

1 **PHARMACY PRACTICE ACT AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

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

5 House Sponsor: Stewart Barlow

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions of the Pharmacy Practice Act related to pharmacies and
10 prescription drugs.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ directs the Division of Occupational and Professional Licensing to issue a pharmacy
14 technician trainee license to an individual under certain circumstances;

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 pharmacy to sell a prescription drug to a practitioner for use in the
20 practitioner's office or facility under certain circumstances;

21 ▶ allows a hospital pharmacy that dispenses a prescription drug in a multidose
22 container to a hospital patient and follows labeling requirements to provide the
23 patient the drug when the patient is discharged; and

24 ▶ makes technical and conforming amendments.

25 **Money Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **58-17b-102**, as last amended by Laws of Utah 2013, Chapters 52, 166, and 423

32 **58-17b-301**, as last amended by Laws of Utah 2013, Chapter 52

33 **58-17b-502**, as last amended by Laws of Utah 2007, Chapter 279

34 **58-17b-602**, as last amended by Laws of Utah 2013, Chapter 79

35 **58-17b-613**, as enacted by Laws of Utah 2004, Chapter 280

36 ENACTS:

37 **58-17b-305.1**, Utah Code Annotated 1953

38 **58-17b-624**, Utah Code Annotated 1953



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

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

42 **58-17b-102. Definitions.**

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

44 (1) "Administering" means:

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

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

52 (2) "Adulterated drug or device" means a drug or device considered adulterated under
53 21 U.S.C.S. Sec. 351 (2003).

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

56 (b) "Analytical laboratory" does not include a laboratory possessing prescription drugs
57 used as standards and controls in performing drug monitoring or drug screening analysis if the
58 prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid

59 components, organic solvents, or inorganic buffers at a concentration not exceeding one
60 milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic
61 use.

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

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

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

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

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

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

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

84 (11) "Class B pharmacy":

85 (a) means a pharmacy located in Utah:

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

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

90 (b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and
91 (ii) pharmaceutical administration and sterile product preparation facilities.

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

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

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

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

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

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

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

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

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

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

118 (b) "Compounding" does not include:

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

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

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

126 (19) "Confidential information" has the same meaning as "protected health
127 information" under the Standards for Privacy of Individually Identifiable Health Information,
128 45 C.F.R. Parts 160 and 164.

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

130 (21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter
131 417, Sec. 3a(ff) which is incorporated by reference.

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

136 (23) "Distribute" means to deliver a drug or device other than by administering or
137 dispensing.

138 (24) (a) "Drug" means:

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

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

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

147 (iv) substances intended for use as a component of any substance specified in
148 Subsections (24)(a)(i), (ii), (iii), and (iv).

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

150 (25) "Drug regimen review" includes the following activities:

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

152 (i) known allergies;
153 (ii) rational therapy-contraindications;
154 (iii) reasonable dose and route of administration; and
155 (iv) reasonable directions for use;
156 (b) evaluation of the prescription drug order and patient record for duplication of
157 therapy;

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

160 (i) drug-drug;
161 (ii) drug-food;
162 (iii) drug-disease; and
163 (iv) adverse drug reactions; and
164 (d) evaluation of the prescription drug order and patient record for proper utilization,
165 including over- or under-utilization, and optimum therapeutic outcomes.

166 (26) "Drug sample" means a prescription drug packaged in small quantities consistent
167 with limited dosage therapy of the particular drug, which is marked "sample", is not intended to
168 be sold, and is intended to be provided to practitioners for the immediate needs of patients for
169 trial purposes or to provide the drug to the patient until a prescription can be filled by the
170 patient.

171 (27) "Electronic signature" means a trusted, verifiable, and secure electronic sound,
172 symbol, or process attached to or logically associated with a record and executed or adopted by
173 a person with the intent to sign the record.

174 (28) "Electronic transmission" means transmission of information in electronic form or
175 the transmission of the exact visual image of a document by way of electronic equipment.

176 (29) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to
177 inpatients of a general acute hospital or specialty hospital licensed by the Department of Health
178 under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

179 (30) "Legend drug" has the same meaning as prescription drug.

180 (31) "Licensed pharmacy technician" means an individual licensed with the division,
181 that may, under the supervision of a pharmacist, perform the activities involved in the
182 technician practice of pharmacy.

183 (32) "Manufacturer" means a person or business physically located in Utah licensed to
184 be engaged in the manufacturing of drugs or devices.

185 (33) (a) "Manufacturing" means:

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

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

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

194 (c) "Manufacturing" does not include the preparation or compounding of a drug by a
195 pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation,
196 compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical
197 analysis.

198 (34) "Medical order" means a lawful order of a practitioner which may include a
199 prescription drug order.

200 (35) "Medication profile" or "profile" means a record system maintained as to drugs or
201 devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze
202 the profile to provide pharmaceutical care.

203 (36) "Misbranded drug or device" means a drug or device considered misbranded under
204 21 U.S.C.S. Sec. 352 (2003).

205 (37) (a) "Nonprescription drug" means a drug which:

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

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

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

209 (38) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a
210 person in Utah.

211 (39) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.

212 (40) "Out-of-state mail service pharmacy" means a pharmaceutical facility located
213 outside the state that is licensed and in good standing in another state, that:

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

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

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

221 (41) "Patient counseling" means the written and oral communication by the pharmacist
222 or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of
223 drugs, devices, and dietary supplements.

224 (42) "Pharmaceutical administration facility" means a facility, agency, or institution in
225 which:

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

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

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

234 (43) (a) "Pharmaceutical care" means carrying out the following in collaboration with a
235 prescribing practitioner, and in accordance with division rule:

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

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

240 (iii) arresting or slowing a disease process.

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

243 (44) "Pharmaceutical facility" means a business engaged in the dispensing, delivering,
244 distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this

245 state.

246 (45) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility
247 engaged in the business of wholesale vending or selling of a prescription drug or device to
248 other than a consumer or user of the prescription drug or device that the pharmaceutical facility
249 has not produced, manufactured, compounded, or dispensed.

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

252 (i) intracompany sales;

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

257 (A) hospitals;

258 (B) pharmacies;

259 (C) chain pharmacy warehouses, as defined by division rule; or

260 (D) other health care entities, as defined by division rule;

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

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

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

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

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

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

275 (A) the facility's total distribution-related sales of prescription drugs does not exceed

276 5% of the facility's total prescription drug sales; and

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

278 (46) "Pharmacist" means an individual licensed by this state to engage in the practice
279 of pharmacy.

280 (47) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing
281 who accepts responsibility for the operation of a pharmacy in conformance with all laws and
282 rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally
283 in full and actual charge of the pharmacy and all personnel.

284 (48) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or
285 more years of licensed experience. The preceptor serves as a teacher, example of professional
286 conduct, and supervisor of interns in the professional practice of pharmacy.

287 (49) "Pharmacy" means any place where:

288 (a) drugs are dispensed;

289 (b) pharmaceutical care is provided;

290 (c) drugs are processed or handled for eventual use by a patient; or

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

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

296 (51) "Pharmacy intern" means an individual licensed by this state to engage in practice
297 as a pharmacy intern.

298 (52) "Pharmacy technician training program" means an approved technician training
299 program providing education for pharmacy technicians.

300 (53) (a) "Practice as a licensed pharmacy technician" means engaging in practice as a
301 pharmacy technician under the general supervision of a licensed pharmacist and in accordance
302 with a scope of practice defined by division rule made in collaboration with the board.

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

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

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

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

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

314 (54) "Practice of pharmacy" includes the following:

315 (a) providing pharmaceutical care;

316 (b) collaborative pharmacy practice in accordance with a collaborative pharmacy
317 practice agreement;

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

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

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

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

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

328 (d) participating in drug utilization review;

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

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

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

334 (h) providing drug product equivalents;

335 (i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy
336 technicians;

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

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

339 (l) telepharmacy; and

340 (m) formulary management intervention.

341 (55) "Practice of telepharmacy" means the practice of pharmacy through the use of
342 telecommunications and information technologies.

343 (56) "Practice of telepharmacy across state lines" means the practice of pharmacy
344 through the use of telecommunications and information technologies that occurs when the
345 patient is physically located within one jurisdiction and the pharmacist is located in another
346 jurisdiction.

347 (57) "Practitioner" means an individual currently licensed, registered, or otherwise
348 authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of
349 professional practice.

350 (58) "Prescribe" means to issue a prescription:

351 (a) orally or in writing; or

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

354 (59) "Prescription" means an order issued:

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

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

359 (60) "Prescription device" means an instrument, apparatus, implement, machine,
360 contrivance, implant, in vitro reagent, or other similar or related article, and any component
361 part or accessory, which is required under federal or state law to be prescribed by a practitioner
362 and dispensed by or through a person or entity licensed under this chapter or exempt from
363 licensure under this chapter.

364 (61) "Prescription drug" means a drug that is required by federal or state law or rule to
365 be dispensed only by prescription or is restricted to administration only by practitioners.

366 (62) "Research using pharmaceuticals" means research:

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

369 Universities;

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

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

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

377 (63) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs
378 and devices to the general public.

379 (64) "Self-audit" means an internal evaluation of a pharmacy to determine compliance
380 with this chapter.

381 (65) "Supervising pharmacist" means a pharmacist who is overseeing the operation of
382 the pharmacy during a given day or shift.

383 (66) "Supportive personnel" means unlicensed individuals who:

384 (a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed
385 pharmacy technician in nonjudgmental duties not included in the definition of the practice of
386 pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as
387 those duties may be further defined by division rule adopted in collaboration with the board;
388 and

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

391 (67) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-17b-501.

392 (68) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-17b-502 and
393 may be further defined by rule.

394 (69) "Veterinary pharmaceutical facility" means a pharmaceutical facility that
395 dispenses drugs intended for use by animals or for sale to veterinarians for the administration
396 for animals.

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

398 **58-17b-301. License required -- License classifications for individuals.**

399 (1) A license is required to engage in the practice of pharmacy, telepharmacy, or the

400 practice of a pharmacy technician, except as specifically provided in Section [58-1-307](#),
401 [58-17b-309](#), or [58-17-309.6](#).

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

- 404 (a) pharmacist;
- 405 (b) pharmacy intern; [~~or~~]
- 406 (c) pharmacy technician[-]; or
- 407 (d) pharmacy technician trainee.

408 Section 3. Section **58-17b-305.1** is enacted to read:

409 **58-17b-305.1. Qualifications for licensure of pharmacy technician trainee.**

410 (1) An applicant for licensure as a pharmacy technician trainee shall:

- 411 (a) submit an application to the division on a form created by the division;
- 412 (b) pay a fee established by the department in accordance with Section [63J-1-504](#);
- 413 (c) submit satisfactory evidence, as determined by the department, of good moral

414 character as it relates to the applicant's ability to practice pharmacy;

415 (d) submit a completed criminal background check;

416 (e) submit evidence that the applicant has not engaged in conduct that is considered
417 unlawful conduct or unprofessional conduct under Section [58-1-501](#), [58-17b-501](#), or

418 [58-17b-502](#);

419 (f) demonstrate, as determined by the department, that the applicant does not have a
420 physical or mental condition that would prevent the applicant from engaging in practice as a
421 pharmacy technician with reasonable skill, competency, and safety to the public;

422 (g) have completed training that meets the standards established by the division in
423 collaboration with the board; and

424 (h) pass an examination designated by the division in collaboration with the board.

425 (2) A pharmacist whose license has been denied, revoked, suspended, or restricted for
426 disciplinary purposes is not eligible to be licensed as a pharmacy technician trainee during
427 division probation.

428 Section 4. Section **58-17b-502** is amended to read:

429 **58-17b-502. Unprofessional conduct.**

430 "Unprofessional conduct" includes:

- 431 (1) willfully deceiving or attempting to deceive the division, the board, or their agents
432 as to any relevant matter regarding compliance under this chapter;
- 433 (2) (a) except as provided in Subsection (2)(b):
- 434 (i) paying or offering rebates to practitioners or any other health care providers, or
435 receiving or soliciting rebates from practitioners or any other health care provider; or
436 (ii) paying, offering, receiving, or soliciting compensation in the form of a commission,
437 bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care
438 provider, for the purpose of obtaining referrals.
- 439 (b) Subsection (2)(a) does not apply to:
- 440 (i) giving or receiving price discounts based on purchase volume;
- 441 (ii) passing along pharmaceutical manufacturer's rebates; or
- 442 (iii) providing compensation for services to a veterinarian.
- 443 (3) misbranding or adulteration of any drug or device or the sale, distribution, or
444 dispensing of any outdated, misbranded, or adulterated drug or device;
- 445 (4) engaging in the sale or purchase of drugs or devices that are samples or packages
446 bearing the inscription "sample" or "not for resale" or similar words or phrases;
- 447 (5) except as provided in Section [58-17b-503](#), accepting back and redistributing of any
448 unused drug, or a part of it, after it has left the premises of any pharmacy, unless the drug is in
449 a unit pack, as defined in Section [58-17b-503](#), or the manufacturer's sealed container, as
450 defined in rule;
- 451 (6) an act in violation of this chapter committed by a person for any form of
452 compensation if the act is incidental to the person's professional activities, including the
453 activities of a pharmacist, pharmacy intern, or pharmacy technician;
- 454 (7) violating Federal Title II, P.L. 91, Controlled Substances Act, Title 58, Chapter 37,
455 Utah Controlled Substances Act, or rules or regulations adopted under either act;
- 456 (8) requiring or permitting pharmacy interns or technicians to engage in activities
457 outside the scope of practice for their respective license classifications, as defined in this
458 chapter and division rules made in collaboration with the board, or beyond their scope of
459 training and ability;
- 460 (9) administering:
- 461 (a) without appropriate training, as defined by rule;

- 462 (b) without a physician's order, when one is required by law; and
- 463 (c) in conflict with a practitioner's written guidelines or written protocol for
- 464 administering;
- 465 (10) disclosing confidential patient information in violation of the provisions of the
- 466 Health Insurance Portability and Accountability Act of 1996 or other applicable law;
- 467 (11) engaging in the practice of pharmacy without a licensed pharmacist designated as
- 468 the pharmacist-in-charge;
- 469 (12) failing to report to the division any adverse action taken by another licensing
- 470 jurisdiction, government agency, law enforcement agency, or court for conduct that in
- 471 substance would be considered unprofessional conduct under this section; and
- 472 ~~[(13) as a pharmacist or pharmacy intern, preparing a prescription drug for sale to~~
- 473 ~~another pharmacist or pharmaceutical facility; and]~~
- 474 [(14)] (13) as a pharmacist or pharmacy intern, preparing a prescription drug in a
- 475 dosage form which is regularly and commonly available from a manufacturer in quantities and
- 476 strengths prescribed by a practitioner.

477 Section 5. Section **58-17b-602** is amended to read:

478 **58-17b-602. Prescription orders -- Information required -- Alteration -- Labels --**
479 **Signatures -- Dispensing in pharmacies.**

- 480 (1) Except as provided in Section **58-1-501.3**, the minimum information that shall be
- 481 included in a prescription order, and that may be defined by rule, is:
 - 482 (a) the prescriber's name, address, and telephone number, and, if the order is for a
 - 483 controlled substance, the patient's age and the prescriber's DEA number;
 - 484 (b) the patient's name and address or, in the case of an animal, the name of the owner
 - 485 and species of the animal;
 - 486 (c) the date of issuance;
 - 487 (d) the name of the medication or device prescribed and dispensing instructions, if
 - 488 necessary;
 - 489 (e) the directions, if appropriate, for the use of the prescription by the patient or animal
 - 490 and any refill, special labeling, or other instructions;
 - 491 (f) the prescriber's signature if the prescription order is written;
 - 492 (g) if the order is an electronically transmitted prescription order, the prescribing

493 practitioner's electronic signature; and

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

496 (2) The requirement of Subsection (1)(a) does not apply to prescription orders
497 dispensed for inpatients by hospital pharmacies if the prescriber is a current member of the
498 hospital staff and the prescription order is on file in the patient's medical record.

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

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

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

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

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

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

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

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

517 (e) the name of the prescriber;

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

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

524 (h) the beyond use date.

525 (6) A hospital pharmacy that dispenses a prescription drug that is packaged in a
526 multidose container to a hospital patient may provide the drug in the multidose container to the
527 patient when the patient is discharged from the hospital if:

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

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

530 (i) patient's name;

531 (ii) drug's name and strength;

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

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

534 ~~[(6)]~~ (7) If the prescriber specifically indicates the name of the prescription product
535 should not appear on the label, then any of the trade, generic, chemical, established proprietary,
536 and established nonproprietary names and the strength of dosage form may not be included.

537 ~~[(7)]~~ (8) Prescribers are encouraged to include on prescription labels the information
538 described in Section [58-17b-602.5](#) in accordance with the provisions of that section.

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

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

543 (a) in person at the pharmacy; or

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

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

547 (ii) returned to the pharmacy.

548 Section 6. Section **58-17b-613** is amended to read:

549 **58-17b-613. Patient counseling.**

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

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

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

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

562 ~~[(3) (a) The provisions of Subsections (1) and (2) do not apply to incarcerated patients~~
563 ~~or persons otherwise under the jurisdiction of the Utah Department of Corrections or a county~~
564 ~~detention facility.]~~

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

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

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

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

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

579 Section 7. Section **58-17b-624** is enacted to read:

580 **58-17b-624. Prescription drugs -- Sale to a practitioner for office use.**

581 (1) A pharmacy licensed under this chapter may, subject to rules established by the
582 division, repackage or compound a prescription drug for sale to a practitioner if:

583 (a) the prescription drug is not a controlled substance;

584 (b) the pharmacy labels the prescription drug "for office use only";

585 (c) the practitioner administers the drug to a patient in the practitioner's office or

586 facility; and

587 (d) the practitioner does not dispense the drug to the patient.

588 (2) The division shall establish, in accordance with Title 63G, Chapter 3, Utah

589 Administrative Rulemaking Act, prescription drug labeling and control standards for a

590 prescription drug a pharmacy provides to a practitioner under this section.

Legislative Review Note

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Office of Legislative Research and General Counsel