

**MEDICAL PROFESSIONAL LICENSING DURING A  
DECLARED EMERGENCY**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Evan J. Vickers**

Senate Sponsor: Allen M. Christensen

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**LONG TITLE**

**General Description:**

This bill modifies the Division of Occupational and Professional Licensing Act and the Pharmacy Practice Act by enacting language regarding health department protocols.

**Highlighted Provisions:**

This bill:

▶ authorizes the Department of Health to establish a protocol for the distribution of medicine in a national, state, or local emergency to:

- a local health department;
- a pharmacy;
- a prescribing practitioner;
- a licensed health care facility;
- a federally qualified community health clinic;
- a patient's contact; or
- emergency service personnel;

▶ authorizes the Department of Health to establish a protocol to allow a physician to write a prescription for a patient's contact when necessary to treat a reportable disease or non-emergency condition; and

▶ makes technical changes.

**Money Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **58-1-307**, as last amended by Laws of Utah 2008, Chapter 242

34 **58-17b-620**, as enacted by Laws of Utah 2004, Chapter 280



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

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

38 **58-1-307. Exemptions from licensure.**

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

42 (a) an individual serving in the armed forces of the United States, the United States  
43 Public Health Service, the United States Department of Veterans Affairs, or other federal  
44 agencies while engaged in activities regulated under this chapter as a part of employment with  
45 that federal agency if the individual holds a valid license to practice a regulated occupation or  
46 profession issued by any other state or jurisdiction recognized by the division;

47 (b) a student engaged in activities constituting the practice of a regulated occupation or  
48 profession while in training in a recognized school approved by the division to the extent the  
49 activities are supervised by qualified faculty, staff, or designee and the activities are a defined  
50 part of the training program;

51 (c) an individual engaged in an internship, residency, preceptorship, postceptorship,  
52 fellowship, apprenticeship, or on-the-job training program approved by the division while  
53 under the supervision of qualified individuals;

54 (d) an individual residing in another state and licensed to practice a regulated  
55 occupation or profession in that state, who is called in for a consultation by an individual  
56 licensed in this state, and the services provided are limited to that consultation;

57 (e) an individual who is invited by a recognized school, association, society, or other  
58 body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a

59 regulated occupation or profession if the individual does not establish a place of business or  
60 regularly engage in the practice of the regulated occupation or profession in this state;

61 (f) an individual licensed under the laws of this state, other than under this title, to  
62 practice or engage in an occupation or profession, while engaged in the lawful, professional,  
63 and competent practice of that occupation or profession;

64 (g) an individual licensed in a health care profession in another state who performs that  
65 profession while attending to the immediate needs of a patient for a reasonable period during  
66 which the patient is being transported from outside of this state, into this state, or through this  
67 state;

68 (h) an individual licensed in another state or country who is in this state temporarily to  
69 attend to the needs of an athletic team or group, except that the practitioner may only attend to  
70 the needs of the athletic team or group, including all individuals who travel with the team or  
71 group in any capacity except as a spectator;

72 (i) an individual licensed and in good standing in another state, who is in this state:

73 (i) temporarily, under the invitation and control of a sponsoring entity;

74 (ii) for a reason associated with a special purpose event, based upon needs that may  
75 exceed the ability of this state to address through its licensees, as determined by the division;  
76 and

77 (iii) for a limited period of time not to exceed the duration of that event, together with  
78 any necessary preparatory and conclusionary periods; and

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

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

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

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

86 (2) (a) A practitioner temporarily in this state who is exempted from licensure under  
87 Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the  
88 practitioner derives authority to practice.

89 (b) Violation of a limitation imposed by this section constitutes grounds for removal of

90 exempt status, denial of license, or other disciplinary proceedings.

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

95 (4) Upon the declaration of a national, state, or local emergency, a public health  
96 emergency as defined in Section 26-23b-102, or a declaration by the President of the United  
97 States or other federal official requesting public health-related activities, the division in  
98 collaboration with the board may:

99 (a) suspend the requirements for permanent or temporary licensure of individuals who  
100 are licensed in another state. Individuals exempt under this Subsection (4)(a) are exempt from  
101 licensure for the duration of the emergency while engaged in the scope of practice for which  
102 they are licensed in the other state;

103 (b) modify, under the circumstances described in this Subsection (4) and Subsection  
104 (5), the scope of practice restrictions under this title for individuals who are licensed under this  
105 title as:

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

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

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

111 (iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b,  
112 Pharmacy Practice Act;

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

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

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

117 (c) suspend the requirements for licensure under this title and modify the scope of  
118 practice in the circumstances described in this Subsection (4) and Subsection (5) for medical  
119 services personnel or paramedics required to be certified under Section 26-8a-302;

120 (d) suspend requirements in Subsections 58-17b-620(3) through (6) which require

121 certain prescriptive procedures;

122 (e) exempt or modify the requirement for licensure of an individual who is activated as  
 123 a member of a medical reserve corps during a time of emergency as provided in Section  
 124 26A-1-126; and

125 (f) exempt or modify the requirement for licensure of an individual who is registered as  
 126 a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency  
 127 Volunteer Health Practitioners Act.

128 (5) Individuals exempt under Subsection (4)(c) and individuals operating under  
 129 modified scope of practice provisions under Subsection (4)(b):

130 (a) are exempt from licensure or subject to modified scope of practice for the duration  
 131 of the emergency;

132 (b) must be engaged in the distribution of medicines or medical devices in response to  
 133 the emergency or declaration; and

134 (c) must be employed by or volunteering for:

135 (i) a local or state department of health; or

136 (ii) a host entity as defined in Section 26-49-102.

137 (6) In accordance with the protocols established under Subsection (8), upon the  
 138 declaration of a national, state, or local emergency, the Department of Health or a local health  
 139 department ~~H~~→ shall coordinate with public safety authorities as defined in

139a Section 26-23b-110(1) and ~~H~~ may:

140 (a) use a ~~H~~→ [stockpile] ~~H~~ vaccine, antiviral, antibiotic, or other

140a prescription medication that is

141 not a controlled substance to prevent or treat a disease or condition that gave rise to, or was a  
 142 consequence of, the emergency; or

143 (b) distribute a ~~H~~→ [stockpile] ~~H~~ vaccine, antiviral, antibiotic, or other  
 143a prescription medication

144 that is not a controlled substance:

145 (i) if necessary, to replenish a commercial pharmacy in the event that the commercial  
 146 pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication  
 147 is exhausted; or

148 (ii) for dispensing or direct administration to treat the disease or condition that gave  
 149 rise to, or was a consequence of, the emergency by:

150 (A) a pharmacy;

151 (B) a prescribing practitioner;



152 (C) a licensed health care facility;

153 (D) a federally qualified community health clinic; or

154 (E) a governmental entity for use by a community more than 50 miles from a person  
 155 described in Subsections (6)(b)(ii)(A) through (D).

156 (7) In accordance with protocols established under Subsection (8), upon the declaration  
 157 of a national, state, or local emergency, the Department of Health shall coordinate the  
 158 distribution of medications:

159 (a) received from the strategic national stockpile to local health departments; and

160 (b) from local health departments to emergency personnel within the local health  
 161 departments' geographic region.

162 (8) The Department of Health shall establish by rule, made in accordance with Title  
 163 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing,  
 164 and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is  
 165 not a controlled substance in the event of a declaration of a national, state, or local emergency.  
 166 The protocol shall establish procedures for the Department of Health

166a **H→ or a local health department ←H** to:

167 (a) coordinate the distribution of:

168 (i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a  
 169 controlled substance received by the Department of Health from the strategic national stockpile  
 170 to local health departments; and

171 (ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription  
 172 medication received by a local health department to emergency personnel within the local  
 173 health department's geographic region;

174 (b) authorize the **H→ dispensing, ←H administration H→, ←H** or distribution  
 174a of a vaccine, an antiviral, an antibiotic,  
 175 or other prescription medication that is not a controlled substance to the contact of a patient, as  
 176 defined in Subsection 26-6-2(4), without a patient-practitioner relationship. **H→ [so long as] if [-the**  
 177 **prescription is the same substance prescribed for]** the contact's condition is the same as that of **←H**  
 177a the physician's patient; and

178 (c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral,  
 179 an antibiotic, or other non-controlled prescription medication to an individual who:

180 (i) is working in a triage situation;

181 (ii) is receiving **H→ preventative or ←H** medical treatment in a triage situation;

182 (iii) does not have coverage for the prescription in the individual's health insurance

183 plan;

184 (iv) is involved in the delivery of medical or other emergency services in response to  
 185 the declared national, state, or local emergency; or

186 (v) otherwise has a direct impact on public health.

187 (9) The Department of Health shall give notice to the division upon implementation of  
 188 the protocol established under Subsection (8).

189 Section 2. Section **58-17b-620** is amended to read:

190 **58-17b-620. Prescriptions issued within the public health system.**

191 (1) As used in this section:

192 (a) "Department of Health" means the state Department of Health created in Section  
 193 26-1-4.

194 (b) "Health department" means either the Department of Health or a local health  
 195 department.

196 (c) "Local health departments" mean the local health departments created in Title 26A,  
 197 Chapter 1, Local Health Departments.

198 [~~(2) A health department may implement the prescription procedure under Subsection~~  
 199 ~~(3) for prescription drugs, other than controlled substances, for use in clinics providing:]~~

200 (2) When it is necessary to treat a reportable disease or non-emergency condition that  
 201 has a direct impact on public health, a health department may implement the prescription  
 202 procedure described in Subsection (3) for a prescription drug that is not a controlled substance  
 203 for use in:

204 (a) a clinic; or

205 (b) a remote or temporary off-site location, including a triage facility established in the  
 206 community, that provides:

207 [~~(a)~~] (i) treatment for sexually transmitted [~~disease treatment~~] infections;

208 [~~(b)~~] (ii) fluoride treatment; [~~or~~]

209 [~~(c)~~] (iii) travel immunization[?];

210 (iv) preventative treatment for an individual with latent tuberculosis infection;

211 (v) preventative treatment for an individual ~~H~~→ [exposed to a communicable disease] at risk  
 211a for an infectious disease that has a direct impact on public health ←H when

212 the treatment is indicated to prevent the spread of disease or to mitigate the seriousness of

213 infection in the exposed individual; or



214 (vi) other treatment as defined by the Department of Health rule.

215 (3) In a circumstance described in Subsection (2), ~~H→~~ [a-physician] an individual with  
 215a prescriptive authority ~~←H~~ may write a prescription  
 216 for each contact, as defined in Subsection 26-6-2(4), of ~~H→~~ [the-physician's] a patient of the  
 216a individual with prescriptive authority [patient] ~~←H~~ without a  
 217 face-to-face exam, if:

218 (a) the ~~H→~~ [physician] individual with prescriptive authority ~~←H~~ is  
 218a treating the ~~H→~~ [physician's] ~~←H~~ patient for a reportable disease or  
 219 non-emergency condition having a direct impact on public health; and

220 (b) ~~H→~~ [the-prescription-is-for-the-same-substance-as-prescribed-to] the contact's  
 220a condition is the same as ~~←H~~ the ~~H→~~ [physician's] patient of the individual with  
 220b prescriptive authority [patient] ~~←H~~ .

221 ~~[(3)]~~ (4) The following prescription procedure shall be carried out in accordance with  
 222 the requirements of Subsection ~~[(4)]~~ (5) and may be used only in the ~~[clinics-listed]~~  
 223 circumstances described under [Subsection] Subsections (2) and (3):

224 (a) a physician writes and signs a prescription for a prescription [drugs] drug, other  
 225 than a controlled [substances] substance, without the name and address of the patient and  
 226 without the date the prescription is provided to the patient; and

227 (b) the physician authorizes a registered nurse employed by the health department to  
 228 complete the prescription written under this Subsection (3) by inserting the patient's name and  
 229 address, and the date the prescription is provided to the patient, in accordance with the  
 230 physician's standing written orders and a written health department protocol approved by the  
 231 physician and the medical director of the state Department of Health.

232 ~~[(4) When allowing prescriptions to be written under Subsection (3), the health~~  
 233 ~~department shall employ a physician who:]~~

234 ~~[(a) assumes specific responsibility for all prescriptions issued in his name under the~~  
 235 ~~procedure in Subsection (3) by the health department; and]~~

236 ~~[(b) enters into a written, signed agreement [with the health department, which~~  
 237 ~~agreement is approved by the division and state:]~~

238 ~~[(i) the terms and conditions under which the physician will prepare and sign~~  
 239 ~~prescriptions that do not include the name and address of the patient and the date the~~  
 240 ~~prescription is provided to the patient;]~~

241 ~~[(ii) the methods which will be used to ensure the signed prescriptions are secure and~~  
 242 ~~not available for unauthorized use;]~~

243            ~~[(iii) the minimum qualifications and training of a registered nurse authorized by the~~  
244 ~~physician and department to complete and provide prescriptions to a patient;]~~

245 ~~[(iv) under what conditions prescriptions completed by an authorized registered nurse~~  
246 ~~will be provided to a patient in accordance with standing orders and written protocols, and the~~  
247 ~~specific prescription drugs for which prescriptions may be written;]~~

248 ~~[(v) the manner in which the physician will audit and review the records of patients~~  
249 ~~receiving prescriptions; and]~~

250 ~~[(vi) the manner in which records of prescriptions issued will be maintained for audit~~  
251 ~~by the physician and division.]~~

252 ~~[(5) The health department shall file and maintain with the division a current copy of~~  
253 ~~all agreements signed by physicians under Subsection (4).]~~

254 (5) A physician assumes responsibility for all prescriptions issued under this section in  
255 the physician's name.

256 (6) (a) All prescription forms to be used by a physician and health department in  
257 accordance with this section shall be serially numbered according to a numbering system  
258 assigned to that health department.

259 (b) All prescriptions issued shall contain all information required under this chapter  
260 and rules adopted under this chapter.

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**Legislative Review Note**  
as of 2-2-11 2:57 PM

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

H.B. 336

SHORT TITLE: Medical Professional Licensing During a Declared Emergency

SPONSOR: **Vickers, E.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.