and sterile product preparation facilities.

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

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

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

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

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

(17) "Collaborative pharmacy practice agreement" means a written and signed

agreement between one or more pharmacists and one or more practitioners that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients and prevention of disease of human subjects.

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

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

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

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

(b) "Compounding" does not include:

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

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

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

(19) "Confidential information" has the same meaning as "protected health information" under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.

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

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

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

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

(a) currently licensed as:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) known allergies;

(ii) rational therapy-contraindications;

(iii) reasonable dose and route of administration; and

(iv) reasonable directions for use;

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

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

(i) drug-drug;

(ii) drug-food;

(iii) drug-disease; and

(iv) adverse drug reactions; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) may be sold without a prescription; and

(ii) is labeled for use by the consumer in accordance with federal law.

(b) "Nonprescription drug" includes homeopathic remedies.

[~~(38)~~] (40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a person in Utah.

[~~(39)~~] (41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.

[~~(40)~~] (42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located outside the state that is licensed and in good standing in another state, that:

(a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in this state pursuant to a lawfully issued prescription;

(b) provides information to a patient in this state on drugs or devices which may include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses; or

(c) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs.

[~~(41)~~] (43) "Patient counseling" means the written and oral communication by the pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of drugs, devices, and dietary supplements.

[~~(42)~~] (44) "Pharmaceutical administration facility" means a facility, agency, or institution in which:

(a) prescription drugs or devices are held, stored, or are otherwise under the control of the facility or agency for administration to patients of that facility or agency;

(b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist or pharmacy intern with whom the facility has established a prescription drug supervising relationship under which the pharmacist or pharmacy intern provides counseling to the facility or agency staff as required, and oversees drug control, accounting, and destruction; and

(c) prescription drugs are professionally administered in accordance with the order of a practitioner by an employee or agent of the facility or agency.

[~~(43)~~] (45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a prescribing practitioner, and in accordance with division rule:

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

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

(iii) arresting or slowing a disease process.

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

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

[~~(45)~~] (47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical

facility engaged in the business of wholesale vending or selling of a prescription drug or device to other than a consumer or user of the prescription drug or device that the pharmaceutical facility has not produced, manufactured, compounded, or dispensed.

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

(i) intracompany sales;

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

(A) hospitals;

(B) pharmacies;

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

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

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

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

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

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

(v) the distribution of prescription drugs, if:

[~~(A) the dosage units distributed during a calendar year do not exceed five percent of the sum of the dosage units distributed by the facility during the calendar year and the dosage units dispensed by the facility during the calendar year; and~~]

(A) the facility's total distribution-related sales of prescription drugs does not exceed 5% of the facility's total prescription drug sales; and

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

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

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

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

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

(a) drugs are dispensed;

(b) pharmaceutical care is provided;

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

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

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

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

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

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

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

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

(ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as

defined in Section 58-37-2.

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

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

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

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

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

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

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

(a) providing pharmaceutical care;

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

(c) compounding, packaging, labeling, dispensing, administering, and the coincident distribution of prescription drugs or devices, provided that the administration of a prescription drug or device is:

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

(ii) in accordance with written guidelines or protocols:

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

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

(d) participating in drug utilization review;

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

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

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

(h) providing drug product equivalents;

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

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

(k) providing emergency refills as defined by rule;

(l) telepharmacy; and

(m) formulary management intervention.

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

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

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

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

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

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

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

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

[~~(60)~~] (63) "Prescription device" means an instrument, apparatus, implement, machine,

contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

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

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

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

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

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

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

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

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

[~~(65)~~] (68) "Supervising pharmacist" means a pharmacist who is overseeing the operation of the pharmacy during a given day or shift.

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

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

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

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

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

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

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

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

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

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

(a) pharmacist;

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

(c) pharmacy technician[~~.~~]; or

(d) dispensing medical practitioner.

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

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

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

(2) The division shall issue a pharmacy license to a facility that qualifies under this chapter in the classification of a:

(a) class A pharmacy;

(b) class B pharmacy;

(c) class C pharmacy;

(d) class D pharmacy; [~~or~~]

(e) class E pharmacy[~~.~~]; or

(f) dispensing medical practitioner clinic pharmacy.

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

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

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

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

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

58-17b-309. Exemptions from licensure.

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

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

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

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

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

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

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

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

[~~(C) prescribed or used for the patient for the purpose of diagnosing, curing, or preventing a disease.~~]

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

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

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

[~~(B) listed as an injectable prescription drug subject to exemption under this section by the division by administrative rule; and~~]

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

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

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

~~prescriptive practice;~~]

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

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

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

[~~(2)~~] (1) In addition to the exemptions from licensure in [~~Sections~~] Section 58-1-307 [~~and 58-17b-309.5~~], the following individuals may engage in the acts or practices described in this section without being licensed under this chapter:

[~~(a) if the individual is described in Subsections (2)(b), (d), or (e), the individual notifies the division in writing of the individual's intent to dispense a drug under this subsection;~~]

[~~(b)~~] (a) a person selling or providing contact lenses in accordance with Section 58-16a-801; or

[~~(c)~~] (b) an individual engaging in the practice of pharmacy technician under the direct personal supervision of a pharmacist while making satisfactory progress in an approved program as defined in division rule[~~;~~].

[~~(d) a prescribing practitioner who prescribes and dispenses a cosmetic drug or an injectable weight loss drug to the prescribing practitioner's patient in accordance with Subsection (4); or~~]

[~~(e) an optometrist, as defined in Section 58-16a-102, acting within the optometrist's scope of practice as defined in Section 58-16a-601, who prescribes and dispenses a cosmetic drug to the optometrist's patient in accordance with Subsection (4).~~]

[~~(3)~~] (2) In accordance with Subsection 58-1-303(1)(a), an individual exempt under Subsection [~~(2)(c)~~] (1)(b) must take all examinations as required by division rule following completion of an approved curriculum of education, within the required time frame. This exemption expires immediately upon notification of a failing score of an examination, and the individual may not continue working as a pharmacy technician even under direct supervision.

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

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

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

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

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

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

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

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

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

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

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

[~~(i) the prescription drugs that may be dispensed as a cosmetic drug or weight loss drug under this section; and~~]

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

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

[~~(c) The division may inspect the office of a prescribing practitioner or optometrist who is dispensing under the provisions of this section, in order to determine whether the prescribing practitioner or optometrist is in compliance with the provisions of this section. If a~~

~~prescribing practitioner or optometrist chooses to dispense under the provisions of this section, the prescribing practitioner or optometrist consents to the jurisdiction of the division to inspect the prescribing practitioner's or optometrist's office and determine if the provisions of this section are being met by the prescribing practitioner or optometrist.~~]

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

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

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

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

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

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

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

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

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

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

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

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

Section 6. Section **58-17b-502** is amended to read:

58-17b-502. Unprofessional conduct.

"Unprofessional conduct" includes:

(1) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

(2) (a) except as provided in Subsection (2)(b):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals.

(b) Subsection (2)(a) does not apply to:

(i) giving or receiving price discounts based on purchase volume;

(ii) passing along pharmaceutical manufacturer's rebates; or

(iii) providing compensation for services to a veterinarian.

(3) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(4) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases;

(5) except as provided in Section 58-17b-503, accepting back and redistributing of any unused drug, or a part of it, after it has left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section 58-17b-503, or the manufacturer's sealed container, as defined in rule;

(6) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person's professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

(7) violating Federal Title II, P.L. 91, Controlled Substances Act, Title 58, Chapter 37, Utah Controlled Substances Act, or rules or regulations adopted under either act;

(8) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

(9) administering:

(a) without appropriate training, as defined by rule;

(b) without a physician's order, when one is required by law; and

(c) in conflict with a practitioner's written guidelines or written protocol for administering;

(10) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996 or other applicable law;

(11) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

(12) failing to report to the division any adverse action taken by another licensing

jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section; and

[~~(13) as a pharmacist or pharmacy intern, preparing a prescription drug for sale to another pharmacist or pharmaceutical facility; and~~]

[~~(14)~~] (13) as a pharmacist or pharmacy intern, preparing a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner.

Section 7. Section **58-17b-602** is amended to read:

58-17b-602. Prescription orders -- Information required -- Alteration -- Labels -- Signatures -- Dispensing in pharmacies.

(1) Except as provided in Section 58-1-501.3, the minimum information that shall be included in a prescription order, and that may be defined by rule, is:

(a) the prescriber's name, address, and telephone number, and, if the order is for a controlled substance, the patient's age and the prescriber's DEA number;

(b) the patient's name and address or, in the case of an animal, the name of the owner and species of the animal;

(c) the date of issuance;

(d) the name of the medication or device prescribed and dispensing instructions, if necessary;

(e) the directions, if appropriate, for the use of the prescription by the patient or animal and any refill, special labeling, or other instructions;

(f) the prescriber's signature if the prescription order is written;

(g) if the order is an electronically transmitted prescription order, the prescribing practitioner's electronic signature; and

(h) if the order is a hard copy prescription order generated from electronic media, the prescribing practitioner's electronic or manual signature.

(2) The requirement of Subsection (1)(a) does not apply to prescription orders dispensed for inpatients by hospital pharmacies if the prescriber is a current member of the hospital staff and the prescription order is on file in the patient's medical record.

(3) Unless it is for a Schedule II controlled substance, a prescription order may be dispensed by a pharmacist or pharmacy intern upon an oral prescription of a practitioner only if

the oral prescription is promptly reduced to writing.

(4) (a) Except as provided under Subsection (4)(b), a pharmacist or pharmacy intern may not dispense or compound any prescription of a practitioner if the prescription shows evidence of alteration, erasure, or addition by any person other than the person writing the prescription.

(b) A pharmacist or pharmacy intern dispensing or compounding a prescription may alter or make additions to the prescription after receiving permission of the prescriber and may make entries or additions on the prescription required by law or necessitated in the compounding and dispensing procedures.

(5) Each drug dispensed shall have a label securely affixed to the container indicating the following minimum information:

(a) the name, address, and telephone number of the pharmacy;

(b) the serial number of the prescription as assigned by the dispensing pharmacy;

(c) the filling date of the prescription or its last dispensing date;

(d) the name of the patient, or in the case of an animal, the name of the owner and species of the animal;

(e) the name of the prescriber;

(f) the directions for use and cautionary statements, if any, which are contained in the prescription order or are needed;

(g) except as provided in Subsection [~~(6)~~] (7), the trade, generic, or chemical name, amount dispensed and the strength of dosage form, but if multiple ingredient products with established proprietary or nonproprietary names are prescribed, those products' names may be used; and

(h) the beyond use date.

(6) A hospital pharmacy that dispenses a prescription drug that is packaged in a multidose container to a hospital patient may provide the drug in the multidose container to the patient when the patient is discharged from the hospital if:

(a) the pharmacy receives a discharge order for the patient; and

(b) the pharmacy labels the drug with the:

(i) patient's name;

(ii) drug's name and strength;

(iii) directions for use of the drug, if applicable; and

(iv) pharmacy's name and phone number.

[~~(6)~~] (7) If the prescriber specifically indicates the name of the prescription product should not appear on the label, then any of the trade, generic, chemical, established proprietary, and established nonproprietary names and the strength of dosage form may not be included.

[~~(7)~~] (8) Prescribers are encouraged to include on prescription labels the information described in Section 58-17b-602.5 in accordance with the provisions of that section.

[~~(8) Except when it is delivered to the ultimate user via the United States Postal Service, licensed common carrier, or supportive personnel, a prescription drug may be dispensed to the ultimate user or his agent only at a licensed pharmacy.~~]

(9) A pharmacy may only deliver a prescription drug to a patient or a patient's agent:

(a) in person at the pharmacy; or

(b) via the United States Postal Service, a licensed common carrier, or supportive personnel, if the pharmacy takes reasonable precautions to ensure the prescription drug is:

(i) delivered to the patient or patient's agent; or

(ii) returned to the pharmacy.

Section 8. Section **58-17b-612** is amended to read:

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

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

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

(i) the pharmacy is located in:

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

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

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

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

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

Section 9. Section **58-17b-613** is amended to read:

58-17b-613. Patient counseling.

(1) [~~Every~~] A retail pharmacy [~~facility shall orally~~] shall verbally offer to counsel a patient or a patient's agent in a personal face-to-face discussion [~~with respect to~~] regarding each prescription drug dispensed, if the patient or patient's agent:

(a) delivers the prescription in person to the pharmacist or pharmacy intern; or

(b) receives the drug in person at the time it is dispensed at the pharmacy facility.

[~~(2) A pharmacist or pharmacy intern shall provide counseling to each patient, and shall provide the patient with a toll-free telephone number by which the patient may contact a pharmacist at the dispensing pharmacy during normal business hours and receive oral counseling, with respect to each prescription drug dispensed if the patient provides or the prescription is otherwise provided to the pharmacy facility by a means other than personal delivery, and the dispensed prescription drug is mailed or otherwise delivered to the patient outside of the pharmacy facility.~~]

[~~(3) (a) The provisions of Subsections (1) and (2) do not apply to incarcerated patients or persons otherwise under the jurisdiction of the Utah Department of Corrections or a county detention facility.~~]

[~~(b) A written communication with a person described in Subsection (3)(a) shall be used by a pharmacist or pharmacy intern in lieu of a face to face or telephonic communication for the purpose of counseling the patient.~~]

(2) A pharmacist or pharmacy intern at a pharmacy that receives a prescription from a patient by means other than personal delivery, and that dispenses prescription drugs to the patient by means other than personal delivery, shall:

(a) provide patient counseling to a patient regarding each prescription drug the pharmacy dispenses; and

(b) provide each patient with a toll-free telephone number by which the patient can contact a pharmacist or pharmacy intern at the pharmacy for counseling.

(3) Notwithstanding the provisions of Subsections (1) and (2), a pharmacist or a pharmacy intern may provide patient counseling to an individual under the jurisdiction of the Utah Department of Corrections or a county detention facility via a written, telephone, or electronic communication.

Section 10. Section **58-17b-801** is enacted to read:

Part 8. Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy

58-17b-801. Title.

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

Section 11. Section **58-17b-802** is enacted to read:

58-17b-802. Definitions.

As used in this part:

(1) (a) "Cosmetic drug" means a prescription drug that:

(i) is for the purpose of promoting attractiveness or altering the appearance of an individual; and

(ii) (A) is listed as a cosmetic drug subject to the exemption under this section by the division by administrative rule; or

(B) has been expressly approved for online dispensing, whether or not it is dispensed online or through a physician's office.

(b) "Cosmetic drug" does not include a prescription drug that is:

(i) a controlled substance;

(ii) compounded by the physician; or

(iii) prescribed for or used by the patient for the purpose of diagnosing, curing, or preventing a disease.

(2) "Employer sponsored clinic" means an entity that has a medical director who is licensed as a physician as defined in Section 58-67-102 and offers health care only to the employees of an exclusive group of employers and the employees' dependents.

(3) "Health care" is as defined in Section 31A-1-301.

(4) (a) "Injectable weight loss drug" means an injectable prescription drug:

(i) prescribed to promote weight loss; and

(ii) listed as an injectable prescription drug subject to exemption under this section by the division by administrative rule.

(b) "Injectable weight loss drug" does not include a prescription drug that is a controlled substance.

(5) "Prepackaged drug" means a prescription drug that:

(a) is not listed under federal or state law as a Schedule I, II, III, IV, or V drug; and

(b) is packaged in a fixed quantity per package by:

(i) the drug manufacturer;

(ii) a pharmaceutical wholesaler or distributor; or

(iii) a pharmacy licensed under this title.

Section 12. Section **58-17b-803** is enacted to read:

58-17b-803. Qualifications for licensure as a dispensing medical practitioner -- Scope of practice.

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

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

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

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

(3) A dispensing medical practitioner may dispense, in accordance with this part:

(a) a cosmetic drug and an injectable weight loss drug if:

(i) the drug was prescribed by the dispensing medical practitioner to the dispensing medical practitioner's patient; and

(ii) the dispensing medical practitioner complies with administrative rules adopted by the division under Subsection 58-17-802(1);

(b) a cancer drug treatment regimen if the dispensing medical practitioner complies with Section 58-17b-805; and

(c) a pre-packaged drug to an employee or a dependent of an employee at an employer sponsored clinic if the dispensing medical practitioner:

(i) treats an employee, or the dependent of an employee, of one of an exclusive group of employers at an employer sponsored clinic;

(ii) prescribes a prepackaged drug to the employee or the employee's dependent;

(iii) dispenses the prepackaged drug at the employer sponsored clinic; and

(iv) complies with administrative rules adopted by the division in consultation with the Board of Pharmacy that establish labeling, record keeping, patient counseling, purchasing and distribution, operating, treatment, quality of care, and storage requirements.

(4) A dispensing medical practitioner:

(a) shall inform the patient:

(i) that the drug dispensed by the practitioner may be obtained from a pharmacy unaffiliated with the practitioner;

(ii) of the directions for appropriate use of the dispensed drug;

(iii) of potential side effects to the use of the dispensed drug; and

(iv) how to contact the dispensing medical practitioner if the patient has questions or concerns regarding the drug;

(b) shall report to the controlled substance database in the same manner as required in Section 58-37f-203; and

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

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

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

(5) If the chapter that governs the license of a dispensing medical practitioner, as listed in Subsection 58-17b-102(23), requires physician supervision in its scope of practice requirements, the dispensing medical practitioner shall only dispense a drug under the supervision of an individual licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act.

Section 13. Section **58-17b-804** is enacted to read:

58-17b-804. Qualifications for licensure as a dispensing medical practitioner clinic pharmacy.

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

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

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

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

(b) Notwithstanding Subsection 58-17b-306(1)(e), the division, in consultation with the Board of Pharmacy and the governing boards of the practitioners described in Subsection 58-17b-102(23)(a), may modify the operating standards for a dispensing medical practitioner clinic pharmacy.

Section 14. Section **58-17b-805** is enacted to read:

58-17b-805. Dispensing medical practitioner -- Cancer drug treatment regimen.

(1) For purposes of this section:

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

(b) "Cancer drug treatment regimen" includes:

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

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

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

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

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

(b) is certified or eligible to be certified by the American Board of Internal Medicine in

medical oncology.

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

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

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

Section 15. Section **58-17b-806** is enacted to read:

58-17b-806. Dispensing medical practitioner -- Dispensing medical practitioner clinic pharmacy -- Unprofessional and Unlawful conduct.

(1) (a) The division shall consult with the dispensing medical practitioner's appropriate licensing board as designated in Subsection 58-17b-102(23)(a) regarding a violation of this chapter; and

(b) the Pharmacy Board shall, if requested by the licensing board of the dispensing medical practitioner, assist the licensing board for the dispensing medical practitioner with reviewing the violations of the provisions of this chapter.

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

(3) The division, in consultation with the board is the primary enforcer under this chapter for a dispensing medical practitioner clinic pharmacy licensed under Section 58-17b-804.

Section 16. Section **58-31b-502** is amended to read:

58-31b-502. Unprofessional conduct.

"Unprofessional conduct" includes:

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

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

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

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

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

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

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

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

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

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

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

(9) unlawful or inappropriate delegation of nursing care;

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

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

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

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

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

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

(16) violating Section 58-31b-801; and

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

Section 17. Section **58-37f-203** is amended to read:

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

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

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

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

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

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

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

(a) the name of the prescribing practitioner;

(b) the date of the prescription;

(c) the date the prescription was filled;

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

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

(f) the name of the controlled substance;

(g) the quantity of the controlled substance prescribed;

(h) the strength of the controlled substance;

(i) the quantity of the controlled substance dispensed;

(j) the dosage quantity and frequency as prescribed;

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

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

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

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

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

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

(ii) the information provided to each individual; and

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

Section 18. Section **58-67-502** is amended to read:

58-67-502. Unprofessional conduct.

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

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

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

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

Section 19. Section **58-68-502** is amended to read:

58-68-502. Unprofessional conduct.

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

(1) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the

profession, state law, or division rule; or

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

Section 20. Section **58-70a-502** is amended to read:

58-70a-502. Unlawful conduct.

"Unlawful conduct" includes[~~: (1)~~] engaging in practice as a licensed physician assistant while not under the supervision of a supervising physician or substitute supervising physician[~~; or~~].

[~~(2) violating the drug dispensing requirements of Section 58-17b-309 or 58-17b-309.5, if applicable.~~]

Section 21. Section **58-70a-503** is amended to read:

58-70a-503. Unprofessional conduct.

"Unprofessional conduct" includes:

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

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

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

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

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

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

(7) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical

Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable.

Section 22. Section **58-83-502** is amended to read:

58-83-502. Unprofessional conduct.

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

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

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

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

(a) an audit of the website; or

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

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

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

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

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

Section 23. Section **63I-1-258** is amended to read:

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

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

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

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

[~~(5)~~] (4) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1,

2023.

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

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

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

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

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

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

Section 24. **Repealer.**

This bill repeals:

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

Section 25. **Effective date.**

This bill takes effect on July 1, 2014.