

**Senator Evan J. Vickers** proposes the following substitute bill:

**PHARMACEUTICAL DISPENSING AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Evan J. Vickers**

House Sponsor: Stewart Barlow

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**LONG TITLE**

**General Description:**

This bill amends the Pharmacy Practice Act to create a dispensing medical practitioner license and a license classification for a dispensing medical practitioner clinic pharmacy.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ establishes the license classification "dispensing medical practitioner" under the Pharmacy Practice Act for medical practitioners who prescribe and dispense a drug;
- ▶ establishes the pharmacy facility license classification "dispensing medical practitioner clinic pharmacy" under the Pharmacy Practice Act;
- ▶ creates Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy;
- ▶ removes the exemption from the Pharmacy Practice Act for medical practitioners who prescribe and dispense a cosmetic drug, injectable weight loss drug, or a cancer drug treatment regimen;
- ▶ requires a license as a dispensing medical practitioner for a health care practitioner to dispense:



- 26           • a cosmetic drug;
- 27           • a cancer drug treatment regimen; or
- 28           • a prepackaged drug at an employer sponsored clinic;
- 29       ▶ requires the Board of Pharmacy to work in conjunction with the affected
- 30 practitioner governing boards:
- 31           • for discipline or hearings related to a dispensing medical practitioner; and
- 32           • to develop the administrative rules in the Pharmacy Practice Act related to a
- 33 dispensing medical practitioner and a dispensing medical practitioner clinic
- 34 pharmacy;
- 35       ▶ establishes that practice as a dispensing medical practitioner does not include:
- 36           • the use of a vending-type dispensing device; or
- 37           • the prescription of controlled substances, except as permitted for cancer drug
- 38 treatment regimens;
- 39       ▶ amends the reporting requirements for the controlled substance database;
- 40       ▶ amends unlawful and unprofessional conduct provisions; and
- 41       ▶ makes technical changes.

42 **Money Appropriated in this Bill:**

43       None

44 **Other Special Clauses:**

45       This bill takes effect on July 1, 2014.

46 **Utah Code Sections Affected:**

47 AMENDS:

- 48       **58-17b-102**, as last amended by Laws of Utah 2013, Chapters 52, 166, and 423
- 49       **58-17b-301**, as last amended by Laws of Utah 2013, Chapter 52
- 50       **58-17b-302**, as last amended by Laws of Utah 2013, Chapter 52
- 51       **58-17b-309**, as last amended by Laws of Utah 2013, Chapter 278
- 52       **58-17b-309.6**, as enacted by Laws of Utah 2013, Chapter 52
- 53       **58-17b-612**, as last amended by Laws of Utah 2013, Chapters 52 and 166
- 54       **58-31b-502**, as last amended by Laws of Utah 2012, Chapter 234
- 55       **58-37f-203**, as enacted by Laws of Utah 2010, Chapter 287
- 56       **58-67-502**, as last amended by Laws of Utah 2012, Chapter 234

- 57 [58-68-502](#), as last amended by Laws of Utah 2012, Chapter 234
- 58 [58-70a-502](#), as last amended by Laws of Utah 2012, Chapter 234
- 59 [58-70a-503](#), as last amended by Laws of Utah 2010, Chapter 37
- 60 [58-83-502](#), as last amended by Laws of Utah 2012, Chapter 344
- 61 [63I-1-258](#), as last amended by Laws of Utah 2013, Chapters 55, 87, 222, 278, and 351

62 ENACTS:

- 63 [58-17b-801](#), Utah Code Annotated 1953
- 64 [58-17b-802](#), Utah Code Annotated 1953
- 65 [58-17b-803](#), Utah Code Annotated 1953
- 66 [58-17b-804](#), Utah Code Annotated 1953
- 67 [58-17b-805](#), Utah Code Annotated 1953
- 68 [58-17b-806](#), Utah Code Annotated 1953

69 REPEALS:

- 70 [58-17b-309.5](#), as enacted by Laws of Utah 2012, Chapter 234



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

73 Section 1. Section **58-17b-102** is amended to read:

74 **58-17b-102. Definitions.**

75 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

76 (1) "Administering" means:

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

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

84 (2) "Adulterated drug or device" means a drug or device considered adulterated under  
85 21 U.S.C.S. Sec. 351 (2003).

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

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

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

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

100 (6) "Beyond use date" means the date determined by a pharmacist and placed on a  
101 prescription label at the time of dispensing that indicates to the patient or caregiver a time  
102 beyond which the contents of the prescription are not recommended to be used.

103 (7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created  
104 in Section [58-17b-201](#).

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

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

113 (10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a  
114 retail pharmacy to compound or dispense a drug or dispense a device to the public under a  
115 prescription order.

116 (11) "Class B pharmacy":

117 (a) means a pharmacy located in Utah:

118 (i) that is authorized to provide pharmaceutical care for patients in an institutional

119 setting; and

120 (ii) whose primary purpose is to provide a physical environment for patients to obtain  
121 health care services; and

122 (b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

123 (ii) pharmaceutical administration and sterile product preparation facilities.

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

126 (13) "Class D pharmacy" means a nonresident pharmacy.

127 (14) "Class E pharmacy" means all other pharmacies.

128 (15) "Closed-door pharmacy" means a pharmacy that provides pharmaceutical care to a  
129 defined and exclusive group of patients who have access to the services of the pharmacy  
130 because they are treated by or have an affiliation with a specific entity, including a health  
131 maintenance organization or an infusion company, but not including a hospital pharmacy, a  
132 retailer of goods to the general public, or the office of a practitioner.

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

138 (17) "Collaborative pharmacy practice agreement" means a written and signed  
139 agreement between one or more pharmacists and one or more practitioners that provides for  
140 collaborative pharmacy practice for the purpose of drug therapy management of patients and  
141 prevention of disease of human subjects.

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

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

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

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

150 (b) "Compounding" does not include:

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

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

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

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

161 (20) "Controlled substance" has the same definition as in Section [58-37-2](#).

162 (21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter  
163 417, Sec. 3a(ff) which is incorporated by reference.

164 (22) "Dispense" means the interpretation, evaluation, and implementation of a  
165 prescription drug order or device or nonprescription drug or device under a lawful order of a  
166 practitioner in a suitable container appropriately labeled for subsequent administration to or use  
167 by a patient, research subject, or an animal.

168 (23) "Dispensing medical practitioner" means an individual who is:

169 (a) currently licensed as:

170 (i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

171 (ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical  
172 Practice Act;

173 (iii) a physician assistant under Chapter 70a, Physician Assistant Act;

174 (iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

175 (v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist  
176 is acting within the scope of practice for an optometrist; and

177 (b) licensed by the division under the Pharmacy Practice Act to engage in the practice  
178 of a dispensing medical practitioner.

179 (24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy  
180 located within a licensed dispensing medical practitioner's place of practice.

181            [~~(23)~~] (25) "Distribute" means to deliver a drug or device other than by administering  
182 or dispensing.

183            [~~(24)~~] (26) (a) "Drug" means:

184            (i) a substance recognized in the official United States Pharmacopoeia, Official  
185 Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any  
186 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or  
187 prevention of disease in humans or animals;

188            (ii) a substance that is required by any applicable federal or state law or rule to be  
189 dispensed by prescription only or is restricted to administration by practitioners only;

190            (iii) a substance other than food intended to affect the structure or any function of the  
191 body of humans or other animals; and

192            (iv) substances intended for use as a component of any substance specified in  
193 Subsections [~~(24)~~] (26)(a)(i), (ii), (iii), and (iv).

194            (b) "Drug" does not include dietary supplements.

195            [~~(25)~~] (27) "Drug regimen review" includes the following activities:

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

197            (i) known allergies;

198            (ii) rational therapy-contraindications;

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

200            (iv) reasonable directions for use;

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

203            (c) evaluation of the prescription drug order and patient record for the following  
204 interactions:

205            (i) drug-drug;

206            (ii) drug-food;

207            (iii) drug-disease; and

208            (iv) adverse drug reactions; and

209            (d) evaluation of the prescription drug order and patient record for proper utilization,  
210 including over- or under-utilization, and optimum therapeutic outcomes.

211            [~~(26)~~] (28) "Drug sample" means a prescription drug packaged in small quantities

212 consistent with limited dosage therapy of the particular drug, which is marked "sample", is not  
213 intended to be sold, and is intended to be provided to practitioners for the immediate needs of  
214 patients for trial purposes or to provide the drug to the patient until a prescription can be filled  
215 by the patient.

216 ~~[(27)]~~ (29) "Electronic signature" means a trusted, verifiable, and secure electronic  
217 sound, symbol, or process attached to or logically associated with a record and executed or  
218 adopted by a person with the intent to sign the record.

219 ~~[(28)]~~ (30) "Electronic transmission" means transmission of information in electronic  
220 form or the transmission of the exact visual image of a document by way of electronic  
221 equipment.

222 ~~[(29)]~~ (31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to  
223 inpatients of a general acute hospital or specialty hospital licensed by the Department of Health  
224 under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

225 ~~[(30)]~~ (32) "Legend drug" has the same meaning as prescription drug.

226 ~~[(31)]~~ (33) "Licensed pharmacy technician" means an individual licensed with the  
227 division, that may, under the supervision of a pharmacist, perform the activities involved in the  
228 technician practice of pharmacy.

229 ~~[(32)]~~ (34) "Manufacturer" means a person or business physically located in Utah  
230 licensed to be engaged in the manufacturing of drugs or devices.

231 ~~[(33)]~~ (35) (a) "Manufacturing" means:

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

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

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

240 (c) "Manufacturing" does not include the preparation or compounding of a drug by a  
241 pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation,  
242 compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical



243 analysis.

244 [~~34~~] (36) "Medical order" means a lawful order of a practitioner which may include a  
245 prescription drug order.

246 [~~35~~] (37) "Medication profile" or "profile" means a record system maintained as to  
247 drugs or devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to  
248 analyze the profile to provide pharmaceutical care.

249 [~~36~~] (38) "Misbranded drug or device" means a drug or device considered  
250 misbranded under 21 U.S.C.S. Sec. 352 (2003).

251 [~~37~~] (39) (a) "Nonprescription drug" means a drug which:

252 (i) may be sold without a prescription; and

253 (ii) is labeled for use by the consumer in accordance with federal law.

254 (b) "Nonprescription drug" includes homeopathic remedies.

255 [~~38~~] (40) "Nonresident pharmacy" means a pharmacy located outside of Utah that  
256 sells to a person in Utah.

257 [~~39~~] (41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical  
258 service.

259 [~~40~~] (42) "Out-of-state mail service pharmacy" means a pharmaceutical facility  
260 located outside the state that is licensed and in good standing in another state, that:

261 (a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in  
262 this state pursuant to a lawfully issued prescription;

263 (b) provides information to a patient in this state on drugs or devices which may  
264 include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses;  
265 or

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

268 [~~41~~] (43) "Patient counseling" means the written and oral communication by the  
269 pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure  
270 proper use of drugs, devices, and dietary supplements.

271 [~~42~~] (44) "Pharmaceutical administration facility" means a facility, agency, or  
272 institution in which:

273 (a) prescription drugs or devices are held, stored, or are otherwise under the control of

274 the facility or agency for administration to patients of that facility or agency;

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

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

281 ~~[(43)]~~ (45) (a) "Pharmaceutical care" means carrying out the following in collaboration  
282 with a prescribing practitioner, and in accordance with division rule:

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

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

287 (iii) arresting or slowing a disease process.

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

290 ~~[(44)]~~ (46) "Pharmaceutical facility" means a business engaged in the dispensing,  
291 delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within  
292 or into this state.

293 ~~[(45)]~~ (47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical  
294 facility engaged in the business of wholesale vending or selling of a prescription drug or device  
295 to other than a consumer or user of the prescription drug or device that the pharmaceutical  
296 facility has not produced, manufactured, compounded, or dispensed.

297 (b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical  
298 facility carrying out the following business activities:

299 (i) intracompany sales;

300 (ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,  
301 purchase, or trade a prescription drug or device, if the activity is carried out between one or  
302 more of the following entities under common ownership or common administrative control, as  
303 defined by division rule:

304 (A) hospitals;

- 305 (B) pharmacies;
- 306 (C) chain pharmacy warehouses, as defined by division rule; or
- 307 (D) other health care entities, as defined by division rule;
- 308 (iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,
- 309 purchase, or trade a prescription drug or device, for emergency medical reasons, including
- 310 supplying another pharmaceutical facility with a limited quantity of a drug, if:
  - 311 (A) the facility is unable to obtain the drug through a normal distribution channel in
  - 312 sufficient time to eliminate the risk of harm to a patient that would result from a delay in
  - 313 obtaining the drug; and
  - 314 (B) the quantity of the drug does not exceed an amount reasonably required for
  - 315 immediate dispensing to eliminate the risk of harm;
  - 316 (iv) the distribution of a prescription drug or device as a sample by representatives of a
  - 317 manufacturer; and
  - 318 (v) the distribution of prescription drugs, if:
    - 319 (A) the dosage units distributed during a calendar year do not exceed five percent of
    - 320 the sum of the dosage units distributed by the facility during the calendar year and the dosage
    - 321 units dispensed by the facility during the calendar year; and
    - 322 (B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.
- 323 ~~[(46)]~~ (48) "Pharmacist" means an individual licensed by this state to engage in the
- 324 practice of pharmacy.
- 325 ~~[(47)]~~ (49) "Pharmacist-in-charge" means a pharmacist currently licensed in good
- 326 standing who accepts responsibility for the operation of a pharmacy in conformance with all
- 327 laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is
- 328 personally in full and actual charge of the pharmacy and all personnel.
- 329 ~~[(48)]~~ (50) "Pharmacist preceptor" means a licensed pharmacist in good standing with
- 330 one or more years of licensed experience. The preceptor serves as a teacher, example of
- 331 professional conduct, and supervisor of interns in the professional practice of pharmacy.
- 332 ~~[(49)]~~ (51) "Pharmacy" means any place where:
  - 333 (a) drugs are dispensed;
  - 334 (b) pharmaceutical care is provided;
  - 335 (c) drugs are processed or handled for eventual use by a patient; or

336 (d) drugs are used for the purpose of analysis or research.

337 [~~(50)~~] (52) "Pharmacy benefits manager or coordinator" means a person or entity that  
338 provides pharmacy benefit management services as defined in Section 49-20-502 on behalf of a  
339 self-insured employer, insurance company, health maintenance organization, or other plan  
340 sponsor, as defined by rule.

341 [~~(51)~~] (53) "Pharmacy intern" means an individual licensed by this state to engage in  
342 practice as a pharmacy intern.

343 [~~(52)~~] (54) "Pharmacy technician training program" means an approved technician  
344 training program providing education for pharmacy technicians.

345 (55) (a) "Practice as a dispensing medical practitioner" means the practice of pharmacy,  
346 specifically relating to the dispensing of a prescription drug in accordance with Part 8,  
347 Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and  
348 division rule adopted after consultation with the Board of Pharmacy and the governing boards  
349 of the practitioners described in Subsection (23)(a).

350 (b) "Practice as a dispensing medical practitioner" does not include:

351 (i) using a vending-type of dispenser as defined by the division by administrative rule;

352 or

353 (ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as  
354 defined in Section 58-37-2.

355 [~~(53)~~] (56) (a) "Practice as a licensed pharmacy technician" means engaging in practice  
356 as a pharmacy technician under the general supervision of a licensed pharmacist and in  
357 accordance with a scope of practice defined by division rule made in collaboration with the  
358 board.

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

360 (i) performing a drug utilization review, prescription drug order clarification from a  
361 prescriber, final review of the prescription, dispensing of the drug, or counseling a patient with  
362 respect to a prescription drug;

363 (ii) except as permitted by rules made by the division in consultation with the board,  
364 final review of a prescribed drug prepared for dispensing;

365 (iii) counseling regarding nonprescription drugs and dietary supplements unless  
366 delegated by the supervising pharmacist; or

367 (iv) receiving new prescription drug orders when communicating telephonically or  
368 electronically unless the original information is recorded so the pharmacist may review the  
369 prescription drug order as transmitted.

370 [~~54~~] 57 "Practice of pharmacy" includes the following:

371 (a) providing pharmaceutical care;

372 (b) collaborative pharmacy practice in accordance with a collaborative pharmacy  
373 practice agreement;

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

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

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

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

381 (B) approved by the division, in collaboration with the board and the Physicians  
382 Licensing Board, created in Section [58-67-201](#), if the prescription drug or device is to be  
383 administered on an outpatient basis solely by a licensed pharmacist;

384 (d) participating in drug utilization review;

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

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

388 (g) providing information on drugs or devices, which may include advice relating to  
389 therapeutic values, potential hazards, and uses;

390 (h) providing drug product equivalents;

391 (i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy  
392 technicians;

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

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

395 (l) telepharmacy; and

396 (m) formulary management intervention.

397 [~~55~~] 58 "Practice of telepharmacy" means the practice of pharmacy through the use

398 of telecommunications and information technologies.

399       ~~[(56)]~~ (59) "Practice of telepharmacy across state lines" means the practice of  
400 pharmacy through the use of telecommunications and information technologies that occurs  
401 when the patient is physically located within one jurisdiction and the pharmacist is located in  
402 another jurisdiction.

403       ~~[(57)]~~ (60) "Practitioner" means an individual currently licensed, registered, or  
404 otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the  
405 course of professional practice.

406       ~~[(58)]~~ (61) "Prescribe" means to issue a prescription:

407       (a) orally or in writing; or

408       (b) by telephone, facsimile transmission, computer, or other electronic means of  
409 communication as defined by division rule.

410       ~~[(59)]~~ (62) "Prescription" means an order issued:

411       (a) by a licensed practitioner in the course of that practitioner's professional practice or  
412 by collaborative pharmacy practice agreement; and

413       (b) for a controlled substance or other prescription drug or device for use by a patient  
414 or an animal.

415       ~~[(60)]~~ (63) "Prescription device" means an instrument, apparatus, implement, machine,  
416 contrivance, implant, in vitro reagent, or other similar or related article, and any component  
417 part or accessory, which is required under federal or state law to be prescribed by a practitioner  
418 and dispensed by or through a person or entity licensed under this chapter or exempt from  
419 licensure under this chapter.

420       ~~[(61)]~~ (64) "Prescription drug" means a drug that is required by federal or state law or  
421 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

422       ~~[(62)]~~ (65) "Research using pharmaceuticals" means research:

423       (a) conducted in a research facility, as defined by division rule, that is associated with a  
424 university or college in the state accredited by the Northwest Commission on Colleges and  
425 Universities;

426       (b) requiring the use of a controlled substance, prescription drug, or prescription  
427 device;

428       (c) that uses the controlled substance, prescription drug, or prescription device in

429 accordance with standard research protocols and techniques, including, if required, those  
430 approved by an institutional review committee; and

431 (d) that includes any documentation required for the conduct of the research and the  
432 handling of the controlled substance, prescription drug, or prescription device.

433 [(63)] (66) "Retail pharmacy" means a pharmaceutical facility dispensing prescription  
434 drugs and devices to the general public.

435 [(64)] (67) "Self-audit" means an internal evaluation of a pharmacy to determine  
436 compliance with this chapter.

437 [(65)] (68) "Supervising pharmacist" means a pharmacist who is overseeing the  
438 operation of the pharmacy during a given day or shift.

439 [(66)] (69) "Supportive personnel" means unlicensed individuals who:

440 (a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed  
441 pharmacy technician in nonjudgmental duties not included in the definition of the practice of  
442 pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as  
443 those duties may be further defined by division rule adopted in collaboration with the board;  
444 and

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

447 [(67)] (70) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-17b-501.

448 [(68)] (71) "Unprofessional conduct" is as defined in Sections 58-1-501 and  
449 58-17b-502 and may be further defined by rule.

450 [(69)] (72) "Veterinary pharmaceutical facility" means a pharmaceutical facility that  
451 dispenses drugs intended for use by animals or for sale to veterinarians for the administration  
452 for animals.

453 Section 2. Section 58-17b-301 is amended to read:

454 **58-17b-301. License required -- License classifications for individuals.**

455 (1) A license is required to engage in the practice of pharmacy, telepharmacy, [~~or the~~  
456 ~~practice of a~~] pharmacy technician, or dispensing medical practitioner except as specifically  
457 provided in Section 58-1-307[;] or 58-17b-309[;] ~~or 58-17-309.6].~~

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

- 460 (a) pharmacist;
- 461 (b) pharmacy intern; [~~or~~]
- 462 (c) pharmacy technician[-]; or
- 463 (d) dispensing medical practitioner.

464 Section 3. Section **58-17b-302** is amended to read:

465 **58-17b-302. License required -- License classifications for pharmacy facilities.**

466 (1) A license is required to act as a pharmacy, except as specifically exempted from  
467 licensure under Section [58-1-307](#) [~~or 58-17-309.6~~].

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

- 470 (a) class A pharmacy;
- 471 (b) class B pharmacy;
- 472 (c) class C pharmacy;
- 473 (d) class D pharmacy; [~~or~~]
- 474 (e) class E pharmacy[-]; or
- 475 (f) dispensing medical practitioner clinic pharmacy.

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

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

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

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

486 Section 4. Section **58-17b-309** is amended to read:

487 **58-17b-309. Exemptions from licensure.**

488 [~~(1) For purposes of this section:~~]

489 [~~(a) "Cosmetic drug":~~]

490 [~~(i) means a prescription drug that is:~~]



491 ~~[(A) for the purpose of promoting attractiveness or altering the appearance of an~~  
492 ~~individual; and]~~

493 ~~[(B) listed as a cosmetic drug subject to the exemption under this section by the~~  
494 ~~division by administrative rule or has been expressly approved for online dispensing, whether~~  
495 ~~or not it is dispensed online or through a physician's office; and]~~

496 ~~[(ii) does not include a prescription drug that is:]~~

497 ~~[(A) a controlled substance;]~~

498 ~~[(B) compounded by the physician; or]~~

499 ~~[(C) prescribed or used for the patient for the purpose of diagnosing, curing, or~~  
500 ~~preventing a disease.]~~

501 ~~[(b) "Injectable weight loss drug":]~~

502 ~~[(i) means an injectable prescription drug:]~~

503 ~~[(A) prescribed to promote weight loss; and]~~

504 ~~[(B) listed as an injectable prescription drug subject to exemption under this section by~~  
505 ~~the division by administrative rule; and]~~

506 ~~[(ii) does not include a prescription drug that is a controlled substance.]~~

507 ~~[(c) "Prescribing practitioner" means an individual licensed under:]~~

508 ~~[(i) Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse with~~  
509 ~~prescriptive practice;]~~

510 ~~[(ii) Chapter 67, Utah Medical Practice Act;]~~

511 ~~[(iii) Chapter 68, Utah Osteopathic Medical Practice Act; or]~~

512 ~~[(iv) Chapter 70a, Physician Assistant Act.]~~

513 ~~[(2)]~~ (1) In addition to the exemptions from licensure in ~~[Sections]~~ Section 58-1-307  
514 ~~[and 58-17b-309.5]~~, the following individuals may engage in the acts or practices described in  
515 this section without being licensed under this chapter:

516 ~~[(a) if the individual is described in Subsections (2)(b), (d), or (e), the individual~~  
517 ~~notifies the division in writing of the individual's intent to dispense a drug under this~~  
518 ~~subsection;]~~

519 ~~[(b)]~~ (a) a person selling or providing contact lenses in accordance with Section  
520 58-16a-801; or

521 ~~[(c)]~~ (b) an individual engaging in the practice of pharmacy technician under the direct

522 personal supervision of a pharmacist while making satisfactory progress in an approved  
523 program as defined in division rule[;].

524 ~~[(d) a prescribing practitioner who prescribes and dispenses a cosmetic drug or an  
525 injectable weight loss drug to the prescribing practitioner's patient in accordance with  
526 Subsection (4); or]~~

527 ~~[(e) an optometrist, as defined in Section 58-16a-102, acting within the optometrist's  
528 scope of practice as defined in Section 58-16a-601, who prescribes and dispenses a cosmetic  
529 drug to the optometrist's patient in accordance with Subsection (4).]~~

530 ~~[(3)]~~ (2) In accordance with Subsection 58-1-303(1)(a), an individual exempt under  
531 Subsection ~~[(2)(c)]~~ (1)(b) must take all examinations as required by division rule following  
532 completion of an approved curriculum of education, within the required time frame. This  
533 exemption expires immediately upon notification of a failing score of an examination, and the  
534 individual may not continue working as a pharmacy technician even under direct supervision.

535 ~~[(4) A prescribing practitioner or optometrist is exempt from licensing under the  
536 provisions of this part if the prescribing practitioner or optometrist:]~~

537 ~~[(a) (i) writes a prescription for a drug the prescribing practitioner or optometrist has  
538 the authority to dispense under Subsection (4)(b); and]~~

539 ~~[(ii) informs the patient:]~~

540 ~~[(A) that the prescription may be filled at a pharmacy or dispensed in the prescribing  
541 practitioner's or optometrist's office;]~~

542 ~~[(B) of the directions for appropriate use of the drug;]~~

543 ~~[(C) of potential side-effects to the use of the drug; and]~~

544 ~~[(D) how to contact the prescribing practitioner or optometrist if the patient has  
545 questions or concerns regarding the drug;]~~

546 ~~[(b) dispenses a cosmetic drug or injectable weight loss drug only to the prescribing  
547 practitioner's patients or for an optometrist, dispenses a cosmetic drug only to the optometrist's  
548 patients;]~~

549 ~~[(c) follows labeling, record keeping, patient counseling, storage, purchasing and  
550 distribution, operating, treatment, and quality of care requirements established by  
551 administrative rule adopted by the division in consultation with the boards listed in Subsection  
552 (5)(a); and]~~

553 ~~[(d) follows USP-NF 797 standards for sterile compounding if the drug dispensed to~~  
554 ~~patients is reconstituted or compounded.]~~

555 ~~[(5)(a) The division, in consultation with the board under this chapter and the relevant~~  
556 ~~professional board, including the Physician Licensing Board, the Osteopathic Physician~~  
557 ~~Licensing Board, the Physician Assistant Licensing Board, the Board of Nursing, the~~  
558 ~~Optometrist Licensing Board, or the Online Prescribing, Dispensing, and Facilitation Board,~~  
559 ~~shall adopt administrative rules pursuant to Title 63G, Chapter 3, Utah Administrative~~  
560 ~~Rulemaking Act to designate:]~~

561 ~~[(i) the prescription drugs that may be dispensed as a cosmetic drug or weight loss drug~~  
562 ~~under this section; and]~~

563 ~~[(ii) the requirements under Subsection (4)(c).]~~

564 ~~[(b) When making a determination under Subsection (1)(a), the division and boards~~  
565 ~~listed in Subsection (5)(a) may consider any federal Food and Drug Administration indications~~  
566 ~~or approval associated with a drug when adopting a rule to designate a prescription drug that~~  
567 ~~may be dispensed under this section.]~~

568 ~~[(c) The division may inspect the office of a prescribing practitioner or optometrist~~  
569 ~~who is dispensing under the provisions of this section, in order to determine whether the~~  
570 ~~prescribing practitioner or optometrist is in compliance with the provisions of this section. If a~~  
571 ~~prescribing practitioner or optometrist chooses to dispense under the provisions of this section,~~  
572 ~~the prescribing practitioner or optometrist consents to the jurisdiction of the division to inspect~~  
573 ~~the prescribing practitioner's or optometrist's office and determine if the provisions of this~~  
574 ~~section are being met by the prescribing practitioner or optometrist.]~~

575 ~~[(d) If a prescribing practitioner or optometrist violates a provision of this section, the~~  
576 ~~prescribing practitioner or optometrist may be subject to discipline under:]~~

577 ~~[(i) this chapter; and]~~

578 ~~[(ii) (A) Chapter 16a, Utah Optometry Practice Act;]~~

579 ~~[(B) Chapter 31b, Nurse Practice Act;]~~

580 ~~[(C) Chapter 67, Utah Medical Practice Act;]~~

581 ~~[(D) Chapter 68, Utah Osteopathic Medical Practice Act;]~~

582 ~~[(E) Chapter 70a, Physician Assistant Act; or]~~

583 ~~[(F) Chapter 83, Online Prescribing, Dispensing, and Facilitation Act.]~~

584           ~~[(6) Except as provided in Subsection (2)(e), this section does not restrict or limit the~~  
585 ~~scope of practice of an optometrist or optometric physician licensed under Chapter 16a, Utah~~  
586 ~~Optometry Practice Act.]~~

587           Section 5. Section **58-17b-309.6** is amended to read:

588           **58-17b-309.6. Exemptions from licensure for research using pharmaceuticals.**

589           Research using pharmaceuticals, as defined in Subsection ~~58-17b-102[(64)]~~(65), is  
590 exempt from licensure under Sections ~~58-17b-301~~ and ~~58-17b-302~~.

591           Section 6. Section **58-17b-612** is amended to read:

592           **58-17b-612. Supervision -- Pharmacist-in-charge.**

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

597           (b) Notwithstanding Subsection ~~58-17b-102[(65)]~~(68), a supervising pharmacist does  
598 not have to be in the pharmacy or care facility but shall be available via a telepharmacy system  
599 for immediate contact with the supervised pharmacy technician or pharmacy intern if:

600           (i) the pharmacy is located in:

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

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

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

604           (iii) the telepharmacy system maintains records and files quarterly reports as required  
605 by division rule to assure that patient safety is not compromised.

606           (2) Each out-of-state mail service pharmacy shall designate and identify to the division  
607 a pharmacist holding a current license in good standing issued by the state in which the  
608 pharmacy is located and who serves as the pharmacist-in-charge for all purposes under this  
609 chapter.

610           Section 7. Section **58-17b-801** is enacted to read:

611                           **Part 8. Dispensing Medical Practitioner and Dispensing Medical**  
612   **Practitioner Clinic Pharmacy**

613           **58-17b-801. Title.**

614           This part is known as "Dispensing Medical Practitioner and Dispensing Medical

615 Practitioner Clinic Pharmacy."

616 Section 8. Section **58-17b-802** is enacted to read:

617 **58-17b-802. Definitions.**

618 As used in this part:

619 (1) (a) "Cosmetic drug" means a prescription drug that:

620 (i) is for the purpose of promoting attractiveness or altering the appearance of an

621 individual; and

622 (ii) (A) is listed as a cosmetic drug subject to the exemption under this section by the

623 division by administrative rule; or

624 (B) has been expressly approved for online dispensing, whether or not it is dispensed

625 online or through a physician's office.

626 (b) "Cosmetic drug" does not include a prescription drug that is:

627 (i) a controlled substance;

628 (ii) compounded by the physician; or

629 (iii) prescribed ~~to~~ for or used ~~for~~ by the patient for the purpose of

629a diagnosing, curing, or

630 preventing a disease.

631 (2) "Employer sponsored clinic" means an entity that ~~is~~ has a medical director who is

631a licensed as a physician as defined in Section 58-67-102 and ~~is~~ offers health care only to the

632 employees of an exclusive group of employers and the employees' dependents.

633 (3) "Health care" is as defined in Section [31A-1-301](#) ~~is~~ . ~~is~~

634 (4) (a) "Injectable weight loss drug" means an injectable prescription drug:

635 (i) prescribed to promote weight loss; and

636 (ii) listed as an injectable prescription drug subject to exemption under this section by

637 the division by administrative rule.

638 (b) "Injectable weight loss drug" does not include a prescription drug that is a

639 controlled substance.

640 (5) "Prepackaged drug" means a prescription drug that:

641 (a) is not listed under federal or state law as a Schedule I, II, III, IV, or V drug; and

642 (b) is packaged in a fixed quantity per package by:

643 (i) the drug manufacturer;

644 (ii) a pharmaceutical wholesaler or distributor; or

645 (iii) a pharmacy licensed under this title.

646 Section 9. Section **58-17b-803** is enacted to read:

647 **58-17b-803. Qualifications for licensure as a dispensing medical practitioner --**

648 **Scope of practice.**

649 (1) An applicant for a license as a dispensing medical practitioner shall:

650 (a) be licensed in good standing under at least one of the chapters listed in Subsection  
651 58-17b-102(23)(a); and

652 (b) submit an application for a license as a dispensing medical practitioner in a form  
653 prescribed by the division and pay a fee established by the ~~§~~ → [department] division ← ~~§~~ .

654 (2) The division shall accept the licensing in good standing under Subsection (1) in lieu  
655 of requiring an applicant for a license under this part to comply with Sections 58-17b-303 and  
656 58-17b-307.

657 (3) A dispensing medical practitioner may dispense, in accordance with this part:

658 (a) a cosmetic drug and an injectable weight loss drug if:

659 (i) the drug was prescribed by the dispensing medical practitioner to the dispensing  
660 medical practitioner's patient; and

661 (ii) the dispensing medical practitioner complies with administrative rules adopted by  
662 the division under Subsection 58-17-802(1);

663 (b) a cancer drug treatment regimen if the dispensing medical practitioner complies  
664 with Section 58-17b-805; and

665 (c) a pre-packaged drug to an employee or a dependent of an employee at an employer  
666 sponsored clinic if the dispensing medical practitioner:

667 (i) treats an employee, or the dependent of an employee, of one of an exclusive group  
668 of employers at an employer sponsored clinic;

669 (ii) prescribes a prepackaged drug to the employee or the employee's dependent;

670 (iii) dispenses the prepackaged drug at the employer sponsored clinic; and

671 (iv) complies with administrative rules adopted by the division in consultation with the  
672 Board of Pharmacy that establish labeling, record keeping, patient counseling, purchasing and  
673 distribution, operating, treatment, quality of care, and storage requirements.

674 (4) A dispensing medical practitioner:

675 (a) shall inform the patient:

676 (i) that the drug dispensed by the practitioner may be obtained from a pharmacy

677 unaffiliated with the practitioner;

678 (ii) of the directions for appropriate use of the dispensed drug;

679 (iii) of potential side effects to the use of the dispensed drug; and

680 (iv) how to contact the dispensing medical practitioner if the patient has questions or

681 concerns regarding the drug;

682 (b) shall report to the controlled substance database in the same manner as required in

683 Section 58-37f-203; and

684 (c) may delegate the dispensing of the drug if the individual to whom the dispensing

685 was delegated is:

686 (i) employed by the dispensing medical practitioner or the outpatient clinic setting in

687 which the dispensing medical practitioner works; and

688 (ii) acting under the direction of a dispensing medical practitioner who is immediately

689 available on site for any necessary consultation.

690 (5) If the chapter that governs the license of a dispensing medical practitioner, as listed

691 in Subsection 58-17b-102(23), requires physician supervision in its scope of practice

692 requirements, the dispensing medical practitioner shall only dispense a drug under the

693 supervision of an individual licensed under Chapter 67, Utah Medical Practice Act, or Chapter

694 68, Utah Osteopathic Medical Practice Act ~~§~~ → . ← ~~§~~

695 Section 10. Section **58-17b-804** is enacted to read:

696 **58-17b-804. Qualifications for licensure as a dispensing medical practitioner clinic**

697 **pharmacy.**

698 (1) An applicant for a license as a dispensing medical practitioner clinic pharmacy shall

699 comply with Section 58-17b-306.

700 (2) (a) Notwithstanding Section 58-17b-302, a pharmacy licensed under this part is not

701 required to have a pharmacist-in-charge if:

702 (i) the pharmacy has designated a dispensing medical practitioner as responsible for all

703 activities of the pharmacy; and

704 (ii) the pharmacy complies with administrative rules adopted by the division in

705 consultation with the Board of Pharmacy and the governing bodies of the practitioners

706 described in Subsection 58-17b-102(23)(a).

707 (b) Notwithstanding Subsection 58-17b-306(1)(e), the division, in consultation with

708 the Board of Pharmacy and the governing boards of the practitioners described in Subsection  
 709 58-17b-102(23)(a), may modify the operating standards for a dispensing medical practitioner  
 710 clinic pharmacy.

711 Section 11. Section **58-17b-805** is enacted to read:

712 **58-17b-805. Dispensing medical practitioner -- Cancer drug treatment regimen.**

713 (1) For purposes of this section:

714 (a) "Cancer drug treatment regimen" means a prescription drug used to treat cancer,  
 715 manage its symptoms, or provide continuity of care for a cancer patient.

716 (b) "Cancer drug treatment regimen" includes:

717 (i) a chemotherapy drug administered intravenously, orally, rectally, or by dermal  
 718 methods; and

719 (ii) a drug used to support cancer treatment, including a drug ~~to~~ **used** ~~to~~ to treat,  
 719a alleviate, or  
 720 minimize physical and psychological symptoms or pain, ~~to~~ **or** ~~to~~ to improve patient tolerance  
 720a of

721 cancer treatments ~~to~~ , ~~to~~ or ~~to~~ **to** ~~to~~ prepare a patient for a subsequent course of therapy.

722 (c) "Cancer drug treatment regimen" does not mean a drug listed under federal law as a  
 723 Schedule I, II, or III drug.

724 (2) An individual may be licensed as a dispensing medical practitioner with a scope of  
 725 practice that permits the dispensing medical practitioner to prescribe and dispense a cancer  
 726 drug treatment regimen if the individual:

727 (a) is licensed as described in Subsections 58-17b-102(23)(a)(i) and (ii); and

728 (b) is certified or eligible to be certified by the American Board of Internal Medicine in  
 729 medical oncology.

730 (3) A dispensing medical practitioner authorized to prescribe and dispense a cancer  
 731 drug treatment regimen under this section may prescribe and dispense a cancer drug treatment  
 732 regimen:

733 (a) to the practitioner's patient who is currently undergoing chemotherapy in an  
 734 outpatient clinic setting; and

735 (b) if the practitioner determines that providing the cancer drug treatment regimen to  
 736 the patient in the outpatient clinic setting is in the best interest of the patient or provides better  
 737 access to care for the patient.

738 Section 12. Section **58-17b-806** is enacted to read:



739 **58-17b-806. Dispensing medical practitioner -- Dispensing medical practitioner**  
 740 **clinic pharmacy -- Unprofessional and Unlawful conduct.**

741 (1) ~~§~~ **(a)** ~~←§~~ The division ~~§~~ [~~in consultation with the board shall:~~

742 ~~— (a) report a violation of this chapter by a dispensing medical practitioner to]~~ shall consult  
 742a with ~~←§~~ the

743 dispensing medical practitioner's appropriate licensing board as designated in Subsection

744 58-17b-102(23)(a) ~~§~~ regarding a violation of this chapter ~~←§~~ ; and

745 (b) ~~§~~ the Pharmacy Board shall, if requested by the licensing board of the dispensing  
 745a medical practitioner, ~~←§~~ assist the licensing board for the dispensing medical practitioner with  
 745b reviewing the

746 violations of the provisions of this chapter.

747 (2) The division ~~§~~ [~~in collaboration with the Board of Pharmacy,]~~ ~~←§~~ may take  
 747a appropriate

748 action against a dispensing medical practitioner, in accordance with this chapter, if the

749 licensing board designated in Subsection 58-17b-102(23)(a) recommends to the division that

750 action be taken under this chapter.

751 (3) The division, in consultation with the board is the primary enforcer under this

752 chapter for a dispensing medical practitioner clinic pharmacy licensed under Section

753 58-17b-804.

754 Section 13. Section **58-31b-502** is amended to read:

755 **58-31b-502. Unprofessional conduct.**

756 "Unprofessional conduct" includes:

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

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

765 (3) engaging in sexual relations with a patient during any:

766 (a) period when a generally recognized professional relationship exists between the  
 767 person licensed or certified under this chapter and patient; or

768 (b) extended period when a patient has reasonable cause to believe a professional  
 769 relationship exists between the person licensed or certified under the provisions of this chapter

770 and the patient;

771 (4) (a) as a result of any circumstance under Subsection (3), exploiting or using  
772 information about a patient or exploiting the licensee's or the person with a certification's  
773 professional relationship between the licensee or holder of a certification under this chapter and  
774 the patient; or

775 (b) exploiting the patient by use of the licensee's or person with a certification's  
776 knowledge of the patient obtained while acting as a nurse or a medication aide certified;

777 (5) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

778 (6) unauthorized taking or personal use of nursing supplies from an employer;

779 (7) unauthorized taking or personal use of a patient's personal property;

780 (8) knowingly entering into any medical record any false or misleading information or  
781 altering a medical record in any way for the purpose of concealing an act, omission, or record  
782 of events, medical condition, or any other circumstance related to the patient and the medical or  
783 nursing care provided;

784 (9) unlawful or inappropriate delegation of nursing care;

785 (10) failure to exercise appropriate supervision of persons providing patient care  
786 services under supervision of the licensed nurse;

787 (11) employing or aiding and abetting the employment of an unqualified or unlicensed  
788 person to practice as a nurse;

789 (12) failure to file or record any medical report as required by law, impeding or  
790 obstructing the filing or recording of such a report, or inducing another to fail to file or record  
791 such a report;

792 (13) breach of a statutory, common law, regulatory, or ethical requirement of  
793 confidentiality with respect to a person who is a patient, unless ordered by a court;

794 (14) failure to pay a penalty imposed by the division;

795 (15) prescribing a schedule II-III controlled substance without a consulting physician or  
796 outside of a consultation and referral plan;

797 (16) violating Section 58-31b-801; and

798 (17) violating the dispensing requirements of Section 58-17b-309 or [58-17b-309.5]  
799 Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner  
800 Clinic Pharmacy, if applicable.

801 Section 14. Section **58-37f-203** is amended to read:

802 **58-37f-203. Submission, collection, and maintenance of data.**

803 (1) (a) The pharmacist in charge of the drug outlet where a controlled substance is  
804 dispensed shall submit the data described in this section to the division:

805 [~~(a)~~] (i) in accordance with the requirements of this section;

806 [~~(b)~~] (ii) in accordance with the procedures established by the division; and

807 [~~(c)~~] (iii) in the format established by the division.

808 (b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing

809 Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with

810 the provisions of this section and the dispensing medical practitioner shall assume the duties of

811 the pharmacist under this chapter.

812 (2) The pharmacist described in Subsection (1) shall, for each controlled substance

813 dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an

814 inpatient at a health care facility, submit to the division the following information:

815 (a) the name of the prescribing practitioner;

816 (b) the date of the prescription;

817 (c) the date the prescription was filled;

818 (d) the name of the individual for whom the prescription was written;

819 (e) positive identification of the individual receiving the prescription, including the  
820 type of identification and any identifying numbers on the identification;

821 (f) the name of the controlled substance;

822 (g) the quantity of the controlled substance prescribed;

823 (h) the strength of the controlled substance;

824 (i) the quantity of the controlled substance dispensed;

825 (j) the dosage quantity and frequency as prescribed;

826 (k) the name of the drug outlet dispensing the controlled substance;

827 (l) the name of the pharmacist dispensing the controlled substance; and

828 (m) other relevant information as required by division rule.

829 (3) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah

830 Administrative Rulemaking Act, to establish the electronic format in which the information

831 required under this section shall be submitted to the division.

832 (b) The division shall ensure that the database system records and maintains for  
833 reference:

834 (i) the identification of each individual who requests or receives information from the  
835 database;

836 (ii) the information provided to each individual; and

837 (iii) the date and time that the information is requested or provided.

838 Section 15. Section **58-67-502** is amended to read:

839 **58-67-502. Unprofessional conduct.**

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

841 (1) using or employing the services of any individual to assist a licensee in any manner  
842 not in accordance with the generally recognized practices, standards, or ethics of the  
843 profession, state law, or division rule;

844 (2) making a material misrepresentation regarding the qualifications for licensure under  
845 Section 58-67-302.7; or

846 (3) violating the dispensing requirements of Section 58-17b-309 or ~~[58-17b-309.5]~~  
847 Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner  
848 Clinic Pharmacy, if applicable.

849 Section 16. Section **58-68-502** is amended to read:

850 **58-68-502. Unprofessional conduct.**

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

852 (1) using or employing the services of any individual to assist a licensee in any manner  
853 not in accordance with the generally recognized practices, standards, or ethics of the  
854 profession, state law, or division rule; or

855 (2) violating the dispensing requirements of Section 58-17b-309 or ~~[58-17b-309.5]~~  
856 Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner  
857 Clinic Pharmacy, if applicable.

858 Section 17. Section **58-70a-502** is amended to read:

859 **58-70a-502. Unlawful conduct.**

860 "Unlawful conduct" includes~~[-(†)]~~ engaging in practice as a licensed physician assistant  
861 while not under the supervision of a supervising physician or substitute supervising physician~~[-~~  
862 ~~or]~~.

863            [~~(2) violating the drug dispensing requirements of Section 58-17b-309 or~~  
864 ~~58-17b-309.5, if applicable.~~]

865            Section 18. Section **58-70a-503** is amended to read:

866            **58-70a-503. Unprofessional conduct.**

867            "Unprofessional conduct" includes:

868            (1) violation of a patient confidence to any person who does not have a legal right and  
869 a professional need to know the information concerning the patient;

870            (2) knowingly prescribing, selling, giving away, or directly or indirectly administering,  
871 or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for  
872 a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts  
873 prescribed or provided;

874            (3) prescribing prescription drugs for himself or administering prescription drugs to  
875 himself, except those that have been legally prescribed for him by a licensed practitioner and  
876 that are used in accordance with the prescription order for the condition diagnosed;

877            (4) failure to maintain at the practice site a delegation of services agreement that  
878 accurately reflects current practices;

879            (5) failure to make the delegation of services agreement available to the division for  
880 review upon request; [~~and~~]

881            (6) in a practice that has physician assistant ownership interests, failure to allow the  
882 supervising physician the independent final decision making authority on patient treatment  
883 decisions, as set forth in the delegation of services agreement or as defined by rule[-]; and

884            (7) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical  
885 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable.

886            Section 19. Section **58-83-502** is amended to read:

887            **58-83-502. Unprofessional conduct.**

888            "Unprofessional conduct" includes, in addition to the definition in Section ~~58-1-501~~ and  
889 as may be further defined by administrative rule:

890            (1) online prescribing, dispensing, or facilitation with respect to a person under the age  
891 of 18 years;

892            (2) using the name or official seal of the state, the Utah Department of Commerce, or  
893 the Utah Division of Occupational and Professional Licensing, or their boards, in an

- 894 unauthorized manner;
- 895 (3) failing to respond promptly to a request by the division for information including:
- 896 (a) an audit of the website; or
- 897 (b) records of the online prescriber, the Internet facilitator, or the online contract
- 898 pharmacy;
- 899 (4) using an online prescriber, online contract pharmacy, or Internet facilitator without
- 900 approval of the division;
- 901 (5) failing to inform a patient of the patient's freedom of choice in selecting who will
- 902 dispense a prescription in accordance with Subsection [58-83-305\(1\)\(n\)](#);
- 903 (6) failing to keep the division informed of the name and contact information of the
- 904 Internet facilitator or online contract pharmacy; and
- 905 (7) violating the dispensing and labeling requirements of [~~Section 58-17b-309~~] Chapter
- 906 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic
- 907 Pharmacy.

908 Section 20. Section **63I-1-258** is amended to read:

909 **63I-1-258. Repeal dates, Title 58.**

- 910 (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
- 911 repealed July 1, 2016.
- 912 (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2015.
- 913 (3) [~~Section 58-17b-309.5 is repealed July 1, 2015.~~ (4)] Title 58, Chapter 20a,
- 914 Environmental Health Scientist Act, is repealed July 1, 2018.
- 915 [(5)] (4) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1,
- 916 2023.
- 917 [(6)] (5) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing
- 918 Act, is repealed July 1, 2019.
- 919 [(7)] (6) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1,
- 920 2015.
- 921 [(8)] (7) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is
- 922 repealed July 1, 2023.
- 923 [(9)] (8) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2014.
- 924 [(10)] (9) Section [58-69-302.5](#) is repealed on July 1, 2015.

925 [(H)] (10) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

926 Section 21. **Repealer.**

927 This bill repeals:

928 Section **58-17b-309.5, Exemption for prescribing practitioner of cancer drug**

929 **regimen -- Division study of dispensing practitioners.**

930 Section 22. **Effective date.**

931 This bill takes effect on July 1, 2014.