

Representative Val L. Peterson proposes the following substitute bill:

**ONLINE PRESCRIBING AND DISPENSING OF MEDICAL
DEVICES**

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val L. Peterson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Online Prescribing, Dispensing, and Facilitation Licensing Act.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ authorizes an optometrist to engage in the delivery of online pharmaceutical services;
- ▶ modifies the composition of the Online Prescribing, Dispensing, and Facilitation Licensing Board;
- ▶ authorizes the online prescribing and dispensing of medical devices; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 26 [58-83-102](#), as enacted by Laws of Utah 2010, Chapter 180
- 27 [58-83-201](#), as enacted by Laws of Utah 2010, Chapter 180
- 28 [58-83-301](#), as enacted by Laws of Utah 2010, Chapter 180
- 29 [58-83-302](#), as enacted by Laws of Utah 2010, Chapter 180
- 30 [58-83-305](#), as enacted by Laws of Utah 2010, Chapter 180
- 31 [58-83-306](#), as last amended by Laws of Utah 2015, Chapter 321
- 32 [58-83-307](#), as enacted by Laws of Utah 2010, Chapter 180
- 33 [58-83-308](#), as enacted by Laws of Utah 2010, Chapter 180
- 34 [58-83-401](#), as last amended by Laws of Utah 2011, Chapter 367
- 35 [58-83-501](#), as enacted by Laws of Utah 2010, Chapter 180
- 36 [58-83-503](#), as enacted by Laws of Utah 2010, Chapter 180

37
38 *Be it enacted by the Legislature of the state of Utah:*

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

40 **58-83-102. Definitions.**

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

42 (1) "Board" means the Online Prescribing, Dispensing, and Facilitation Licensing
43 Board created in Section [58-83-201](#).

44 (2) "Branching questionnaire" means an adaptive and progressive assessment tool
45 approved by the board.

46 (3) "Controlled substance" means the same as that term is defined in Section
47 [58-17b-102](#).

48 [~~(3)~~] (4) "Delivery of online pharmaceutical services" means the process in which [a
49 ~~prescribing practitioner~~] an online prescriber diagnoses a patient and prescribes one or more of
50 the drugs or devices authorized by Section [58-83-306](#), using:

51 (a) a branching questionnaire or other assessment tool approved by the division for the
52 purpose of diagnosing and assessing a patient's health status;

53 (b) an Internet contract pharmacy to:

54 (i) dispense the prescribed drug or device; or

55 (ii) transfer the prescription to another pharmacy; and

56 (c) an Internet facilitator to facilitate the practices described in Subsections [~~(3)~~] (4)(a)

57 and (b).

58 (5) "Device" means a prescription device, as that term is defined in Section
59 58-17b-102, except that "device" does not include a prescription device that requires surgical
60 implantation.

61 (6) "Dispense" means the same as that term is defined in Section 58-17b-102.

62 ~~[(4)]~~ (7) "Division" means the Utah Division of Occupational and Professional
63 Licensing.

64 (8) "Drug" means the same as that term is defined in Section 58-17b-102.

65 ~~[(5)]~~ (9) "Internet facilitator" means a licensed provider of a web-based system for
66 electronic communication between and among an online prescriber, the online prescriber's
67 patient, and the online contract pharmacy.

68 (10) "Legend drug" means a prescription drug.

69 ~~[(6)]~~ (11) "Online contract pharmacy" means a pharmacy licensed and in good standing
70 under Chapter 17b, Pharmacy Practice Act, as either a ~~[Class A Retail Pharmacy]~~ class A retail
71 pharmacy or a ~~[Class B Closed Door Pharmacy]~~ class B closed-door pharmacy and licensed
72 under this chapter to fulfill prescriptions issued by an online prescriber through a specific
73 Internet facilitator.

74 ~~[(7)]~~ (12) "Online prescriber" means ~~[a person: (a) licensed under another chapter of~~
75 ~~this title; (b) whose license under another chapter of this title includes assessing, diagnosing,~~
76 ~~and prescribing authority for humans; and (c)]:~~

77 (a) a physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68,
78 Utah Osteopathic Medical Practice Act, who has obtained a license under [this chapter to
79 engage in online prescribing.] Part 3, Licensing, to prescribe online; or

80 (b) an optometrist licensed under Chapter 16A, Utah Optometry Practice Act, who has
81 obtained a license under Part 3, Licensing, to prescribe online.

82 (13) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

83 (14) "Pharmacy" means the same as that term is defined in Section 58-17b-102.

84 (15) "Prescribe" means the same as that term is defined in Section 58-17b-102.

85 (16) "Prescription" means the same as that term is defined in Section 58-17b-102.

86 (17) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

87 ~~[(8)]~~ (18) "Unlawful conduct" ~~[is as]~~ means the same as that term is defined in Sections

88 ~~58-1-501~~ [~~and~~], ~~58-83-501~~, and ~~58-83-503~~.

89 [~~(9)~~] (19) "Unprofessional conduct" [~~is as defined in Sections 58-1-203 and 58-83-502,~~
90 and as further defined by the division in accordance with Title 63G, Chapter 3, Utah
91 Administrative Rulemaking Act] means the same as that term is defined:

92 (a) in Sections ~~58-1-501~~, ~~58-1-203~~, and ~~58-83-502~~; and

93 (b) by rule made pursuant to Section ~~58-1-203~~ or ~~58-83-502~~.

94 Section 2. Section **58-83-201** is amended to read:

95 **58-83-201. Board.**

96 (1) There is created the Online Prescribing, Dispensing, and Facilitation Licensing
97 Board consisting of the following seven members:

98 (a) two members who are licensed under either Chapter 67, Utah Medical Practice Act,
99 or Chapter 68, Utah Osteopathic Medical Practice Act, of [~~which~~] whom:

100 (i) one shall be engaged in the delivery of online pharmaceutical services; and

101 (ii) one may not be an online prescriber [~~licensed under this chapter~~];

102 (b) two members who are licensed as a pharmacist under Chapter 17b, Pharmacy
103 Practice Act, of [~~which~~] whom:

104 (i) one shall be associated with an online contract pharmacy; and

105 (ii) one may not be associated with an online contract pharmacy;

106 (c) [~~two members~~] one member of the general public who [~~are~~] is not associated with:

107 (i) an online prescriber;

108 (ii) an online contract pharmacy; or

109 (iii) an Internet facilitator; and

110 (d) [~~one member~~] two members who [~~is~~] are each licensed under this chapter as an
111 Internet facilitator, of whom:

112 (i) one shall be associated with the online prescribing of prescription drugs; and

113 (ii) one shall be associated with the online prescribing of prescription devices.

114 (2) Notwithstanding any other requirement for membership on the board, no more than
115 one member of the board may be associated in any of the following ways with the same
116 Internet facilitator:

117 (a) as an owner;

118 (b) as an employee;

- 119 (c) as an officer;
- 120 (d) as a director;
- 121 (e) contracted with;
- 122 (f) as an agent of; or
- 123 (g) having any direct or indirect financial interest.
- 124 (3) The board shall be appointed and serve in accordance with Section 58-1-201.
- 125 (4) (a) The duties and responsibilities of the board shall be in accordance with Sections
- 126 58-1-202 and 58-1-203, and as otherwise provided in this chapter.
- 127 (b) The board may designate one of its members on a permanent or rotating basis to:
- 128 (i) assist the division in reviewing complaints concerning the unlawful or
- 129 unprofessional conduct of a licensee; and
- 130 (ii) advise the division in its investigation of a complaint.
- 131 (5) A board member who has, under Subsection (4), reviewed a complaint or advised
- 132 in its investigation may be disqualified from participating with the board when the board serves
- 133 as a presiding officer of an administrative proceeding concerning the complaint.
- 134 Section 3. Section 58-83-301 is amended to read:
- 135 **58-83-301. Licensure required -- Issuance of licenses.**
- 136 (1) [~~Beginning July 1, 2010, and except~~] Except as provided in Section 58-1-307:
- 137 (a) an optometrist licensed under Chapter 16A, Utah Optometry Practice Act, shall be
- 138 licensed under this chapter to engage in the delivery of online pharmaceutical services;
- 139 [~~(a)~~] (b) a physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter
- 140 68, Utah Osteopathic Medical Practice Act, shall be licensed under this chapter to engage in the
- 141 delivery of online pharmaceutical services;
- 142 [~~(b)~~] (c) an online contract pharmacy shall be licensed under this chapter to engage in
- 143 the delivery of online pharmaceutical services; and
- 144 [~~(c)~~] (d) an Internet facilitator shall be licensed under this chapter to engage in the
- 145 delivery of online pharmaceutical services.
- 146 (2) The division shall issue, to any person who qualifies under this chapter, a license:
- 147 (a) to prescribe online;
- 148 (b) to operate as an online contract pharmacy; or
- 149 (c) to operate as an Internet facilitator.

150 (3) (a) A license under this chapter is not required to engage in electronic prescribing
151 under Chapter 82, Electronic Prescribing Act[~~;~~and].

152 (b) Nothing in this chapter shall prohibit [~~a~~] an optometrist licensed under Chapter
153 16A, Utah Optometry Practice Act, or physician licensed under Chapter 67, Utah Medical
154 Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act, from electronic
155 prescribing or Internet prescribing as permitted by Chapter 16A, Utah Optometry Practice Act,
156 Chapter 67, Utah Medical Practice Act, [~~or~~] Chapter 68, Utah Osteopathic Medical Practice
157 Act, or other law.

158 Section 4. Section **58-83-302** is amended to read:

159 **58-83-302. Qualifications for licensure.**

160 (1) Each applicant for licensure as an online prescriber under this chapter shall:

161 (a) submit an application in a form prescribed by the division;

162 (b) pay a fee determined by the department under Section [63J-1-504](#);

163 (c) be of good moral character;

164 (d) document that the applicant holds a Utah license that is active and in good standing
165 and authorizes the licensee to engage in the assessment, diagnosis, and treatment of human
166 ailments and the [~~prescription~~] prescribing of medications or devices;

167 (e) document that any other professional license the applicant possesses from other
168 jurisdictions is in good standing;

169 (f) (i) submit to the division an outline of the applicant's proposed online assessment,
170 diagnosis, and prescribing tool, such as a branching questionnaire; and

171 (ii) demonstrate the proposed online assessment, diagnosis, and prescribing tool to the
172 board and establish to the board's satisfaction that the utilization of that assessment tool to
173 facilitate the [~~prescription~~] prescribing of the drugs or devices approved for online prescribing
174 under Section [~~58-83-305~~] [58-83-306](#) does not compromise the public's health, safety, or
175 welfare;

176 (g) submit policies and procedures that address patient confidentiality, including
177 measures that will be taken to ensure that the age and other identifying information of the
178 person completing the online branching questionnaire are accurate;

179 (h) describe the mechanism by which the online prescriber and patient will
180 communicate with one another, including electronic and telephonic communication;

- 181 (i) describe how the online prescriber/patient relationship will be established and
182 maintained;
- 183 (j) submit the name, address, and contact person of the Internet facilitator with whom
184 the online prescriber has contracted to provide services that the online prescriber will use to
185 engage in online assessment, diagnosis, and prescribing; and
- 186 (k) submit documentation satisfactory to the board regarding public health, safety, and
187 welfare demonstrating:
- 188 (i) how the online prescriber will comply with the requirements of Section 58-83-305;
189 (ii) the contractual services arrangement between the online prescriber and:
190 (A) the Internet facilitator; and
191 (B) the online contract pharmacy; and
192 (iii) how the online prescriber will allow and facilitate the division's ability to conduct
193 audits in accordance with Section 58-83-308.
- 194 (2) An online prescriber may not use the services of an Internet facilitator or online
195 contract pharmacy whose license is not active and in good standing.
- 196 (3) Each applicant for licensure as an online contract pharmacy under this chapter
197 shall:
- 198 (a) be licensed in good standing [~~in Utah~~] under Chapter 17b, Pharmacy Practice Act,
199 as a [Class A Retail Pharmacy] class A retail pharmacy or a [Class B Closed Door Pharmacy]
200 class B closed-door pharmacy;
- 201 (b) submit a written application in the form prescribed by the division;
- 202 (c) pay a fee as determined by the department under Section 63J-1-504;
- 203 (d) submit any contract between the applicant and the Internet facilitator with which
204 the applicant is or will be affiliated;
- 205 (e) submit proof of liability insurance acceptable to the division that expressly covers
206 all activities the online contract pharmacy will engage in under this chapter, which coverage
207 shall be in a minimum amount of \$1,000,000 per occurrence with a policy limit of not less than
208 \$3,000,000;
- 209 (f) submit a signed affidavit to the division attesting that the online contract pharmacy
210 will not dispense a drug or device that is prescribed by an online prescriber engaged in the
211 delivery of online pharmaceutical services under the provisions of this chapter unless:

212 (i) the drug or device is specifically approved by the division under Section 58-83-306;
213 and

214 (ii) both the prescribing and the dispensing of the drug or device were facilitated by the
215 Internet facilitator with whom the Internet contract pharmacy is associated under Subsection
216 58-83-302(3)(d);

217 (g) document that any other professional license the applicant possesses from other
218 jurisdictions is active and in good standing; and

219 (h) demonstrate to the division that the applicant has satisfied any background check
220 required by Section 58-17b-307, and each owner, officer, or manager of the applicant online
221 contract pharmacy has not engaged in any act, practice, or omission, which when considered
222 with the duties and responsibilities of a licensee under this chapter indicates there is cause to
223 believe that issuing a license under this chapter is inconsistent with the public's health, safety,
224 or welfare.

225 (4) Each applicant for licensure as an Internet facilitator under this chapter shall:

226 (a) submit a written application in the form prescribed by the division;

227 (b) pay a fee as determined by the department under Section 63J-1-504;

228 (c) submit any contract between the applicant and the following with which the
229 applicant will be affiliated:

230 (i) each online prescriber; and

231 (ii) the single online contract pharmacy;

232 (d) submit written policies and procedures satisfactory to the division that:

233 (i) address patient privacy, including compliance with 45 C.F.R. Parts 160, 162, and
234 164, Health Insurance Portability and Accountability Act of 1996;

235 (ii) ensure compliance with all applicable laws by health care personnel and the online
236 prescriber who will process patient communications;

237 (iii) list the hours of operation;

238 (iv) describe the types of services that will be permitted electronically;

239 (v) describe the required patient information to be included in the communication, such
240 as patient name, identification number, and type of transaction;

241 (vi) establish procedures for archiving and retrieving information; and

242 (vii) establish quality oversight mechanisms;

- 243 (e) submit written documentation of the applicant's security measures to ensure the
244 confidentiality and integrity of any user-identifiable medical information;
- 245 (f) submit a description of the mechanism for:
- 246 (i) patients to access, supplement, and amend patient-provided personal health
247 information;
- 248 (ii) back-up regarding the Internet facilitator electronic interface;
- 249 (iii) the quality of information and services provided via the interface; and
- 250 (iv) patients to register complaints regarding the Internet facilitator, the online
251 prescriber, or the online contract pharmacy;
- 252 (g) submit a copy of the Internet facilitator's website;
- 253 (h) sign an affidavit attesting that:
- 254 (i) the applicant will not access any medical records or information contained in the
255 medical record except as necessary to administer the website and the branching questionnaire;
256 and
- 257 (ii) the applicant and its principals, and any entities affiliated with them, will only use
258 the services of a single online contract pharmacy named on the license approved by the
259 division; and
- 260 (i) submit any other information required by the division.
- 261 Section 5. Section **58-83-305** is amended to read:
- 262 **58-83-305. Duties and responsibilities.**
- 263 (1) The online prescriber shall:
- 264 (a) be held to the same standards of appropriate practice as those applicable in
265 traditional settings which, for purposes of this chapter, include the delivery of online
266 pharmaceutical services;
- 267 (b) conduct an assessment and diagnosis based upon a comprehensive health history
268 and an assessment tool such as a branching questionnaire;
- 269 (c) ensure that a comprehensive health history, assessment, and diagnosis have been
270 made before prescribing ~~any~~ a medication or device;
- 271 (d) conduct the online assessment and diagnosis only through the approved Internet
272 facilitator identified in the online prescriber's application;
- 273 (e) comply with all applicable state and federal laws, rules, regulations, and orders;

- 274 (f) inform the patient electronically of the benefits and risks of appropriate treatment;
- 275 (g) guide the patient regarding the optimal course of action;
- 276 (h) treat the patient with courtesy, respect, dignity, responsiveness, and timely attention
277 to the patient's needs;
- 278 (i) comply with the requirements for confidentiality as required by this title and
279 applicable federal law;
- 280 (j) continue to provide the user with reasonable assistance and sufficient opportunity to
281 make alternative arrangements for care;
- 282 (k) be available for ongoing consultation with the patient through e-mail or other forms
283 of communication;
- 284 (l) not delegate to a third party the professional responsibility to:
 - 285 (i) review and evaluate the results of the branching questionnaire;
 - 286 (ii) consult with the patient electronically or through other means about the patient's
287 medical condition; and
 - 288 (iii) diagnose and prescribe [~~medications~~] a medication or device to the patient;
- 289 (m) conduct the online assessment and diagnosis and the electronic communication
290 between the online prescriber and the patient only through the approved Internet facilitator;
- 291 (n) (i) maintain the online medical records of the patient; and
292 (ii) if maintenance of the records is delegated by the online prescriber, delegate that
293 authority only to the approved Internet facilitator;
- 294 (o) inform a patient of the patient's freedom of choice to select the pharmacy to
295 dispense the patient's prescription by providing the patient with the phone number of the online
296 contract pharmacy so that the patient may contact the online contract pharmacy and request a
297 transfer of the prescription to another pharmacy; and
- 298 (p) authorize the Internet facilitator to provide the online contract pharmacy with the
299 patient's:
 - 300 (i) full name;
 - 301 (ii) current address and telephone number;
 - 302 (iii) date of birth or age and gender;
 - 303 (iv) height, weight, and vital signs (if known);
 - 304 (v) medication allergies or drug reactions; and

- 305 (vi) current medications, including over-the-counter products, and any additional
306 comments relevant to the patient's drug or device use.
- 307 (2) The online contract pharmacy shall:
- 308 (a) only dispense a prescription [~~drugs~~] drug or device that:
- 309 (i) [~~are~~] is approved by the division in accordance with Section 58-83-306; and
- 310 (ii) [~~were~~] is prescribed by an online prescriber who is using the Internet facilitator that
311 is under contract with the online contract pharmacy;
- 312 (b) maintain a toll-free number with a pharmacist available for patients using the
313 services of the online contract pharmacy to receive [~~medications~~] a medication or device
314 prescribed online;
- 315 (c) use a tracking identification number system when shipping [~~medications~~] a
316 medication or device prescribed for [~~patients~~] a patient by an online prescriber; and
- 317 (d) provide to the division a quarterly report of all drugs and devices dispensed in
318 accordance with this chapter.
- 319 (3) The Internet facilitator shall:
- 320 (a) provide services that the online prescriber will use in implementing the branching
321 questionnaire;
- 322 (b) provide electronic or telephonic communication between the online prescriber and
323 the patient that:
- 324 (i) is secure and confidential;
- 325 (ii) allows the online prescriber to be directly accessible to a patient to answer
326 questions regarding the patient's treatment plan; and
- 327 (iii) provides privacy and security that complies with the provisions of 45 C.F.R. Parts
328 160, 162, and 164, Health Insurance Portability and Accountability Act of 1996;
- 329 (c) facilitate secure and confidential communication of the prescription issued by the
330 online prescriber to the online contract pharmacy in accordance with Subsection (1)(p);
- 331 (d) disclose on its website:
- 332 (i) the owner of the website;
- 333 (ii) the specific services provided by any associated online prescribers; and
- 334 (iii) other information the division may require by rule; and
- 335 (e) (i) only facilitate the delivery of online pharmaceutical services for the specific

336 legend drugs or devices approved by the division in accordance with Section 58-83-306; or
337 (ii) not facilitate, directly or indirectly, through related entities or affiliates, the
338 dispensing or online prescribing of any drug [~~whether controlled or legend~~] or device that is not
339 specifically approved under Section 58-83-306.

340 Section 6. Section **58-83-306** is amended to read:

341 **58-83-306. Drugs and devices approved for online prescribing, dispensing, and**
342 **facilitation -- Delivery of prescription drugs or devices.**

343 (1) An online prescriber may only prescribe, an online contract pharmacy may only
344 dispense, and an Internet facilitator may only facilitate the prescribing and dispensing of[;
345 ~~non-controlled;~~ a device or a legend [drugs] drug that is not a controlled substance:

346 (a) that [~~have~~] has been approved by the Food and Drug Administration;

347 (b) that [~~are~~] is prescribed to treat the condition for which the drug or device was
348 approved, within the drug or device manufacturer's guidelines;

349 (c) that [~~are~~] is specifically approved by the division for online prescribing by
350 administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative
351 Rulemaking Act, which rule shall limit the drugs and devices approved for online prescribing
352 by an optometrist to drugs and devices an optometrist may prescribe under Chapter 16a, Utah
353 Optometry Practice Act;

354 (d) that [~~are~~] is prescribed for a person who is:

355 (i) 18 years of age or older; or

356 (ii) at least 16 years of age:

357 (A) if permitted by the state or country in which the patient will receive the drug or
358 device;

359 (B) with parental consent, if required by the state or country in which the patient will
360 receive the drug or device; and

361 (C) only if the prescription is for a hormonal based contraceptive; and

362 (e) to a person who is located in another country, if the country is designated by the
363 division, by administrative rule, as a country with a regulatory framework for prescribing and
364 dispensing of drugs or devices.

365 (2) If[~~, after January 1, 2010,~~] the Food and Drug Administration issues a clinical black
366 box warning with respect to any drug or device approved by the board under Subsection (1),

367 the division shall determine what action, if any, is necessary to protect the public health or
368 welfare as a result of the black box warning.

369 Section 7. Section **58-83-307** is amended to read:

370 **58-83-307. Approval of additional drugs or devices -- Request to facilitate.**

371 (1) An Internet facilitator licensed under this chapter may seek the division's approval
372 to facilitate the online prescribing and dispensing of prescriptions for additional drugs or
373 devices.

374 (2) The Internet facilitator shall make a request for approval of additional drugs or
375 devices by petitioning for an amendment to the administrative rule adopted by the division in
376 accordance with Section **58-83-306** and Title 63G, Chapter 3, Utah Administrative Rulemaking
377 Act.

378 Section 8. Section **58-83-308** is amended to read:

379 **58-83-308. Audits.**

380 (1) Each licensee under this chapter shall allow and facilitate an audit by the division
381 regarding the licensee's delivery of online pharmaceutical services to ensure compliance with
382 state and federal statutes, rules, and regulations including ensuring that:

383 (a) a comprehensive history and assessment have been obtained and a diagnosis has
384 been made for a patient before [~~any medications are~~] a medication or device is prescribed; and

385 (b) only [~~the~~] approved medications or devices are being prescribed [~~and~~] or dispensed.

386 (2) The division shall be provided with the following, in the manner that allows access
387 from the division's office for the purpose of conducting an audit:

388 (a) full remote, read-only access rights to the data related to the online prescribing and
389 dispensing of a drug or device under this chapter and that is used and stored in the Internet
390 facilitator's system; and

391 (b) the information available to the online prescriber.

392 (3) An Internet facilitator licensed under this chapter shall provide to the division, at
393 the times designated by the division by administrative rule, a report containing the following
394 information:

395 (a) the number of prescriptions issued by the online prescribers associated with the
396 Internet facilitator by drug or device name;

397 (b) the number of comprehensive histories/assessments received by the Internet

398 facilitator;

399 (c) the number of comprehensive histories/assessments reviewed by an online
400 prescriber;

401 (d) the demographic data of the patients receiving prescriptions through the Internet
402 facilitator;

403 (e) the number of prescriptions:

404 (i) dispensed by the online contract pharmacy; or

405 (ii) transferred to a different pharmacy at the patient's request; and

406 (f) any other information specified by the division by administrative rule.

407 (4) The division's authority to conduct an audit pursuant to this chapter shall survive
408 any termination or expiration of any prescriptive authority for online prescribing, dispensing, or
409 facilitation.

410 Section 9. Section **58-83-401** is amended to read:

411 **58-83-401. Grounds for denial of license -- Disciplinary proceedings --**

412 **Termination of authority to prescribe -- Immediate and significant danger.**

413 (1) Grounds for refusing to issue a license to an applicant, for refusing to renew the
414 license of a licensee, for revoking, suspending, restricting, or placing on probation the license
415 of a licensee, for issuing a public reprimand to a licensee, and for issuing a cease and desist
416 order:

417 (a) shall be in accordance with Section **58-1-401**; and

418 (b) includes:

419 (i) prescribing, dispensing, or facilitating the prescribing or dispensing of a drug or
420 device not approved by the board under Section **58-83-306**; or

421 (ii) any other violation of this chapter.

422 (2) The termination or expiration of a license under this chapter for any reason does not
423 limit the division's authority to start or continue any investigation or adjudicative proceeding.

424 (3) (a) Because of the working business relationship between and among the online
425 prescriber, the Internet facilitator, and the online contract pharmacy, each entity's ability to
426 comply with this chapter may depend in some respects on the actions of the others.

427 (b) It is possible that a particular action or inaction by the online prescriber, the Internet
428 facilitator, or the online contract pharmacy could have the effect of causing the other licensed

429 entities to be out of compliance with this chapter, and each entity may, therefore, be held
430 accountable for any related party's non-compliance, if the party knew or reasonably should
431 have known of the other person's non-compliance.

432 (4) (a) An online prescriber may lose the [~~practitioner's~~] online prescriber's
433 professional license to prescribe [~~any~~] a drug or device under this title if the online prescriber
434 knew or reasonably should have known that the provisions of this chapter were violated by the
435 online prescriber, the Internet facilitator, or the online contract pharmacy.

436 (b) It is not a defense to an alleged violation under this chapter that the alleged
437 violation was a result of an action or inaction not by the charged party but by the related online
438 prescriber, the online contract pharmacy, or the Internet facilitator.

439 (5) The following actions may result in an immediate suspension of the online
440 prescriber's license, the online contract pharmacy's license, or the Internet facilitator's license,
441 and each is considered an immediate and significant danger to the public health, safety, or
442 welfare requiring immediate action by the division pursuant to Section [63G-4-502](#) to terminate
443 the delivery of online pharmaceutical services by the licensee:

444 (a) online prescribing, dispensing, or facilitation with respect to:

445 (i) a person under the age of 18 years;

446 (ii) a legend drug or device not authorized by the division in accordance with Section
447 [58-83-306](#); and

448 (iii) any controlled substance;

449 (b) violating this chapter after having been given reasonable opportunity to cure the
450 violation;

451 (c) using the name or official seal of the state, the Utah Department of Commerce, or
452 the Utah Division of Occupational and Professional Licensing, or their boards, in an
453 unauthorized manner; or

454 (d) failing to respond to a request from the division within the time frame requested
455 for:

456 (i) an audit of the website; or

457 (ii) records of the online prescriber, the Internet facilitator, or the online contract
458 pharmacy.

459 Section 10. Section [58-83-501](#) is amended to read:

460 **58-83-501. Practice without a license.**

461 [~~"Unlawful conduct"~~] Unlawful conduct includes, in addition to the definition in
462 Section [58-1-501](#), engaging in the practice of Internet prescribing without a license under this
463 chapter.

464 Section 11. Section **58-83-503** is amended to read:

465 **58-83-503. Unlawful conduct.**

466 Unlawful conduct includes, in addition to the definition in Section [58-1-501](#):

467 (1) online prescribing, dispensing, or facilitating of a legend drug or device not
468 authorized by the division in accordance with Section [58-83-306](#); or

469 (2) online prescribing, dispensing, or facilitating of a controlled substance.