

**MEDICAL PROFESSIONAL LICENSING DURING A
DECLARED EMERGENCY**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

Senate Sponsor: Allen M. Christensen

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 may:

140 (a) use a stockpile vaccine, antiviral, antibiotic, or other 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 stockpile vaccine, antiviral, antibiotic, or other 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 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 administration or distribution 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, so long as the
177 prescription is the same substance prescribed for 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 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 exposed to a communicable disease 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), a physician may write a prescription
216 for each contact, as defined in Subsection 26-6-2(4), of the physician's patient without a
217 face-to-face exam, if:

218 (a) the physician is treating the physician's patient for a reportable disease or
219 non-emergency condition having a direct impact on public health; and

220 (b) the prescription is for the same substance as prescribed to the physician's patient.

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.

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.