

1                                   **AMENDMENTS TO PRESCRIBING,**  
2                                   **PREPARATION, AND DISPENSING OF**  
3                                   **PRESCRIPTION DRUGS**

4                                   2004 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Sponsor: Peter C. Knudson**

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7  
8 **LONG TITLE**

9 **General Description:**

10                   This bill repeals the current Pharmacy Practice Act and enacts a new Pharmacy Practice  
11 Act.

12 **Highlighted Provisions:**

13                   This bill:

13a                   **§ ▶ AMENDS THE DEFINITION OF UNLAWFUL AND UNPROFESSIONAL CONDUCT TO**  
13b **INCLUDE PRESCRIBING A DRUG OR DEVICE WITHOUT A DIAGNOSIS OR A BONA FIDE**  
13c **PATIENT-PRACTITIONER RELATIONSHIP; §**

- 14                   ▶ enacts a new Pharmacy Practice Act and includes:
- 15                   • definitions;
  - 16                   • administrative inspections;
  - 17                   • board membership, qualifications, and terms;
  - 18                   • license classifications for pharmacy facilities;
  - 19                   • qualifications for licensure as a pharmacist;
  - 20                   • qualifications for licensure as a pharmacy intern;
  - 21                   • qualifications for licensure as a pharmacy technician;
  - 22                   • qualifications for licensure as a pharmacy;
  - 23                   • criminal background checks;
  - 24                   • terms of license;
  - 25                   • exemptions from licensure;
  - 26                   • continuing education;
  - 27                   • grounds for denial of licensure;



- 28 • provisions related to unlawful and unprofessional conduct;
- 29 • regulation of the practice of pharmacy operating standards; and
- 30 • provisions related to incapacitated pharmacists;
- 31 ▶ amends the sunset date of the Pharmacy Practice Act to July 1, 2014; and
- 32 ▶ makes technical amendments.

33 **Monies Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 This bill takes effect on July 1, 2004.

37 **Utah Code Sections Affected:**

38 AMENDS:

39 **16-11-2**, as last amended by Chapter 185, Laws of Utah 2002

40 **26-18-2.3**, as last amended by Chapter 324, Laws of Utah 2003

41 **26-18-101**, as last amended by Chapters 79, 247 and 248, Laws of Utah 1996

42 **26-47-101**, as enacted by Chapter 310, Laws of Utah 2003

43 **48-2c-1502**, as last amended by Chapter 185, Laws of Utah 2002

44 **58-1-307**, as last amended by Chapter 3, Laws of Utah 2003

44a **§ 58-1-501, AS LAST AMENDED BY CHAPTER 148, LAWS OF UTAH 2001 §**

45 **58-16a-102**, as last amended by Chapter 270, Laws of Utah 2003

46 **58-24a-105**, as last amended by Chapter 247, Laws of Utah 1996

47 **58-37-6**, as last amended by Chapter 33, Laws of Utah 2003

48 **58-37-7.5**, as last amended by Chapter 33, Laws of Utah 2003

49 **58-37c-19.5**, as enacted by Chapter 272, Laws of Utah 2000

50 **58-71-102**, as last amended by Chapter 131, Laws of Utah 2003

51 **58-71-801**, as enacted by Chapter 282, Laws of Utah 1996

52 **58-73-601**, as last amended by Chapter 284, Laws of Utah 1998

53 **63-55-258**, as last amended by Chapters 49 and 254, Laws of Utah 2003

54 **76-5-113**, as enacted by Chapter 164, Laws of Utah 2001

55 **76-8-311.3**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session

56 **78-11-22.2**, as enacted by Chapter 152, Laws of Utah 2000

57 **78-14-3**, as last amended by Chapter 131, Laws of Utah 2002

58 ENACTS:

- 59           **58-17b-101**, Utah Code Annotated 1953
- 60           **58-17b-102**, Utah Code Annotated 1953
- 61           **58-17b-103**, Utah Code Annotated 1953
- 62           **58-17b-201**, Utah Code Annotated 1953
- 63           **58-17b-301**, Utah Code Annotated 1953
- 64           **58-17b-302**, Utah Code Annotated 1953
- 65           **58-17b-303**, Utah Code Annotated 1953
- 66           **58-17b-304**, Utah Code Annotated 1953
- 67           **58-17b-305**, Utah Code Annotated 1953
- 68           **58-17b-306**, Utah Code Annotated 1953
- 69           **58-17b-307**, Utah Code Annotated 1953
- 70           **58-17b-308**, Utah Code Annotated 1953
- 71           **58-17b-309**, Utah Code Annotated 1953
- 72           **58-17b-310**, Utah Code Annotated 1953
- 73           **58-17b-401**, Utah Code Annotated 1953
- 74           **58-17b-501**, Utah Code Annotated 1953
- 75           **58-17b-502**, Utah Code Annotated 1953
- 76           **58-17b-503**, Utah Code Annotated 1953
- 77           **58-17b-504**, Utah Code Annotated 1953
- 78           **58-17b-505**, Utah Code Annotated 1953
- 79           **58-17b-506**, Utah Code Annotated 1953
- 80           **58-17b-601**, Utah Code Annotated 1953
- 81           **58-17b-602**, Utah Code Annotated 1953
- 82           **58-17b-603**, Utah Code Annotated 1953
- 83           **58-17b-604**, Utah Code Annotated 1953
- 84           **58-17b-605**, Utah Code Annotated 1953
- 85           **58-17b-606**, Utah Code Annotated 1953
- 86           **58-17b-607**, Utah Code Annotated 1953
- 87           **58-17b-608**, Utah Code Annotated 1953
- 88           **58-17b-609**, Utah Code Annotated 1953
- 89           **58-17b-610**, Utah Code Annotated 1953

- 90           **58-17b-611**, Utah Code Annotated 1953
- 91           **58-17b-612**, Utah Code Annotated 1953
- 92           **58-17b-613**, Utah Code Annotated 1953
- 93           **58-17b-614**, Utah Code Annotated 1953
- 94           **58-17b-615**, Utah Code Annotated 1953
- 95           **58-17b-616**, Utah Code Annotated 1953
- 96           **58-17b-617**, Utah Code Annotated 1953
- 97           **58-17b-618**, Utah Code Annotated 1953
- 98           **58-17b-619**, Utah Code Annotated 1953
- 99           **58-17b-620**, Utah Code Annotated 1953
- 100          **58-17b-621**, Utah Code Annotated 1953
- 101          **58-17b-701**, Utah Code Annotated 1953

102 REPEALS:

- 103          **58-17a-101**, as enacted by Chapter 247, Laws of Utah 1996
- 104          **58-17a-102**, as last amended by Chapter 184, Laws of Utah 2002
- 105          **58-17a-103**, as enacted by Chapter 28, Laws of Utah 1998
- 106          **58-17a-201**, as enacted by Chapter 247, Laws of Utah 1996
- 107          **58-17a-301**, as enacted by Chapter 247, Laws of Utah 1996
- 108          **58-17a-302**, as last amended by Chapter 28, Laws of Utah 1998
- 109          **58-17a-304**, as enacted by Chapter 247, Laws of Utah 1996
- 110          **58-17a-305**, as last amended by Chapter 160, Laws of Utah 2000
- 111          **58-17a-401**, as enacted by Chapter 247, Laws of Utah 1996
- 112          **58-17a-402**, as enacted by Chapter 247, Laws of Utah 1996
- 113          **58-17a-501**, as last amended by Chapter 28, Laws of Utah 1998
- 114          **58-17a-502**, as last amended by Chapter 184, Laws of Utah 2002
- 115          **58-17a-502.5**, as enacted by Chapter 18, Laws of Utah 2002, Fifth Special Session
- 116          **58-17a-503**, as enacted by Chapter 247, Laws of Utah 1996
- 117          **58-17a-601**, as enacted by Chapter 247, Laws of Utah 1996
- 118          **58-17a-602**, as enacted by Chapter 247, Laws of Utah 1996
- 119          **58-17a-603**, as enacted by Chapter 247, Laws of Utah 1996
- 120          **58-17a-604**, as enacted by Chapter 247, Laws of Utah 1996

- 121            **58-17a-605**, as enacted by Chapter 247, Laws of Utah 1996
- 122            **58-17a-606**, as enacted by Chapter 247, Laws of Utah 1996
- 123            **58-17a-607**, as enacted by Chapter 247, Laws of Utah 1996
- 124            **58-17a-608**, as enacted by Chapter 247, Laws of Utah 1996
- 125            **58-17a-609**, as enacted by Chapter 247, Laws of Utah 1996
- 126            **58-17a-610**, as enacted by Chapter 247, Laws of Utah 1996
- 127            **58-17a-611**, as last amended by Chapter 344, Laws of Utah 2001
- 128            **58-17a-612**, as enacted by Chapter 247, Laws of Utah 1996
- 129            **58-17a-613**, as enacted by Chapter 247, Laws of Utah 1996
- 130            **58-17a-614**, as enacted by Chapter 247, Laws of Utah 1996
- 131            **58-17a-615**, as enacted by Chapter 247, Laws of Utah 1996
- 132            **58-17a-616**, as enacted by Chapter 247, Laws of Utah 1996
- 133            **58-17a-617**, as enacted by Chapter 247, Laws of Utah 1996
- 134            **58-17a-618**, as enacted by Chapter 247, Laws of Utah 1996
- 135            **58-17a-619**, as enacted by Chapter 247, Laws of Utah 1996
- 136            **58-17a-620**, as last amended by Chapter 3, Laws of Utah 2003
- 137            **58-17a-701**, as enacted by Chapter 247, Laws of Utah 1996
- 138            **58-17a-801**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session

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

141            Section 1. Section **16-11-2** is amended to read:

142            **16-11-2. Definitions.**

143            As used in this chapter:

144            (1) "Filed" means the division has received and approved, as to form, a document  
 145 submitted under the provisions of this chapter, and has marked on the face of the document a  
 146 stamp or seal indicating the time of day and date of approval, the name of the division, the  
 147 division director's signature and division seal, or facsimiles of the signature or seal.

148            (2) "Professional corporation" means a corporation organized under this chapter.

149            (3) "Professional service" means the personal service rendered by:

150            (a) a physician, surgeon, or doctor of medicine holding a license under Title 58,  
 151 Chapter 67, Utah Medical Practice Act, and any subsequent laws regulating the practice of

- 152 medicine;
- 153 (b) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and  
154 Dental Hygienist Practice Act, and any subsequent laws regulating the practice of dentistry;
- 155 (c) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68,  
156 Utah Osteopathic Medical Practice Act, and any subsequent laws regulating the practice of  
157 osteopathy;
- 158 (d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician  
159 Practice Act, and any subsequent laws regulating the practice of chiropractic;
- 160 (e) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric  
161 Physician Licensing Act, and any subsequent laws regulating the practice of podiatry;
- 162 (f) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry  
163 Practice Act, and any subsequent laws regulating the practice of optometry;
- 164 (g) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice Act,  
165 and any subsequent laws regulating the practice of veterinary medicine;
- 166 (h) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act,  
167 and any subsequent laws regulating the practice of architecture;
- 168 (i) a public accountant holding a license under Title 58, Chapter 26a, Certified Public  
169 Accountant Licensing Act, and any subsequent laws regulating the practice of public  
170 accounting;
- 171 (j) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician  
172 Practice Act, and any subsequent laws regulating the practice of naturopathy;
- 173 (k) a pharmacist holding a license under Title 58, Chapter ~~[17a]~~ 17b, Pharmacy  
174 Practice Act, and any subsequent laws regulating the practice of pharmacy;
- 175 (l) an attorney granted the authority to practice law by:
- 176 (i) the Utah Supreme Court; or
- 177 (ii) the Supreme Court, other court, agency, instrumentality, or regulating board that  
178 licenses or regulates the authority to practice law in any state or territory of the United States  
179 other than Utah;
- 180 (m) a professional engineer registered under Title 58, Chapter 22, Professional  
181 Engineers and Professional Land Surveyor Licensing Act;
- 182 (n) a real estate broker or real estate agent holding a license under Title 61, Chapter 2,

183 Division of Real Estate, and any subsequent laws regulating the selling, exchanging,  
184 purchasing, renting, or leasing of real estate;

185 (o) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing  
186 Act, and any subsequent laws regulating the practice of psychology;

187 (p) a clinical or certified social worker holding a license under Title 58, Chapter 60,  
188 Part 2, Social Worker Licensing Act, and any subsequent laws regulating the practice of social  
189 work;

190 (q) a physical therapist holding a license under Title 58, Chapter 24a, Physical  
191 Therapist Practice Act, and any subsequent laws regulating the practice of physical therapy; or

192 (r) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58,  
193 Chapter 44a, Nurse Midwife Practice Act.

194 (4) "Regulating board" means the board that is charged with the licensing and  
195 regulation of the practice of the profession which the professional corporation is organized to  
196 render. The definitions of Title 16, Chapter 10a, Utah Revised Business Corporation Act,  
197 apply to this chapter unless the context clearly indicates that a different meaning is intended.

198 Section 2. Section **26-18-2.3** is amended to read:

199 **26-18-2.3. Division responsibilities -- Emphasis -- Periodic assessment.**

200 (1) In accordance with the requirements of Title XIX of the Social Security Act and  
201 applicable federal regulations, the division is responsible for the effective and impartial  
202 administration of this chapter in an efficient, economical manner. The division shall:

203 (a) establish, on a statewide basis, a program to safeguard against unnecessary or  
204 inappropriate use of Medicaid services, excessive payments, and unnecessary or inappropriate  
205 hospital admissions or lengths of stay;

206 (b) deny any provider claim for services that fail to meet criteria established by the  
207 division concerning medical necessity or appropriateness; and

208 (c) place its emphasis on high quality care to recipients in the most economical and  
209 cost-effective manner possible, with regard to both publicly and privately provided services.

210 (2) The division shall implement and utilize cost-containment methods, where  
211 possible, which may include, but are not limited to:

212 (a) prepayment and postpayment review systems to determine if utilization is  
213 reasonable and necessary;

- 214 (b) preadmission certification of nonemergency admissions;
- 215 (c) mandatory outpatient, rather than inpatient, surgery in appropriate cases;
- 216 (d) second surgical opinions;
- 217 (e) procedures for encouraging the use of outpatient services;
- 218 (f) consistent with Sections 28-18-2.4 and [~~58-17a-605.1~~] 58-17b-606, a Medicaid
- 219 drug program;
- 220 (g) coordination of benefits; and
- 221 (h) review and exclusion of providers who are not cost effective or who have abused
- 222 the Medicaid program, in accordance with the procedures and provisions of federal law and
- 223 regulation.

224 (3) The director of the division shall periodically assess the cost effectiveness and

225 health implications of the existing Medicaid program, and consider alternative approaches to

226 the provision of covered health and medical services through the Medicaid program, in order to

227 reduce unnecessary or unreasonable utilization.

228 Section 3. Section **26-18-101** is amended to read:

229 **26-18-101. Definitions.**

230 As used in this part:

231 (1) "Appropriate and medically necessary" means, regarding drug prescribing,

232 dispensing, and patient usage, that it is in conformity with the criteria and standards developed

233 in accordance with this part.

234 (2) "Board" means the Drug Utilization Review Board created in Section 26-18-102.

235 (3) "Compendia" means resources widely accepted by the medical profession in the

236 efficacious use of drugs, including "American Hospital Formulary Services Drug Information,"

237 "U.S. Pharmacopeia - Drug Information," "A.M.A. Drug Evaluations," peer-reviewed medical

238 literature, and information provided by manufacturers of drug products.

239 (4) "Counseling" means the activities conducted by a pharmacist to inform Medicaid

240 recipients about the proper use of drugs, as required by the board under this part.

241 (5) "Criteria" means those predetermined and explicitly accepted elements used to

242 measure drug use on an ongoing basis in order to determine if the use is appropriate, medically

243 necessary, and not likely to result in adverse medical outcomes.

244 (6) "Drug-disease contraindications" means that the therapeutic effect of a drug is



245 adversely altered by the presence of another disease condition.

246 (7) "Drug-interactions" means that two or more drugs taken by a recipient lead to  
247 clinically significant toxicity that is characteristic of one or any of the drugs present, or that  
248 leads to interference with the effectiveness of one or any of the drugs.

249 (8) "Drug Utilization Review" or "DUR" means the program designed to measure and  
250 assess, on a retrospective and prospective basis, the proper use of outpatient drugs in the  
251 Medicaid program.

252 (9) "Intervention" means a form of communication utilized by the board with a  
253 prescriber or pharmacist to inform about or influence prescribing or dispensing practices.

254 (10) "Overutilization" or "underutilization" means the use of a drug in such quantities  
255 that the desired therapeutic goal is not achieved.

256 (11) "Pharmacist" means a person licensed in this state to engage in the practice of  
257 pharmacy under Title 58, Chapter ~~[17a]~~ 17b, Pharmacy Practice Act.

258 (12) "Physician" means a person licensed in this state to practice medicine and surgery  
259 under Section 58-67-301[, ~~Utah Medical Practice Act,~~] or osteopathic medicine under Section  
260 58-68-301[, ~~Utah Osteopathic Medical Practice Act~~].

261 (13) "Prospective DUR" means that part of the drug utilization review program that  
262 occurs before a drug is dispensed, and that is designed to screen for potential drug therapy  
263 problems based on explicit and predetermined criteria and standards.

264 (14) "Retrospective DUR" means that part of the drug utilization review program that  
265 assesses or measures drug use based on an historical review of drug use data against  
266 predetermined and explicit criteria and standards, on an ongoing basis with professional input.

267 (15) "Standards" means the acceptable range of deviation from the criteria that reflects  
268 local medical practice and that is tested on the Medicaid recipient database.

269 (16) "SURS" means the Surveillance Utilization Review System of the Medicaid  
270 program.

271 (17) "Therapeutic appropriateness" means drug prescribing and dispensing based on  
272 rational drug therapy that is consistent with criteria and standards.

273 (18) "Therapeutic duplication" means prescribing and dispensing the same drug or two  
274 or more drugs from the same therapeutic class where periods of drug administration overlap  
275 and where that practice is not medically indicated.

276 Section 4. Section **26-47-101** is amended to read:

277 **26-47-101. Prescription Drug Assistance Program.**

278 (1) No later than October 1, 2003, the department shall implement a Prescription Drug  
279 Assistance Program. The program shall assist persons seeking information about how to obtain  
280 prescription drugs at a reduced price or no cost. The program shall:

281 (a) collect eligibility and enrollment information about programs that make  
282 prescription drugs available to consumers at a reduced price or no cost;

283 (b) provide information collected under Subsection (1)(a) to consumers upon request  
284 via a toll-free phone line, the Internet, and mail;

285 (c) inform pharmacists and other health care providers of the Prescription Drug  
286 Assistance Program; and

287 (d) assist consumers in completing applications to participate in programs identified  
288 under Subsection (1)(a).

289 (2) Any pharmaceutical manufacturer, distributor, or wholesaler operating in the state  
290 shall:

291 (a) notify the department of any program operated by it to provide prescription drugs to  
292 consumers at a reduced price or no cost; and

293 (b) provide the department with information about eligibility, enrollment, and benefits.

294 (3) Pharmacies, as defined in Title 58, Chapter ~~[17]~~ 17b, Pharmacy Practice Act, shall  
295 notify their patients of the Prescription Drug Assistance Program. This notification shall  
296 include displaying the program's toll-free number, and may include distributing a brochure or  
297 oral communication.

298 (4) The department may accept grants, gifts, and donations of money or property for  
299 use by the Prescription Drug Assistance Program.

300 (5) The department shall report to the Health and Human Services Interim Committee  
301 and the Joint Health and Human Services Appropriations Subcommittee on the performance of  
302 the Prescription Drug Assistance Program prior to the 2004 and 2005 Annual General Sessions  
303 of the Legislature.

304 Section 5. Section **48-2c-1502** is amended to read:

305 **48-2c-1502. Definitions.**

306 As used in this part:

- 307 (1) "Professional services company" means a limited liability company organized  
308 under this part to render professional services.
- 309 (2) "Professional services" means the personal services rendered by:
- 310 (a) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act,  
311 and any subsequent laws regulating the practice of architecture;
- 312 (b) an attorney granted the authority to practice law by the:
- 313 (i) Supreme Court of Utah; or
- 314 (ii) the Supreme Court, other court, agency, instrumentality, or regulating board that  
315 licenses or regulates the authority to practice law in any state or territory of the United States  
316 other than Utah;
- 317 (c) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician  
318 Practice Act, and any subsequent laws regulating the practice of chiropractic;
- 319 (d) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentists and  
320 Dental Hygienists Practice Act, and any subsequent laws, regulating the practice of dentistry;
- 321 (e) a professional engineer registered under Title 58, Chapter 22, Professional  
322 Engineers and Professional Land Surveyors Licensing Act;
- 323 (f) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician  
324 Practice Act, and any subsequent laws regulating the practice of naturopathy;
- 325 (g) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58,  
326 Chapter 44a, Nurse Midwife Practice Act;
- 327 (h) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry  
328 Practice Act, and any subsequent laws regulating the practice of optometry;
- 329 (i) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68,  
330 Utah Osteopathic Medical Practice Act, and any subsequent laws regulating the practice of  
331 osteopathy;
- 332 (j) a pharmacist holding a license under Title 58, Chapter [~~17a~~] 17b, Pharmacy Practice  
333 Act, and any subsequent laws regulating the practice of pharmacy;
- 334 (k) a physician, surgeon, or doctor of medicine holding a license under Title 58,  
335 Chapter 67, Utah Medical Practice Act, and any subsequent laws regulating the practice of  
336 medicine;
- 337 (l) a physical therapist holding a license under Title 58, Chapter 24a, Physical

338 Therapist Practice Act, and any subsequent laws regulating the practice of physical therapy;

339 (m) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric

340 Physician Licensing Act, and any subsequent laws regulating the practice of podiatry;

341 (n) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing  
342 Act, and any subsequent laws regulating the practice of psychology;

343 (o) a public accountant holding a license under Title 58, Chapter 26a, Certified Public  
344 Accountant Licensing Act, and any subsequent laws regulating the practice of public  
345 accounting;

346 (p) a real estate broker or real estate agent holding a license under Title 61, Chapter 2,  
347 Division of Real Estate, and any subsequent laws regulating the sale, exchange, purchase,  
348 rental, or leasing of real estate;

349 (q) a clinical or certified social worker holding a license under Title 58, Chapter 60,  
350 Part 2, Social Worker Licensing Act, and any subsequent laws regulating the practice of social  
351 work;

352 (r) a mental health therapist holding a license under Title 58, Chapter 60, Mental  
353 Health Professional Practice Act, and any subsequent laws regulating the practice of mental  
354 health therapy; and

355 (s) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice Act,  
356 and any subsequent laws regulating the practice of veterinary medicine.

357 (3) "Regulating board" means the board or agency organized pursuant to state law that  
358 is charged with the licensing and regulation of the practice of the profession that a company is  
359 organized to render.

360 Section 6. Section **58-1-307** is amended to read:

361 **58-1-307. Exemptions from licensure.**

362 (1) Except as otherwise provided by statute or rule, the following persons may engage  
363 in the practice of their occupation or profession, subject to the stated circumstances and  
364 limitations, without being licensed under this title:

365 (a) a person serving in the armed forces of the United States, the United States Public  
366 Health Service, the United States Department of Veterans Affairs, or other federal agencies  
367 while engaged in activities regulated under this chapter as a part of employment with that  
368 federal agency if the person holds a valid license to practice a regulated occupation or

- 369 profession issued by any other state or jurisdiction recognized by the division;
- 370 (b) a student engaged in activities constituting the practice of a regulated occupation or  
371 profession while in training in a recognized school approved by the division to the extent the  
372 activities are supervised by qualified faculty, staff, or designee and the activities are a defined  
373 part of the training program;
- 374 (c) an individual engaged in an internship, residency, preceptorship, postceptorship,  
375 fellowship, apprenticeship, or on-the-job training program approved by the division while  
376 under the supervision of qualified persons;
- 377 (d) an individual residing in another state and licensed to practice a regulated  
378 occupation or profession in that state, who is called in for a consultation by an individual  
379 licensed in this state, and the services provided are limited to that consultation;
- 380 (e) an individual who is invited by a recognized school, association, society, or other  
381 body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a  
382 regulated occupation or profession if the individual does not establish a place of business or  
383 regularly engage in the practice of the regulated occupation or profession in this state;
- 384 (f) an individual licensed under the laws of this state, other than under this title, to  
385 practice or engage in an occupation or profession, while engaged in the lawful, professional,  
386 and competent practice of that occupation or profession;
- 387 (g) an individual licensed in a health care profession in another state who performs that  
388 profession while attending to the immediate needs of a patient for a reasonable period during  
389 which the patient is being transported from outside of this state, into this state, or through this  
390 state;
- 391 (h) an individual licensed in another state or country who is in this state temporarily to  
392 attend to the needs of an athletic team or group, except that the practitioner may only attend to  
393 the needs of the athletic team or group, including all individuals who travel with the team or  
394 group in any capacity except as a spectator;
- 395 (i) an individual licensed and in good standing in another state, who is in this state:  
396 (i) temporarily, under the invitation and control of a sponsoring entity;  
397 (ii) for a reason associated with a special purpose event, based upon needs that may  
398 exceed the ability of this state to address through its licensees, as determined by the division;  
399 and

400 (iii) for a limited period of time not to exceed the duration of that event, together with  
401 any necessary preparatory and conclusionary periods. The requirements of Section  
402 63A-10-105 do not apply to exemptions authorized by the division pursuant to this Subsection  
403 (1)(i);

404 (j) an individual who:

405 (i) is certified as an athletic trainer by the National Athletic Trainers Association Board  
406 of Certification or another entity approved by the division;

407 (ii) is employed or officially associated with an educational institution, a professional  
408 sports organization, or a bona fide amateur sports organization; and

409 (iii) only provides athletic training services:

410 (A) to athletes of the educational institution or sports organization to which the  
411 individual is employed or officially associated;

412 (B) at an official athletic training, practice, or competition site; and

413 (C) that are within the scope of the individual's certification; and

414 (k) a law enforcement officer, as defined under Section 53-13-103, who:

415 (i) is operating a voice stress analyzer in the course of the officer's full-time  
416 employment with a federal, state, or local law enforcement agency;

417 (ii) has completed the manufacturer's training course and is certified by the  
418 manufacturer to operate that voice stress analyzer; and

419 (iii) is operating the voice stress analyzer in accordance with Section 58-64-601,  
420 regarding deception detection instruments.

421 (2) A practitioner temporarily in this state who is exempted from licensure under  
422 Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the  
423 practitioner derives authority to practice. Violation of any limitation imposed by this section  
424 constitutes grounds for removal of exempt status, denial of license, or other disciplinary  
425 proceedings.

426 (3) An individual who is licensed under a specific chapter of this title to practice or  
427 engage in an occupation or profession may engage in the lawful, professional, and competent  
428 practice of that occupation or profession without additional licensure under other chapters of  
429 this title, except as otherwise provided by this title.

430 (4) Upon the declaration of a national, state, or local emergency, a public health

431 emergency as defined in Section 26-23b-102, or a declaration by the President of the United  
432 States or other federal official requesting public health-related activities, the division in  
433 collaboration with the board may:

434 (a) suspend the requirements for permanent or temporary licensure of persons who are  
435 licensed in another state. Persons exempt under this Subsection (4)(a) shall be exempt from  
436 licensure for the duration of the emergency while engaged in the scope of practice for which  
437 they are licensed in the other state;

438 (b) modify, under the circumstances described in [~~Subsections~~] this Subsection (4) and  
439 Subsection (5), the scope of practice restrictions under this title for persons who are licensed  
440 under this title as:

441 (i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah  
442 Osteopathic Medical Practice Act;

443 (ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31c, Nurse Licensure  
444 Compact;

445 (iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

446 (iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter [~~17a~~] 17b,  
447 Pharmacy Practice Act;

448 (v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act; and

449 (vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist  
450 Practice Act;

451 (c) suspend the requirements for licensure under this title and modify the scope of  
452 practice in the circumstances described in [~~Subsections~~] this Subsection (4) and Subsection (5)  
453 for medical services personnel or paramedics required to be certified under Section 26-8a-302;  
454 and

455 (d) suspend requirements in Subsections [~~58-17a-620~~] 58-17b-620(3) through (6)  
456 which require certain prescriptive procedures.

457 (5) Persons exempt under Subsection (4)(c) and persons operating under modified  
458 scope of practice provisions under Subsection (4)(b):

459 (a) shall be exempt from licensure or subject to modified scope of practice for the  
460 duration of the emergency;

461 (b) must be engaged in the distribution of medicines or medical devices in response to

462 the emergency or declaration; and

463 (c) must be employed by or volunteering for a local or state department of health.

464 Section 7. Section **58-16a-102** is amended to read:

464a **§ Section 7. Section 58-1-501 is amended to read:**

464b **58-1-501. Unlawful and unprofessional conduct.**

464c (1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under this  
464d title and includes:

464e (a) practicing or engaging in, representing oneself to be practicing or engaging in, or  
464f attempting to practice or engage in any occupation or profession requiring licensure under this title if  
464g the person is:

464h (i) not licensed to do so or not exempted from licensure under this title; or

464i (ii) restricted from doing so by a suspended, revoked, restricted, temporary, probationary, or  
464j inactive license;

464k (b) impersonating another licensee or practicing an occupation or profession under a false or  
464l assumed name, except as permitted by law;

464m (c) knowingly employing any other person to practice or engage in or attempt to practice or  
464n engage in any occupation or profession licensed under this title if the employee is not licensed to do  
464o so under this title;

464p (d) knowingly permitting the person's authority to practice or engage in any occupation or  
464q profession licensed under this title to be used by another, except as permitted by law; [or]

464r (e) obtaining a passing score on a licensure examination, applying for or obtaining a license,  
464s or otherwise dealing with the division or a licensing board through the use of fraud, forgery, or  
464t intentional deception, misrepresentation, misstatement, or omission[-];

464u (f) UNLESS SUBSECTION (2)(m) OR (3) APPLIES, ISSUING, OR AIDING AND ABETTING IN THE  
464v ISSUANCE OF, AN ORDER OR PRESCRIPTION FOR A DRUG OR DEVICE TO A PERSON LOCATED IN  
464w THIS STATE:

464x (i) WITHOUT PRESCRIPTIVE AUTHORITY CONFERRED BY A LICENSE ISSUED UNDER THIS  
464y TITLE, OR BY AN EXEMPTION TO LICENSURE UNDER THIS TITLE;

464z (ii) WITH PRESCRIPTIVE AUTHORITY CONFERRED BY AN EXCEPTION ISSUED UNDER THIS  
464aa TITLE OR A MULTISTATE PRACTICE PRIVILEGE RECOGNIZED UNDER THIS TITLE, IF THE  
464ab PRESCRIPTION WAS ISSUED:

464ac (A) WITHOUT FIRST OBTAINING INFORMATION, IN THE USUAL COURSE OF PROFESSIONAL  
464ad PRACTICE, THAT IS SUFFICIENT TO ESTABLISH A DIAGNOSIS, TO IDENTIFY UNDERLYING  
464ae CONDITIONS, AND TO IDENTIFY CONTRAINDICATIONS TO THE PROPOSED TREATMENT; OR

464af (B) BASED ON A QUESTIONNAIRE COMPLETED BY THE PATIENT ON THE INTERNET, OR  
464ag TOLL-FREE TELEPHONE NUMBER, WHEN THERE EXISTS NO OTHER BONA-FIDE  
464ah PATIENT-PRACTITIONER RELATIONSHIP; OR

464ai (iii) IN VIOLATION OF SUBSECTION (2)(m), WHEN THE LICENSED PERSON WHO ISSUED, OR  
464aj AIDED AND ABETTED ANOTHER IN THE ISSUANCE OF THE PRESCRIPTION HAS VIOLATED  
464ak SUBSECTION (2)(m) ON MORE THAN 100 PRESCRIPTIONS WITHIN A THIRTY DAY PERIOD OF TIME;  
464al AND

464am (g) SUBSECTION (2)(f) DOES NOT APPLY TO TREATMENT RENDERED IN AN EMERGENCY,  
464an ON-CALL OR CROSS COVERAGE SITUATION, PROVIDED THAT THE PERSON WHO ISSUES §



464ao § THE PRESCRIPTION HAS PRESCRIPTIVE AUTHORITY CONFERRED BY A LICENSE UNDER THIS  
 464ap TITLE, OR IS EXEMPT FROM LICENSURE UNDER THIS TITLE.

464aq (2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined as  
 464ar unprofessional conduct under this title or under any rule adopted under this title and includes:

464as (a) violating, or aiding or abetting any other person to violate, any statute, rule, or order  
 464at regulating an occupation or profession under this title;

464au (b) violating, or aiding or abetting any other person to violate, any generally accepted  
 464av professional or ethical standard applicable to an occupation or profession regulated under this title;

464aw (c) engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of  
 464ax guilty or nolo contendere which is held in abeyance pending the successful completion of probation  
 464ay with respect to a crime of moral turpitude or any other crime that, when considered with the functions  
 464az and duties of the occupation or profession for which the license was issued or is to be issued, bears a  
 464ba reasonable relationship to the licensee's or applicant's ability to safely or competently practice the  
 464bb occupation or profession;

464bc (d) engaging in conduct that results in disciplinary action, including reprimand, censure,  
 464bd diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having  
 464be jurisdiction over the licensee or applicant in the same occupation or profession if the conduct would,  
 464bf in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section  
 464bg 58-1-401;

464bh (e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar  
 464bi chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the  
 464bj ability of the licensee or applicant to safely engage in the occupation or profession;

464bk (f) practicing or attempting to practice an occupation or profession regulated under this title  
 464bl despite being physically or mentally unfit to do so;

464bm (g) practicing or attempting to practice an occupation or profession regulated under this title  
 464bn through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

464bo (h) practicing or attempting to practice an occupation or profession requiring licensure under  
 464bp this title by any form of action or communication which is false, misleading, deceptive, or fraudulent;

464bq (i) practicing or attempting to practice an occupation or profession regulated under this title  
 464br beyond the scope of the licensee's competency, abilities, or education;

464bs (j) practicing or attempting to practice an occupation or profession regulated under this title  
 464bt beyond the scope of the licensee's license;

464bu (k) verbally, physically, mentally, or sexually abusing or exploiting any person through  
 464bv conduct connected with the licensee's practice under this title or otherwise facilitated by the  
 464bw licensee's license; or

464bx (l) acting as a supervisor without meeting the qualification requirements for that position that  
 464by are defined by statute or rule[-]; OR

464bz (m) UNLESS SUBSECTION (3) APPLIES, ISSUING, OR AIDING AND ABETTING IN THE  
 464ca ISSUANCE OF, AN ORDER OR PRESCRIPTION FOR A DRUG OR DEVICE:

464cb (i) WITHOUT FIRST OBTAINING INFORMATION IN THE USUAL COURSE OF PROFESSIONAL  
 464cc PRACTICE, THAT IS SUFFICIENT TO ESTABLISH A DIAGNOSIS, TO IDENTIFY CONDITIONS, AND TO  
 464cd IDENTIFY CONTRAINDICATIONS TO THE PROPOSED TREATMENT; OR

464ce (ii) BASED ON A QUESTIONNAIRE COMPLETED BY THE PATIENT ON THE INTERNET, OR  
 464cf TOLL FREE TELEPHONE NUMBER WHEN THERE EXISTS NO OTHER §

464cg § **BONAFIDE PATIENT-PRACTITIONER RELATIONSHIP OR BONA FIDE REFERRAL BY A**  
 464ch **PRACTITIONER INVOLVED IN AN EXISTING PATIENT-PRACTITIONER RELATIONSHIP.**  
 464ci **(c) SUBSECTIONS (2)(m)(i) AND (ii) DO NOT APPLY TO TREATMENT RENDERED IN AN**  
 464cj **EMERGENCY, ON-CALL, OR CROSS COVERAGE SITUATION.**  
 464ck **(3) NOTWITHSTANDING SUBSECTIONS (1)(f) AND (2)(m), THE DIVISION MAY PERMIT A**  
 464cl **PERSON LICENSED TO PRESCRIBE UNDER THIS TITLE TO PRESCRIBE A LEGEND DRUG TO A**  
 464cm **PERSON LOCATED IN THIS STATE IF THE DIVISION IN COLLABORATION WITH THE APPROPRIATE**  
 464cn **PROFESSIONAL BOARD HAS PERMITTED THE SPECIFIC PRESCRIPTIVE PRACTICE OF THE LEGEND**  
 464co **DRUG BY RULE. §**

465 **58-16a-102. Definitions.**

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

467 (1) "Board" means the Optometrist Licensing Board created in Section 58-16a-201.

468 (2) "Contact lens" means any lens that:

469 (a) has a spherical, cylindrical, or prismatic power or curvature;

470 (b) is made pursuant to a current prescription; or

471 (c) is intended to be worn on the surface of the eye.

472 (3) (a) "Contact lens prescription" means a written or verbal order for contact lenses  
 473 that includes:

474 (i) the commencement date of the prescription;

475 (ii) the base curve, power, diameter, material or brand name, and expiration date;

476 (iii) for a written order, the signature of the prescribing optometrist or physician; and

477 (iv) for a verbal order, a record maintained by the recipient of:

478 (A) the name of the prescribing optometrist or physician; and

479 (B) the date when the prescription was issued or ordered.

480 (b) A prescription may include:

481 (i) a limit on the quantity of lenses that may be ordered under the prescription if  
 482 required for medical reasons documented in the patient's files; and

483 (ii) the expiration date of the prescription, which shall be two years from the  
 484 commencement date, unless documented medical reasons require otherwise.

485 (c) When a provider prescribes a private label contact lens for a patient the prescription  
 486 shall include:

487 (i) the name of the manufacturer;

488 (ii) the trade name of the private label brand; and

489 (iii) if applicable, the trade name of the equivalent national brand.

490 (4) "Contact lens prescription verification" means a written request from a person who  
 491 sells contact lenses that:

492 (a) is sent to the prescribing optometrist or physician; and

- 493 (b) seeks the confirmation of the accuracy of a patient's prescription.
- 494 (5) "Eye and its adnexa" means the human eye and all structures situated within the  
495 orbit, including the conjunctiva, lids, lashes, and lacrimal system.
- 496 (6) "Fitting of a contact lens" means:
- 497 (a) the using of a keratometer to measure the human eye;
- 498 (b) utilizing refractive data provided by a licensed optometrist or ophthalmologist; and
- 499 (c) trial fitting of contact lenses, which includes a period of time for evaluation for fit  
500 and performance, to determine a tentative contact lens prescription for a patient if the patient:
- 501 (i) has not worn contact lenses before; or
- 502 (ii) has changed to a different type or base curve.
- 503 (7) "Laser surgery" means surgery in which human tissue is cut, burned, or vaporized  
504 by means of laser or ionizing radiation.
- 505 (8) "Ophthalmic lens" means any lens used to treat the eye and that:
- 506 (a) has a spherical, cylindrical, or prismatic power;
- 507 (b) is made pursuant to an unexpired prescription; and
- 508 (c) is intended to be used in eyeglasses or spectacles.
- 509 (9) "Optometric assistant" means an unlicensed individual:
- 510 (a) working under the direct and immediate supervision of a licensed optometrist; and
- 511 (b) engaged in specific tasks assigned by the licensed optometrist in accordance with  
512 the standards and ethics of the profession.
- 513 (10) "Optometrist" or "optometric physician" means an individual licensed under this  
514 chapter.
- 515 (11) "Optometry" and "practice of optometry" mean any one or any combination of the  
516 following practices:
- 517 (a) examination of the human eye and its adnexa to detect and diagnose defects or  
518 abnormal conditions;
- 519 (b) determination or modification of the accommodative or refractive state of the  
520 human eye or its range or power of vision by administration and prescription of pharmaceutical  
521 agents or the use of diagnostic instruments;
- 522 (c) prescription, ordering, administration, or adaptation of ophthalmic lenses, contact  
523 lenses, ophthalmic devices, pharmaceutical agents, laboratory tests, or ocular exercises to

524 diagnose and treat diseases, defects, or other abnormal conditions of the human eye and its  
525 adnexa;

526 (d) display of any advertisement, circular, sign, or device offering to:

527 (i) examine the eyes;

528 (ii) fit glasses or contact lenses; or

529 (iii) adjust frames;

530 (e) removal of a foreign body from the eye or its adnexa, that is not deeper than the  
531 anterior 1/2 of the cornea;

532 (f) consultation regarding the eye and its adnexa with other appropriate health care  
533 providers, including referral to other appropriate health care providers; and

534 (g) a person, not licensed as an optometrist, directing a licensee under this chapter to  
535 withhold or alter the eye care services the licensee has ordered.

536 (12) "Pharmaceutical agent" means any diagnostic or therapeutic drug or combination  
537 of drugs that has the property of assisting in the diagnosis, prevention, treatment, or mitigation  
538 of abnormal conditions or symptoms of the eye and its adnexa.

539 (13) "Physician" has the same meaning as defined in Subsection 58-67-102(7).

540 (14) "Prescription drug" has the same definition as in Section [~~58-17a-102~~]  
541 58-17b-102.

542 (15) "Unexpired" means a prescription that was issued:

543 (a) not more than two years prior to presentation of the prescription for an ophthalmic  
544 lens; or

545 (b) in accordance with Subsection (3) for a contact lens.

546 Section 8. Section **58-17b-101** is enacted to read:

547 **CHAPTER 17b. PHARMACY PRACTICE ACT**

548 **Part 1. General Provisions**

549 **58-17b-101. Title.**

550 This chapter is known as the "Pharmacy Practice Act."

551 Section 9. Section **58-17b-102** is enacted to read:

552 **58-17b-102. Definitions.**

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

554 (1) "Administering" means:

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

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

562 (2) "Adulterated drug or device" means a drug or device considered adulterated under  
563 21 U.S.C.S. Sec. 351 (2003).

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

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

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

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

578 (6) "Beyond-use-date" means a date determined by a pharmacist and should be placed  
579 on a prescription label at the time of dispensing that is intended to indicate to the patient or  
580 caregiver a time beyond which the contents of the prescription are not recommended to be  
581 used.

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

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

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

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

594 (11) "Class B pharmacy" means a pharmacy that is authorized to provide  
595 pharmaceutical care for patients in an institutional setting and whose primary purpose is to  
596 provide a physical environment for patients to obtain health care services and includes closed  
597 door, hospital, clinics, nuclear, branch, pharmaceutical research facilities, pharmaceutical  
598 administration facilities, and sterile product preparation facilities.

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

601 (13) "Class D pharmacy" means a nonresident pharmacy to include any pharmacy  
602 outside of Utah that is authorized to deliver drugs or devices to residents of Utah.

603 (14) "Class E pharmacy" means all other pharmacy facilities.

604 (15) "Closed door" pharmacy means a pharmacy that provides pharmaceutical care to a  
605 defined and exclusive group of patients who have access to the services of the pharmacy  
606 because they are treated by or have an affiliation with a specific entity including health  
607 maintenance organizations and infusion companies, and does not include hospital pharmacies,  
608 retail sales to the general public, or the offices of practitioners.

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

614 (17) "Collaborative pharmacy practice agreement" means a written and signed  
615 agreement between one or more pharmacists and one or more practitioners that provides for  
616 collaborative pharmacy practice for the purpose of drug therapy management of patients and

617 prevention of disease of human subjects.

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

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

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

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

626 (b) "Compounding" does not include:

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

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

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

634 (19) "Confidential information" has the same meaning as "protected health  
635 information" under the Standards for Privacy of Individually Identifiable Health Information,  
636 45 C.F.R. Parts 160 and 164.

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

638 (21) "Device" means an instrument, apparatus, implement, machine, contrivance,  
639 implant, in vitro reagent, or other similar or related article, including any component part or  
640 accessory, which is required under federal or state law to be prescribed by a practitioner and  
641 dispensed by a pharmacist or pharmacy intern.

642 (22) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter  
643 417, Sec. 3a(ff) which is incorporated by reference.

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

648 (24) "Distribute" means to deliver a drug or device other than by administering or  
649 dispensing.

650 (25) "Drug" means:

651 (a) a substance recognized as a drug in any official compendium, or supplement  
652 thereto, designated from time to time by the division in collaboration with the board for use in  
653 the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals,  
654 excluding nonprescription drugs or dietary supplements;

655 (b) a drug or device that is required by any applicable federal or state law or rule to be  
656 dispensed on prescription only or is restricted to use by practitioners only;

657 (c) substances other than food intended to affect the structure or any function of the  
658 body of humans or other animals, excluding nonprescription dietary supplements; and

659 (d) substances intended for use as a component of any substance specified in  
660 Subsection (25)(a), (b), or (c).

661 (26) "Drug product equivalent" means a drug product that is designated as the  
662 therapeutic equivalent of another drug product in the Approved Drug Products with  
663 Therapeutic Equivalence Evaluations prepared by the Center for Drug Evaluation and Research  
664 of the Federal Food and Drug Administration.

665 (27) "Drug regimen review" includes the following activities:

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

667 (i) known allergies;

668 (ii) rational therapy-contraindications;

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

670 (iv) reasonable directions for use;

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

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

674 (i) drug-drug;

675 (ii) drug-food;

676 (iii) drug-disease; and

677 (iv) adverse drug reactions; and

678 (d) evaluation of the prescription drug order and patient record for proper utilization.



679 including over- or under-utilization, and optimum therapeutic outcomes.

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

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

688 (30) "Electronic transmission" means transmission of information in electronic form or  
689 the transmission of the exact visual image of a document by way of electronic equipment.

690 (31) "Extern" means a college of pharmacy student enrolled in a college coordinated  
691 practical experience program in a health care setting under the supervision of a preceptor, as  
692 defined in this act, and approved by a college of pharmacy.

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

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

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

701 (35) (a) "Manufacturing" means:

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

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

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

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

714 (36) "Medical order" means a lawful order of a practitioner which may include a  
715 prescription drug order.

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

719 (38) "Misbranded drug or device" means a drug or device considered misbranded under  
720 21 U.S.C.S. Sec. 352 (2003).

721 (39) "Nonprescription drug" means a drug which may be sold without a prescription  
722 and which is labeled for use by the consumer in accordance with federal law and includes  
723 homeopathic remedies.

724 (40) "Nonresident pharmacy" means any pharmacy that sells to anyone in Utah, but is  
725 not physically located in Utah.

726 (41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.

727 (42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located  
728 outside the state that **§ IS LICENSED AND IN GOOD STANDING IN ANOTHER STATE, THAT § :**

729 (a) ships, mails, or delivers by any lawful means a dispensed legend drug to a resident  
730 in this state pursuant to a legally issued prescription;

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

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

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

739 (44) "Pharmaceutical administration facility" means a health care facility or agency, in  
740 which:

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

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

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

749 (45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a  
750 prescribing practitioner, and in accordance with division rule:

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

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

755 (iii) arresting or slowing a disease process.

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

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

761 (47) (a) "Pharmaceutical research facility" means a facility engaged in conducting  
762 scientific research regarding drugs and their use in accordance with standard research protocols  
763 and techniques, who maintains competent documentation with respect to the research, and who  
764 uses prescription drugs in the conduct of the research.

765 (b) "Pharmaceutical research facility" does not include any licensed facility or clinic  
766 whose primary researchers are licensed practitioners.

767 (48) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility  
768 engaged in the business of wholesale vending or selling of any prescription drug or device to  
769 other than the consumer or user of the prescription drug or device, which the pharmaceutical  
770 facility has not produced, manufactured, compounded, or dispensed.

771 (b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical

772 facility carrying out the following business activities:

773 (i) intracompany sales;

774 (ii) the sale, purchase, or trade of a prescription drug or device, or offer to sell,  
775 purchase or trade a prescription drug or device between hospitals or other health care facilities  
776 that are under common ownership or control of the management and operation of the facilities;

777 (iii) the sale, purchase, or trade of a prescription drug or device, or offer to sell,  
778 purchase, or trade a prescription drug or device for emergency medical reasons, or to supply  
779 another pharmaceutical facility to alleviate a temporary shortage; or

780 (iv) the distribution of a prescription drug or device as a sample by representatives of a  
781 manufacturer.

782 (49) "Pharmacist" means an individual licensed by this state to engage in the practice  
783 of pharmacy.

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

788 (51) "Pharmacist preceptor" means a licensed pharmacist in good standing with two or  
789 more years of licensed experience whose name appears on a division list of approved  
790 preceptors. The preceptor serves as a teacher, example of professional conduct, and supervisor  
791 of interns in the professional practice of pharmacy.

792 (52) "Pharmacy" means any place within Utah where drugs are dispensed and  
793 pharmaceutical care is provided and any place outside of Utah where drugs are dispensed and  
794 pharmaceutical care is provided to residents of Utah.

795 (53) "Pharmacy benefits manager or coordinator" means a person § OR ENTITY § that  
795a administers the  
796 prescription drug or device portion of health insurance plans on behalf of plan sponsors, such  
797 as self-insured employers, insurance companies, and health maintenance organizations, and  
798 may be further defined by rule.

799 (54) "Pharmacy intern" means an individual licensed by this state to engage in practice  
800 as a pharmacy intern.

801 (55) "Pharmacy technician training program" means an approved technician training  
802 program providing education for pharmacy technicians.

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

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

807 (i) performing a drug utilization review, prescription drug order clarification from a  
808 prescriber, final review of the prescription and prescribed drug prepared for dispensing,  
809 dispensing of the drug, or counseling a patient with respect to a prescription drug;

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

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

815 (57) "Practice of pharmacy" includes the following:

816 (a) providing pharmaceutical care;

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

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

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

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

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

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

829 (d) participating in drug utilization review;

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

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

833 (g) providing information on drugs or devices, which may include advice relating to

834 therapeutic values, potential hazards, and uses;

835 (h) providing drug product equivalents;

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

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

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

840 (l) telepharmacy; and

841 (m) formulary management intervention.

842 (58) "Practice of telepharmacy" means the practice of pharmacy through the use of  
843 telecommunications and information technologies.

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

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

851 (61) "Prescription" means an order:

852 (a) issued by a licensed practitioner:

853 (i) orally, in writing, by telephone, facsimile transmission, computer, or other  
854 electronic means of communication as defined by division rule;

855 (ii) in the course of the practitioner's professional practice; or

856 (iii) by collaborative pharmacy practice agreement; and

857 (b) for a controlled substance, other prescription drug, or device with the intent that the  
858 controlled substance, prescription drug, or device will be used by a patient or an animal.

859 (62) "Prescription drug or device" means:

860 (a) a legend drug or device; or

861 (b) a drug or device that is required by an applicable federal or state law or rule to be  
862 dispensed on prescription only or is restricted to use by practitioners only.

863 (63) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs  
864 and devices to the general public.

865 (64) "Self-audit" means an internal evaluation of a pharmacy to determine compliance  
866 with this chapter.

867 (65) "Supervising pharmacist" means a pharmacist who is overseeing the operation of  
868 the pharmacy during a given day or shift.

869 (66) "Supportive personnel" means unlicensed individuals who:

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

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

877 (67) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-17b-501.

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

880 (69) "Veterinary pharmaceutical facility" means a pharmaceutical facility that  
881 dispenses drugs intended for use by animals or for sale to veterinarians for the administration  
882 for animals.

883 Section 10. Section **58-17b-103** is enacted to read:

884 **58-17b-103. Administrative inspections.**

885 (1) The division may for the purpose of ascertaining compliance with the provisions of  
886 this chapter, require a self-audit or enter and inspect the business premises of a person:

887 (a) licensed under Part 3, Licensing; or

888 (b) who is engaged in activities that require a license under Part 3, Licensing.

889 (2) Before conducting an inspection under Subsection (1), the division shall, after  
890 identifying the person in charge:

891 (a) give proper identification;

892 (b) request to see the applicable license or licenses;

893 (c) describe the nature and purpose of the inspection; and

894 (d) provide upon request, the authority of the division to conduct the inspection and the  
895 penalty for refusing to permit the inspection as provided in Section 58-17b-504.

896 (3) In conducting an inspection under Subsection (1), the division may, after meeting  
897 the requirements of Subsection (2):

898 (a) examine any record, prescription, order, drug, device, equipment, machine,  
899 electronic device or media, or area related to activities for which a license has been issued or is  
900 required by Part 3, Licensing, for the purpose of ascertaining compliance with the applicable  
901 provisions of this chapter;

902 (b) take a drug or device for further analysis if considered necessary;

903 (c) temporarily seize a drug or device which is suspected to be adulterated, misbranded,  
904 outdated, or otherwise in violation of this chapter, pending an adjudicative proceeding on the  
905 matter;

906 (d) box and seal drugs suspected to be adulterated, outdated, misbranded, or otherwise  
907 in violation of this chapter; and

908 (e) dispose of or return any drug or device obtained under this Subsection (3) in  
909 accordance with procedures established by division rule.

910 (4) An inspection conducted under Subsection (1) shall be during regular business  
911 hours.

912 (5) If upon inspection, the division concludes that a person has violated the provisions  
913 of this chapter or Chapter 37, Utah Control Substances Act, or any rule or order issued with  
914 respect to those chapters, and that disciplinary action is appropriate, the director or the  
915 director's designee shall promptly issue a fine or citation to the licensee in accordance with  
916 Section 58-17b-504.

917 Section 11. Section **58-17b-201** is enacted to read:

918 **Part 2. Board**

919 **58-17b-201. Board -- Membership -- Qualifications -- Terms.**

920 (1) There is created the Utah State Board of Pharmacy consisting of five pharmacists,  
921 one pharmacy technician, and one member of the general public.

922 (a) The public member of the board shall be a Utah resident who:

923 (i) is 21 years of age or older;

924 (ii) has never been licensed to engage in the practice of pharmacy;

925 (iii) has never been the spouse of a person licensed to engage in the practice of  
926 pharmacy;



- 927 (iv) has never held any material financial interest in pharmacy practice; and  
928 (v) has never engaged in any activity directly related to the practice of pharmacy.  
929 (b) The licensed pharmacist and licensed pharmacy technician members of the board  
930 shall:  
931 (i) have been Utah residents continuously for at least three years;  
932 (ii) have at least five years experience in the practice of pharmacy in good standing  
933 with the division in Utah after licensure; and  
934 (iii) maintain licensure in good standing to engage in the practice of pharmacy or  
935 practice as a pharmacy technician in Utah for the duration of the appointment.  
936 (2) The board shall be appointed and serve in accordance with Section 58-1-201.  
937 (3) The duties and responsibilities of the board are in accordance with Sections  
938 58-1-202 and 58-1-203. In addition, the board shall designate an appropriate member on a  
939 permanent or rotating basis to:  
940 (a) assist the division in reviewing complaints concerning the unlawful or  
941 unprofessional conduct of a licensee; and  
942 (b) advise the division in its investigation of these complaints.  
943 (4) A board member who has, under Subsection (3), reviewed a complaint or advised  
944 in its investigation may be disqualified from participating with the board when the board serves  
945 as a presiding officer in an adjudicative proceeding concerning the complaint.  
946 (5) A board member may be removed in accordance with Subsection 58-1-201(2)(e) or  
947 upon one of the following grounds:  
948 (a) refusal or inability for any reason of a board member to perform his duties as a  
949 member of the Board in an efficient, responsible, and professional manner;  
950 (b) misuse of appointment to obtain personal, pecuniary, or material gain or advantage  
951 for himself or another through such appointment; or  
952 (c) violation of the laws governing the practice of pharmacy or Chapter 37, Utah  
953 Controlled Substances Act.  
954 Section 12. Section **58-17b-301** is enacted to read:  
955 **Part 3. Licensing**  
956 **58-17b-301. License required -- License classifications for individuals.**  
957 (1) A license is required to engage in the practice of pharmacy, telepharmacy, or the

958 practice of a pharmacy technician, except as specifically provided in Section 58-1-307 or  
959 58-17b-309.

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

962 (a) pharmacist;

963 (b) pharmacy intern; or

964 (c) pharmacy technician.

965 Section 13. Section **58-17b-302** is enacted to read:

966 **58-17b-302. License classifications of pharmacy facilities.**

967 (1) A license is required to act as a pharmacy, except as specifically exempted from  
968 licensure under Section 58-1-307.

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

971 (a) class A pharmacy;

972 (b) class B pharmacy;

973 (c) class C pharmacy;

974 (d) class D pharmacy; or

975 (e) class E pharmacy.

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

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

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

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

986 (7) Any facility holding a pharmacy license prior to July 1, 2004, shall be converted  
987 from the classification of license currently held to the appropriate classification established  
988 under this chapter upon their next renewal or reinstatement of licensure, in accordance with a

989 conversion schedule established by rule.

990 Section 14. Section **58-17b-303** is enacted to read:

991 **58-17b-303. Qualifications for licensure as a pharmacist.**

992 (1) Each applicant for licensure as a pharmacist shall:

993 (a) submit an application in a form prescribed by the division;

994 (b) pay a fee as determined by the department under Section 63-38-3.2;

995 (c) produce satisfactory evidence of good moral character as it relates to the applicant's  
996 ability to practice pharmacy;

997 (d) complete a criminal background check and be free from criminal convictions as  
998 required by Section 58-17b-307, or as described in Section 58-1-501;

999 (e) have no physical or mental condition of a nature which prevents the applicant from  
1000 engaging in the practice of pharmacy with reasonable skill, competency, and safety to the  
1001 public;

1002 (f) have graduated and received a professional entry degree from a school or college of  
1003 pharmacy which is accredited by the American Council on Pharmaceutical Education;

1004 (g) have completed an internship meeting standards established by division rule made  
1005 in collaboration with the board; and

1006 (h) have successfully passed examinations required by division rule made in  
1007 collaboration with the board.

1008 (2) Each applicant for licensure as a pharmacist whose pharmacy education was  
1009 completed at a foreign pharmacy school shall, in addition to the requirements under  
1010 Subsections (1)(a) through (e), (g), and (h), obtain a certification of equivalency from a  
1011 credentialing agency required by division rule made in collaboration with the board.

1012 (3) Each applicant for a license by endorsement as a pharmacist under this section  
1013 shall:

1014 (a) submit a written application in the form prescribed by the division;

1015 (b) pay the fee determined by the department under Section 63-38-3.2;

1016 (c) be of good moral character as required of applicants for licensure as pharmacists  
1017 under Subsection (1);

1018 (d) complete a criminal background check and be free from criminal convictions as  
1019 required by Section 58-17b-307, or as otherwise described in Section 58-1-501;

1020 (e) have no physical or mental condition of a nature which prevents the applicant from  
1021 engaging in the practice of pharmacy with reasonable skill, competency, and safety to the  
1022 public;

1023 (f) have lawfully practiced as a licensed pharmacist a minimum of 2,000 hours in the  
1024 four years immediately preceding the date of application;

1025 (g) produce satisfactory evidence of completing the professional education required  
1026 under Subsection (1);

1027 (h) be currently licensed in good standing as a pharmacist in another state, territory, or  
1028 possession of the United States;

1029 (i) produce satisfactory evidence that the examination requirements are or were at the  
1030 time the license was issued, equal to those of this state; and

1031 (j) pass the jurisprudence examination prescribed by division rule made in  
1032 collaboration with the board.

1033 Section 15. Section **58-17b-304** is enacted to read:

1034 **58-17b-304. Qualifications for licensure of pharmacy intern.**

1035 Each applicant for licensure as a pharmacy intern shall:

1036 (1) submit an application in a form prescribed by the division;

1037 (2) pay a fee determined by the department under Section 63-38-3.2;

1038 (3) produce satisfactory evidence of good moral character as it relates to the applicant's  
1039 ability to practice pharmacy;

1040 (4) complete a criminal background check and be free from criminal convictions as  
1041 required by Section 58-17b-307, or as otherwise described in Section 58-1-501;

1042 (5) have no physical or mental condition of a nature which prevents the applicant from  
1043 engaging in the practice of pharmacy with reasonable skill, competency, and safety to the  
1044 public;

1045 (6) meet the preliminary educational qualifications required by division rule made in  
1046 collaboration with the board; and

1047 (7) meet one of the following educational criteria:

1048 (a) be a current pharmacy student, a resident, or fellow in a program approved by  
1049 division rule in collaboration with the board;

1050 (b) have graduated and received a pharmacy degree from a school or college of

1051 pharmacy which is accredited by the American Council on Pharmaceutical Education; or  
1052 (c) have graduated from a foreign pharmacy school and received certification of  
1053 equivalency from a credentialing agency approved by the division rule in collaboration with the  
1054 board.

1055 Section 16. Section **58-17b-305** is enacted to read:

1056 **58-17b-305. Qualifications for licensure of pharmacy technician.**

1057 (1) Each applicant for licensure as a pharmacy technician shall:

1058 (a) submit an application in a form prescribed by the division;

1059 (b) pay a fee determined by the department under Section 63-38-3.2;

1060 (c) produce satisfactory evidence of good moral character as it relates to the applicant's  
1061 ability to practice pharmacy;

1062 (d) complete a criminal background check and be free from criminal convictions as  
1063 required by Section 58-17b-307, or as otherwise permitted by Section 58-1-501;

1064 (e) have no physical or mental condition of a nature which prevents the applicant from  
1065 engaging in practice as a pharmacy technician with reasonable skill, competency, and safety to  
1066 the public;

1067 (f) have completed a board approved program and curriculum of education and  
1068 training, meeting standards established by division rule made in collaboration with the board;  
1069 and

1070 (g) successfully complete the examinations requirement within the time periods  
1071 established by division rule made in collaboration with the board.

1072 (2) A pharmacist whose license has been denied, revoked, suspended, or restricted for  
1073 disciplinary purposes shall not be eligible to be a licensed pharmacy technician while on  
1074 probation with the division.

1075 Section 17. Section **58-17b-306** is enacted to read:

1076 **58-17b-306. Qualifications for licensure as a pharmacy.**

1077 (1) Each applicant for licensure under this section, except for those applying for a class  
1078 D license, shall:

1079 (a) submit a written application in the form prescribed by the division;

1080 (b) pay a fee as determined by the department under Section 63-38-3.2;

1081 (c) satisfy the division that the applicant, and each owner, officer, or manager of the

1082 applicant have not engaged in any act, practice, or omission, which when considered with the  
1083 duties and responsibilities of a licensee under this section indicates there is cause to believe  
1084 that issuing a license to the applicant is inconsistent with the interest of the public's health,  
1085 safety, or welfare;

1086 (d) demonstrate the licensee's operations will be in accordance with all federal, state,  
1087 and local laws relating to the type of activity engaged in by the licensee, including regulations  
1088 of the Federal Drug Enforcement Administration and Food and Drug Administration;

1089 (e) maintain operating standards established by division rule made in collaboration  
1090 with the board; and

1091 (f) acknowledge the division's authority to inspect the licensee's business premises  
1092 pursuant to Section 58-17b-103.

1093 (2) Each applicant applying for a class D license shall:

1094 (a) submit a written application in the form prescribed by the division;

1095 (b) pay a fee as determined by the department under Section 63-38-3.2;

1096 (c) present to the division verification of licensure in the state where physically located  
1097 and verification that such license is in good standing;

1098 (d) provide a statement of the scope of pharmacy services that will be provided and a  
1099 detailed description of the protocol as described by rule by which pharmacy care will be  
1100 provided, including any collaborative practice arrangements with other health care  
1101 practitioners;

1102 (e) sign an affidavit attesting that any healthcare practitioners employed by the  
1103 applicant and physically located in Utah have the appropriate license issued by the division and  
1104 in good standing; and

1105 (f) sign an affidavit attesting that the applicant will abide by the pharmacy laws and  
1106 regulations of the jurisdiction in which the § [patient] PHARMACY § is located.

1107 (3) Each license issued under this section shall be issued for a single, specific address,  
1108 and is not transferable or assignable.

1109 Section 18. Section **58-17b-307** is enacted to read:

1110 **58-17b-307. Qualification for licensure -- Criminal background checks.**

1111 (1) An applicant for licensure under this chapter shall submit fingerprint cards in a  
1112 form acceptable to the division at the time the license application is filed and shall consent to a

1113 fingerprint background check by the Utah Bureau of Criminal Identification and the Federal  
1114 Bureau of Investigation regarding the application.

1115 (2) The division shall request the Department of Public Safety to complete a Federal  
1116 Bureau of Investigation criminal background check for each applicant through the national  
1117 criminal history system (NCIC) or any successor system.

1118 (3) If convicted of one or more felonies, an applicant must receive an absolute  
1119 discharge from the sentences for all felony convictions five or more years prior to the date of  
1120 filing an application for licensure under this chapter.

1121 (4) For purposes of conducting the criminal background check required in Subsection  
1122 (1), the division shall have direct access to criminal background information maintained  
1123 pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

1124 (5) Any new pharmacist, pharmacy intern, or pharmacy technician license issued under  
1125 this section shall be conditional, pending completion of the criminal background check.  
1126 Notwithstanding Title 63, Chapter 46b, Administrative Procedures Act, if the criminal  
1127 background check discloses the applicant has failed to accurately disclose a criminal history,  
1128 the license shall be immediately and automatically revoked upon notice to the licensee.

1129 (6) Any person whose conditional license has been revoked under Subsection (5) shall  
1130 be entitled to a postrevocation hearing to challenge the revocation. The hearing shall be  
1131 conducted in accordance with Title 63, Chapter 46b, Administrative Procedures Act.

1132 Section 19. Section **58-17b-308** is enacted to read:

1133 **58-17b-308. Term of license -- Expiration -- Renewal.**

1134 (1) Except as provided in Subsection (2), each license issued under this chapter shall be  
1135 issued in accordance with a two-year renewal cycle established by rule. A renewal period may  
1136 be extended or shortened by as much as one year to maintain established renewal cycles or to  
1137 change an established renewal cycle. Each license automatically expires on the expiration date  
1138 shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

1139 (2) The duration of a pharmacy intern license may be no longer than:

1140 (a) one year for a license issued under Subsection 58-17b-304(7)(b) or (c); or

1141 (b) four years for a license issued under Subsection 58-17b-304(7)(a).

1142 (3) A pharmacy intern license issued under this chapter may not be renewed, but may  
1143 be extended by the division in collaboration with the board.

1144 Section 20. Section **58-17b-309** is enacted to read:

1145 **58-17b-309. Exemptions from licensure.**

1146 (1) In addition to the exemptions from licensure in Section 58-1-307, the following  
1147 individuals may engage in the acts or practices described in this Subsection (1) without being  
1148 licensed under this chapter:

- 1149 (a) a person selling contact lenses in accordance with Section 58-16a-801; and
- 1150 (b) an individual engaging in the practice of pharmacy technician under the direct
- 1151 personal supervision of a pharmacist while making satisfactory progress in an approved
- 1152 program as defined in division rule.

1153 (2) In accordance with Subsection 58-1-303(1)(a), an individual exempt under  
1154 Subsection (1)(b) must take all examinations as required by division rule following completion  
1155 of an approved curriculum of education, within the required time frame. This exemption  
1156 expires immediately upon notification of a failing score of an examination, and the individual  
1157 may not continue working as a pharmacy technician even under direct supervision.

1158 Section 21. Section **58-17b-310** is enacted to read:

1159 **58-17b-310. Continuing education.**

1160 The division in collaboration with the board may establish by rule continuing education  
1161 requirements for each classification of licensure under this chapter.

1162 Section 22. Section **58-17b-401** is enacted to read:

1163 **Part 4. License Denial and Discipline**

1164 **58-17b-401. Grounds for denial of licensure -- Disciplinary proceedings.**

1165 Grounds for the following action regarding a license issued under this chapter shall be  
1166 in accordance with Section 58-1-401:

- 1167 (1) refusal to issue a license to an applicant;
- 1168 (2) refusal to renew the license of a licensee;
- 1169 (3) to revoke, suspend, restrict, or place on probation the license of a licensee;
- 1170 (4) to issue a public or private reprimand to a licensee;
- 1171 (5) to issue cease and desist orders; and
- 1172 (6) to issue an administrative fine or citation.

1173 Section 23. Section **58-17b-501** is enacted to read:

1174 **Part 5. Unlawful and Unprofessional Conduct**



1175 **58-17b-501. Unlawful conduct.**

1176 "Unlawful conduct" includes:

1177 (1) knowingly preventing or refusing to permit any authorized agent of the division to  
1178 conduct an inspection pursuant to Section 58-17b-103;

1179 (2) failing to deliver the license, permit, or certificate to the division upon demand, if it  
1180 has been revoked, suspended, or refused;

1181 (3) (a) using the title "pharmacist," "druggist," "pharmacy intern," "pharmacy  
1182 technician," or any term having similar meaning, except by a person licensed as a pharmacist,  
1183 pharmacy intern, or pharmacy technician; or

1184 (b) conducting or transacting business under a name which contains, as part of that  
1185 name, the words "drugstore", "pharmacy", "drugs", "medicine store", "medicines", "drug shop",  
1186 "apothecary", "prescriptions", or any other term having a similar meaning, or in any manner  
1187 advertising, otherwise describing, or referring to the place of the conducted business or  
1188 profession, unless the place is a pharmacy issued a license by the division, except any  
1189 establishment selling nonprescription drugs and supplies may display signs bearing the words  
1190 "packaged drugs", "drug sundries", or "nonprescription drugs", and is not considered to be a  
1191 pharmacy or drugstore by reason of the display;

1192 (4) buying, selling, causing to be sold, or offering for sale, any drug or device which  
1193 bears, or the package bears or originally did bear, the inscription "sample", "not for resale", "for  
1194 investigational or experimental use only", or other similar words, except when a cost is  
1195 incurred in the bona fide acquisition of an investigational or experimental drug;

1196 (5) using to his own advantages or revealing to anyone other than the division, board,  
1197 and its authorized representatives, or to the courts, when relevant to any judicial or  
1198 administrative proceeding under this chapter, any information acquired under authority of this  
1199 chapter or concerning any method of process which is a trade secret;

1200 (6) procuring or attempting to procure any drug for himself or to have someone else  
1201 procure or attempt to procure any drug:

1202 (a) by fraud, deceit, misrepresentation, or subterfuge;

1203 (b) by forgery or alteration of a prescription or any written order;

1204 (c) by concealment of a material fact;

1205 (d) by use of a false statement in any prescription, chart, order, or report; or

- 1206           (e) by theft;  
1207           (7) filling, refilling, or advertising the filling or refilling of prescriptions for any  
1208 consumer or patient residing in this state if the person is not licensed;  
1209           (a) under this chapter; or  
1210           (b) in the state from which he is dispensing;  
1211           (8) requiring any employed pharmacist, pharmacy intern, pharmacy technician, or  
1212 authorized supportive personnel to engage in any conduct in violation of this chapter;  
1213           (9) being in possession of a prescription drug for any unlawful purpose;  
1214           (10) dispensing a prescription drug to anyone who does not have a prescription from a  
1215 practitioner or to anyone who he knows or should know is attempting to obtain drugs by fraud  
1216 or misrepresentation;  
1217           (11) selling, dispensing, or otherwise trafficking in prescription drugs when not  
1218 licensed to do so or when not exempted from licensure; and  
1219           (12) using a prescription drug or controlled substance for himself that was not lawfully  
1220 prescribed for him by a practitioner.  
1221           Section 24. Section **58-17b-502** is enacted to read:  
1222           **58-17b-502. Unprofessional conduct.**  
1223           "Unprofessional conduct" includes:  
1224           (1) willfully deceiving or attempting to deceive the division, the board, or their agents  
1225 as to any relevant matter regarding compliance under this chapter;  
1226           (2) (a) paying rebates to practitioners or any other health care providers, or entering  
1227 into any agreement with a medical practitioner or any other person for the payment or  
1228 acceptance of compensation or its economic equivalent for recommending the professional  
1229 services of either party, except as allowed under Subsection (2)(b); and  
1230           (b) price discounts conditional upon volume purchases are not prohibited under  
1231 Subsection (2)(a);  
1232           (3) misbranding or adulteration of any drug or device or the sale, distribution, or  
1233 dispensing of any outdated, misbranded, or adulterated drug or device;  
1234           (4) engaging in the sale or purchase of drugs or devices that are samples or packages  
1235 bearing the inscription "sample" or "not for resale" or similar words or phrases;  
1236           (5) accepting back and redistributing of any unused drug, or a part of it, after it has left

1237 the premises of any pharmacy, unless the drug is in the original sealed unit dose package or  
1238 manufacturer's sealed container as defined in rule, except as provided in Section 58-17b-503;

1239 (6) being employed as a pharmacist, pharmacy intern, or pharmacy technician, or  
1240 sharing or receiving compensation in any form arising out of an act incidental to professional  
1241 activities in the course of which any person requires him to engage in any aspect of the practice  
1242 of pharmacy in violation of this chapter;

1243 (7) violating Federal Title II, P.L. 91, Controlled Substances Act, or Title 58, Chapter  
1244 37, Utah Controlled Substances Act, or rules and regulations adopted under either act;

1245 (8) requiring or permitting pharmacy interns or technicians to engage in activities  
1246 outside the scope of practice for their respective license classifications as defined in this  
1247 chapter and division rules made in collaboration with the board, or beyond an individual's  
1248 scope of training and ability;

1249 (9) administering without appropriate training as defined by rule:

1250 (a) written guidelines or protocols of a practitioner or in conflict with such guidelines  
1251 or protocols; or

1252 (b) a lawful order, when one is required by law;

1253 (10) disclosing confidential patient information in violation of the provisions of the  
1254 Health Insurance Portability and Accountability Act of 1996 or other applicable law;

1255 (11) engaging in the practice of pharmacy without a licensed pharmacist designated as  
1256 the pharmacist-in-charge;

1257 (12) failing to report to the division any adverse action taken by another licensing  
1258 jurisdiction, government agency, law enforcement agency, or court for conduct that would  
1259 constitute grounds for action as defined in this section;

1260 (13) preparing as a pharmacist or pharmacy intern, a prescription drug for sale to  
1261 another pharmacist or pharmaceutical facility; and

1262 (14) preparing as a pharmacist or pharmacy intern, a prescription drug in a dosage form  
1263 which is regularly and commonly available from a manufacturer in quantities and strengths  
1264 prescribed by a practitioner.

1265 Section 25. Section **58-17b-503** is enacted to read:

1266 **58-17b-503. Exception to unprofessional conduct.**

1267 (1) For purposes of this section:

1268           (a) "ICFMR" means an intermediate care facility for the mentally retarded licensed as a  
1269 nursing care facility or a small health care facility under Title 26, Chapter 21, Health Care  
1270 Facility Licensing and Inspection Act.

1271           (b) "Nursing care facility" has the same definition as in Section 26-21-2.

1272           (c) "Unit pack" means a single dose-single drug package which identification indicates  
1273 the lot number and expiration date for the drug.

1274           (2) Notwithstanding the provisions of Subsection 58-17b-502(5), a pharmacist may  
1275 accept back and redistribute any unused drug, or a part of it, after it has left the premises of the  
1276 pharmacy if:

1277           (a) the drug was prescribed to a patient in a nursing care facility, a ICFMR, or state  
1278 prison facility, county jail, or state hospital;

1279           (b) the drug was stored under the supervision of a licensed health care provider  
1280 according to manufacturer recommendations;

1281           (c) the drug is in a unit pack or in the manufacturer's sealed container;

1282           (d) the drug was returned to the original dispensing pharmacy;

1283           (e) the drug was initially dispensed by a licensed pharmacist or licensed pharmacy  
1284 intern; and

1285           (f) accepting back and redistribution of the drug complies with Federal Food and Drug  
1286 Administration and Drug Enforcement Administration regulations.

1287           Section 26. Section **58-17b-504** is enacted to read:

1288           **58-17b-504. Penalty for unlawful or unprofessional conduct -- Fines -- Citations.**

1289           (1) Any person who violates the unlawful conduct provision defined in Subsection  
1290 58-1-501(1)(a)(i) and Subsections 58-17b-501(7) and (11) is guilty of a third degree felony.

1291           (2) Any person who violates the unlawful conduct provisions defined in Subsection  
1292 58-1-501(1)(a)(ii), Subsections 58-1-501(1)(b) through (e) and Section 58-17b-501, except  
1293 Subsections 58-17b-501(7) and (11), is guilty of a class A misdemeanor.

1294           (3) (a) Subject to Subsection (5), the division may assess administrative penalties in  
1295 accordance with the provisions of Section 58-17b-401 for acts of unprofessional or unlawful  
1296 conduct or any other appropriate administrative action in accordance with the provisions of  
1297 Section 58-17b-401.

1298           (b) An administrative penalty imposed pursuant to this section shall be deposited in the

1299 General Fund as a dedicated credit to be used by the division for pharmacy licensee education  
1300 and enforcement as provided in Section 58-12b-505.

1301 (4) If a licensee has been convicted of violating Section 58-17b-501 prior to an  
1302 administrative finding of a violation of the same section, the licensee may not be assessed an  
1303 administrative fine under this chapter for the same offense for which the conviction was  
1304 obtained.

1305 (5) (a) If upon inspection or investigation, the division concludes that a person has  
1306 violated the provisions of Section 58-17b-501, 58-17b-502, or Chapter 37, Utah Controlled  
1307 Substances Act, or any rule or order issued with respect to these provisions, and that  
1308 disciplinary action is appropriate, the director or the director's designee from within the  
1309 division shall promptly issue a citation to the person according to this chapter and any pertinent  
1310 rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an  
1311 adjudicative proceeding conducted under Title 63, Chapter 46b, Administrative Procedures  
1312 Act.

1313 (b) Any person who is in violation of the provisions of Section 58-17b-501,  
1314 58-17b-502, or Chapter 37, Utah Controlled Substances Act, or any rule or order issued with  
1315 respect to these provisions, as evidenced by an uncontested citation, a stipulated settlement, or  
1316 by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this  
1317 Subsection (5) of up to \$10,000 per single violation or up to \$2,000 per day of ongoing  
1318 violation, whichever is greater, in accordance with a fine schedule established by rule, and  
1319 may, in addition to or in lieu of, be ordered to cease and desist from violating the provisions of  
1320 Section 58-17b-501, 58-17b-502, or Chapter 37, Utah Controlled Substances Act, or any rule  
1321 or order issued with respect to these provisions.

1322 (c) Except for an administrative fine and a cease and desist order, the licensure  
1323 sanctions cited in Section 58-17b-401 may not be assessed through a citation.

1324 (d) Each citation shall be in writing and specifically describe with particularity the  
1325 nature of the violation, including a reference to the provision of the chapter, rule, or order  
1326 alleged to have been violated. The citation shall clearly state that the recipient must notify the  
1327 division in writing within 20 calendar days of service of the citation if the recipient wishes to  
1328 contest the citation at a hearing conducted under Title 63, Chapter 46b, Administrative  
1329 Procedures Act. The citation shall clearly explain the consequences of failure to timely contest

1330 the citation or to make payment of any fines assessed by the citation within the time specified  
1331 in the citation.

1332 (e) Each citation issued under this section, or a copy of each citation, may be served  
1333 upon any person whom a summons may be served:

1334 (i) in accordance with the Utah Rules of Civil Procedure;

1335 (ii) personally or upon the person's agent by a division investigator or by any person  
1336 specially designated by the director; or

1337 (iii) by mail.

1338 (f) If within 20 calendar days from the service of a citation, the person to whom the  
1339 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
1340 final order of the division and is not subject to further agency review. The period to contest the  
1341 citation may be extended by the division for cause.

1342 (g) The division may refuse to issue or renew, suspend, revoke, or place on probation  
1343 the license of a licensee who fails to comply with the citation after it becomes final.

1344 (h) The failure of an applicant for licensure to comply with a citation after it becomes  
1345 final is a ground of denial of license.

1346 (i) No citation may be issued under this section after the expiration of six months  
1347 following the occurrence of any violation.

1348 Section 27. Section **58-17b-505** is enacted to read:

1349 **58-17b-505. Educational and enforcement fund.**

1350 (1) The director may use the money collected pursuant to Section 58-17b-504 for the  
1351 following purposes:

1352 (a) education and training of licensees under this chapter;

1353 (b) enforcement of this chapter by:

1354 (i) investigating unprofessional or unlawful conduct;

1355 (ii) providing legal representation to the division when legal action is taken against a  
1356 person engaging in unprofessional or unlawful conduct;

1357 (iii) monitoring compliance of renewal requirement; and

1358 (iv) education and training of division staff and board members.

1359 (2) All funding for the purposes listed in Subsection (1) is nonlapsing.

1360 (3) Any penalty which is not paid may be collected by the director by either referring

1361 the matter to a collection agency or bringing an action in the district court of the county in  
1362 which the person against whom the penalty is imposed resides or in the county where the office  
1363 of the director is located.

1364 (4) Any county attorney or the attorney general of the state is to provide legal  
1365 assistance and advice to the director in any action to collect the penalty. In any action brought  
1366 to enforce the provisions of this section, reasonable attorney's fees and costs shall be awarded  
1367 in which the person against whom the penalty is imposed resides or in the county where the  
1368 office of the director is located.

1369 Section 28. Section **58-17b-506** is enacted to read:

1370 **58-17b-506. Petitioning for reinstatement of licensure.**

1371 Any person whose license to practice pharmacy in this state has been revoked,  
1372 suspended, or surrendered voluntarily or by action of the division, shall have the right at  
1373 reasonable intervals, to petition the division for reinstatement of such license. Such petition  
1374 shall be made in writing and in the form prescribed by the division. Upon investigation and  
1375 hearing, the division may, in its discretion, grant or deny such petition, or it may modify its  
1376 original finding to reflect any circumstances that have changed sufficiently to warrant such  
1377 modifications. The division, also at its discretion, may require such person to pass an  
1378 examination or examinations for reentry into the practice of pharmacy.

1379 Section 29. Section **58-17b-601** is enacted to read:

1380 **Part 6. Regulation of the Practice of Pharmacy Operating Standards**

1381 **58-17b-601. General operating standards.**

1382 (1) (a) The division shall make rules relating to the operations and conduct of facilities,  
1383 individuals, and entities which are regulated under this chapter, to protect the public health,  
1384 safety, and welfare.

1385 (b) The rules shall be consistent with the regulations of the Federal Food and Drug  
1386 Administration and Drug Enforcement Administration, this chapter, and all other laws relating  
1387 to activities and persons regulated under this chapter.

1388 (2) (a) This chapter does not prevent, restrict, or in any other manner interfere with the  
1389 sale of nonprescription drugs.

1390 (b) The division may not make any rules under this chapter that require nonprescription  
1391 drugs to be sold by a licensed pharmacist or only in a pharmaceutical facility.

1392 (c) The sale or distribution of nonprescription drugs does not constitute the practice of  
1393 pharmacy.

1394 Section 30. Section **58-17b-602** is enacted to read:

1395 **58-17b-602. Prescription orders -- Information required -- Alteration -- Labels --**  
1396 **Signatures.**

1397 (1) The minimum information that shall be included in a prescription order and may be  
1398 defined by rule is:

1399 (a) the prescriber's name, address, and telephone number, and, if the order is for a  
1400 controlled substance, the patient's age and the prescriber's DEA number;

1401 (b) the patient's name and address or, in the case of an animal, name of the owner and  
1402 species of the animal;

1403 (c) the date of issuance;

1404 (d) the name of the medication or device prescribed and dispensing instructions, if  
1405 necessary;

1406 (e) the directions for the use of the prescription, if appropriate, for the patient or  
1407 animal, any refill, special labeling, and other instructions;

1408 (f) the prescriber's signature if the prescription order is written;

1409 (g) if an electronically transmitted prescription order, prescribing practitioner's  
1410 electronic signature; and

1411 (h) if a hard copy prescription order generated from electronic media, prescribing  
1412 practitioner's electronic or manual signature.

1413 (2) The requirement of Subsection (1)(a) does not apply to prescription orders  
1414 dispensed for inpatients by hospital pharmacies if the prescriber is a current member of the  
1415 hospital staff and the prescription order is on file in the patient's medical record.

1416 (3) The prescription order, except for controlled substance II, may be dispensed by  
1417 pharmacists or pharmacy interns upon an oral prescription of a practitioner, if the oral  
1418 prescription is promptly reduced to writing.

1419 (4) (a) A pharmacist or pharmacy intern may not dispense or compound any  
1420 prescription of a practitioner if it shows evidence of alteration, erasure, or addition by any  
1421 person other than the person writing the prescription, except under Subsection (4)(b).

1422 (b) A pharmacist or pharmacy intern dispensing or compounding the prescription may



1423 alter or make additions after receiving permission of the prescriber, or may make entries or  
1424 additions on the prescription required by law or necessitated in the compounding and  
1425 dispensing procedures.

1426 (5) Each drug dispensed shall have a label securely affixed to the container indicating  
1427 the following minimum information:

1428 (a) the name, address, and telephone number of the pharmacy;

1429 (b) the serial number of the prescription as assigned by the dispensing pharmacy;

1430 (c) the filling date of the prescription or its last dispensing date;

1431 (d) the name of the patient, or in the case of an animal, name of the owner and species  
1432 of the animal;

1433 (e) the name of the prescriber;

1434 (f) the directions for use and cautionary statements, if any, which are contained in the  
1435 prescription order or are needed;

1436 (g) the trade, generic, or chemical name, amount dispensed and strength of dosage  
1437 form, but if multiple ingredient products with established proprietary or nonproprietary names  
1438 are prescribed, those products' names may be used; and

1439 (h) the beyond use date.

1440 (6) If the prescriber specifically indicates the name of the prescription product should  
1441 not appear on the label, then the trade, generic, or chemical name and strength of dosage form  
1442 may not be included.

1443 Section 31. Section **58-17b-603** is enacted to read:

1444 **58-17b-603. Identification of pharmacy personnel.**

1445 (1) All individuals employed in a pharmacy facility having any contact with the public  
1446 or patients receiving services from that pharmacy facility shall wear on their person a clearly  
1447 visible and readable identification showing the individual's name and position.

1448 (2) When communicating by any means, written, verbal, or electronic, pharmacy  
1449 personnel must identify themselves as to licensure classification.

1450 Section 32. Section **58-17b-604** is enacted to read:

1451 **58-17b-604. Medication profiles.**

1452 (1) Each pharmacy shall establish a medication profile system for pharmacy patients  
1453 according to the standards established by division rules made in collaboration with the board.

1454 The rules shall indicate the method for recording all prescription information.

1455 (2) The pharmacy shall maintain the medication profile for any pharmacy patient who  
1456 expresses a desire for that professional service.

1457 (3) The pharmacy may charge an appropriate professional fee for this service and for  
1458 copying or providing information in the medication profile to another authorized person.

1459 (4) A pharmacist, pharmacy intern, or pharmacy technician may not release or discuss  
1460 the information contained in a prescription or patient's medication profile to anyone except:

1461 (a) the pharmacy patient in person or the pharmacy patient's legal guardian or designee;

1462 (b) a lawfully authorized federal, state, or local drug enforcement officer;

1463 (c) a third party payment program administered under terms authorized by the  
1464 pharmacy patient;

1465 (d) a pharmacist, pharmacy intern, or pharmacy technician providing pharmacy  
1466 services to the patient or a prescribing practitioner providing professional services to the  
1467 patient;

1468 (e) another pharmacist, pharmacy intern, pharmacy technician, or prescribing  
1469 practitioner to whom the patient has requested a prescription transfer; or

1470 (f) the pharmacy patient's attorney, after the presentation of a written authorization  
1471 signed by the:

1472 (i) patient, before a notary public;

1473 (ii) parent or lawful guardian, if the patient is a minor;

1474 (iii) lawful guardian, if the patient is incompetent; or

1475 (iv) personal representative, if the patient is deceased.

1476 Section 33. Section **58-17b-605** is enacted to read:

1477 **58-17b-605. Drug product equivalents.**

1478 (1) A pharmacist or pharmacy intern dispensing a prescription order for a specific drug  
1479 by brand or proprietary name may substitute another drug product equivalent if:

1480 (a) the purchaser specifically requests or consents to the substitution of a drug product  
1481 equivalent;

1482 (b) the substituted drug product equivalent is of the same generic type and is  
1483 designated the therapeutic equivalent in the approved drug products with therapeutic  
1484 equivalence evaluations prepared by the Center for Drug Evaluation and Research of the

1485 Federal Food and Drug Administration;

1486 (c) the substituted drug product is permitted to move in interstate commerce;

1487 (d) the pharmacist or pharmacy intern counsels the patient on the use and the expected  
1488 response to the prescribed drug, whether a substitute or not, and the substitution is not  
1489 otherwise prohibited by this chapter;

1490 (e) the prescribing practitioner has not indicated that an equivalent drug product is not  
1491 to be substituted as provided in Subsection (5); and

1492 (f) the substitution is not otherwise prohibited by law.

1493 (2) (a) Each out-of-state mail service pharmacy dispensing a substituted drug product  
1494 into this state shall notify the patient of substitution either by telephone or in writing.

1495 (b) Each out-of-state mail service pharmacy shall comply with the requirements of this  
1496 chapter with respect to drugs which may be substituted, including labeling and record keeping,  
1497 when dispensing substituted drug products.

1498 (3) Pharmacists or pharmacy interns may not substitute without the prescriber's  
1499 authorization on trade name drug product prescriptions unless the product is currently  
1500 categorized in the approved drug products with therapeutic equivalence evaluations prepared  
1501 by the Center for Drug Evaluation and Research of the Federal Food and Drug Administration  
1502 as a drug product considered to be therapeutically equivalent to another drug product.

1503 (4) A pharmacist or pharmacy intern who dispenses a prescription with a drug product  
1504 equivalent under this section assumes no greater liability than would be incurred had the  
1505 pharmacist or pharmacy intern dispensed the prescription with the drug product prescribed.

1506 (5) (a) If, in the opinion of the practitioner, it is in the best interest of the patient that an  
1507 equivalent drug product not be substituted, the practitioner may indicate a prohibition on  
1508 substitution either by writing "dispense as written" or may sign in the appropriate space where  
1509 two lines have been preprinted on a prescription order and captioned "dispense as written" or  
1510 "substitution permitted".

1511 (b) If the prescription is communicated orally by the practitioner to the pharmacist or  
1512 pharmacy intern, the practitioner shall indicate the prohibition on substitution and that  
1513 indication shall be noted in writing by the pharmacist or pharmacy intern with the name of the  
1514 practitioner and the words "orally by" and the initials of the pharmacy practitioner written after  
1515 it.

1516 (6) The substitution, if any, shall be communicated to the purchaser. The container  
1517 shall be labeled with the name of the drug dispensed and the pharmacist, pharmacy intern, or  
1518 pharmacy technician shall indicate on the file copy of the prescription both the name of the  
1519 prescribed drug and the name of the drug dispensed in its place.

1520 (7) Failure of a licensed medical practitioner to specify that no substitution is  
1521 authorized does not constitute evidence of negligence.

1522 Section 34. Section **58-17b-606** is enacted to read:

1523 **58-17b-606. Restrictive drug formulary prohibited.**

1524 (1) As used in this section:

1525 (a) "Generic form" means a prescription drug that is available in generic form and has  
1526 an A rating in the United States Pharmacopeia and Drug Index.

1527 (b) "Legend drug" means any drug that requires a prescription under state or federal  
1528 law.

1529 (c) "Restrictive drug formulary" means a list of legend drugs, other than drugs for  
1530 cosmetic purposes, that are prohibited by the Department of Health from dispensation, but are  
1531 approved by the Federal Food and Drug Administration.

1532 (2) A practitioner may prescribe legend drugs in accordance with this chapter that, in  
1533 his professional judgment and within the lawful scope of his practice, he considers appropriate  
1534 for the diagnosis and treatment of his patient.

1535 (3) Except as provided in Subsection (4), the Department of Health may not maintain a  
1536 restrictive drug formulary that restricts a physician's ability to treat a patient with a legend drug  
1537 that has been approved and designated as safe and effective by the Federal Food and Drug  
1538 Administration, except for drugs for cosmetic purposes.

1539 (4) When a multisource legend drug is available in the generic form, the Department of  
1540 Health may only reimburse for the generic form of the drug unless the treating physician  
1541 demonstrates to the Department of Health a medical necessity for dispensing the nongeneric,  
1542 brand-name legend drug.

1543 (5) This section does not affect the state's ability to exercise the exclusion options  
1544 available under the Federal Omnibus Budget Reconciliation Act of 1990.

1545 Section 35. Section **58-17b-607** is enacted to read:

1546 **58-17b-607. Drug substitution is not the practice of medicine -- Other causes of**

1547 **action not denied.**

1548 (1) The substitution of any drug by a licensed pharmacist or pharmacy intern under this  
1549 chapter does not constitute the practice of medicine.

1550 (2) This chapter may not be construed to deny any individual a cause of action against  
1551 a pharmacist, pharmacy intern, or his employer for violations of this chapter, including failure  
1552 to observe accepted standards of care of the pharmaceutical profession.

1553 Section 36. Section **58-17b-608** is enacted to read:

1554 **58-17b-608. Emergency refills.**

1555 (1) In the interest of the patient's health, a pharmacist or pharmacy intern may, in an  
1556 emergency, refill a prescription for a patient, but only if the prescribing practitioner is not  
1557 available promptly to authorize the refill and only if in the professional judgment of the  
1558 pharmacist or pharmacy intern the prescription should be refilled.

1559 (2) Only sufficient medication as necessary in the emergency may be furnished by the  
1560 pharmacist or pharmacy intern, not to exceed a three-day supply.

1561 (3) The practitioner shall be contacted as soon as possible for further instructions  
1562 concerning the emergency.

1563 Section 37. Section **58-17b-609** is enacted to read:

1564 **58-17b-609. Limitation on prescriptions and refills -- Controlled Substances Act**  
1565 **not affected -- Legend drugs.**

1566 (1) A prescription for any prescription drug may not be dispensed after one year from  
1567 the date it was initiated except as otherwise provided in Chapter 37, Utah Controlled  
1568 Substances Act.

1569 (2) A prescription authorized to be refilled may not be refilled after one year from the  
1570 original issue date.

1571 (3) A practitioner may not be prohibited from issuing a new prescription for the same  
1572 drug orally, in writing, or by electronic transmission.

1573 (4) Nothing in this chapter affects Chapter 37, Utah Controlled Substances Act.

1574 (5) Prescriptions for a legend drug written by a licensed prescribing practitioner in  
1575 another state may be filled or refilled by a pharmacist or pharmacy intern in this state, and the  
1576 pharmacist or pharmacy intern knows the prescribing practitioner holds a current license.

1577 Section 38. Section **58-17b-610** is enacted to read:

1578 **58-17b-610. Patients' immediate needs.**

1579 This chapter may not be construed to prevent the personal administration of drugs or  
1580 medicines by practitioners licensed to prescribe in order to supply the immediate needs of their  
1581 patients. Immediate need for a patient includes giving out drug samples for up to a three-day  
1582 supply or the amount necessary to determine the best pharmaceutical agent for that specific  
1583 patient.

1584 Section 39. Section **58-17b-611** is enacted to read:

1585 **58-17b-611. Pharmacy records.**

1586 (1) Each pharmacy shall maintain its prescription files and other records in accordance  
1587 with this chapter, division rules made in collaboration with the board, and federal regulations.

1588 (2) Each out-of-state mail service pharmacy shall maintain its prescription files in  
1589 accordance with applicable rules or regulations of the state in which its facilities are located  
1590 and federal regulations.

1591 Section 40. Section **58-17b-612** is enacted to read:

1592 **58-17b-612. Supervision -- Pharmacist-in-charge.**

1593 (1) (a) Any pharmacy, except a wholesaler, distributor, or out-of-state mail service  
1594 pharmacy, shall be under the general supervision of at least one pharmacist licensed to practice  
1595 in Utah. One pharmacist licensed in Utah shall be designated as the pharmacist-in-charge,  
1596 whose responsibility it is to oversee the operation of the pharmacy.

1597 (b) Notwithstanding the provisions of Subsection 58-17b-102(63), a supervising  
1598 pharmacist does not have to be in the pharmacy or care facility but shall be available via a  
1599 telepharmacy system for immediate contact with the supervised pharmacy technician or  
1600 pharmacy intern if:

1601 (i) the pharmacy is located in:

1602 (A) a remote rural hospital, as defined in Section 26-21-13.6; or

1603 (B) a clinic located in a remote rural county with less than 20 people per square mile;

1604 (ii) the supervising pharmacist described in Subsection (1)(a), is not available; and

1605 (iii) the telepharmacy system maintains records and files quarterly reports as required

1606 by division rule to assure that patient safety is not compromised.

1607 (2) Each out-of-state mail service pharmacy shall designate and identify to the division  
1608 a pharmacist holding a current license in good standing issued by the state in which the

1609 pharmacy is located and who serves as the pharmacist-in-charge for all purposes under this  
 1610 chapter.

1611 Section 41. Section **58-17b-613** is enacted to read:

1612 **58-17b-613. Patient counseling.**

1613 (1) Every pharmacy facility shall orally offer to counsel a patient or a patient's agent in  
 1614 a personal face-to-face discussion with respect to each prescription drug dispensed, if the  
 1615 patient or patient's agent:

1616 (a) delivers the prescription in person to the pharmacist or pharmacy intern; or

1617 (b) receives the drug in person at the time it is dispensed at the pharmacy facility.

1618 (2) A pharmacist or pharmacy intern shall provide counseling to each patient, and shall  
 1619 provide the patient with a toll-free telephone number by which the patient may contact a  
 1620 pharmacist at the dispensing pharmacy during normal business hours and receive oral  
 1621 counseling, with respect to each prescription drug dispensed if the patient provides or the  
 1622 prescription is otherwise provided to the pharmacy facility by a means other than personal  
 1623 delivery, and the dispensed prescription drug is mailed or otherwise delivered to the patient  
 1624 outside of the pharmacy facility.

1624a **§ (3)(a) THE PROVISIONS OF SUBSECTIONS (1) AND (2) DO NOT APPLY TO INCARCERATED**  
 1624b **PATIENTS OR PERSONS OTHERWISE UNDER THE JURISDICTION OF THE UTAH DEPARTMENT OF**  
 1624c **CORRECTIONS OR A COUNTY DETENTION FACILITY.**

1624d **(b) A WRITTEN COMMUNICATION WITH A PERSON DESCRIBED IN SUBSECTION (3)(a) SHALL**  
 1624e **BE USED BY A PHARMACIST OR PHARMACY INTERN IN LIEU OF A FACE TO FACE OR TELEPHONIC**  
 1624f **COMMUNICATION FOR THE PURPOSE OF COUNSELING THE PATIENT. §**

1625 Section 42. Section **58-17b-614** is enacted to read:

1626 **58-17b-614. Notification.**

1627 (1) A pharmacy shall report in writing to the division not later than ten business days  
 1628 after the date of:

1629 (a) a permanent closure of the pharmacy facility;

1630 (b) a change of name or ownership;

1631 (c) a change of location of the pharmacy facility;

1632 (d) a sale or transfer of any controlled substance as a result of the permanent closing or  
 1633 change of ownership of the pharmacy facility;

1634 (e) any matter or occurrence that the board requires by rule to be reported;

1635 (f) a final **§ ADMINISTRATIVE, DISCIPLINARY** § order against the pharmacy license holder  
 1635a by the regulatory or licensing

1636 agency of the state in which the pharmacy is located if the pharmacy is a class D pharmacy; or

1637 (g) a final order against a pharmacist who is designated as the pharmacist-in-charge of  
 1638 the pharmacy by the regulatory or licensing agency of the state in which the pharmacy is  
 1639 located if the pharmacy is a class D pharmacy.

1640 (2) A pharmacy shall report in writing to the division a disaster, accident, or emergency  
1641 that may effect purity, or labeling of a drug, medication, device, or other material used in the  
1642 diagnosis or treatment of injury, illness, or disease immediately on the occurrence of the  
1643 disaster, accident, or emergency as defined by rule. The reporting pharmacy shall maintain a  
1644 copy of any notification required by this section for two years and make a copy available for  
1645 inspection.

1646 Section 43. Section **58-17b-615** is enacted to read:

1647 **58-17b-615. Sale of prescription drugs not in normal course of business.**

1648 (1) As used in this section, "seller" means a person selling prescription drugs or  
1649 devices owned or lawfully controlled by him, or a party arranging for the sale of prescription  
1650 drugs or devices owned by or lawfully controlled by another person, including salvage  
1651 companies that acquire prescription drugs and devices from, or act as an agent or representative  
1652 for freight haulers and forwarders.

1653 (2) Any sale of prescription drugs in bankruptcy, at public auction, at freight  
1654 liquidation sales, or any other sale of prescription drugs other than in the normal course of  
1655 business or practice shall comply with the following:

1656 (a) a seller of prescription drugs shall be licensed by the division as a prescription drug  
1657 distributor or wholesaler with a regular license, or a temporary license for that sale only, before  
1658 engaging in the sale of any prescription drugs; and

1659 (b) a person licensed as a pharmacy under this chapter may not acquire by purchase or  
1660 other means prescription drugs or devices outside the normal course of business within the  
1661 meaning of this section unless:

1662 (i) the prescription drugs or devices are accompanied by a certificate signed by a  
1663 licensed pharmacist employed or retained by the seller, as required in Subsection (3), attesting  
1664 that the prescription drugs or devices have not been adversely affected by circumstances  
1665 relating to their transportation, storage, or distribution; and

1666 (ii) the licensee acquiring the prescription drugs or devices employs a qualified  
1667 pharmacist who is responsible for determining that all prescription drugs being acquired do not  
1668 pose any threat to the public welfare if introduced into commerce than would be presented by  
1669 the acquisition of those prescription drugs and devices in the normal course of business through  
1670 established channels of prescription drug distribution.



1671 (3) A seller of prescription drugs outside the normal course of business shall retain the  
1672 services of a qualified pharmacist licensed to practice in the state to serve as either an employee  
1673 or independent consultant to determine if the:

1674 (a) prescription drugs and devices to be offered for sale have been transported, stored,  
1675 and distributed in accordance with applicable federal, state, and local laws; and

1676 (b) condition of the prescription drugs and devices to be offered for sale has been  
1677 adversely affected by the circumstances of transportation, storage, or distribution.

1678 (4) The written notice provided to the division prior to the sale of any prescription  
1679 drugs or devices under this section shall contain written verification of the pharmacist retained  
1680 by the seller, stating the drugs or devices offered for sale have not been adversely affected by  
1681 the circumstances of transportation, storage, or distribution.

1682 (5) A pharmacist employed by a seller under Subsection (3) or a pharmacy, distributor,  
1683 or wholesaler for whom that pharmacist may be employed or in which he may have an interest,  
1684 may not purchase any prescription drugs or devices from the seller for which that pharmacist  
1685 has provided verification regarding the drugs or devices.

1686 Section 44. Section **58-17b-616** is enacted to read:

1687 **58-17b-616. Drug stock sales -- Labeling.**

1688 (1) A manufacturer, wholesaler, or distributor of prescription drugs may not sell or give  
1689 any prescription drug to any person unless the prescription drug stock container bears a label  
1690 containing information as defined by rule the name and place of business of the manufacturer  
1691 of the finished dosage form of the drug, and if different from the manufacturer, the name and  
1692 place of business of the packer or distributor.

1693 (2) Each tablet or capsule shall be marked with an identification code or monogram,  
1694 unless waived by the division.

1695 (3) Each stock package shall bear an expiration date and lot number.

1696 Section 45. Section **58-17b-617** is enacted to read:

1697 **58-17b-617. Limitations on distribution of prescription drugs by pharmaceutical**  
1698 **manufacturers or wholesalers.**

1699 (1) A pharmaceutical manufacturer or pharmaceutical wholesaler may not provide a  
1700 prescription drug to any person, except as defined by rule.

1701 (2) (a) Prescription drugs that are not controlled substances may be:

1702 (i) distributed or provided as drug samples to a person licensed within the state to sell,  
 1703 prescribe, administer, or conduct research with legend drugs; and

1704 (ii) supplied in connection with a manufacturer's patient assistance program to be  
 1705 distributed to qualifying patients enrolled in the program.

1706 (b) Controlled substance prescription drugs may be sold or provided only:

1707 (i) upon the issuance of an order or request by a person appropriately licensed under  
 1708 state and federal law to sell, prescribe, administer, or conduct research with prescription drugs;  
 1709 and

1710 (ii) upon the establishment of documents in the possession of the manufacturer or  
 1711 distributor recording the purchaser, type of drug, quantity of drug, date of shipment, and date of  
 1712 delivery.

1713 (3) Purchasers or those in receipt of drugs under this section shall maintain records in  
 1714 accordance with federal and state laws regarding controlled substances.

1715 Section 46. Section **58-17b-618** is enacted to read:

1716 **58-17b-618. Compliance with federal laws.**

1717 The entities licensed under Sections 58-17b-301 and 58-17b-302 shall comply with all  
 1718 state and federal laws and regulations relating to the practice of pharmacy.

1719 Section 47. Section **58-17b-619** is enacted to read:

1720 **58-17b-619. Third party payors -- Health maintenance organizations.**

1721 (1) Any third party payor for pharmaceutical services within the state § , OR ITS AGENT OR  
 1721a CONTRACTOR § may not require  
 1722 any pharmacy patient to obtain prescription § [drugs] DRUG - BENEFITS § from a specific  
 1722a out-of-state ~~Ĥ [or a Utah] ĥ~~  
 1723 pharmacy as a condition of obtaining third party payment § PRESCRIPTION DRUG BENEFIT  
 1723a COVERAGE § as defined in rule.

1724 (2) § (a) § This section does not prohibit any third party payor of pharmaceutical services,  
 1724a who  
 1725 provides for reimbursement to the pharmacy patient or payment on his behalf, from exercising  
 1726 the right to limit the amount reimbursed for the cost of prescription drugs based upon the cost  
 1727 of identical prescription drugs available through a designated out-of-state pharmacy.

1727a **§ (b) NOTWITHSTANDING SUBSECTION (2)(a), ANY THIRD PARTY PAYOR OF**  
 1727b **PHARMACEUTICAL SERVICES MAY RESTRICT THE TYPE OF OUTLET WHERE A PATIENT MAY**  
 1727c **OBTAIN CERTAIN PRESCRIPTIVE DRUGS AND DEVICES, SUCH AS INJECTABLE MEDICATIONS,**  
 1727d **THAT ARE NOT READILY AVAILABLE IN ALL PHARMACIES. THE PAYOR MAY ALSO RESTRICT**  
 1727e **ACCESS TO NO MORE THAN ONE MAIL-ORDER PHARMACY. §**

1728 (3) Each third party payor of pharmaceutical services shall identify as a part of the third  
 1729 party agreement or contract the designated out-of-state pharmacy which shall be used as the  
 1730 base line comparison.

1731 (4) (a) A violation of this section is a class A misdemeanor.

1732 (b) Each violation of this section is a separate offense.



- 1733 Section 48. Section **58-17b-620** is enacted to read:
- 1734 **58-17b-620. Prescriptions issued within the public health system.**
- 1735 (1) As used in this section:
- 1736 (a) "Department of Health" means the state Department of Health created in Section
- 1737 26-1-4.
- 1738 (b) "Health department" means either the Department of Health or a local health
- 1739 department.
- 1740 (c) "Local health departments" mean the local health departments created in Title 26A,
- 1741 Chapter 1, Local Health Departments.
- 1742 (2) A health department may implement the prescription procedure under Subsection
- 1743 (3) for prescription drugs, other than controlled substances, for use in clinics providing:
- 1744 (a) sexually transmitted disease treatment;
- 1745 (b) fluoride treatment; or
- 1746 (c) travel immunization.
- 1747 (3) The following prescription procedure shall be carried out in accordance with the
- 1748 requirements of Subsection (4) and may be used only in the clinics listed under Subsection (2):
- 1749 (a) a physician writes and signs a prescription for prescription drugs, other than
- 1750 controlled substances, without the name and address of the patient and without the date the
- 1751 prescription is provided to the patient; and
- 1752 (b) the physician authorizes a registered nurse employed by the health department to
- 1753 complete the prescription written under this Subsection (3) by inserting the patient's name and
- 1754 address, and the date the prescription is provided to the patient, in accordance with the
- 1755 physician's standing written orders and a written health department protocol approved by the
- 1756 physician and the medical director of the state Department of Health.
- 1757 (4) When allowing prescriptions to be written under Subsection (3), the health
- 1758 department shall employ a physician who:
- 1759 (a) assumes specific responsibility for all prescriptions issued in his name under the
- 1760 procedure in Subsection (3) by the health department; and
- 1761 (b) enters into a written, signed agreement with the health department, which
- 1762 agreement is approved by the division and state:
- 1763 (i) the terms and conditions under which the physician will prepare and sign

- 1764 prescriptions that do not include the name and address of the patient and the date the  
1765 prescription is provided to the patient;
- 1766 (ii) the methods which will be used to ensure the signed prescriptions are secure and  
1767 not available for unauthorized use;
- 1768 (iii) the minimum qualifications and training of a registered nurse authorized by the  
1769 physician and department to complete and provide prescriptions to a patient;
- 1770 (iv) under what conditions prescriptions completed by an authorized registered nurse  
1771 will be provided to a patient in accordance with standing orders and written protocols, and the  
1772 specific prescription drugs for which prescriptions may be written;
- 1773 (v) the manner in which the physician will audit and review the records of patients  
1774 receiving prescriptions; and
- 1775 (vi) the manner in which records of prescriptions issued will be maintained for audit by  
1776 the physician and division.
- 1777 (5) The health department shall file and maintain with the division a current copy of all  
1778 agreements signed by physicians under Subsection (4).
- 1779 (6) (a) All prescription forms to be used by a physician and health department in  
1780 accordance with this section shall be serially numbered according to a numbering system  
1781 assigned to that health department.
- 1782 (b) All prescriptions issued shall contain all information required under this chapter  
1783 and rules adopted under this chapter.
- 1784 Section 49. Section **58-17b-621** is enacted to read:
- 1785 **58-17b-621. Automated pharmacy systems.**
- 1786 Automated pharmacy systems can be utilized in licensed pharmacies, remote locations  
1787 under the jurisdiction of the Utah State Board of Pharmacy, and licensed health care facilities  
1788 where legally permissible, as approved by the division in collaboration with the board, and  
1789 described in rule.
- 1790 Section 50. Section **58-17b-701** is enacted to read:
- 1791 **Part 7. Incapacity**
- 1792 **58-17b-701. Mentally incompetent or incapacitated pharmacist -- Division action**  
1793 **and procedures.**
- 1794 (1) As used in this section:

1795 (a) "Incapacitated person" has the same definition as in Section 75-1-201.

1796 (b) "Mentally ill" has the same definition as in Section 62A-15-602.

1797 (2) If a court of competent jurisdiction determines a pharmacist is an incapacitated  
1798 person, or that he is mentally ill and unable to safely engage in the practice of pharmacy, the  
1799 director shall immediately suspend the license of the pharmacist upon the entry of the judgment  
1800 of the court, without further proceedings under Title 63, Chapter 46b, Administrative  
1801 Procedures Act, regardless of whether an appeal from the court's ruling is pending. The  
1802 director shall promptly notify the pharmacist, in writing, of the suspension.

1803 (3) (a) If the division and a majority of the board find reasonable cause to believe a  
1804 pharmacist, who is not determined judicially to be an incapacitated person or to be mentally ill,  
1805 is incapable of practicing pharmacy with reasonable skill regarding the safety of patients,  
1806 because of illness, excessive use of drugs or alcohol, or as a result of any mental or physical  
1807 condition, the board shall recommend that the director file a petition with the division, and  
1808 cause the petition to be served upon the pharmacist with a notice of hearing on the sole issue of  
1809 the capacity of the pharmacist to competently and safely engage in the practice of pharmacy.

1810 (b) The hearing shall be conducted under Section 58-1-109 and Title 63, Chapter 46b,  
1811 Administrative Procedures Act, except as provided in Subsection (4).

1812 (4) (a) Every pharmacist who accepts the privilege of being licensed under this chapter  
1813 gives consent to:

1814 (i) submitting at his own expense to an immediate mental or physical examination  
1815 when directed in writing by the division, with the consent of a majority of the board, to do so;  
1816 and

1817 (ii) the admissibility of the reports of the examining practitioner's testimony or  
1818 examination in any proceeding regarding the license of the pharmacist, and waives all  
1819 objections on the ground the reports constitute a privileged communication.

1820 (b) The examination may be ordered by the division, with the consent of a majority of  
1821 the board, only upon a finding of reasonable cause to believe:

1822 (i) the pharmacist is mentally ill or incapacitated or otherwise unable to practice  
1823 pharmacy with reasonable skill and safety; and

1824 (ii) immediate action by the division and the board is necessary to prevent harm to the  
1825 pharmacist's patients or the general public.

1826 (c) (i) Failure of a pharmacist to submit to the examination ordered under this section  
1827 is a ground for the division's immediate suspension of the pharmacist's license by written order  
1828 of the director.

1829 (ii) The division may enter the order of suspension without further compliance with  
1830 Title 63, Chapter 46b, Administrative Procedures Act, unless the division finds the failure to  
1831 submit to the examination ordered under this section was due to circumstances beyond the  
1832 control of the pharmacist and was not related directly to the illness or incapacity of the  
1833 pharmacist.

1834 (5) (a) A pharmacist whose license is suspended under Subsection (2) or (4) has the  
1835 right to a hearing to appeal the suspension within ten days after the license is suspended.

1836 (b) The hearing held under this Subsection (5) shall be conducted in accordance with  
1837 Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists  
1838 for the continuance of the order of suspension in order to prevent harm to the pharmacist's  
1839 patients or the general public.

1840 (6) A pharmacist whose license is revoked, suspended, or in any way restricted under  
1841 this section may request the division and the board to consider, at reasonable intervals,  
1842 evidence presented by the pharmacist, under procedures established by division rule, regarding  
1843 any change in the pharmacist's condition, to determine whether:

1844 (a) he is or is not able to safely and competently engage in the practice of pharmacy;  
1845 and

1846 (b) he is qualified to have his licensure to practice under this chapter restored  
1847 completely or in part.

1848 Section 51. Section **58-24a-105** is amended to read:

1849 **58-24a-105. Administration of agents -- Limitation.**

1850 (1) Physical therapists may administer the following agents under the provisions of  
1851 Subsection (2):

1852 (a) topically applied medicinal agents, including steroids and analgesics for wound care  
1853 and for musculoskeletal treatment using iontophoresis or phonophoresis; and

1854 (b) pharmaceutical aerosols for pulmonary hygiene in an institutional setting in which  
1855 the services of a licensed respiratory therapist are not available in the institution or within a  
1856 ten-mile radius of the institution.

1857 (2) The topical application or aerosol administration by a physical therapist of a  
1858 prescription drug as defined in Section [~~58-17a-102~~] 58-17b-102 may be only upon the written  
1859 prescription of a practitioner licensed to prescribe that drug.

1860 (3) This section does not authorize a physical therapist to possess for dispensing or  
1861 dispense a prescription drug.

1862 Section 52. Section **58-37-6** is amended to read:

1863 **58-37-6. License to manufacture, produce, distribute, dispense, administer, or**  
1864 **conduct research -- Issuance by department -- Denial, suspension, or revocation --**  
1865 **Records required -- Prescriptions.**

1866 (1) (a) The department may adopt rules relating to the licensing and control of the  
1867 manufacture, distribution, production, prescription, administration, dispensing, conducting of  
1868 research with, and performing of laboratory analysis upon controlled substances within this  
1869 state.

1870 (b) The department may assess reasonable fees to defray the cost of issuing original  
1871 and renewal licenses under this chapter pursuant to Section 63-38-3.2.

1872 (c) The director of the department may delegate to any division or agency within the  
1873 department, authority to perform the responsibilities and functions prescribed to the department  
1874 under this chapter if the delegated authority is consistent with the function of the division or  
1875 agency provided by law.

1876 (2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses,  
1877 administers, conducts research with, or performs laboratory analysis upon any controlled  
1878 substance in Schedules II through V within this state, or who proposes to engage in  
1879 manufacturing, producing, distributing, prescribing, dispensing, administering, conducting  
1880 research with, or performing laboratory analysis upon controlled substances included in  
1881 Schedules II through V within this state shall obtain a license issued by the department.

1882 (ii) The division shall issue each license under this chapter in accordance with a  
1883 two-year renewal cycle established by rule. The division may by rule extend or shorten a  
1884 renewal period by as much as one year to stagger the renewal cycles it administers.

1885 (b) Persons licensed to manufacture, produce, distribute, prescribe, dispense,  
1886 administer, conduct research with, or perform laboratory analysis upon controlled substances in  
1887 Schedules II through V within this state may possess, manufacture, produce, distribute,



1888 prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon  
1889 those substances to the extent authorized by their license and in conformity with this chapter.

1890 (c) The following persons are not required to obtain a license and may lawfully possess  
1891 controlled substances under this section:

1892 (i) an agent or employee, except a sales representative, of any registered manufacturer,  
1893 distributor, or dispenser of any controlled substance, if the agent or employee is acting in the  
1894 usual course of his business or employment; however, nothing in this Subsection (2) shall be  
1895 interpreted to permit an agent, employee, sales representative, or detail man to maintain an  
1896 inventory of controlled substances separate from the location of his employer's registered and  
1897 licensed place of business;

1898 (ii) a motor carrier or warehouseman, or an employee of a motor carrier or  
1899 warehouseman, who possesses any controlled substance in the usual course of his business or  
1900 employment; and

1901 (iii) an ultimate user, or any person who possesses any controlled substance pursuant to  
1902 a lawful order of a practitioner.

1903 (d) The department may enact rules waiving the license requirement for certain  
1904 manufacturers, producers, distributors, prescribers, dispensers, administrators, research  
1905 practitioners, or laboratories performing analysis if consistent with the public health and safety.

1906 (e) A separate license is required at each principal place of business or professional  
1907 practice where the applicant manufactures, produces, distributes, prescribes, dispenses,  
1908 administers, conducts research with, or performs laboratory analysis upon controlled  
1909 substances.

1910 (f) The department may enact rules providing for the inspection of a licensee or  
1911 applicant's establishment, and may inspect the establishment according to those rules.

1912 (3) (a) Upon proper application, the department shall license a qualified applicant to  
1913 manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon  
1914 controlled substances included in Schedules I through V, unless it determines that issuance of a  
1915 license is inconsistent with the public interest. The department shall not issue a license to any  
1916 person to prescribe, dispense, or administer a Schedule I controlled substance. In determining  
1917 public interest, the department shall consider whether or not the applicant has:

1918 (i) maintained effective controls against diversion of controlled substances and any

1919 Schedule I or II substance compounded from any controlled substance into other than  
1920 legitimate medical, scientific, or industrial channels;

1921 (ii) complied with applicable state and local law;

1922 (iii) been convicted under federal or state laws relating to the manufacture, distribution,  
1923 or dispensing of substances;

1924 (iv) past experience in the manufacture of controlled dangerous substances;

1925 (v) established effective controls against diversion; and

1926 (vi) complied with any other factors that the department establishes that promote the  
1927 public health and safety.

1928 (b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture,  
1929 produce, distribute, conduct research with, or perform laboratory analysis upon controlled  
1930 substances in Schedule I other than those specified in the license.

1931 (c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with  
1932 substances in Schedules II through V if they are authorized to administer, dispense, or conduct  
1933 research under the laws of this state.

1934 (ii) The department need not require a separate license for practitioners engaging in  
1935 research with nonnarcotic controlled substances in Schedules II through V where the licensee is  
1936 already licensed under this act in another capacity.

1937 (iii) With respect to research involving narcotic substances in Schedules II through V,  
1938 or where the department by rule requires a separate license for research of nonnarcotic  
1939 substances in Schedules II through V, a practitioner shall apply to the department prior to  
1940 conducting research.

1941 (iv) Licensing for purposes of bona fide research with controlled substances by a  
1942 practitioner considered qualified may be denied only on a ground specified in Subsection (4),  
1943 or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard  
1944 adequately his supply of substances against diversion from medical or scientific use.

1945 (v) Practitioners registered under federal law to conduct research in Schedule I  
1946 substances may conduct research in Schedule I substances within this state upon furnishing the  
1947 department evidence of federal registration.

1948 (d) Compliance by manufacturers, producers, and distributors with the provisions of  
1949 federal law respecting registration, excluding fees, entitles them to be licensed under this

1950 chapter.

1951 (e) The department shall initially license those persons who own or operate an  
1952 establishment engaged in the manufacture, production, distribution, dispensation, or  
1953 administration of controlled substances prior to April 3, 1980, and who are licensed by the  
1954 state.

1955 (4) (a) Any license pursuant to Subsection (2) or (3) may be denied, suspended, placed  
1956 on probation, or revoked by the department upon finding that the applicant or licensee has:

1957 (i) materially falsified any application filed or required pursuant to this chapter;

1958 (ii) been convicted of an offense under this chapter or any law of the United States, or  
1959 any state, relating to any substance defined as a controlled substance;

1960 (iii) been convicted of a felony under any other law of the United States or any state  
1961 within five years of the date of the issuance of the license;

1962 (iv) had a federal license denied, suspended, or revoked by competent federal authority  
1963 and is no longer authorized to engage in the manufacturing, distribution, or dispensing of  
1964 controlled substances;

1965 (v) had his license suspended or revoked by competent authority of another state for  
1966 violation of laws or regulations comparable to those of this state relating to the manufacture,  
1967 distribution, or dispensing of controlled substances;

1968 (vi) violated any department rule that reflects adversely on the licensee's reliability and  
1969 integrity with respect to controlled substances;

1970 (vii) refused inspection of records required to be maintained under this chapter by a  
1971 person authorized to inspect them; or

1972 (viii) prescribed, dispensed, administered, or injected an anabolic steroid for the  
1973 purpose of manipulating human hormonal structure so as to:

1974 (A) increase muscle mass, strength, or weight without medical necessity and without a  
1975 written prescription by any practitioner in the course of his professional practice; or

1976 (B) improve performance in any form of human exercise, sport, or game.

1977 (b) The department may limit revocation or suspension of a license to a particular  
1978 controlled substance with respect to which grounds for revocation or suspension exist.

1979 (c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to  
1980 this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of

1981 Occupational and Professional Licensing Act, and conducted in conjunction with the  
1982 appropriate representative committee designated by the director of the department.

1983 (ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and  
1984 Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses,  
1985 except where the department is designated by law to perform those functions, or, when not  
1986 designated by law, is designated by the executive director of the Department of Commerce to  
1987 conduct the proceedings.

1988 (d) (i) The department may suspend any license simultaneously with the institution of  
1989 proceedings under this section if it finds there is an imminent danger to the public health or  
1990 safety.

1991 (ii) Suspension shall continue in effect until the conclusion of proceedings, including  
1992 judicial review, unless withdrawn by the department or dissolved by a court of competent  
1993 jurisdiction.

1994 (e) (i) If a license is suspended or revoked under this Subsection (4), all controlled  
1995 substances owned or possessed by the licensee may be placed under seal in the discretion of the  
1996 department.

1997 (ii) Disposition may not be made of substances under seal until the time for taking an  
1998 appeal has lapsed, or until all appeals have been concluded, unless a court, upon application,  
1999 orders the sale of perishable substances and the proceeds deposited with the court.

2000 (iii) If a revocation order becomes final, all controlled substances shall be forfeited.

2001 (f) The department shall notify promptly the Drug Enforcement Administration of all  
2002 orders suspending or revoking a license and all forfeitures of controlled substances.

2003 (5) (a) Persons licensed under Subsection (2) or (3) shall maintain records and  
2004 inventories in conformance with the record keeping and inventory requirements of federal and  
2005 state law and any additional rules issued by the department.

2006 (b) (i) Every physician, dentist, veterinarian, practitioner, or other person who is  
2007 authorized to administer or professionally use a controlled substance shall keep a record of the  
2008 drugs received by him and a record of all drugs administered, dispensed, or professionally used  
2009 by him otherwise than by a prescription.

2010 (ii) A person using small quantities or solutions or other preparations of those drugs for  
2011 local application has complied with this Subsection (5)(b) if he keeps a record of the quantity,

2012 character, and potency of those solutions or preparations purchased or prepared by him, and of  
2013 the dates when purchased or prepared.

2014 (6) Controlled substances in Schedules I through V may be distributed only by a  
2015 licensee and pursuant to an order form prepared in compliance with department rules or a  
2016 lawful order under the rules and regulations of the United States.

2017 (7) (a) A person may not write or authorize a prescription for a controlled substance  
2018 unless he is:

2019 (i) a practitioner authorized to prescribe drugs and medicine under the laws of this state  
2020 or under the laws of another state having similar standards; and

2021 (ii) licensed under this chapter or under the laws of another state having similar  
2022 standards.

2023 (b) A person other than a pharmacist licensed under the laws of this state, or his  
2024 licensed intern, as required by [~~Section 58-17a-302~~] Sections 58-17b-303 and 58-17b-304, may  
2025 not dispense a controlled substance.

2026 (c) (i) A controlled substance may not be dispensed without the written prescription of  
2027 a practitioner, if the written prescription is required by the federal Controlled Substances Act.

2028 (ii) That written prescription shall be made in accordance with Subsection (7)(a) and in  
2029 conformity with Subsection (7)(d).

2030 (iii) In emergency situations, as defined by department rule, controlled substances may  
2031 be dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms  
2032 designated by the department and filed by the pharmacy.

2033 (iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with  
2034 Subsection (7)(d).

2035 (d) Except for emergency situations designated by the department, a person may not  
2036 issue, fill, compound, or dispense a prescription for a controlled substance unless the  
2037 prescription is signed in ink or indelible pencil by the prescriber and contains the following  
2038 information:

2039 (i) the name, address, and registry number of the prescriber;

2040 (ii) the name, address, and age of the person to whom or for whom the prescription is  
2041 issued;

2042 (iii) the date of issuance of the prescription; and

2043 (iv) the name, quantity, and specific directions for use by the ultimate user of the  
2044 controlled substance.

2045 (e) A prescription may not be written, issued, filled, or dispensed for a Schedule I  
2046 controlled substance.

2047 (f) Except when administered directly to an ultimate user by a licensed practitioner,  
2048 controlled substances are subject to the following restrictions:

2049 (i) (A) A prescription for a Schedule II substance may not be refilled.

2050 (B) A Schedule II controlled substance may not be filled in a quantity to exceed a  
2051 one-month's supply, as directed on the daily dosage rate of the prescriptions.

2052 (ii) A Schedule III or IV controlled substance may be filled only within six months of  
2053 issuance, and may not be refilled more than six months after the date of its original issuance or  
2054 be refilled more than five times after the date of the prescription unless renewed by the  
2055 practitioner.

2056 (iii) All other controlled substances in Schedule V may be refilled as the prescriber's  
2057 prescription directs, but they may not be refilled one year after the date the prescription was  
2058 issued unless renewed by the practitioner.

2059 (iv) Any prescription for a Schedule II substance may not be dispensed if it is not  
2060 presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days  
2061 after the date the prescription was issued, or 30 days after the dispensing date, if that date is  
2062 specified separately from the date of issue.

2063 (v) A practitioner may issue more than one prescription at the same time for the same  
2064 Schedule II controlled substance, but only under the following conditions:

2065 (A) no more than three prescriptions for the same Schedule II controlled substance may  
2066 be issued at the same time;

2067 (B) no one prescription may exceed a 30-day supply;

2068 (C) a second or third prescription shall include the date of issuance and the date for  
2069 dispensing; and

2070 (D) unless the practitioner determines there is a valid medical reason to the contrary,  
2071 the date for dispensing a second or third prescription may not be fewer than 30 days from the  
2072 dispensing date of the previous prescription.

2073 (vi) Each prescription for a controlled substance may contain only one controlled

2074 substance per prescription form and may not contain any other legend drug or prescription  
2075 item.

2076 (g) An order for a controlled substance in Schedules II through V for use by an  
2077 inpatient or an outpatient of a licensed hospital is exempt from all requirements of this  
2078 Subsection (7) if the order is:

2079 (i) issued or made by a prescribing practitioner who holds an unrestricted registration  
2080 with the federal Drug Enforcement Administration, and an active Utah controlled substance  
2081 license in good standing issued by the division under this section, or a medical resident who is  
2082 exempted from licensure under Subsection 58-1-307(1)(c);

2083 (ii) authorized by the prescribing practitioner treating the patient and the prescribing  
2084 practitioner designates the quantity ordered;

2085 (iii) entered upon the record of the patient, the record is signed by the prescriber  
2086 affirming his authorization of the order within 48 hours after filling or administering the order,  
2087 and the patient's record reflects the quantity actually administered; and

2088 (iv) filled and dispensed by a pharmacist practicing his profession within the physical  
2089 structure of the hospital, or the order is taken from a supply lawfully maintained by the hospital  
2090 and the amount taken from the supply is administered directly to the patient authorized to  
2091 receive it.

2092 (h) A practitioner licensed under this chapter may not prescribe, administer, or  
2093 dispense a controlled substance to a minor, without first obtaining the consent required in  
2094 Section 78-14-5 of a parent, guardian, or person standing in loco parentis of the minor except  
2095 in cases of an emergency. For purposes of this Subsection (7)(h), "minor" has the same  
2096 meaning as defined in Section 78-3a-103, and "emergency" means any physical condition  
2097 requiring the administration of a controlled substance for immediate relief of pain or suffering.

2098 (i) A practitioner licensed under this chapter may not prescribe or administer dosages  
2099 of a controlled substance in excess of medically recognized quantities necessary to treat the  
2100 ailment, malady, or condition of the ultimate user.

2101 (j) A practitioner licensed under this chapter may not prescribe, administer, or dispense  
2102 any controlled substance to another person knowing that the other person is using a false name,  
2103 address, or other personal information for the purpose of securing the controlled substance.

2104 (k) A person who is licensed under this chapter to manufacture, distribute, or dispense

2105 a controlled substance may not manufacture, distribute, or dispense a controlled substance to  
2106 another licensee or any other authorized person not authorized by this license.

2107 (l) A person licensed under this chapter may not omit, remove, alter, or obliterate a  
2108 symbol required by this chapter or by a rule issued under this chapter.

2109 (m) A person licensed under this chapter may not refuse or fail to make, keep, or  
2110 furnish any record notification, order form, statement, invoice, or information required under  
2111 this chapter.

2112 (n) A person licensed under this chapter may not refuse entry into any premises for  
2113 inspection as authorized by this chapter.

2114 (o) A person licensed under this chapter may not furnish false or fraudulent material  
2115 information in any application, report, or other document required to be kept by this chapter or  
2116 willfully make any false statement in any prescription, order, report, or record required by this  
2117 chapter.

2118 (8) (a) (i) Any person licensed under this chapter who is found by the department to  
2119 have violated any of the provisions of Subsections (7)(k) through (7)(o) is subject to a penalty  
2120 not to exceed \$5,000. The department shall determine the procedure for adjudication of any  
2121 violations in accordance with Sections 58-1-106 and 58-1-108.

2122 (ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) in the  
2123 General Fund as a dedicated credit to be used by the division under Subsection 58-37-7.7(1).

2124 (b) Any person who knowingly and intentionally violates Subsections (7)(h) through  
2125 (7)(j) is:

2126 (i) upon first conviction, guilty of a class B misdemeanor;

2127 (ii) upon second conviction, guilty of a class A misdemeanor; and

2128 (iii) on third or subsequent conviction, guilty of a third degree felony.

2129 (c) Any person who knowingly and intentionally violates Subsections (7)(k) through  
2130 (7)(o) shall upon conviction be guilty of a third degree felony.

2131 (9) Any information communicated to any licensed practitioner in an attempt to  
2132 unlawfully procure, or to procure the administration of, a controlled substance is not considered  
2133 to be a privileged communication.

2134 Section 53. Section **58-37-7.5** is amended to read:

2135 **58-37-7.5. Controlled substance database -- Advisory committee -- Pharmacy**



2136 **reporting requirements -- Access -- Penalties.**

2137 (1) As used in this section:

2138 (a) "Committee" means the Controlled Substance Database Advisory Committee  
2139 created in this section.

2140 (b) "Database" means the controlled substance database created in this section.

2141 (c) "Database manager" means the person responsible for operating the database, or his  
2142 designee.2143 (d) "Division" means the Division of Occupational and Professional Licensing created  
2144 in Section 58-1-103.2145 [~~(e) "Drug outlet" has the same definition as in Section 58-17a-102.]~~

2146 [(f)] (e) "Health care facility" has the same definition as in Section 26-21-2.

2147 (f) "Pharmacy or pharmaceutical facility" has the same definition as in Section  
2148 58-17b-102.

2149 (2) (a) There is created within the division a controlled substance database.

2150 (b) The division shall administer and direct the functioning of the database in  
2151 accordance with this section. The division may under state procurement laws contract with  
2152 another state agency or private entity to establish, operate, or maintain the database. The  
2153 division in collaboration with the board shall determine whether to operate the database within  
2154 the division or contract with another entity to operate the database, based on an analysis of  
2155 costs and benefits.2156 (c) The purpose of the database is to contain data as described in this section regarding  
2157 every prescription for a controlled substance dispensed in the state to any person other than an  
2158 inpatient in a licensed health care facility.2159 (d) Data required by this section shall be submitted in compliance with this section to  
2160 the manager of the database by the pharmacist in charge of the drug outlet where the controlled  
2161 substance is dispensed.2162 (3) (a) There is created the Controlled Substance Database Advisory Committee. The  
2163 committee members are:

2164 (i) two members representing the Utah Medical Association;

2165 (ii) one member representing the Utah Dental Association;

2166 (iii) two members representing the Utah Pharmaceutical Association;

- 2167 (iv) one member representing the Department of Public Safety;
- 2168 (v) one member representing the Utah Association of Chiefs of Police;
- 2169 (vi) one member representing the Utah Sheriffs Association;
- 2170 (vii) one member representing the state Office of the Attorney General;
- 2171 (viii) one member representing the Statewide Association of Public Attorneys; and
- 2172 (ix) three members representing the general public, and who are not health care
- 2173 providers.
- 2174 (b) The committee shall be appointed and serve in accordance with Section 58-1-201.
- 2175 (c) The committee shall advise the division regarding:
- 2176 (i) establishing, maintaining, and operating the database;
- 2177 (ii) access to the database and how access is obtained; and
- 2178 (iii) control of information contained in the database.
- 2179 (4) The pharmacist in charge shall, regarding each controlled substance dispensed by a
- 2180 pharmacist under his supervision other than those dispensed for an inpatient at a health care
- 2181 facility, submit to the manager of the database the following information, by a procedure and in
- 2182 a format established by the division:
- 2183 (a) name of the prescribing practitioner;
- 2184 (b) date of the prescription;
- 2185 (c) date the prescription was filled;
- 2186 (d) name of the person for whom the prescription was written;
- 2187 (e) positive identification of the person receiving the prescription, including the type of
- 2188 identification and any identifying numbers on the identification;
- 2189 (f) name of the controlled substance;
- 2190 (g) quantity of controlled substance prescribed;
- 2191 (h) strength of controlled substance;
- 2192 (i) quantity of controlled substance dispensed;
- 2193 (j) dosage quantity and frequency as prescribed;
- 2194 (k) name of drug outlet dispensing the controlled substance;
- 2195 (l) name of pharmacist dispensing the controlled substance; and
- 2196 (m) other relevant information as required by division rule.
- 2197 (5) The division shall maintain the database in an electronic file or by other means

- 2198 established by the division to facilitate use of the database for identification of:
- 2199 (a) prescribing practices and patterns of prescribing and dispensing controlled
- 2200 substances;
- 2201 (b) practitioners prescribing controlled substances in an unprofessional or unlawful
- 2202 manner;
- 2203 (c) individuals receiving prescriptions for controlled substances from licensed
- 2204 practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet
- 2205 in quantities or with a frequency inconsistent with generally recognized standards of dosage for
- 2206 that controlled substance; and
- 2207 (d) individuals presenting forged or otherwise false or altered prescriptions for
- 2208 controlled substances to a [~~drug outlet~~] pharmacy.
- 2209 (6) (a) The division shall by rule establish the electronic format in which the
- 2210 information required under this section shall be submitted to the administrator of the database.
- 2211 (b) The division shall ensure the database system records and maintains for reference:
- 2212 (i) identification of each person who requests or receives information from the
- 2213 database;
- 2214 (ii) the information provided to each person; and
- 2215 (iii) the date and time the information is requested or provided.
- 2216 (7) The division shall make rules in collaboration with the committee to:
- 2217 (a) effectively enforce the limitations on access to the database as described in
- 2218 Subsection (8); and
- 2219 (b) establish standards and procedures to ensure accurate identification of individuals
- 2220 requesting information or receiving information without request from the database.
- 2221 (8) The manager of the database shall make information in the database available only
- 2222 to the following persons, and in accordance with the limitations stated and division rules:
- 2223 (a) personnel of the division specifically assigned to conduct investigations related to
- 2224 controlled substances laws under the jurisdiction of the division;
- 2225 (b) authorized division personnel engaged in analysis of controlled substance
- 2226 prescription information as a part of the assigned duties and responsibilities of their
- 2227 employment;
- 2228 (c) a licensed practitioner having authority to prescribe controlled substances, to the

2229 extent the information relates specifically to a current patient of the practitioner, to whom the  
2230 practitioner is prescribing or considering prescribing any controlled substance;

2231 (d) a licensed pharmacist having authority to dispense controlled substances to the  
2232 extent the information relates specifically to a current patient to whom that pharmacist is  
2233 dispensing or considering dispensing any controlled substance;

2234 (e) federal, state, and local law enforcement authorities engaged as a specified duty of  
2235 their employment in enforcing laws regulating controlled substances; and

2236 (f) an individual who is the recipient of a controlled substance prescription entered into  
2237 the database, upon providing evidence satisfactory to the database manager that the individual  
2238 requesting the information is in fact the person about whom the data entry was made.

2239 (9) Any person who knowingly and intentionally releases any information in the  
2240 database in violation of the limitations under Subsection (8) is guilty of a third degree felony.

2241 (10) Any person who obtains or attempts to obtain information from the database by  
2242 misrepresentation or fraud is guilty of a third degree felony.

2243 (11) (a) A person may not knowingly and intentionally use, release, publish, or  
2244 otherwise make available to any other person or entity any information obtained from the  
2245 database for any purpose other than those specified in Subsection (8). Each separate violation  
2246 of this Subsection (11) is a third degree felony and is also subject to a civil penalty not to  
2247 exceed \$5,000.

2248 (b) The procedure for determining a civil violation of this Subsection (11) shall be in  
2249 accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

2250 (c) Civil penalties assessed under this Subsection (11) shall be deposited in the General  
2251 Fund as a dedicated credit to be used by the division under Subsection 58-37-7.7(1).

2252 (12) (a) The failure of a pharmacist in charge to submit information to the database as  
2253 required under this section after the division has submitted a specific written request for the  
2254 information or when the division determines the individual has a demonstrable pattern of  
2255 failing to submit the information as required is grounds for the division to take the following  
2256 actions in accordance with Section 58-1-401:

2257 (i) refuse to issue a license to the individual;

2258 (ii) refuse to renew the individual's license;

2259 (iii) revoke, suspend, restrict, or place on probation the license;

- 2260 (iv) issue a public or private reprimand to the individual;
- 2261 (v) issue a cease and desist order; and
- 2262 (vi) impose a civil penalty of not more than \$1,000 for each dispensed prescription  
2263 regarding which the required information is not submitted.
- 2264 (b) Civil penalties assessed under Subsection (12)(a)(vi) shall be deposited in the  
2265 General Fund as a dedicated credit to be used by the division under Subsection 58-37-7.7(1).
- 2266 (c) The procedure for determining a civil violation of this Subsection (12) shall be in  
2267 accordance with Section 58-1-108, regarding adjudicative proceedings within the division.
- 2268 (13) An individual who has submitted information to the database in accordance with  
2269 this section may not be held civilly liable for having submitted the information.
- 2270 (14) All department and the division costs necessary to establish and operate the  
2271 database shall be funded by appropriations from:
- 2272 (a) the Commerce Service Fund; and
- 2273 (b) the General Fund.
- 2274 (15) All costs associated with recording and submitting data as required in this section  
2275 shall be assumed by the submitting ~~[drug-outlet]~~ pharmacy.
- 2276 Section 54. Section **58-37c-19.5** is amended to read:
- 2277 **58-37c-19.5. Iodine solution greater than 1.5% -- Prescription or permit required**  
2278 **-- Penalties.**
- 2279 (1) As used in this section, "iodine matrix" means iodine at concentrations greater than  
2280 1.5% by weight in a matrix or solution.
- 2281 (2) A person may offer to sell, sell, or distribute an iodine matrix only:
- 2282 (a) as a prescription drug, pursuant to a prescription issued by a veterinarian or  
2283 physician licensed within the state; or
- 2284 (b) to a person who is actively engaged in the legal practice of animal husbandry of  
2285 livestock, as defined in Section 4-1-8.
- 2286 (3) Prescriptions issued under this section:
- 2287 (a) shall provide for a specified number of refills;
- 2288 (b) may be issued by electronic means, in accordance with Title 58, Chapter ~~[17a]~~ 17b,  
2289 Pharmacy Practice Act; and
- 2290 (c) may be filled by a person other than the veterinarian or physician issuing the

2291 prescription.

2292 (4) A retailer offering iodine matrix for sale:

2293 (a) shall store the iodine matrix so that the public does not have access to the iodine  
2294 matrix without the direct assistance or intervention of a retail employee;

2295 (b) shall keep a record, which may consist of sales receipts, of each person purchasing  
2296 iodine matrix; and

2297 (c) may, if necessary to ascertain the identity of the purchaser, ask for proof of  
2298 identification from the purchaser.

2299 (5) A person engaging in a regulated transaction under Subsection (2) is guilty of a  
2300 class B misdemeanor if the person, under circumstances not amounting to a violation of  
2301 Subsection 58-37d-4(1)(c), offers to sell, sells, or distributes an iodine matrix to a person who:

2302 (a) does not present a prescription or is not engaged in animal husbandry, as required  
2303 under Subsection (2); or

2304 (b) is not excepted under Subsection (7).

2305 (6) A person is guilty of a class A misdemeanor who, under circumstances not  
2306 amounting to a violation of Subsection 58-37c-3(12)(k) or 58-37d-4(1)(a):

2307 (a) possesses an iodine matrix without proof of obtaining the solution in compliance  
2308 with Subsection (2); or

2309 (b) offers to sell, sells, or distributes an iodine matrix in violation of Subsection (2).

2310 (7) Subsection (6)(a) does not apply to:

2311 (a) a chemistry or chemistry-related laboratory maintained by:

2312 (i) a public or private regularly established secondary school; or

2313 (ii) a public or private institution of higher education that is accredited by a regional or  
2314 national accrediting agency recognized by the United States Department of Education;

2315 (b) a veterinarian licensed to practice under Title 58, Chapter 28, Veterinary Practice  
2316 Act;

2317 (c) a general acute hospital; or

2318 (d) a veterinarian, physician, pharmacist, retail distributor, wholesaler, manufacturer,  
2319 warehouseman, or common carrier, or an agent of any of these persons who possesses an  
2320 iodine matrix in the regular course of lawful business activities.

2321 Section 55. Section **58-71-102** is amended to read:

2322 **58-71-102. Definitions.**

2323 In addition to the definitions in Section 58-1-102, as used in this chapter:

2324 (1) "Administrative penalty" means a monetary fine imposed by the division for acts or  
2325 omissions determined to constitute unprofessional or unlawful conduct, as a result of an  
2326 adjudicative proceeding conducted in accordance with Title 63, Chapter 46b, Administrative  
2327 Procedures Act.

2328 (2) "Acupuncture" has the same definition as in Section 58-72-102.

2329 (3) "Board" means the Naturopathic Physicians Licensing Board created in Section  
2330 58-71-201.

2331 (4) "Diagnose" means:

2332 (a) to examine in any manner another person, parts of a person's body, substances,  
2333 fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's  
2334 body, to determine the source, nature, kind, or extent of a disease or other physical or mental  
2335 condition;2336 (b) to attempt to conduct an examination or determination described under Subsection  
2337 (4)(a); [or]2338 (c) to hold oneself out as making or to represent that one is making an examination or  
2339 determination as described in Subsection (4)(a); or2340 (d) to make an examination or determination as described in Subsection (4)(a) upon or  
2341 from information supplied directly or indirectly by another person, whether or not in the  
2342 presence of the person making or attempting the diagnosis or examination.2343 (5) "Local anesthesia" means an agent, whether a natural medicine or prescription drug,  
2344 which:2345 (a) is applied topically or by injection in superficial tissues associated with the  
2346 performance of minor office procedures;2347 (b) has the ability to produce loss of sensation at the site of minor office procedures;  
2348 and

2349 (c) does not cause loss of consciousness or produce general sedation.

2350 (6) "Medical naturopathic assistant" means an unlicensed individual working under the  
2351 direct and immediate supervision of a licensed naturopathic physician and engaged in specific  
2352 tasks assigned by the licensed naturopathic physician in accordance with the standards and

2353 ethics of the profession.

2354 (7) (a) "Minor office procedures" means:

2355 (i) the use of operative, electrical, or other methods for repair and care of superficial  
2356 lacerations, abrasions, and benign lesions;

2357 (ii) removal of foreign bodies located in the superficial tissues, excluding the eye or  
2358 ear; and

2359 (iii) the use of antiseptics and local anesthetics in connection with minor office surgical  
2360 procedures; and

2361 (b) "Minor office procedures" does not include:

2362 (i) general or spinal anesthesia;

2363 (ii) office procedures more complicated or extensive than those set forth in Subsection  
2364 (7)(a);

2365 (iii) procedures involving the eye; or

2366 (iv) any office procedure involving tendons, nerves, veins, or arteries.

2367 (8) "Natural medicine" means:

2368 (a) food, food extracts, dietary supplements as defined by the federal Food, Drug, and  
2369 Cosmetics Act, all homeopathic remedies, and plant substances that are not designated as  
2370 prescription drugs or controlled substances;

2371 (b) over-the-counter medications;

2372 (c) other nonprescription substances, the prescription or administration of which is not  
2373 otherwise prohibited or restricted under federal or state law; and

2374 (d) prescription drugs:

2375 (i) that are not controlled substances as defined in Section 58-37-2;

2376 (ii) the prescription of which is consistent with the competent practice of naturopathic  
2377 medicine; and

2378 (iii) the prescription of which is approved by the division in collaboration with the  
2379 naturopathic formulary advisory peer committee.

2380 (9) (a) "Naturopathic childbirth" means uncomplicated natural childbirth assisted by a  
2381 naturopathic physician, and includes the use of:

2382 (i) natural medicines; and

2383 (ii) uncomplicated episiotomy.



- 2384 (b) "Naturopathic childbirth" does not include the use of:  
2385 (i) forceps delivery;  
2386 (ii) general or spinal anesthesia;  
2387 (iii) caesarean section delivery; or  
2388 (iv) induced labor or abortion.
- 2389 (10) "Naturopathic mobilization therapy":  
2390 (a) means manually administering mechanical treatment of body structures or tissues  
2391 for the purpose of restoring normal physiological function to the body by normalizing and  
2392 balancing the musculoskeletal system of the body;
- 2393 (b) does not mean manipulation or adjustment of the joints of the human body beyond  
2394 the elastic barrier; and
- 2395 (c) does not include manipulation as defined in Title 58, Chapter 73, Chiropractic  
2396 Physician Practice Act.
- 2397 (11) "Naturopathic physical medicine" means the use of the physical agents of air,  
2398 water, heat, cold, sound, light, and electromagnetic nonionizing radiation, and the physical  
2399 modalities of electrotherapy, biofeedback, acupuncture, diathermy, ultraviolet light, ultrasound,  
2400 hydrotherapy, naturopathic mobilization therapy, and exercise. Naturopathic medicine does not  
2401 include the practice of physical therapy or physical rehabilitation.
- 2402 (12) "Practice of naturopathic medicine" means:  
2403 (a) a system of primary health care for the prevention, diagnosis, and treatment of  
2404 human health conditions, injuries, and diseases that uses education, natural medicines, and  
2405 natural therapies, to support and stimulate the patient's intrinsic self-healing processes:  
2406 (i) using naturopathic childbirth, but only if:  
2407 (A) the licensee meets standards of the American College of Naturopathic  
2408 Obstetricians (ACNO) or its successor as determined by the division in collaboration with the  
2409 board; and  
2410 (B) the licensee follows a written plan for naturopathic physicians practicing  
2411 naturopathic childbirth approved by the division in collaboration with the board, which  
2412 includes entering into an agreement with a consulting physician and surgeon or osteopathic  
2413 physician, in cases where the scope of practice of naturopathic childbirth may be exceeded and  
2414 specialty care and delivery is indicated, detailing the guidelines by which the naturopathic

2415 physician will:

2416 (I) refer patients to the consulting physician; and

2417 (II) consult with the consulting physician;

2418 (ii) using naturopathic mobilization therapy;

2419 (iii) using naturopathic physical medicine;

2420 (iv) using minor office procedures;

2421 (v) prescribing or administering natural medicine;

2422 (vi) prescribing medical equipment and devices, diagnosing by the use of medical

2423 equipment and devices, and administering therapy or treatment by the use of medical devices

2424 necessary and consistent with the competent practice of naturopathic medicine;

2425 (vii) prescribing barrier devices for contraception;

2426 (viii) using dietary therapy;

2427 (ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and

2428 physiological function tests;

2429 (x) taking of body fluids for clinical laboratory tests and using the results of the tests in

2430 diagnosis;

2431 (xi) taking of a history from and conducting of a physical examination upon a human

2432 patient; and

2433 (xii) prescribing and administering natural medicines and medical devices, except a

2434 naturopathic physician may only administer:

2435 (A) a prescription drug, as defined in Section [~~58-17a-102~~] 58-17b-102, in accordance

2436 with Subsection (8)(d); and

2437 (B) local anesthesia that is not a controlled substance, and only in the performance of

2438 minor office procedures;

2439 (b) to maintain an office or place of business for the purpose of doing any of the acts

2440 described in Subsection (12)(a), whether or not for compensation; or

2441 (c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or

2442 treatment of human diseases or conditions, in any printed material, stationery, letterhead,

2443 envelopes, signs, or advertisements, the designation "naturopathic physician," "naturopathic

2444 doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy,"

2445 "naturopathic medical doctor," "naturopathic medicine," "naturopathic health care,"

2446 "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that  
2447 might cause a reasonable person to believe the individual using the designation is a licensed  
2448 naturopathic physician.

2449 (13) "Prescription drug or device" means:

2450 (a) a drug or device which, under federal law, is required to be labeled with either of  
2451 the following statements or their equivalent:

2452 (i) "CAUTION: Federal law prohibits dispensing without prescription"; or

2453 (ii) "CAUTION: Federal law restricts this drug to use by or on the order of a licensed  
2454 veterinarian"; or

2455 (b) a drug or device that is required by any applicable federal or state law or rule to be  
2456 dispensed on prescription only or is restricted to use by practitioners only.

2457 (14) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-71-501.

2458 (15) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-71-502, and  
2459 as may be further defined by division rule.

2460 Section 56. Section **58-71-801** is amended to read:

2461 **58-71-801. Disclosure of financial interest by licensee.**

2462 (1) Except as provided in Subsection (2), licensees under this chapter may not own,  
2463 directly or indirectly:

2464 (a) any ~~[drug outlet]~~ pharmacy or pharmaceutical facility as defined in Section  
2465 ~~[58-17a-102]~~ 58-17b-102; or

2466 (b) a retail store, wholesaler, distributor, manufacturer, or facility of any other kind  
2467 located in this state that is engaged in the sale, dispensing, delivery, distribution, or  
2468 manufacture of homeopathic remedies, dietary supplements, or natural medicines.

2469 (2) A licensee may own or control less than 5% of the outstanding stock of a  
2470 corporation whose ownership is prohibited under Subsection (1), if the stock of the corporation  
2471 is publicly traded.

2472 (3) Licensees under this chapter may not refer patients, clients, or customers to any  
2473 clinical laboratory, ambulatory or surgical care facilities, or other treatment or rehabilitation  
2474 services such as physical therapy, cardiac rehabilitation, or radiology services in which the  
2475 licensee or a member of the licensee's immediate family has any financial relationship as that  
2476 term is described in 42 U.S.C. 1395nn, unless the licensee at the time of making the referral

2477 discloses that relationship, in writing, to the patient, client, or customer.

2478 (4) The written disclosure under Subsection [~~(1)~~] (3) shall also state the patient may  
2479 choose any facility or service center for purpose of having the laboratory work or treatment  
2480 service performed.

2481 (5) Licensees under this chapter may not sell from their offices homeopathic remedies  
2482 or dietary supplements, as defined in the Federal Food Drug and Cosmetic Act, except for  
2483 those products that are not readily available from other local sources.

2484 Section 57. Section **58-73-601** is amended to read:

2485 **58-73-601. Scope of practice for a chiropractic physician.**

2486 (1) A chiropractic physician licensed under this chapter may engage in the practice of  
2487 chiropractic as defined in Section 58-73-102 in accordance with the following standards.

2488 (2) A chiropractic physician may:

2489 (a) examine, diagnose, and treat only within the scope of chiropractic as described in  
2490 this Subsection (2);

2491 (b) use x-ray for diagnostic purposes only;

2492 (c) administer:

2493 (i) physical agents, including light, heat, cold, water, air, sound, compression,  
2494 electricity, and electromagnetic radiation except gamma radiation; and

2495 (ii) physical activities and devices, including:

2496 (A) exercise with and without devices;

2497 (B) joint mobilization;

2498 (C) mechanical stimulation;

2499 (D) postural drainage;

2500 (E) traction;

2501 (F) positioning;

2502 (G) wound debridement, cleansing, and dressing changes;

2503 (H) splinting;

2504 (I) training in locomotion and other functional activities with and without assistance  
2505 devices; and

2506 (J) correction of posture, body mechanics, and gait;

2507 (d) administer the following topically applied medicinal agents, including steroids,

2508 anesthetics, coolants, and analgesics for wound care and for musculoskeletal treatment,  
2509 including their use by iontophoresis or phonophoresis;

2510 (e) treat pain incident to major or minor surgery, cancer, obstetrics, or x-ray therapy;  
2511 (f) utilize immobilizing appliances, casts, and supports for support purposes, but may  
2512 not set displaced bone fractures;

2513 (g) inform the patient of possible side effects of medication and recommend referral to  
2514 the prescribing practitioner;

2515 (h) provide instruction in the use of physical measures, activities, and devices for  
2516 preventive and therapeutic purposes;

2517 (i) provide consulting, educational, and other advisory services for the purposes of  
2518 reducing the incidence and severity of physical disability, movement dysfunctions, bodily  
2519 malfunction, and pain;

2520 (j) treat a human being to assess, prevent, correct, alleviate, and limit physical  
2521 disability, movement dysfunction, bodily malfunction, and pain resulting from disorders,  
2522 congenital and aging conditions, injury, and disease; and

2523 (k) administer, interpret, and evaluate tests.

2524 (3) A chiropractic physician may not:

2525 (a) perform incisive surgery;  
2526 (b) administer drugs or medicines for which an authorized prescription is required by  
2527 law except as provided in Subsection (2)(d);  
2528 (c) treat cancer;  
2529 (d) practice obstetrics;  
2530 (e) prescribe or administer x-ray therapy; or  
2531 (f) set displaced fractures.

2532 (4) A chiropractic physician shall assume responsibility for his examinations,  
2533 diagnoses, and treatment.

2534 (5) Nothing in this section authorizes a chiropractic physician to prescribe, possess for  
2535 dispensing, dispense, purchase without a prescription written by a licensed and authorized  
2536 practitioner, or administer, except under Subsection (2)(d), a drug requiring a prescription to  
2537 dispense, under Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter  
2538 [~~17a~~] 17b, Pharmacy Practice Act.

2539 (6) Only primary health care providers licensed under this title as osteopathic  
2540 physicians, physicians and surgeons, naturopaths, and chiropractic physicians, may diagnose,  
2541 adjust, manipulate, or therapeutically position the articulation of the spinal column to the extent  
2542 permitted by their scopes of practice.

2543 Section 58. Section **63-55-258** is amended to read:

2544 **63-55-258. Repeal dates, Title 58.**

2545 (1) Title 58, Chapter 3a, Architects Licensing Act, is repealed July 1, 2013.

2546 (2) Title 58, Chapter 5a, Podiatric Physician Licensing Act, is repealed July 1, 2007.

2547 (3) Title 58, Chapter 9, Funeral Services Licensing Act, is repealed July 1, 2008.

2548 (4) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is  
2549 repealed July 1, 2006.

2550 (5) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2005.

2551 (6) Title 58, Chapter 16a, Utah Optometry Practice Act, is repealed July 1, 2009.

2552 (7) Title 58, Chapter [~~17a~~] 17b, Pharmacy Practice Act, is repealed July 1, [~~2006~~]

2553 2014.

2554 (8) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2013.

2555 (9) Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors  
2556 Licensing Act, is repealed July 1, 2005.

2557 (10) Title 58, Chapter 24a, Physical Therapist Practice Act, is repealed July 1, 2013.

2558 (11) Title 58, Chapter 26a, Certified Public Accountant Licensing Act, is repealed July  
2559 1, 2007.

2560 (12) Title 58, Chapter 28, Veterinary Practice Act, is repealed July 1, 2004.

2561 (13) Title 58, Chapter 31b, Nurse Practice Act, is repealed July 1, 2005.

2562 (14) Title 58, Chapter 37, Utah Controlled Substances Act, is repealed July 1, 2007.

2563 (15) Title 58, Chapter 37a, Utah Drug Paraphernalia Act, is repealed July 1, 2007.

2564 (16) Title 58, Chapter 37b, Imitation Controlled Substances Act, is repealed July 1,  
2565 2007.

2566 (17) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2005.

2567 (18) Title 58, Chapter 41, Speech-language Pathology and Audiology Licensing Act, is  
2568 repealed July 1, 2009.

2569 (19) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1,

- 2570 2005.
- 2571 (20) Title 58, Chapter 44a, Nurse Midwife Practice Act, is repealed July 1, 2010.
- 2572 (21) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed
- 2573 July 1, 2013.
- 2574 (22) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2004.
- 2575 (23) Title 58, Chapter 49, Dietitian Certification Act, is repealed July 1, 2005.
- 2576 (24) Title 58, Chapter 53, Landscape Architects Licensing Act, is repealed July 1,
- 2577 2008.
- 2578 (25) Title 58, Chapter 59, Professional Employer Organization Licensing Act, is
- 2579 repealed July 1, 2007.
- 2580 (26) Title 58, Chapter 67, Utah Medical Practice Act, is repealed July 1, 2006.
- 2581 (27) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, is repealed July 1,
- 2582 2006.
- 2583 (28) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act, is repealed July 1,
- 2584 2006.
- 2585 (29) Title 58, Chapter 71, Naturopathic Physician Practice Act, is repealed July 1,
- 2586 2006.
- 2587 (30) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2007.
- 2588 (31) Title 58, Chapter 73, Chiropractic Physician Practice Act, is repealed July 1, 2006.
- 2589 Section 59. Section **76-5-113** is amended to read:
- 2590 **76-5-113. Surreptitious administration of certain substances -- Definitions --**
- 2591 **Penalties -- Defenses.**
- 2592 (1) As used in this section:
- 2593 (a) "Administer" means the introduction of a substance into the body by injection,
- 2594 inhalation, ingestion, or by any other means.
- 2595 (b) "Alcoholic beverage" has the same meaning as "alcoholic beverages" in Section
- 2596 32A-1-105.
- 2597 (c) "Bodily injury" has the same definition as in Section 76-1-601.
- 2598 (d) "Controlled substance" has the same definition as in Section 58-37-2.
- 2599 (e) "Deleterious substance" means a substance which, if administered, would likely
- 2600 cause bodily injury.

2601 (f) "Poisonous" means a substance which, if administered, would likely cause serious  
2602 bodily injury or death.

2603 (g) "Prescription drug" has the same definition as in Section ~~[58-17a-102]~~ 58-17b-102.

2604 (h) "Serious bodily injury" has the same definition as in Section 19-2-115.

2605 (i) "Substance" means a controlled substance, poisonous substance, or deleterious  
2606 substance as defined in this Subsection (1).

2607 (2) In addition to any other offense the actor's conduct may constitute, it is a criminal  
2608 offense for a person, surreptitiously or by means of fraud, deception, or misrepresentation, to  
2609 cause another person to unknowingly consume or receive the administration of:

2610 (a) any poisonous, deleterious, or controlled substance; or

2611 (b) any alcoholic beverage.

2612 (3) A violation of Subsection (2) is:

2613 (a) a second degree felony if the substance is a poisonous substance, regardless of  
2614 whether the substance is a controlled substance or a prescription drug;

2615 (b) a third degree felony if the substance is not within the scope of Subsection (3)(a),  
2616 and is a controlled substance or a prescription drug; and

2617 (c) a class A misdemeanor if the substance is a deleterious substance or an alcoholic  
2618 beverage.

2619 (4) (a) It is an affirmative defense to a prosecution under Subsection (2) that the actor:

2620 (i) provided the appropriate administration of a prescription drug; and

2621 (ii) acted on the reasonable belief that his conduct was in the best interest of the  
2622 well-being of the person to whom the prescription drug was administered.

2623 (b) (i) The defendant shall file and serve on the prosecuting attorney a notice in writing  
2624 of his intention to claim a defense under Subsection (4)(a) not fewer than 20 days before the  
2625 trial.

2626 (ii) The notice shall specifically identify the factual basis for the defense and the names  
2627 and addresses of the witnesses the defendant proposes to examine to establish the defense.

2628 (c) The prosecuting attorney shall file and serve the defendant with a notice containing  
2629 the names and addresses of the witnesses the prosecutor proposes to examine in order to  
2630 contradict or rebut the defendant's claim of an affirmative defense under Subsection (4)(a).

2631 This notice shall be filed or served not more than ten days after receipt of the defendant's notice



2632 under Subsection (4)(b), or at another time as the court may direct.

2633 (d) (i) Failure of a party to comply with the requirements of Subsection (4)(b) or (4)(c)  
2634 entitles the opposing party to a continuance to allow for preparation.

2635 (ii) If the court finds that a party's failure to comply is the result of bad faith, it may  
2636 impose appropriate sanctions.

2637 (5) This section does not diminish the scope of authorized health care by a health care  
2638 provider as defined in Section 26-23a-1.

2639 Section 60. Section **76-8-311.3** is amended to read:

2640 **76-8-311.3. Items prohibited in correctional and mental health facilities --**

2641 **Penalties.**

2642 (1) As used in this section:

2643 (a) "Contraband" means any item not specifically prohibited for possession by  
2644 offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.

2645 (b) "Controlled substance" means any substance defined as a controlled substance  
2646 under Title 58, Chapter 37, Utah Controlled Substances Act.

2647 (c) "Correctional facility" means:

2648 (i) any facility operated by or contracting with the Department of Corrections to house  
2649 offenders in either a secure or nonsecure setting;

2650 (ii) any facility operated by a municipality or a county to house or detain criminal  
2651 offenders;

2652 (iii) any juvenile detention facility; and

2653 (iv) any building or grounds appurtenant to the facility or lands granted to the state,  
2654 municipality, or county for use as a correctional facility.

2655 (d) "Medicine" means any prescription drug as defined in Title 58, Chapter [~~17a~~] 17b,  
2656 Pharmacy Practice Act, but does not include any controlled substances as defined in Title 58,  
2657 Chapter 37, Utah Controlled Substances Act.

2658 (e) "Mental health facility" has the same meaning as defined in Section 62A-15-602.

2659 (f) "Offender" means a person in custody at a correctional facility.

2660 (g) "Secure area" has the same meaning as provided in Section 76-8-311.1.

2661 (2) Notwithstanding Section 76-10-500, a correctional or mental health facility may  
2662 provide by rule that no firearm, ammunition, dangerous weapon, implement of escape,

2663 explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any  
2664 quantity may be:

- 2665 (a) transported to or upon a correctional or mental health facility;
- 2666 (b) sold or given away at any correctional or mental health facility;
- 2667 (c) given to or used by any offender at a correctional or mental health facility; or
- 2668 (d) knowingly or intentionally possessed at a correctional or mental health facility.

2669 (3) It is a defense to any prosecution under this section if the accused in committing the  
2670 act made criminal by this section:

- 2671 (a) with respect to a correctional facility operated by the Department of Corrections,  
2672 acted in conformity with departmental rule or policy;
- 2673 (b) with respect to a correctional facility operated by a municipality, acted in  
2674 conformity with the policy of the municipality;
- 2675 (c) with respect to a correctional facility operated by a county, acted in conformity with  
2676 the policy of the county; or
- 2677 (d) with respect to a mental health facility, acted in conformity with the policy of the  
2678 mental health facility.

2679 (4) (a) Any person who transports to or upon a correctional facility, or into a secure  
2680 area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of  
2681 escape with intent to provide or sell it to any offender, is guilty of a second degree felony.

2682 (b) Any person who provides or sells to any offender at a correctional facility, or any  
2683 detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous  
2684 weapon, or implement of escape is guilty of a second degree felony.

2685 (c) Any offender who possesses at a correctional facility, or any detainee who  
2686 possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous  
2687 weapon, or implement of escape is guilty of a second degree felony.

2688 (d) Any person who, without the permission of the authority operating the correctional  
2689 facility or the secure area of a mental health facility, knowingly possesses at a correctional  
2690 facility or a secure area of a mental health facility any firearm, ammunition, dangerous weapon,  
2691 or implement of escape is guilty of a third degree felony.

2692 (e) Any person violates Section 76-10-306 who knowingly or intentionally transports,  
2693 possesses, distributes, or sells any explosive in a correctional facility or mental health facility.

2694 (5) (a) A person is guilty of a third degree felony who, without the permission of the  
2695 authority operating the correctional facility or secure area of a mental health facility, knowingly  
2696 transports to or upon a correctional facility or into a secure area of a mental health facility any:

- 2697 (i) spirituous or fermented liquor;
- 2698 (ii) medicine, whether or not lawfully prescribed for the offender; or
- 2699 (iii) poison in any quantity.

2700 (b) A person is guilty of a third degree felony who knowingly violates correctional or  
2701 mental health facility policy or rule by providing or selling to any offender at a correctional  
2702 facility or detainee within a secure area of a mental health facility any:

- 2703 (i) spirituous or fermented liquor;
- 2704 (ii) medicine, whether or not lawfully prescribed for the offender; or
- 2705 (iii) poison in any quantity.

2706 (c) An inmate is guilty of a third degree felony who, in violation of correctional or  
2707 mental health facility policy or rule, possesses at a correctional facility or in a secure area of a  
2708 mental health facility any:

- 2709 (i) spirituous or fermented liquor;
- 2710 (ii) medicine, other than medicine provided by the facility's health care providers in  
2711 compliance with facility policy; or
- 2712 (iii) poison in any quantity.

2713 (d) A person is guilty of a class A misdemeanor who, without the permission of the  
2714 authority operating the correctional or mental health facility, fails to declare or knowingly  
2715 possesses at a correctional facility or in a secure area of a mental health facility any:

- 2716 (i) spirituous or fermented liquor;
- 2717 (ii) medicine; or
- 2718 (iii) poison in any quantity.

2719 (e) A person is guilty of a class B misdemeanor who, without the permission of the  
2720 authority operating the facility, knowingly engages in any activity that would facilitate the  
2721 possession of any contraband by an offender in a correctional facility.

2722 (f) Exemptions may be granted for worship for Native American inmates pursuant to  
2723 Section 64-13-40.

2724 (6) The possession, distribution, or use of a controlled substance at a correctional

2725 facility or in a secure area of a mental health facility shall be prosecuted in accordance with  
2726 Title 58, Chapter 37, Utah Controlled Substances Act.

2727 Section 61. Section ~~78-11-22.2~~ is amended to read:

2728 **78-11-22.2. Donation of nonschedule drugs or devices -- Liability limitation.**

2729 (1) As used in this section:

2730 (a) "Administer" is as defined in Section [~~58-17a-102~~] 58-17b-102.

2731 (b) "Dispense" is as defined in Section [~~58-17a-102~~] 58-17b-102.

2732 (c) "Distribute" is as defined in Section [~~58-17a-102~~] 58-17b-102.

2733 (d) "Drug outlet" means:

2734 (i) [~~a drug outlet~~] a pharmacy or pharmaceutical facility as defined in Section  
2735 [~~58-17a-102~~] 58-17b-102; or

2736 (ii) a person with the authority to engage in the dispensing, delivering, manufacturing,  
2737 or wholesaling of prescription drugs or devices outside of the state under the law of the  
2738 jurisdiction in which the person operates.

2739 (e) "Health care provider" means:

2740 (i) a person who is a health care provider, as defined in Section 78-14-3, with the  
2741 authority under Title 58, Occupations and Professions, to prescribe, dispense, or administer  
2742 prescription drugs or devices; or

2743 (ii) a person outside of the state with the authority to prescribe, dispense, or administer  
2744 prescription drugs or devices under the law of the jurisdiction in which the person practices.

2745 (f) "Nonschedule drug or device" means:

2746 (i) a prescription drug or device, as defined in Section [~~58-17a-102~~] 58-17b-102,  
2747 except that it does not include controlled substances, as defined in Section 58-37-2; or

2748 (ii) a nonprescription drug, as defined in Section [~~58-17a-102~~] 58-17b-102.

2749 (g) "Prescription drug or device" is as defined in Section [~~58-17a-102~~] 58-17b-102.

2750 (2) A drug outlet is not subject to civil liability for an injury or death resulting from the  
2751 defective condition of a nonschedule drug or device that the drug outlet distributes at no  
2752 charge, in good faith, and for a charitable purpose to a drug outlet or health care provider for  
2753 ultimate use by a needy person, provided that:

2754 (a) the drug outlet complies with applicable state and federal laws regarding the  
2755 storage, handling, and distribution of the nonschedule drug or device; and

2756 (b) the injury or death is not the result of any act or omission of the drug outlet that  
2757 constitutes gross negligence, recklessness, or intentional misconduct.

2758 (3) A health care provider is not subject to civil liability for an injury or death resulting  
2759 from the defective condition of a nonschedule drug or device that the health care provider  
2760 distributes to a drug outlet or health care provider for ultimate use by a needy person or directly  
2761 administers, dispenses, or distributes to a needy person, provided that:

2762 (a) the health care provider complies with applicable state and federal laws regarding  
2763 the storage, handling, distribution, dispensing, and administration of the nonschedule drug or  
2764 device;

2765 (b) the injury or death is not the result of any act or omission of the health care  
2766 provider that constitutes gross negligence, recklessness, or intentional misconduct; and

2767 (c) in the event that the health care provider directly administers, distributes, or  
2768 dispenses the nonschedule drug or device to the needy person, the health care provider has  
2769 retained a consent form signed by the needy person that explains the provisions of this section  
2770 which extend liability protection for charitable donations of nonschedule drugs and devices.

2771 (4) Nothing in this section may be construed as:

2772 (a) permitting a person who is not authorized under Title 58, Occupations and  
2773 Professions, to operate as a drug outlet or practice as a health care provider within the state; or

2774 (b) extending liability protection to any person who acts outside of the scope of  
2775 authority granted to that person under the laws of this state or the jurisdiction in which the  
2776 person operates or practices.

2777 Section 62. Section **78-14-3** is amended to read:

2778 **78-14-3. Definitions.**

2779 As used in this chapter:

2780 (1) "Audiologist" means a person licensed to practice audiology under Title 58,  
2781 Chapter 41, Speech-language Pathology and Audiology Licensing Act.

2782 (2) "Certified social worker" means a person licensed to practice as a certified social  
2783 worker under Section [~~58-60-305~~] 58-60-205.

2784 (3) "Chiropractic physician" means a person licensed to practice chiropractic under  
2785 Title 58, Chapter 73, Chiropractic Physician Practice Act.

2786 (4) "Clinical social worker" means a person licensed to practice as a clinical social

2787 worker under Section [~~58-60-305~~] 58-60-205.

2788 (5) "Commissioner" means the commissioner of insurance as provided in Section  
2789 31A-2-102.

2790 (6) "Dental hygienist" means a person licensed to practice dental hygiene as defined in  
2791 Section 58-69-102.

2792 (7) "Dentist" means a person licensed to practice dentistry as defined in Section  
2793 58-69-102.

2794 (8) "Division" means the Division of Occupational and Professional Licensing created  
2795 in Section 58-1-103.

2796 (9) "Future damages" includes damages for future medical treatment, care or custody,  
2797 loss of future earnings, loss of bodily function, or future pain and suffering of the judgment  
2798 creditor.

2799 (10) "Health care" means any act or treatment performed or furnished, or which should  
2800 have been performed or furnished, by any health care provider for, to, or on behalf of a patient  
2801 during the patient's medical care, treatment, or confinement.

2802 (11) "Health care facility" means general acute hospitals, specialty hospitals, home  
2803 health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers,  
2804 ambulatory surgical facilities, small health care facilities, health care facilities owned or  
2805 operated by health maintenance organizations, and end stage renal disease facilities.

2806 (12) "Health care provider" includes any person, partnership, association, corporation,  
2807 or other facility or institution who causes to be rendered or who renders health care or  
2808 professional services as a hospital, health care facility, physician, registered nurse, licensed  
2809 practical nurse, nurse-midwife, dentist, dental hygienist, optometrist, clinical laboratory  
2810 technologist, pharmacist, physical therapist, podiatric physician, psychologist, chiropractic  
2811 physician, naturopathic physician, osteopathic physician, osteopathic physician and surgeon,  
2812 audiologist, speech-language pathologist, clinical social worker, certified social worker, social  
2813 service worker, marriage and family counselor, practitioner of obstetrics, or others rendering  
2814 similar care and services relating to or arising out of the health needs of persons or groups of  
2815 persons and officers, employees, or agents of any of the above acting in the course and scope of  
2816 their employment.

2817 (13) "Hospital" means a public or private institution licensed under Title 26, Chapter

2818 21, Health Care Facility Licensing and Inspection Act.

2819 (14) "Licensed practical nurse" means a person licensed to practice as a licensed  
2820 practical nurse as provided in Section 58-31b-301.

2821 (15) "Malpractice action against a health care provider" means any action against a  
2822 health care provider, whether in contract, tort, breach of warranty, wrongful death, or  
2823 otherwise, based upon alleged personal injuries relating to or arising out of health care rendered  
2824 or which should have been rendered by the health care provider.

2825 (16) "Marriage and family therapist" means a person licensed to practice as a marriage  
2826 therapist or family therapist under [~~Section 58-60-405 and Section~~] Sections 58-60-305 and  
2827 58-60-405.

2828 (17) "Naturopathic physician" means a person licensed to practice naturopathy as  
2829 defined in Section 58-71-102.

2830 (18) "Nurse-midwife" means a person licensed to engage in practice as a nurse midwife  
2831 under Section 58-44a-301.

2832 (19) "Optometrist" means a person licensed to practice optometry under Title 58,  
2833 Chapter 16a, Utah Optometry Practice Act.

2834 (20) "Osteopathic physician" means a person licensed to practice osteopathy under  
2835 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

2836 (21) "Patient" means a person who is under the care of a health care provider, under a  
2837 contract, express or implied.

2838 (22) "Pharmacist" means a person licensed to practice pharmacy as provided in Section  
2839 [~~58-17a-301~~] 58-17b-301.

2840 (23) "Physical therapist" means a person licensed to practice physical therapy under  
2841 Title 58, Chapter 24a, Physical Therapist Practice Act.

2842 (24) "Physician" means a person licensed to practice medicine and surgery under Title  
2843 58, Chapter 67, Utah Medical Practice Act.

2844 (25) "Podiatric physician" means a person licensed to practice podiatry under Title 58,  
2845 Chapter 5a, Podiatric Physician Licensing Act.

2846 (26) "Practitioner of obstetrics" means a person licensed to practice as a physician in  
2847 this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58, Chapter 68,  
2848 Utah Osteopathic Medical Practice Act.

2849 (27) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist  
2850 Licensing Act, to practice psychology as defined in Section 58-61-102.

2851 (28) "Registered nurse" means a person licensed to practice professional nursing as  
2852 provided in Section 58-31b-301.

2853 (29) "Representative" means the spouse, parent, guardian, trustee, attorney-in-fact, or  
2854 other legal agent of the patient.

2855 (30) "Social service worker" means a person licensed to practice as a social service  
2856 worker under Section 58-60-205.

2857 (31) "Speech-language pathologist" means a person licensed to practice  
2858 speech-language pathology under Title 58, Chapter 41, Speech-language Pathology and  
2859 Audiology Licensing Act.

2860 (32) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act or  
2861 omission proximately causing injury or damage to another.

2862 Section 63. **Repealer.**

2863 This bill repeals:

2864 Section **58-17a-101, Title.**

2865 Section **58-17a-102, Definitions.**

2866 Section **58-17a-103, Administrative inspections.**

2867 Section **58-17a-201, Board -- Membership -- Qualifications -- Terms.**

2868 Section **58-17a-301, License required -- Licensure classifications for individuals.**

2869 Section **58-17a-302, Qualifications for licensure of pharmacist, pharmacy  
2870 technician, and pharmacy intern.**

2871 Section **58-17a-304, Term of license -- Expiration -- Renewal.**

2872 Section **58-17a-305, Exemptions from licensure.**

2873 Section **58-17a-401, Grounds for denial of license -- Disciplinary proceedings.**

2874 Section **58-17a-402, Authority to fine drug outlets.**

2875 Section **58-17a-501, Unlawful conduct.**

2876 Section **58-17a-502, Unprofessional conduct.**

2877 Section **58-17a-502.5, Exception to unprofessional conduct.**

2878 Section **58-17a-503, Penalty for unlawful conduct.**

2879 Section **58-17a-601, General operating standards.**



2880 Section **58-17a-602, Prescription orders --Information required -- Alteration --**  
2881 **Labels -- Signatures.**

2882 Section **58-17a-603, Identification of drug outlet personnel.**

2883 Section **58-17a-604, Medication profiles.**

2884 Section **58-17a-605, Drug product equivalents.**

2885 Section **58-17a-606, Drug substitution is not the practice of medicine -- Other**  
2886 **causes of action not denied.**

2887 Section **58-17a-607, Emergency refills.**

2888 Section **58-17a-608, Limitation on prescriptions and refills -- Controlled**  
2889 **Substances Act not affected -- Legend drugs.**

2890 Section **58-17a-609, Patients' immediate needs.**

2891 Section **58-17a-610, Drug outlet records.**

2892 Section **58-17a-611, Supervision -- Pharmacist-in-charge.**

2893 Section **58-17a-612, Patient counseling.**

2894 Section **58-17a-613, Change of ownership or location.**

2895 Section **58-17a-614, Branch pharmacies.**

2896 Section **58-17a-615, Sale of prescription drugs not in normal course of business.**

2897 Section **58-17a-616, Drug stock sales -- Labeling.**

2898 Section **58-17a-617, Limitations on distribution of prescription drugs by**  
2899 **pharmaceutical manufacturers or wholesalers.**

2900 Section **58-17a-618, Compliance with federal laws.**

2901 Section **58-17a-619, Third party payors -- Health maintenance organizations --**  
2902 **Criminal penalty.**

2903 Section **58-17a-620, Prescriptions issued within the public health system.**

2904 Section **58-17a-701, Penalties.**

2905 Section **58-17a-801, Mentally incompetent or incapacitated pharmacist -- Division**  
2906 **action and procedures.**

2907 Section 64. **Effective date.**

2908 This bill takes effect on July 1, 2004.

**Legislative Review Note**

**as of 1-5-04 10:33 AM**

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

**Office of Legislative Research and General Counsel**

**State Impact**

Additional background and FBI checks will require an additional one-half time employee at a cost of \$27,200 from the Commerce Service Fund in FY 2005, including one-time capital outlay of \$6,800. Spending from the Commerce Service Fund could affect the revenue available to the General Fund. Revenue from fines authorized in the bill will amount to about \$5,000 annually. These funds are to be used for educating people in the profession about the law.

	<u>FY 2005</u> <u>Approp.</u>	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2005</u> <u>Revenue</u>	<u>FY 2006</u> <u>Revenue</u>
Dedicated Credits Revenue	\$5,000	\$5,000	\$5,000	\$5,000
Commerce Service Fund	\$27,200	\$20,400	\$0	\$0
<b>TOTAL</b>	<b>\$32,200</b>	<b>\$25,400</b>	<b>\$5,000</b>	<b>\$5,000</b>

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**Individual and Business Impact**

Individuals will pay an additional \$39 for criminal background check and FBI check.

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