

- 26 ▶ excludes Schedule I, II, and III drugs from the drugs an oncologist may dispense;
- 27 ▶ makes it unprofessional conduct for a prescribing practitioner who dispenses a drug,
- 28 to dispense the drug in violation of the exemption in the Pharmacy Practice Act;
- 29 ▶ directs the Division of Occupational and Professional Licensing to evaluate the
- 30 prescribing practitioner exemptions from licensing for dispensing drugs and to
- 31 report the findings of the evaluation to the Legislature; and
- 32 ▶ sunsets the exemption from licensure for oncologists in July 2015.

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 AMENDS:

39 **58-16a-502**, as last amended by Laws of Utah 2000, Chapter 160

40 **58-17b-309**, as last amended by Laws of Utah 2011, Chapter 76

40a ~~58-31b-502~~, as last amended by Laws of Utah 2006, Chapter 291

41 **58-67-502**, as last amended by Laws of Utah 2011, Chapter 206

42 **58-68-502**, as enacted by Laws of Utah 1996, Chapter 248

43 **58-70a-502**, as enacted by Laws of Utah 1997, Chapter 229

44 **63I-1-258**, as last amended by Laws of Utah 2010, Chapter 188

45 ENACTS:

46 **58-17b-309.5**, Utah Code Annotated 1953



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

49 Section 1. Section **58-16a-502** is amended to read:

50 **58-16a-502. Unprofessional conduct.**

51 "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

52 (1) using or employing the services of an optometric assistant to assist a licensee in any
53 manner not in accordance with:

54 (a) the generally recognized practices and standards of ethics of the profession; or

55 (b) applicable state law or division rule;

56 (2) failure to refer a patient to an appropriate licensed practitioner when:

212 (ix) follows the USP-NF 797 standards for sterile compounding if the drug dispensed
213 to the patient is reconstituted or compounded; and

214 (c) a person who is not a prescribing practitioner who:

215 (i) is employed as a health care provider by a prescribing practitioner or the outpatient
216 clinic setting in which the prescribing practitioner works and is acting within the individual's
217 scope of practice;

218 (ii) is acting under the direction of a prescribing practitioner who is immediately
219 available on site for any necessary consultation, and who has complied with Subsection
220 (2)(b)(i);

221 (iii) prepares or provides the cancer drug treatment regimen to the patient at the
222 outpatient clinic setting; and

223 (iv) follows Subsections (2)(b)(iv), (v), and (viii).

224 (3) (a) The division shall work with stakeholders to evaluate the exemptions to
225 licensure under this title in Subsections 58-17b-309(2)(a), (c), and (d) and this section.

226 (b) The evaluation under this Subsection (3) shall include:

227 (i) practitioner compliance with the requirements of this section and Section
228 58-17b-309;

229 (ii) current research on dispensing and patient safety;

230 (iii) survey of other state dispensing laws; and

231 (iv) recommendations for future action concerning practitioner dispensing.

232 (c) The division shall report to the Legislature's Health and Human Services Interim
233 Committee by November 30, 2012, and by November 30, 2013, with the results and
234 recommendations from the evaluation required by this Subsection (3).

235 (4) This section sunsets in accordance with Section 63I-1-258.

235a **H→ Section 4. Section 58-31B-502 is amended to read:**

235b **58-31b-502. Unprofessional conduct.**

235c **"Unprofessional conduct" includes:**

235d **(1) failure to safeguard a patient's right to privacy as to the patient's person, condition,**
235e **diagnosis, personal effects, or any other matter about which the licensee is privileged to know because**
235f **of the licensee's or person with a certification's position or practice as a nurse or practice as a**
235g **medication aide certified;**

235h **(2) failure to provide nursing service or service as a medication aide certified in a manner that**
235i **demonstrates respect for the patient's human dignity and unique personal character and needs**
235j **without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the**
235k **nature of the patient's health problem;**

235l **(3) engaging in sexual relations with a patient during any:**

235m **(a) period when a generally recognized professional relationship exists between the person**
235n **licensed or certified under this chapter and patient; or**

- 235o (b) extended period when a patient has reasonable cause to believe a professional relationship
 235p exists between the person licensed or certified under the provisions of this chapter and the patient;
 235q (4) (a) as a result of any circumstance under Subsection (3), exploiting or using information
 235r about a patient or exploiting the licensee's or the person with a certification's professional relationship
 235s between the licensee or holder of a certification under this chapter and the patient; or
 235t (b) exploiting the patient by use of the licensee's or person with a certification's knowledge of
 235u the patient obtained while acting as a nurse or a medication aide certified;
 235v (5) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;
 235w (6) unauthorized taking or personal use of nursing supplies from an employer;
 235x (7) unauthorized taking or personal use of a patient's personal property;
 235y (8) knowingly entering into any medical record any false or misleading information or altering
 235z a medical record in any way for the purpose of concealing an act, omission, or record of events,
 235aa medical condition, or any other circumstance related to the patient and the medical or nursing care
 235ab provided;
 235ac (9) unlawful or inappropriate delegation of nursing care;
 235ad (10) failure to exercise appropriate supervision of persons providing patient care services
 235ae under supervision of the licensed nurse;
 235af (11) employing or aiding and abetting the employment of an unqualified or unlicensed person
 235ag to practice as a nurse;
 235ah (12) failure to file or record any medical report as required by law, impeding or obstructing
 235ai the filing or recording of such a report, or inducing another to fail to file or record such a report;
 235aj (13) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality
 235ak with respect to a person who is a patient, unless ordered by a court;
 235al (14) failure to pay a penalty imposed by the division;
 235am (15) prescribing a schedule II-III controlled substance without a consulting physician or
 235an outside of a consultation and referral plan; [~~and~~]
 235ao (16) violating Section 58-31b-801 [-] ; and
 235ap (17) violating the dispensing requirements of Section 58-17b-309 or Section 58-17b-309.5, if
 235aq applicable. ←Ĥ

236 Section Ĥ→ [4] 5 ←Ĥ . Section 58-67-502 is amended to read:

237 **58-67-502. Unprofessional conduct.**

238 "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501[-];

239 (1) using or employing the services of any individual to assist a licensee in any manner
 240 not in accordance with the generally recognized practices, standards, or ethics of the
 241 profession, state law, or division rule[-or];

242 (2) making a material misrepresentation regarding the qualifications for licensure under