

1 **PHARMACEUTICAL DISPENSING AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Evan J. Vickers**

5 House Sponsor: Stewart Barlow

6 Cosponsors: Brian E. Shiozawa

7 Curtis S. Bramble

8

9 **LONG TITLE**

10 **General Description:**

11 This bill amends the Pharmacy Practice Act.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ modifies the definition of pharmaceutical wholesaler or distributor in the Pharmacy
16 Practice Act to exclude a facility for which the facility's total distribution-related
17 sales of prescription drugs does not exceed 5% of the facility's total prescription
18 drug sales;
- 19 ▶ allows a hospital pharmacy that dispenses a prescription drug in a multidose
20 container to a hospital patient and follows labeling requirements to provide the
21 patient the drug when the patient is discharged;
- 22 ▶ establishes the license classification "dispensing medical practitioner" under the
23 Pharmacy Practice Act for medical practitioners who prescribe and dispense a drug;
- 24 ▶ establishes the pharmacy facility license classification "dispensing medical
25 practitioner clinic pharmacy" under the Pharmacy Practice Act;
- 26 ▶ creates Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner
27 Clinic Pharmacy;
- 28 ▶ removes the exemption from the Pharmacy Practice Act for medical practitioners

29 who prescribe and dispense a cosmetic drug, injectable weight loss drug, or a cancer drug
30 treatment regimen;

31 ▶ requires a license as a dispensing medical practitioner for a health care practitioner
32 to dispense:

- 33 • a cosmetic drug;
- 34 • a cancer drug treatment regimen; or
- 35 • a prepackaged drug at an employer sponsored clinic;

36 ▶ requires the Board of Pharmacy to work in conjunction with the affected
37 practitioner governing boards:

- 38 • for discipline or hearings related to a dispensing medical practitioner; and
- 39 • to develop the administrative rules in the Pharmacy Practice Act related to a
40 dispensing medical practitioner and a dispensing medical practitioner clinic

41 pharmacy;

42 ▶ establishes that practice as a dispensing medical practitioner does not include:

- 43 • the use of a vending-type dispensing device; or
- 44 • the prescription of controlled substances, except as permitted for cancer drug

45 treatment regimens;

46 ▶ amends the reporting requirements for the controlled substance database;

47 ▶ amends unlawful and unprofessional conduct provisions; and

48 ▶ makes technical changes.

49 **Money Appropriated in this Bill:**

50 None

51 **Other Special Clauses:**

52 This bill takes effect on July 1, 2014.

53 **Utah Code Sections Affected:**

54 AMENDS:

55 **58-17b-102**, as last amended by Laws of Utah 2013, Chapters 52, 166, and 423

56 **58-17b-301**, as last amended by Laws of Utah 2013, Chapter 52

- 57 **58-17b-302**, as last amended by Laws of Utah 2013, Chapter 52
- 58 **58-17b-309**, as last amended by Laws of Utah 2013, Chapter 278
- 59 **58-17b-309.6**, as enacted by Laws of Utah 2013, Chapter 52
- 60 **58-17b-502**, as last amended by Laws of Utah 2007, Chapter 279
- 61 **58-17b-602**, as last amended by Laws of Utah 2013, Chapter 79
- 62 **58-17b-612**, as last amended by Laws of Utah 2013, Chapters 52 and 166
- 63 **58-17b-613**, as enacted by Laws of Utah 2004, Chapter 280
- 64 **58-31b-502**, as last amended by Laws of Utah 2012, Chapter 234
- 65 **58-37f-203**, as enacted by Laws of Utah 2010, Chapter 287
- 66 **58-67-502**, as last amended by Laws of Utah 2012, Chapter 234
- 67 **58-68-502**, as last amended by Laws of Utah 2012, Chapter 234
- 68 **58-70a-502**, as last amended by Laws of Utah 2012, Chapter 234
- 69 **58-70a-503**, as last amended by Laws of Utah 2010, Chapter 37
- 70 **58-83-502**, as last amended by Laws of Utah 2012, Chapter 344
- 71 **63I-1-258**, as last amended by Laws of Utah 2013, Chapters 55, 87, 222, 278, and 351

72 ENACTS:

- 73 **58-17b-801**, Utah Code Annotated 1953
- 74 **58-17b-802**, Utah Code Annotated 1953
- 75 **58-17b-803**, Utah Code Annotated 1953
- 76 **58-17b-804**, Utah Code Annotated 1953
- 77 **58-17b-805**, Utah Code Annotated 1953
- 78 **58-17b-806**, Utah Code Annotated 1953

79 REPEALS:

- 80 **58-17b-309.5**, as enacted by Laws of Utah 2012, Chapter 234



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

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

84 **58-17b-102. Definitions.**

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

86 (1) "Administering" means:

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

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

94 (2) "Adulterated drug or device" means a drug or device considered adulterated under
95 21 U.S.C.S. Sec. 351 (2003).

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

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

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

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

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

113 (7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created
114 in Section 58-17b-201.

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

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

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

126 (11) "Class B pharmacy":

127 (a) means a pharmacy located in Utah:

128 (i) that is authorized to provide pharmaceutical care for patients in an institutional
129 setting; and

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

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

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

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

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

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

138 (15) "Closed-door pharmacy" means a pharmacy that provides pharmaceutical care to a
139 defined and exclusive group of patients who have access to the services of the pharmacy
140 because they are treated by or have an affiliation with a specific entity, including a health

141 maintenance organization or an infusion company, but not including a hospital pharmacy, a
142 retailer of goods to the general public, or the office of a practitioner.

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

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

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

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

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

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

160 (b) "Compounding" does not include:

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

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

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

168 (19) "Confidential information" has the same meaning as "protected health

169 information" under the Standards for Privacy of Individually Identifiable Health Information,
170 45 C.F.R. Parts 160 and 164.

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

172 (21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter
173 417, Sec. 3a(ff) which is incorporated by reference.

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

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

179 (a) currently licensed as:

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

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

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

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

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

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

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

191 [~~23~~] (25) "Distribute" means to deliver a drug or device other than by administering
192 or dispensing.

193 [~~24~~] (26) (a) "Drug" means:

194 (i) a substance recognized in the official United States Pharmacopoeia, Official
195 Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any
196 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or

197 prevention of disease in humans or animals;

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

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

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

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

205 [~~(25)~~] (27) "Drug regimen review" includes the following activities:

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

207 (i) known allergies;

208 (ii) rational therapy-contraindications;

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

210 (iv) reasonable directions for use;

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

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

215 (i) drug-drug;

216 (ii) drug-food;

217 (iii) drug-disease; and

218 (iv) adverse drug reactions; and

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

221 [~~(26)~~] (28) "Drug sample" means a prescription drug packaged in small quantities
222 consistent with limited dosage therapy of the particular drug, which is marked "sample", is not
223 intended to be sold, and is intended to be provided to practitioners for the immediate needs of
224 patients for trial purposes or to provide the drug to the patient until a prescription can be filled

225 by the patient.

226 ~~[(27)]~~ (29) "Electronic signature" means a trusted, verifiable, and secure electronic
227 sound, symbol, or process attached to or logically associated with a record and executed or
228 adopted by a person with the intent to sign the record.

229 ~~[(28)]~~ (30) "Electronic transmission" means transmission of information in electronic
230 form or the transmission of the exact visual image of a document by way of electronic
231 equipment.

232 ~~[(29)]~~ (31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to
233 inpatients of a general acute hospital or specialty hospital licensed by the Department of Health
234 under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

235 ~~[(30)]~~ (32) "Legend drug" has the same meaning as prescription drug.

236 ~~[(31)]~~ (33) "Licensed pharmacy technician" means an individual licensed with the
237 division, that may, under the supervision of a pharmacist, perform the activities involved in the
238 technician practice of pharmacy.

239 ~~[(32)]~~ (34) "Manufacturer" means a person or business physically located in Utah
240 licensed to be engaged in the manufacturing of drugs or devices.

241 ~~[(33)]~~ (35) (a) "Manufacturing" means:

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

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

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

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

253 analysis.

254 ~~[(34)]~~ (36) "Medical order" means a lawful order of a practitioner which may include a
255 prescription drug order.

256 ~~[(35)]~~ (37) "Medication profile" or "profile" means a record system maintained as to
257 drugs or devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to
258 analyze the profile to provide pharmaceutical care.

259 ~~[(36)]~~ (38) "Misbranded drug or device" means a drug or device considered
260 misbranded under 21 U.S.C.S. Sec. 352 (2003).

261 ~~[(37)]~~ (39) (a) "Nonprescription drug" means a drug which:

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

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

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

265 ~~[(38)]~~ (40) "Nonresident pharmacy" means a pharmacy located outside of Utah that
266 sells to a person in Utah.

267 ~~[(39)]~~ (41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical
268 service.

269 ~~[(40)]~~ (42) "Out-of-state mail service pharmacy" means a pharmaceutical facility
270 located outside the state that is licensed and in good standing in another state, that:

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

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

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

278 ~~[(41)]~~ (43) "Patient counseling" means the written and oral communication by the
279 pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure
280 proper use of drugs, devices, and dietary supplements.

281 [~~(42)~~] (44) "Pharmaceutical administration facility" means a facility, agency, or
282 institution in which:

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

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

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

291 [~~(43)~~] (45) (a) "Pharmaceutical care" means carrying out the following in collaboration
292 with a prescribing practitioner, and in accordance with division rule:

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

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

297 (iii) arresting or slowing a disease process.

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

300 [~~(44)~~] (46) "Pharmaceutical facility" means a business engaged in the dispensing,
301 delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within
302 or into this state.

303 [~~(45)~~] (47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical
304 facility engaged in the business of wholesale vending or selling of a prescription drug or device
305 to other than a consumer or user of the prescription drug or device that the pharmaceutical
306 facility has not produced, manufactured, compounded, or dispensed.

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

309 (i) intracompany sales;
310 (ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,
311 purchase, or trade a prescription drug or device, if the activity is carried out between one or
312 more of the following entities under common ownership or common administrative control, as
313 defined by division rule:

- 314 (A) hospitals;
- 315 (B) pharmacies;
- 316 (C) chain pharmacy warehouses, as defined by division rule; or
- 317 (D) other health care entities, as defined by division rule;

318 (iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,
319 purchase, or trade a prescription drug or device, for emergency medical reasons, including
320 supplying another pharmaceutical facility with a limited quantity of a drug, if:

321 (A) the facility is unable to obtain the drug through a normal distribution channel in
322 sufficient time to eliminate the risk of harm to a patient that would result from a delay in
323 obtaining the drug; and

324 (B) the quantity of the drug does not exceed an amount reasonably required for
325 immediate dispensing to eliminate the risk of harm;

326 (iv) the distribution of a prescription drug or device as a sample by representatives of a
327 manufacturer; and

328 (v) the distribution of prescription drugs, if:

329 ~~[(A) the dosage units distributed during a calendar year do not exceed five percent of~~
330 ~~the sum of the dosage units distributed by the facility during the calendar year and the dosage~~
331 ~~units dispensed by the facility during the calendar year; and]~~

332 (A) the facility's total distribution-related sales of prescription drugs does not exceed
333 5% of the facility's total prescription drug sales; and

334 (B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

335 ~~[(46)] (48) "Pharmacist" means an individual licensed by this state to engage in the~~
336 practice of pharmacy.

337 [~~(47)~~] (49) "Pharmacist-in-charge" means a pharmacist currently licensed in good
338 standing who accepts responsibility for the operation of a pharmacy in conformance with all
339 laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is
340 personally in full and actual charge of the pharmacy and all personnel.

341 [~~(48)~~] (50) "Pharmacist preceptor" means a licensed pharmacist in good standing with
342 one or more years of licensed experience. The preceptor serves as a teacher, example of
343 professional conduct, and supervisor of interns in the professional practice of pharmacy.

344 [~~(49)~~] (51) "Pharmacy" means any place where:

- 345 (a) drugs are dispensed;
- 346 (b) pharmaceutical care is provided;
- 347 (c) drugs are processed or handled for eventual use by a patient; or
- 348 (d) drugs are used for the purpose of analysis or research.

349 [~~(50)~~] (52) "Pharmacy benefits manager or coordinator" means a person or entity that
350 provides pharmacy benefit management services as defined in Section 49-20-502 on behalf of a
351 self-insured employer, insurance company, health maintenance organization, or other plan
352 sponsor, as defined by rule.

353 [~~(51)~~] (53) "Pharmacy intern" means an individual licensed by this state to engage in
354 practice as a pharmacy intern.

355 [~~(52)~~] (54) "Pharmacy technician training program" means an approved technician
356 training program providing education for pharmacy technicians.

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

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

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

364 or

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

367 [~~53~~] (56) (a) "Practice as a licensed pharmacy technician" means engaging in practice
368 as a pharmacy technician under the general supervision of a licensed pharmacist and in
369 accordance with a scope of practice defined by division rule made in collaboration with the
370 board.

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

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

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

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

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

382 [~~54~~] (57) "Practice of pharmacy" includes the following:

383 (a) providing pharmaceutical care;

384 (b) collaborative pharmacy practice in accordance with a collaborative pharmacy
385 practice agreement;

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

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

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

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

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

396 (d) participating in drug utilization review;

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

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

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

402 (h) providing drug product equivalents;

403 (i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy
404 technicians;

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

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

407 (l) telepharmacy; and

408 (m) formulary management intervention.

409 [~~55~~] (58) "Practice of telepharmacy" means the practice of pharmacy through the use
410 of telecommunications and information technologies.

411 [~~56~~] (59) "Practice of telepharmacy across state lines" means the practice of
412 pharmacy through the use of telecommunications and information technologies that occurs
413 when the patient is physically located within one jurisdiction and the pharmacist is located in
414 another jurisdiction.

415 [~~57~~] (60) "Practitioner" means an individual currently licensed, registered, or
416 otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the
417 course of professional practice.

418 [~~58~~] (61) "Prescribe" means to issue a prescription:

419 (a) orally or in writing; or

420 (b) by telephone, facsimile transmission, computer, or other electronic means of

421 communication as defined by division rule.

422 [~~(59)~~] (62) "Prescription" means an order issued:

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

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

427 [~~(60)~~] (63) "Prescription device" means an instrument, apparatus, implement, machine,
428 contrivance, implant, in vitro reagent, or other similar or related article, and any component
429 part or accessory, which is required under federal or state law to be prescribed by a practitioner
430 and dispensed by or through a person or entity licensed under this chapter or exempt from
431 licensure under this chapter.

432 [~~(61)~~] (64) "Prescription drug" means a drug that is required by federal or state law or
433 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

434 [~~(62)~~] (65) "Research using pharmaceuticals" means research:

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

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

440 (c) that uses the controlled substance, prescription drug, or prescription device in
441 accordance with standard research protocols and techniques, including, if required, those
442 approved by an institutional review committee; and

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

445 [~~(63)~~] (66) "Retail pharmacy" means a pharmaceutical facility dispensing prescription
446 drugs and devices to the general public.

447 [~~(64)~~] (67) "Self-audit" means an internal evaluation of a pharmacy to determine
448 compliance with this chapter.

449 [(65)] (68) "Supervising pharmacist" means a pharmacist who is overseeing the
450 operation of the pharmacy during a given day or shift.

451 [(66)] (69) "Supportive personnel" means unlicensed individuals who:

452 (a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed
453 pharmacy technician in nonjudgmental duties not included in the definition of the practice of
454 pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as
455 those duties may be further defined by division rule adopted in collaboration with the board;
456 and

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

459 [(67)] (70) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-17b-501.

460 [(68)] (71) "Unprofessional conduct" is as defined in Sections 58-1-501 and
461 58-17b-502 and may be further defined by rule.

462 [(69)] (72) "Veterinary pharmaceutical facility" means a pharmaceutical facility that
463 dispenses drugs intended for use by animals or for sale to veterinarians for the administration
464 for animals.

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

466 **58-17b-301. License required -- License classifications for individuals.**

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

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

472 (a) pharmacist;

473 (b) pharmacy intern; [~~or~~]

474 (c) pharmacy technician[;]; or

475 (d) dispensing medical practitioner.

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

477 **58-17b-302. License required -- License classifications for pharmacy facilities.**

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

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

482 (a) class A pharmacy;

483 (b) class B pharmacy;

484 (c) class C pharmacy;

485 (d) class D pharmacy; [~~or~~]

486 (e) class E pharmacy[~~;~~]; ~~or~~

487 (f) dispensing medical practitioner clinic pharmacy.

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

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

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

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

498 Section 4. Section ~~58-17b-309~~ is amended to read:

499 **58-17b-309. Exemptions from licensure.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

525 ~~[(2)]~~ (1) In addition to the exemptions from licensure in [Sections] Section 58-1-307

526 ~~[and 58-17b-309.5]~~, the following individuals may engage in the acts or practices described in
527 this section without being licensed under this chapter:

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

531 ~~[(b)]~~ (a) a person selling or providing contact lenses in accordance with Section
532 58-16a-801; or

533 ~~[(e)]~~ (b) an individual engaging in the practice of pharmacy technician under the direct
534 personal supervision of a pharmacist while making satisfactory progress in an approved
535 program as defined in division rule[;].

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

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

542 ~~[(3)]~~ (2) In accordance with Subsection 58-1-303(1)(a), an individual exempt under
543 Subsection ~~[(2)(c)]~~ (1)(b) must take all examinations as required by division rule following
544 completion of an approved curriculum of education, within the required time frame. This
545 exemption expires immediately upon notification of a failing score of an examination, and the
546 individual may not continue working as a pharmacy technician even under direct supervision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

580 ~~[(c) The division may inspect the office of a prescribing practitioner or optometrist~~
581 ~~who is dispensing under the provisions of this section, in order to determine whether the~~
582 ~~prescribing practitioner or optometrist is in compliance with the provisions of this section. If a~~
583 ~~prescribing practitioner or optometrist chooses to dispense under the provisions of this section,~~
584 ~~the prescribing practitioner or optometrist consents to the jurisdiction of the division to inspect~~
585 ~~the prescribing practitioner's or optometrist's office and determine if the provisions of this~~
586 ~~section are being met by the prescribing practitioner or optometrist.]~~

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

589 ~~[(i) this chapter; and]~~
590 ~~[(ii) (A) Chapter 16a, Utah Optometry Practice Act;]~~
591 ~~[(B) Chapter 31b, Nurse Practice Act;]~~
592 ~~[(C) Chapter 67, Utah Medical Practice Act;]~~
593 ~~[(D) Chapter 68, Utah Osteopathic Medical Practice Act;]~~
594 ~~[(E) Chapter 70a, Physician Assistant Act; or]~~
595 ~~[(F) Chapter 83, Online Prescribing, Dispensing, and Facilitation Act.]~~
596 ~~[(G) Except as provided in Subsection (2)(c), this section does not restrict or limit the~~
597 ~~scope of practice of an optometrist or optometric physician licensed under Chapter 16a, Utah~~
598 ~~Optometry Practice Act.]~~

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

600 **58-17b-309.6. Exemptions from licensure for research using pharmaceuticals.**

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

603 Section 6. Section **58-17b-502** is amended to read:

604 **58-17b-502. Unprofessional conduct.**

605 "Unprofessional conduct" includes:

606 (1) willfully deceiving or attempting to deceive the division, the board, or their agents
607 as to any relevant matter regarding compliance under this chapter;

608 (2) (a) except as provided in Subsection (2)(b):

609 (i) paying or offering rebates to practitioners or any other health care providers, or
610 receiving or soliciting rebates from practitioners or any other health care provider; or

611 (ii) paying, offering, receiving, or soliciting compensation in the form of a commission,
612 bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care
613 provider, for the purpose of obtaining referrals.

614 (b) Subsection (2)(a) does not apply to:

615 (i) giving or receiving price discounts based on purchase volume;

616 (ii) passing along pharmaceutical manufacturer's rebates; or

- 617 (iii) providing compensation for services to a veterinarian.
- 618 (3) misbranding or adulteration of any drug or device or the sale, distribution, or
- 619 dispensing of any outdated, misbranded, or adulterated drug or device;
- 620 (4) engaging in the sale or purchase of drugs or devices that are samples or packages
- 621 bearing the inscription "sample" or "not for resale" or similar words or phrases;
- 622 (5) except as provided in Section 58-17b-503, accepting back and redistributing of any
- 623 unused drug, or a part of it, after it has left the premises of any pharmacy, unless the drug is in
- 624 a unit pack, as defined in Section 58-17b-503, or the manufacturer's sealed container, as
- 625 defined in rule;
- 626 (6) an act in violation of this chapter committed by a person for any form of
- 627 compensation if the act is incidental to the person's professional activities, including the
- 628 activities of a pharmacist, pharmacy intern, or pharmacy technician;
- 629 (7) violating Federal Title II, P.L. 91, Controlled Substances Act, Title 58, Chapter 37,
- 630 Utah Controlled Substances Act, or rules or regulations adopted under either act;
- 631 (8) requiring or permitting pharmacy interns or technicians to engage in activities
- 632 outside the scope of practice for their respective license classifications, as defined in this
- 633 chapter and division rules made in collaboration with the board, or beyond their scope of
- 634 training and ability;
- 635 (9) administering:
- 636 (a) without appropriate training, as defined by rule;
- 637 (b) without a physician's order, when one is required by law; and
- 638 (c) in conflict with a practitioner's written guidelines or written protocol for
- 639 administering;
- 640 (10) disclosing confidential patient information in violation of the provisions of the
- 641 Health Insurance Portability and Accountability Act of 1996 or other applicable law;
- 642 (11) engaging in the practice of pharmacy without a licensed pharmacist designated as
- 643 the pharmacist-in-charge;
- 644 (12) failing to report to the division any adverse action taken by another licensing

645 jurisdiction, government agency, law enforcement agency, or court for conduct that in
646 substance would be considered unprofessional conduct under this section; and
647 ~~[(13) as a pharmacist or pharmacy intern, preparing a prescription drug for sale to~~
648 ~~another pharmacist or pharmaceutical facility; and]~~
649 [(14)] (13) as a pharmacist or pharmacy intern, preparing a prescription drug in a
650 dosage form which is regularly and commonly available from a manufacturer in quantities and
651 strengths prescribed by a practitioner.

652 Section 7. Section **58-17b-602** is amended to read:

653 **58-17b-602. Prescription orders -- Information required -- Alteration -- Labels --**
654 **Signatures -- Dispensing in pharmacies.**

655 (1) Except as provided in Section [58-1-501.3](#), the minimum information that shall be
656 included in a prescription order, and that may be defined by rule, is:

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

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

661 (c) the date of issuance;

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

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

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

667 (g) if the order is an electronically transmitted prescription order, the prescribing
668 practitioner's electronic signature; and

669 (h) if the order is a hard copy prescription order generated from electronic media, the
670 prescribing practitioner's electronic or manual signature.

671 (2) The requirement of Subsection (1)(a) does not apply to prescription orders
672 dispensed for inpatients by hospital pharmacies if the prescriber is a current member of the

673 hospital staff and the prescription order is on file in the patient's medical record.

674 (3) Unless it is for a Schedule II controlled substance, a prescription order may be
675 dispensed by a pharmacist or pharmacy intern upon an oral prescription of a practitioner only if
676 the oral prescription is promptly reduced to writing.

677 (4) (a) Except as provided under Subsection (4)(b), a pharmacist or pharmacy intern
678 may not dispense or compound any prescription of a practitioner if the prescription shows
679 evidence of alteration, erasure, or addition by any person other than the person writing the
680 prescription.

681 (b) A pharmacist or pharmacy intern dispensing or compounding a prescription may
682 alter or make additions to the prescription after receiving permission of the prescriber and may
683 make entries or additions on the prescription required by law or necessitated in the
684 compounding and dispensing procedures.

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

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

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

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

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

692 (e) the name of the prescriber;

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

695 (g) except as provided in Subsection [~~(6)~~] (7), the trade, generic, or chemical name,
696 amount dispensed and the strength of dosage form, but if multiple ingredient products with
697 established proprietary or nonproprietary names are prescribed, those products' names may be
698 used; and

699 (h) the beyond use date.

700 (6) A hospital pharmacy that dispenses a prescription drug that is packaged in a

701 multidose container to a hospital patient may provide the drug in the multidose container to the
702 patient when the patient is discharged from the hospital if:

703 (a) the pharmacy receives a discharge order for the patient; and

704 (b) the pharmacy labels the drug with the:

705 (i) patient's name;

706 (ii) drug's name and strength;

707 (iii) directions for use of the drug, if applicable; and

708 (iv) pharmacy's name and phone number.

709 ~~[(6)]~~ (7) If the prescriber specifically indicates the name of the prescription product
710 should not appear on the label, then any of the trade, generic, chemical, established proprietary,
711 and established nonproprietary names and the strength of dosage form may not be included.

712 ~~[(7)]~~ (8) Prescribers are encouraged to include on prescription labels the information
713 described in Section [58-17b-602.5](#) in accordance with the provisions of that section.

714 ~~[(8) Except when it is delivered to the ultimate user via the United States Postal~~
715 ~~Service, licensed common carrier, or supportive personnel, a prescription drug may be~~
716 ~~dispensed to the ultimate user or his agent only at a licensed pharmacy.]~~

717 (9) A pharmacy may only deliver a prescription drug to a patient or a patient's agent:

718 (a) in person at the pharmacy; or

719 (b) via the United States Postal Service, a licensed common carrier, or supportive
720 personnel, if the pharmacy takes reasonable precautions to ensure the prescription drug is:

721 (i) delivered to the patient or patient's agent; or

722 (ii) returned to the pharmacy.

723 Section 8. Section **58-17b-612** is amended to read:

724 **58-17b-612. Supervision -- Pharmacist-in-charge.**

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

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

732 (i) the pharmacy is located in:

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

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

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

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

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

742 Section 9. Section ~~58-17b-613~~ is amended to read:

743 **~~58-17b-613. Patient counseling.~~**

744 (1) ~~[Every]~~ A retail pharmacy ~~[facility shall orally]~~ shall verbally offer to counsel a
745 patient or a patient's agent in a personal face-to-face discussion ~~[with respect to]~~ regarding each
746 prescription drug dispensed, if the patient or patient's agent:

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

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

749 ~~[(2) A pharmacist or pharmacy intern shall provide counseling to each patient, and
750 shall provide the patient with a toll-free telephone number by which the patient may contact a
751 pharmacist at the dispensing pharmacy during normal business hours and receive oral
752 counseling, with respect to each prescription drug dispensed if the patient provides or the
753 prescription is otherwise provided to the pharmacy facility by a means other than personal
754 delivery, and the dispensed prescription drug is mailed or otherwise delivered to the patient
755 outside of the pharmacy facility.]~~

756 ~~[(3) (a) The provisions of Subsections (1) and (2) do not apply to incarcerated patients~~

757 ~~or persons otherwise under the jurisdiction of the Utah Department of Corrections or a county~~
758 ~~detention facility.]~~

759 ~~[(b) A written communication with a person described in Subsection (3)(a) shall be~~
760 ~~used by a pharmacist or pharmacy intern in lieu of a face to face or telephonic communication~~
761 ~~for the purpose of counseling the patient.]~~

762 (2) A pharmacist or pharmacy intern at a pharmacy that receives a prescription from a
763 patient by means other than personal delivery, and that dispenses prescription drugs to the
764 patient by means other than personal delivery, shall:

765 (a) provide patient counseling to a patient regarding each prescription drug the
766 pharmacy dispenses; and

767 (b) provide each patient with a toll-free telephone number by which the patient can
768 contact a pharmacist or pharmacy intern at the pharmacy for counseling.

769 (3) Notwithstanding the provisions of Subsections (1) and (2), a pharmacist or a
770 pharmacy intern may provide patient counseling to an individual under the jurisdiction of the
771 Utah Department of Corrections or a county detention facility via a written, telephone, or
772 electronic communication.

773 Section 10. Section **58-17b-801** is enacted to read:

774 **Part 8. Dispensing Medical Practitioner and Dispensing Medical**
775 **Practitioner Clinic Pharmacy**

776 **58-17b-801. Title.**

777 This part is known as "Dispensing Medical Practitioner and Dispensing Medical
778 Practitioner Clinic Pharmacy."

779 Section 11. Section **58-17b-802** is enacted to read:

780 **58-17b-802. Definitions.**

781 As used in this part:

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

783 (i) is for the purpose of promoting attractiveness or altering the appearance of an
784 individual; and

785 (ii) (A) is listed as a cosmetic drug subject to the exemption under this section by the
786 division by administrative rule; or

787 (B) has been expressly approved for online dispensing, whether or not it is dispensed
788 online or through a physician's office.

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

790 (i) a controlled substance;

791 (ii) compounded by the physician; or

792 (iii) prescribed for or used by the patient for the purpose of diagnosing, curing, or
793 preventing a disease.

794 (2) "Employer sponsored clinic" means an entity that has a medical director who is
795 licensed as a physician as defined in Section 58-67-102 and offers health care only to the
796 employees of an exclusive group of employers and the employees' dependents.

797 (3) "Health care" is as defined in Section 31A-1-301.

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

799 (i) prescribed to promote weight loss; and

800 (ii) listed as an injectable prescription drug subject to exemption under this section by
801 the division by administrative rule.

802 (b) "Injectable weight loss drug" does not include a prescription drug that is a
803 controlled substance.

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

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

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

807 (i) the drug manufacturer;

808 (ii) a pharmaceutical wholesaler or distributor; or

809 (iii) a pharmacy licensed under this title.

810 Section 12. Section **58-17b-803** is enacted to read:

811 **58-17b-803. Qualifications for licensure as a dispensing medical practitioner --**
812 **Scope of practice.**

- 813 (1) An applicant for a license as a dispensing medical practitioner shall:
814 (a) be licensed in good standing under at least one of the chapters listed in Subsection
815 58-17b-102(23)(a); and
816 (b) submit an application for a license as a dispensing medical practitioner in a form
817 prescribed by the division and pay a fee established by the division.
818 (2) The division shall accept the licensing in good standing under Subsection (1) in lieu
819 of requiring an applicant for a license under this part to comply with Sections 58-17b-303 and
820 58-17b-307.
821 (3) A dispensing medical practitioner may dispense, in accordance with this part:
822 (a) a cosmetic drug and an injectable weight loss drug if:
823 (i) the drug was prescribed by the dispensing medical practitioner to the dispensing
824 medical practitioner's patient; and
825 (ii) the dispensing medical practitioner complies with administrative rules adopted by
826 the division under Subsection 58-17-802(1);
827 (b) a cancer drug treatment regimen if the dispensing medical practitioner complies
828 with Section 58-17b-805; and
829 (c) a pre-packaged drug to an employee or a dependent of an employee at an employer
830 sponsored clinic if the dispensing medical practitioner:
831 (i) treats an employee, or the dependent of an employee, of one of an exclusive group
832 of employers at an employer sponsored clinic;
833 (ii) prescribes a prepackaged drug to the employee or the employee's dependent;
834 (iii) dispenses the prepackaged drug at the employer sponsored clinic; and
835 (iv) complies with administrative rules adopted by the division in consultation with the
836 Board of Pharmacy that establish labeling, record keeping, patient counseling, purchasing and
837 distribution, operating, treatment, quality of care, and storage requirements.
838 (4) A dispensing medical practitioner:
839 (a) shall inform the patient:
840 (i) that the drug dispensed by the practitioner may be obtained from a pharmacy

841 unaffiliated with the practitioner;

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

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

844 (iv) how to contact the dispensing medical practitioner if the patient has questions or
845 concerns regarding the drug;

846 (b) shall report to the controlled substance database in the same manner as required in
847 Section [58-37f-203](#); and

848 (c) may delegate the dispensing of the drug if the individual to whom the dispensing
849 was delegated is:

850 (i) employed by the dispensing medical practitioner or the outpatient clinic setting in
851 which the dispensing medical practitioner works; and

852 (ii) acting under the direction of a dispensing medical practitioner who is immediately
853 available on site for any necessary consultation.

854 (5) If the chapter that governs the license of a dispensing medical practitioner, as listed
855 in Subsection [58-17b-102](#)(23), requires physician supervision in its scope of practice
856 requirements, the dispensing medical practitioner shall only dispense a drug under the
857 supervision of an individual licensed under Chapter 67, Utah Medical Practice Act, or Chapter
858 68, Utah Osteopathic Medical Practice Act.

859 Section 13. Section **58-17b-804** is enacted to read:

860 **58-17b-804. Qualifications for licensure as a dispensing medical practitioner clinic**
861 **pharmacy.**

862 (1) An applicant for a license as a dispensing medical practitioner clinic pharmacy shall
863 comply with Section [58-17b-306](#).

864 (2) (a) Notwithstanding Section [58-17b-302](#), a pharmacy licensed under this part is not
865 required to have a pharmacist-in-charge if:

866 (i) the pharmacy has designated a dispensing medical practitioner as responsible for all
867 activities of the pharmacy; and

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

869 consultation with the Board of Pharmacy and the governing bodies of the practitioners
870 described in Subsection 58-17b-102(23)(a).

871 (b) Notwithstanding Subsection 58-17b-306(1)(e), the division, in consultation with
872 the Board of Pharmacy and the governing boards of the practitioners described in Subsection
873 58-17b-102(23)(a), may modify the operating standards for a dispensing medical practitioner
874 clinic pharmacy.

875 Section 14. Section **58-17b-805** is enacted to read:

876 **58-17b-805. Dispensing medical practitioner -- Cancer drug treatment regimen.**

877 (1) For purposes of this section:

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

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

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

883 (ii) a drug used to support cancer treatment, including a drug used to treat, alleviate, or
884 minimize physical and psychological symptoms or pain, to improve patient tolerance of cancer
885 treatments, or to prepare a patient for a subsequent course of therapy.

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

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

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

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

894 (3) A dispensing medical practitioner authorized to prescribe and dispense a cancer
895 drug treatment regimen under this section may prescribe and dispense a cancer drug treatment
896 regimen:

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

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

902 Section 15. Section **58-17b-806** is enacted to read:

903 **58-17b-806. Enforcement of dispensing medical practitioner and dispensing**
904 **medical practitioner clinic pharmacy compliance with Pharmacy Practice Act.**

905 (1) (a) The division shall consult with the dispensing medical practitioner's appropriate
906 licensing board as designated in Subsection [58-17b-102\(23\)\(a\)](#) regarding a violation of this
907 chapter; and

908 (b) the Pharmacy Board shall, if requested by the licensing board of the dispensing
909 medical practitioner, assist the licensing board for the dispensing medical practitioner with
910 reviewing the violations of the provisions of this chapter.

911 (2) The division may take appropriate action against a dispensing medical practitioner,
912 in accordance with this chapter, if the licensing board designated in Subsection
913 [58-17b-102\(23\)\(a\)](#) recommends to the division that action be taken under this chapter.

914 (3) The division, in consultation with the board is the primary enforcer under this
915 chapter for a dispensing medical practitioner clinic pharmacy licensed under Section
916 [58-17b-804](#).

917 Section 16. Section **58-31b-502** is amended to read:

918 **58-31b-502. Unprofessional conduct.**

919 "Unprofessional conduct" includes:

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

924 (2) failure to provide nursing service or service as a medication aide certified in a

925 manner that demonstrates respect for the patient's human dignity and unique personal character
926 and needs without regard to the patient's race, religion, ethnic background, socioeconomic
927 status, age, sex, or the nature of the patient's health problem;

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

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

931 (b) extended period when a patient has reasonable cause to believe a professional
932 relationship exists between the person licensed or certified under the provisions of this chapter
933 and the patient;

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

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

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

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

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

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

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

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

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

952 (12) failure to file or record any medical report as required by law, impeding or

953 obstructing the filing or recording of such a report, or inducing another to fail to file or record
954 such a report;

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

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

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

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

961 (17) violating the dispensing requirements of Section 58-17b-309 or [~~58-17b-309.5~~]

962 Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner
963 Clinic Pharmacy, if applicable.

964 Section 17. Section 58-37f-203 is amended to read:

965 **58-37f-203. Submission, collection, and maintenance of data.**

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

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

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

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

971 (b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing
972 Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with
973 the provisions of this section and the dispensing medical practitioner shall assume the duties of
974 the pharmacist under this chapter.

975 (2) The pharmacist described in Subsection (1) shall, for each controlled substance
976 dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an
977 inpatient at a health care facility, submit to the division the following information:

978 (a) the name of the prescribing practitioner;

979 (b) the date of the prescription;

980 (c) the date the prescription was filled;

- 981 (d) the name of the individual for whom the prescription was written;
- 982 (e) positive identification of the individual receiving the prescription, including the
- 983 type of identification and any identifying numbers on the identification;
- 984 (f) the name of the controlled substance;
- 985 (g) the quantity of the controlled substance prescribed;
- 986 (h) the strength of the controlled substance;
- 987 (i) the quantity of the controlled substance dispensed;
- 988 (j) the dosage quantity and frequency as prescribed;
- 989 (k) the name of the drug outlet dispensing the controlled substance;
- 990 (l) the name of the pharmacist dispensing the controlled substance; and
- 991 (m) other relevant information as required by division rule.

992 (3) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
993 Administrative Rulemaking Act, to establish the electronic format in which the information
994 required under this section shall be submitted to the division.

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

- 997 (i) the identification of each individual who requests or receives information from the
- 998 database;
- 999 (ii) the information provided to each individual; and
- 1000 (iii) the date and time that the information is requested or provided.

1001 Section 18. Section **58-67-502** is amended to read:

1002 **58-67-502. Unprofessional conduct.**

1003 "Unprofessional conduct" includes, in addition to the definition in Section **58-1-501**:

1004 (1) using or employing the services of any individual to assist a licensee in any manner
1005 not in accordance with the generally recognized practices, standards, or ethics of the
1006 profession, state law, or division rule;

1007 (2) making a material misrepresentation regarding the qualifications for licensure under
1008 Section **58-67-302.7**; or

1009 (3) violating the dispensing requirements of Section 58-17b-309 or [58-17b-309.5]
1010 Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner
1011 Clinic Pharmacy, if applicable.

1012 Section 19. Section 58-68-502 is amended to read:

1013 **58-68-502. Unprofessional conduct.**

1014 "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

1015 (1) using or employing the services of any individual to assist a licensee in any manner
1016 not in accordance with the generally recognized practices, standards, or ethics of the
1017 profession, state law, or division rule; or

1018 (2) violating the dispensing requirements of Section 58-17b-309 or [58-17b-309.5]
1019 Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner
1020 Clinic Pharmacy, if applicable.

1021 Section 20. Section 58-70a-502 is amended to read:

1022 **58-70a-502. Unlawful conduct.**

1023 "Unlawful conduct" includes[~~-(+)~~] engaging in practice as a licensed physician assistant
1024 while not under the supervision of a supervising physician or substitute supervising physician[~~;~~
1025 ~~or~~].

1026 [~~(2) violating the drug dispensing requirements of Section 58-17b-309 or~~
1027 ~~58-17b-309.5, if applicable.~~]

1028 Section 21. Section 58-70a-503 is amended to read:

1029 **58-70a-503. Unprofessional conduct.**

1030 "Unprofessional conduct" includes:

1031 (1) violation of a patient confidence to any person who does not have a legal right and
1032 a professional need to know the information concerning the patient;

1033 (2) knowingly prescribing, selling, giving away, or directly or indirectly administering,
1034 or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for
1035 a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts
1036 prescribed or provided;

1037 (3) prescribing prescription drugs for himself or administering prescription drugs to
1038 himself, except those that have been legally prescribed for him by a licensed practitioner and
1039 that are used in accordance with the prescription order for the condition diagnosed;

1040 (4) failure to maintain at the practice site a delegation of services agreement that
1041 accurately reflects current practices;

1042 (5) failure to make the delegation of services agreement available to the division for
1043 review upon request; [~~and~~]

1044 (6) in a practice that has physician assistant ownership interests, failure to allow the
1045 supervising physician the independent final decision making authority on patient treatment
1046 decisions, as set forth in the delegation of services agreement or as defined by rule[-]; and

1047 (7) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
1048 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable.

1049 Section 22. Section **58-83-502** is amended to read:

1050 **58-83-502. Unprofessional conduct.**

1051 "Unprofessional conduct" includes, in addition to the definition in Section **58-1-501** and
1052 as may be further defined by administrative rule:

1053 (1) online prescribing, dispensing, or facilitation with respect to a person under the age
1054 of 18 years;

1055 (2) using the name or official seal of the state, the Utah Department of Commerce, or
1056 the Utah Division of Occupational and Professional Licensing, or their boards, in an
1057 unauthorized manner;

1058 (3) failing to respond promptly to a request by the division for information including:

1059 (a) an audit of the website; or

1060 (b) records of the online prescriber, the Internet facilitator, or the online contract
1061 pharmacy;

1062 (4) using an online prescriber, online contract pharmacy, or Internet facilitator without
1063 approval of the division;

1064 (5) failing to inform a patient of the patient's freedom of choice in selecting who will

1065 dispense a prescription in accordance with Subsection ~~58-83-305~~(1)(n);
1066 (6) failing to keep the division informed of the name and contact information of the
1067 Internet facilitator or online contract pharmacy; and
1068 (7) violating the dispensing and labeling requirements of [~~Section 58-17b-309~~] Chapter
1069 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic
1070 Pharmacy.

1071 Section 23. Section **63I-1-258** is amended to read:

1072 **63I-1-258. Repeal dates, Title 58.**

1073 (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
1074 repealed July 1, 2016.

1075 (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2015.

1076 (3) [~~Section 58-17b-309.5 is repealed July 1, 2015.~~(4)] Title 58, Chapter 20a,
1077 Environmental Health Scientist Act, is repealed July 1, 2018.

1078 [~~(5)~~ (4)] Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1,
1079 2023.

1080 [~~(6)~~ (5)] Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing
1081 Act, is repealed July 1, 2019.

1082 [~~(7)~~ (6)] Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1,
1083 2015.

1084 [~~(8)~~ (7)] Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is
1085 repealed July 1, 2023.

1086 [~~(9)~~ (8)] Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2014.

1087 [~~(10)~~ (9)] Section ~~58-69-302.5~~ is repealed on July 1, 2015.

1088 [~~(11)~~ (10)] Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

1089 Section 24. **Repealer.**

1090 This bill repeals:

1091 Section ~~58-17b-309.5~~, **Exemption for prescribing practitioner of cancer drug**
1092 **regimen -- Division study of dispensing practitioners.**

1093 Section 25. **Effective date.**
1094 This bill takes effect on July 1, 2014.