

28 or inactive license;

29 (b) impersonating another licensee or practicing an occupation or profession under a false
30 or assumed name, except as permitted by law;

31 (c) knowingly employing any other person to practice or engage in or attempt to practice
32 or engage in any occupation or profession licensed under this title if the employee is not licensed
33 to do so under this title;

34 (d) knowingly permitting the person's authority to practice or engage in any occupation or
35 profession licensed under this title to be used by another, except as permitted by law; [or]

36 (e) obtaining a passing score on a licensure examination, applying for or obtaining a
37 license, or otherwise dealing with the division or a licensing board through the use of fraud,
38 forgery, or intentional deception, misrepresentation, misstatement, or omission[-]; or

39 (f) failing to obtain informed consent as required by Section 58-1-505 before prescribing
40 a psychiatric medication for a minor.

41 (2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined as
42 unprofessional conduct under this title or under any rule adopted under this title and includes:

43 (a) violating, or aiding or abetting any other person to violate, any statute, rule, or order
44 regulating an occupation or profession under this title;

45 (b) violating, or aiding or abetting any other person to violate, any generally accepted
46 professional or ethical standard applicable to an occupation or profession regulated under this title;

47 (c) engaging in conduct that results in conviction of, or a plea of nolo contendere to, a
48 crime of moral turpitude or any other crime that, when considered with the functions and duties
49 of the occupation or profession for which the license was issued or is to be issued, bears a
50 reasonable relationship to the licensee's or applicant's ability to safely or competently practice the
51 occupation or profession;

52 (d) engaging in conduct that results in disciplinary action, including reprimand, censure,
53 diversion, probation, suspension, or revocation, by any other licensing or regulatory authority
54 having jurisdiction over the licensee or applicant in the same occupation or profession if the
55 conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings
56 under Section 58-1-401;

57 (e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar
58 chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the

59 ability of the licensee or applicant to safely engage in the occupation or profession;

60 (f) practicing or attempting to practice an occupation or profession regulated under this
61 title despite being physically or mentally unfit to do so;

62 (g) practicing or attempting to practice an occupation or profession regulated under this
63 title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

64 (h) practicing or attempting to practice an occupation or profession requiring licensure
65 under this title by any form of action or communication which is false, misleading, deceptive, or
66 fraudulent;

67 (i) practicing or attempting to practice an occupation or profession regulated under this
68 title beyond the scope of the licensee's competency, abilities, or education;

69 (j) practicing or attempting to practice an occupation or profession regulated under this
70 title beyond the scope of the licensee's license;

71 (k) verbally, physically, mentally, or sexually abusing or exploiting any person through
72 conduct connected with the licensee's practice under this title or otherwise facilitated by the
73 licensee's license; or

74 (l) acting as a supervisor without meeting the qualification requirements for that position
75 that are defined by statute or rule.

76 Section 2. Section **58-1-505** is enacted to read:

77 **58-1-505. Informed consent for psychiatric medications.**

78 (1) As used in this section:

79 (a) "Legal guardian" includes the state when the custody of a minor has been vested in the
80 state, except that the state may not authorize that a psychiatric medication be prescribed for or
81 given to a minor unless:

82 (i) warranted by an emergency situation documented in the minor's medical file; or

83 (ii) prior approval is given by the minor's guardian ad litem or a court of law.

84 (b) "Minor" means a person under the age of 18 who:

85 (i) is not married; and

86 (ii) has not been declared emancipated by a court of law.

87 (c) "Physical examination" includes appropriate blood tests, a check for allergies, thyroid
88 function, endocrine function, nutritional problems, sight and hearing problems, hormonal
89 problems, common medication sensitivities, and possible adverse reactions to environmental

90 factors.

91 (d) "Psychiatric medication" includes:

92 (i) anticonvulsants, including Carbamazepine, Divalproex Sodium, and as may be further
93 defined by rule;

94 (ii) antidepressants, including Doxepin, Lithium, Floxetine, Fluvoxamine, Paroxetine,
95 Sertralilne, Venlafaxine, Nefazodone, Clomipramine, Bupropion, Amitriptyline, Protriptyline,
96 Imipramine, Buspirone, and as may be further defined by rule adopted by the Board of Pharmacy
97 under Section 58-17a-201;

98 (iii) all benzodiazepines, including Methylphenidate, Dextroamphetamine, Pemoline, and
99 as may be further defined by rule; and

100 (iv) all neuroleptics, including Chlorpromazine, Triflupromazine, Thioridazine,
101 Perphenazine, Prochlorperazine, Fluphenazine, Thiothixene, Haloperidol, Loxapine, Clozapine,
102 Resperadone, and as may be further defined by rule.

103 (2) Before prescribing a psychiatric medication for a minor, a person licensed to prescribe
104 psychiatric medications under this title shall:

105 (a) inform the minor's parent or legal guardian of the opportunity for and desirability of
106 obtaining a physical examination by a health care professional licensed under Title 58, Chapter 67,
107 Utah Medical Practice Act, to eliminate the possibility that the minor's current condition is the
108 result of an adverse or untreated physical condition;

109 (b) if the parent or legal guardian chooses to obtain a physical examination for the minor,
110 confirm that any adverse or untreated physical condition detected by the physical examination has
111 been treated and the child subsequently reexamined;

112 (c) fully explain to the minor's parent or legal guardian the nature of any and all
113 medications recommended for the child along with possible side effects; and

114 (d) obtain written informed consent signed by the parent or legal guardian, acknowledging
115 that:

116 (i) the parent or legal guardian has given consent to the psychiatric medication; and

117 (ii) the requirements of Subsections (2)(a) through (c) have been satisfied.

118 (3) (a) A person licensed under this title who prescribes a psychiatric medication for a
119 minor shall provide a list of all medications which the person knows the minor is currently taking
120 with each prescription submitted for filling. The list of medications and an extra copy of the

121 prescription shall be provided to the parent or legal guardian.

122 (b) The pharmacist in charge shall comply with the requirements of Section 58-17a-621.

123 Section 3. Section **58-17a-621** is enacted to read:

124 **58-17a-621. Psychiatric medication reporting requirements.**

125 (1) The pharmacist in charge shall, in compliance with Section 58-1-505, regarding each
126 psychiatric medication for a minor dispensed by a pharmacist under his supervision, other than
127 those dispensed for an inpatient at a health care facility, submit to the division the following
128 information:

129 (a) the name of the prescribing practitioner;

130 (b) the date of the prescription;

131 (c) the date the prescription was filled; and

132 (d) the gender and age of the minor for whom the prescription was filled.

133 (2) The division shall adopt rules necessary to create the database required in Subsection
134 (4).

135 (3) Records received by the division under Subsection (3) shall be maintained as protected
136 records under Title 63, Chapter 2, Government Records Access and Management Act, except the
137 division may release a statistical analysis of the records in accordance with Subsection (4).

138 (4) The division shall track the number and kind of psychiatric medications prescribed for
139 minors in the state to ensure that reliable figures are available on an ongoing basis for the
140 Legislature and other state entities.

Legislative Review Note
as of 1-24-01 3:07 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel