

Effective 5/10/2016

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- (3) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;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 or Part 9, Charitable Prescription Drug Recycling Act, accepting back and redistributing 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, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner.

Amended by Chapter 405, 2016 General Session

