

Effective 5/4/2022

Chapter 88 General Health Professions

Part 2 Dispensing Practice

58-88-201 Definitions.

As used in this part:

- (1)
 - (a) "Dispense" means the delivery by a prescriber of a prescription drug or device to a patient, including the packaging, labeling, and security necessary to prepare and safeguard the drug or device for supplying to a patient.
 - (b) "Dispense" does not include:
 - (i) prescribing or administering a drug or device; or
 - (ii) delivering to a patient a sample packaged for individual use by a licensed manufacturer or re-packager of a drug or device.
- (2) "Dispensing practitioner" means an individual who:
 - (a) is 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) an advanced practice registered nurse under Subsection 58-31b-301(2)(d); or
 - (iv) a physician assistant under Chapter 70a, Utah Physician Assistant Act;
 - (b) is authorized by state law to prescribe and administer drugs in the course of professional practice; and
 - (c) practices at a licensed dispensing practice.
- (3) "Drug" means the same as that term is defined in Section 58-17b-102.
- (4) "Health care practice" means:
 - (a) a health care facility as defined in Section 26B-2-201; or
 - (b) the offices of one or more private prescribers, whether for individual or group practice.
- (5) "Licensed dispensing practice" means a health care practice that is licensed as a dispensing practice under Section 58-88-202.

Amended by Chapter 329, 2023 General Session

58-88-202 Dispensing practice -- Drugs that may be dispensed -- Limitations and exceptions.

- (1) Notwithstanding Section 58-17b-302, a dispensing practitioner may dispense a drug at a licensed dispensing practice if the drug is:
 - (a) packaged in a fixed quantity per package by:
 - (i) the drug manufacturer;
 - (ii) a pharmaceutical wholesaler or distributor; or
 - (iii) a pharmacy licensed under Chapter 17b, Pharmacy Practice Act;
 - (b) dispensed:
 - (i) at a licensed dispensing practice at which the dispensing practitioner regularly practices; and

- (ii) under a prescription issued by the dispensing practitioner to the dispensing practitioner's patient;
 - (c) for a condition that is not expected to last longer than 30 days; and
 - (d) for a condition for which the patient has been evaluated by the dispensing practitioner on the same day on which the dispensing practitioner dispenses the drug.
- (2) A dispensing practitioner may not dispense:
 - (a) a controlled substance as defined in Section 58-37-2;
 - (b) a drug or class of drugs that is designated by the division under Subsection 58-88-205(2);
 - (c) gabapentin; or
 - (d) a supply of a drug under this part that exceeds a 30-day supply.
- (3) A dispensing practitioner may not make a claim against workers' compensation or automobile insurance for a drug dispensed under this part for outpatient use unless the dispensing practitioner is contracted with a pharmacy network established by the claim payor.
- (4) When a dispensing practitioner dispenses a drug to the patient under this part, a dispensing practitioner shall:
 - (a) disclose to the patient verbally and in writing that the patient is not required to fill the prescription through the licensed dispensing practice and that the patient has a right to fill the prescription through a pharmacy; and
 - (b) if the patient will be responsible to pay cash for the drug, disclose:
 - (i) that the patient will be responsible to pay cash for the drug; and
 - (ii) the amount that the patient will be charged by the licensed dispensing practice for the drug.
- (5) This part does not:
 - (a) require a dispensing practitioner to dispense a drug under this part;
 - (b) limit a health care prescriber from dispensing under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy; or
 - (c) apply to a physician who dispenses:
 - (i) a drug sample, as defined in Section 58-17b-102, to a patient in accordance with Section 58-1-501.3 or Section 58-17b-610;
 - (ii) a prescription drug or device to a patient for a patient's immediate need in an emergency department in accordance with Section 58-17b-610.5; or
 - (iii) a drug in an emergency situation as defined by the division in rule under Chapter 17b, Pharmacy Practice Act.

Enacted by Chapter 353, 2022 General Session

58-88-203 Application for licensure as a licensed dispensing practice -- Requirements -- Notification -- Dispensing.

- (1) An applicant for licensure as a dispensing practice shall:
 - (a) submit a written application in the form prescribed by the division;
 - (b) pay a fee as determined by the department under Section 63J-1-504; and
 - (c) provide any additional information required by the division by rule.
- (2)
 - (a) A dispensing practice shall designate at least one responsible dispensing practitioner who is responsible for all activities of the licensed dispensing practice related to the dispensing of drugs under this part.
 - (b) A responsible dispensing practitioner for the licensed dispensing practice shall:
 - (i) be currently licensed to prescribe and administer drugs in the course of professional practice;
 - (ii) practice at the licensed dispensing practice;

- (iii) accept responsibility for the operation of the licensed dispensing practice related to the dispensing of drugs under this part and in accordance with all laws and rules relating to the dispensing of drugs at the licensed dispensing practice; and
 - (iv) be personally in full and actual charge of the operation of the licensed dispensing practice related to the dispensing of drugs under this part.
 - (c) Whenever an applicable statute or rule requires or prohibits action by a licensed dispensing practice, the responsible dispensing practitioner or practitioners and the owner of the licensed dispensing practice shall be responsible for all activities of the licensed dispensing practice, regardless of the form of the business or entity.
- (3)
- (a) Each license issued under this section shall be issued for a single, specific address, and is not transferable or assignable.
 - (b) Each license issued under this section shall be issued in accordance with a two-year renewal cycle established by the division by rule.
 - (c) The division may extend or shorten a renewal period for a period of up to one year to maintain established renewal cycles or to change an established renewal cycle.
 - (d) Each license automatically expires on the expiration date shown on the license unless the license is renewed by the licensee in accordance with Section 58-1-308.
- (4)
- (a) A licensed dispensing practice shall report in writing to the division not later than 10 business days before the date of:
 - (i) a permanent closure of the licensed dispensing practice;
 - (ii) a change of name or ownership of the licensed dispensing practice;
 - (iii) a change of location of the licensed dispensing practice; and
 - (iv) any matter or occurrence that the division requires by rule to be reported.
 - (b) As defined by the division by rule, a licensed dispensing practice shall report in writing to the division:
 - (i) theft of a drug, immediately after the licensed dispensing practice is aware that theft has occurred; and
 - (ii) a disaster, accident, or emergency that may affect the purity or labeling of a drug, medication, device, or other material used in the diagnosis or treatment of injury, illness, or disease immediately upon the occurrence of the disaster, accident, or emergency.
 - (c) A reporting licensed dispensing practice shall maintain a copy of any notification required by this Subsection (4) for two years and make a copy of the notification available to the division for inspection at the division's request.

Enacted by Chapter 353, 2022 General Session

58-88-204 Administrative inspections of a dispensing practice -- Penalties.

- (1) The division shall conduct audits and inspections of licensed dispensing practices in accordance with standards established by the division by rule.
- (2) Penalties for a violation of this part, including fines and citations, shall be issued by the division under:
 - (a) Section 58-1-502; and
 - (b) the dispensing practitioner's respective licensing chapter.

Enacted by Chapter 353, 2022 General Session

58-88-205 Operating standards -- Rulemaking.

- (1) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the operating standards for a licensed dispensing practice licensed under this part which shall include, but is not limited to, standards for:
 - (a) security;
 - (b) labeling;
 - (c) storage;
 - (d) supervision;
 - (e) inventory control; and
 - (f) patient counseling.
- (2) The division may designate individual medications and classes of medications that may not be dispensed at a licensed dispensing practice under this chapter.
- (3) When making rules under this part, the division shall consult with a group consisting of:
 - (a) two members of the Physicians Licensing Board created in Section 58-67-201; and
 - (b) two members of the Utah State Board of Pharmacy created in Section 58-17b-201.

Enacted by Chapter 353, 2022 General Session