

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;
- ▶ authorizes the online prescribing and dispensing of medical devices;
- ▶ prohibits the Division of Occupational and Professional Licensing from approving a device for online prescribing and dispensing unless the division provides the respective professional licensing board with an opportunity for input;
 - ▶ establishes special requirements for the online prescribing of contact lenses, catheters, and devices used by a patient for the care or management of diabetes;
 - ▶ specifies that health insurance is not required to pay for the online prescribing or dispensing of medical devices, including contact lenses; and
 - ▶ makes technical changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **58-83-102**, as enacted by Laws of Utah 2010, Chapter 180

31 **58-83-301**, as enacted by Laws of Utah 2010, Chapter 180

32 **58-83-302**, as enacted by Laws of Utah 2010, Chapter 180

33 **58-83-305**, as enacted by Laws of Utah 2010, Chapter 180

34 **58-83-306**, as last amended by Laws of Utah 2015, Chapter 321

35 **58-83-307**, as enacted by Laws of Utah 2010, Chapter 180

36 **58-83-308**, as enacted by Laws of Utah 2010, Chapter 180

37 **58-83-401**, as last amended by Laws of Utah 2011, Chapter 367

38 **58-83-501**, as enacted by Laws of Utah 2010, Chapter 180

39 **58-83-503**, as enacted by Laws of Utah 2010, Chapter 180



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

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

43 **58-83-102. Definitions.**

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

45 (1) "Board" means the Online Prescribing, Dispensing, and Facilitation Licensing
46 Board created in Section **58-83-201**.

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

49 (3) "Controlled substance" means the same as that term is defined in Section
50 **58-17b-102**.

51 ~~[(3)]~~ (4) "Delivery of online pharmaceutical services" means the process in which [a
52 ~~prescribing practitioner~~] an online prescriber diagnoses a patient and prescribes one or more of
53 the drugs or devices authorized by Section **58-83-306**, using:

54 (a) (i) for a drug:

55 (A) a branching questionnaire approved by the division for the purpose of diagnosing
56 and assessing a patient's health status; or ~~[other]~~

57 (B) another assessment tool approved by the division for the purpose of diagnosing and
58 assessing a patient's health status; or

59 (ii) for a device:

60 (A) a branching questionnaire approved by the division for the purpose of diagnosing
61 and assessing a patient's health status; or

62 (B) another assessment tool that is consistent with industry-recognized, standardized
63 requirements for prescribing the device and is approved by the division, with the opportunity
64 for input from the respective boards, for the purpose of diagnosing and assessing a patient's
65 health status and the propriety of the particular device for the patient;

66 (b) an Internet contract pharmacy to:

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

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

69 (c) an Internet facilitator to facilitate the practices described in Subsections [~~(3)~~] (4)(a)
70 and (b).

71 (5) "Device":

72 (a) means the following prescription medical devices:

73 (i) a catheter intended for insertion by the patient;

74 (ii) a contact lens, as that term is defined in Section [58-16a-102](#);

75 (iii) a device that provides continuous positive airway pressure;

76 (iv) a device used by a patient for the care or management of diabetes; or

77 (v) a hearing aid, as that term is defined in Section [58-41-17](#); and

78 (b) does not mean a prescription medical device that:

79 (i) requires surgical implantation;

80 (ii) is a Class III medical device, as defined by the United States Food and Drug

81 Administration; or

82 (iii) is intended for use or application by only a licensed healthcare professional.

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

84 [~~(4)~~] (7) "Division" means the Utah Division of Occupational and Professional

85 Licensing.

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

87 [~~(5)~~] (9) "Internet facilitator" means a licensed provider of a web-based system for

88 electronic communication between and among an online prescriber, the online prescriber's
89 patient, and the online contract pharmacy.

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

91 ~~[(6)]~~ (11) "Online contract pharmacy" means a pharmacy licensed and in good standing
92 under Chapter 17b, Pharmacy Practice Act, as either a [~~Class A Retail Pharmacy~~] class A retail
93 pharmacy or a [~~Class B Closed Door Pharmacy~~] class B closed-door pharmacy and licensed
94 under this chapter to fulfill prescriptions issued by an online prescriber through a specific
95 Internet facilitator.

96 ~~[(7)]~~ (12) "Online prescriber" means [a person: (a) licensed under another chapter of
97 this title; (b) whose license under another chapter of this title includes assessing, diagnosing,
98 and prescribing authority for humans; and (c)]:

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

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

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

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

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

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

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

109 (18) "Respective board":

110 (a) means, for a device, the licensing board in Title 58, Occupations and Professions,
111 for an online prescriber within whose scope of practice it is to prescribe the device; and

112 (b) includes:

113 (i) the Optometrist Licensing Board, created by Section [58-16a-201](#);

114 (ii) the Utah State Board of Pharmacy, created by Section [58-17b-201](#);

115 (iii) the Physicians Licensing Board, created by Section [58-67-201](#); and

116 (iv) the Osteopathic Physician and Surgeon's Licensing Board, created by Section
117 [58-68-201](#).

118 ~~[(8)]~~ (19) "Unlawful conduct" [~~is as~~] means the same as that term is defined in Sections

119 58-1-501 [~~and~~], 58-83-501, and 58-83-503.

120 [~~(9)~~] (20) "Unprofessional conduct" [~~is as defined in Sections 58-1-203 and 58-83-502,~~
121 ~~and as further defined by the division in accordance with Title 63G, Chapter 3, Utah~~
122 ~~Administrative Rulemaking Act]~~ means the same as that term is defined:

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

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

125 Section 2. Section **58-83-301** is amended to read:

126 **58-83-301. Licensure required -- Issuance of licenses.**

127 (1) [~~Beginning July 1, 2010, and except~~] Except as provided in Section 58-1-307:

128 (a) an optometrist licensed under Chapter 16A, Utah Optometry Practice Act, shall be
129 licensed under this chapter to engage in the delivery of online pharmaceutical services;

130 [~~(a)~~] (b) a physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter
131 68, Utah Osteopathic Medical Practice Act, shall be licensed under this chapter to engage in the
132 delivery of online pharmaceutical services;

133 [~~(b)~~] (c) an online contract pharmacy shall be licensed under this chapter to engage in
134 the delivery of online pharmaceutical services; and

135 [~~(c)~~] (d) an Internet facilitator shall be licensed under this chapter to engage in the
136 delivery of online pharmaceutical services.

137 (2) The division shall issue, to any person who qualifies under this chapter, a license:

138 (a) to prescribe online;

139 (b) to operate as an online contract pharmacy; or

140 (c) to operate as an Internet facilitator.

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

143 (b) Nothing in this chapter shall prohibit [~~a~~] an optometrist licensed under Chapter
144 16A, Utah Optometry Practice Act, or physician licensed under Chapter 67, Utah Medical
145 Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act, from electronic
146 prescribing or Internet prescribing as permitted by Chapter 16A, Utah Optometry Practice Act,
147 Chapter 67, Utah Medical Practice Act, [~~or~~] Chapter 68, Utah Osteopathic Medical Practice
148 Act, or other law.

149 Section 3. Section **58-83-302** is amended to read:

150 **58-83-302. Qualifications for licensure.**

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

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

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

154 (c) be of good moral character;

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

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

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

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

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

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

172 (i) describe how the online prescriber/patient relationship will be established and
173 maintained;

174 (j) submit the name, address, and contact person of the Internet facilitator with whom
175 the online prescriber has contracted to provide services that the online prescriber will use to
176 engage in online assessment, diagnosis, and prescribing; and

177 (k) submit documentation satisfactory to the board regarding public health, safety, and
178 welfare demonstrating:

179 (i) how the online prescriber will comply with the requirements of Section [58-83-305](#);

180 (ii) the contractual services arrangement between the online prescriber and:

- 181 (A) the Internet facilitator; and
- 182 (B) the online contract pharmacy; and
- 183 (iii) how the online prescriber will allow and facilitate the division's ability to conduct
- 184 audits in accordance with Section [58-83-308](#).
- 185 (2) An online prescriber may not use the services of an Internet facilitator or online
- 186 contract pharmacy whose license is not active and in good standing.
- 187 (3) Each applicant for licensure as an online contract pharmacy under this chapter
- 188 shall:
- 189 (a) be licensed in good standing [~~in Utah~~] under Chapter 17b, Pharmacy Practice Act,
- 190 as a [~~Class A Retail Pharmacy~~] class A retail pharmacy or a [~~Class B Closed Door Pharmacy~~]
- 191 class B closed-door pharmacy;
- 192 (b) submit a written application in the form prescribed by the division;
- 193 (c) pay a fee as determined by the department under Section [63J-1-504](#);
- 194 (d) submit any contract between the applicant and the Internet facilitator with which
- 195 the applicant is or will be affiliated;
- 196 (e) submit proof of liability insurance acceptable to the division that expressly covers
- 197 all activities the online contract pharmacy will engage in under this chapter, which coverage
- 198 shall be in a minimum amount of \$1,000,000 per occurrence with a policy limit of not less than
- 199 \$3,000,000;
- 200 (f) submit a signed affidavit to the division attesting that the online contract pharmacy
- 201 will not dispense a drug or device that is prescribed by an online prescriber engaged in the
- 202 delivery of online pharmaceutical services under the provisions of this chapter unless:
- 203 (i) the drug or device is specifically approved by the division under Section [58-83-306](#);
- 204 and
- 205 (ii) both the prescribing and the dispensing of the drug or device were facilitated by the
- 206 Internet facilitator with whom the Internet contract pharmacy is associated under Subsection
- 207 [58-83-302\(3\)\(d\)](#);
- 208 (g) document that any other professional license the applicant possesses from other
- 209 jurisdictions is active and in good standing; and
- 210 (h) demonstrate to the division that the applicant has satisfied any background check
- 211 required by Section [58-17b-307](#), and each owner, officer, or manager of the applicant online

212 contract pharmacy has not engaged in any act, practice, or omission, which when considered
213 with the duties and responsibilities of a licensee under this chapter indicates there is cause to
214 believe that issuing a license under this chapter is inconsistent with the public's health, safety,
215 or welfare.

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

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

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

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

221 (i) each online prescriber; and

222 (ii) the single online contract pharmacy;

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

224 (i) address patient privacy, including compliance with 45 C.F.R. Parts 160, 162, and
225 164, Health Insurance Portability and Accountability Act of 1996;

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

228 (iii) list the hours of operation;

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

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

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

233 (vii) establish quality oversight mechanisms;

234 (e) submit written documentation of the applicant's security measures to ensure the
235 confidentiality and integrity of any user-identifiable medical information;

236 (f) submit a description of the mechanism for:

237 (i) patients to access, supplement, and amend patient-provided personal health
238 information;

239 (ii) back-up regarding the Internet facilitator electronic interface;

240 (iii) the quality of information and services provided via the interface; and

241 (iv) patients to register complaints regarding the Internet facilitator, the online
242 prescriber, or the online contract pharmacy;

- 243 (g) submit a copy of the Internet facilitator's website;
- 244 (h) sign an affidavit attesting that:
- 245 (i) the applicant will not access any medical records or information contained in the
- 246 medical record except as necessary to administer the website and the branching questionnaire;
- 247 and
- 248 (ii) the applicant and its principals, and any entities affiliated with them, will only use
- 249 the services of a single online contract pharmacy named on the license approved by the
- 250 division; and

251 (i) submit any other information required by the division.

252 Section 4. Section **58-83-305** is amended to read:

253 **58-83-305. Duties and responsibilities.**

254 (1) The online prescriber shall:

255 (a) be held to the same standards of appropriate practice as those applicable in

256 traditional settings which, for purposes of this chapter, include the delivery of online

257 pharmaceutical services;

258 (b) conduct an assessment and diagnosis based upon a comprehensive health history

259 and an assessment tool such as a branching questionnaire;

260 (c) ensure that a comprehensive health history, assessment, and diagnosis have been

261 made before prescribing [~~any~~] a medication or device;

262 (d) conduct the online assessment and diagnosis only through the approved Internet

263 facilitator identified in the online prescriber's application;

264 (e) comply with all applicable state and federal laws, rules, regulations, and orders;

265 (f) inform the patient electronically of the benefits and risks of appropriate treatment;

266 (g) guide the patient regarding the optimal course of action;

267 (h) treat the patient with courtesy, respect, dignity, responsiveness, and timely attention

268 to the patient's needs;

269 (i) comply with the requirements for confidentiality as required by this title and

270 applicable federal law;

271 (j) continue to provide the user with reasonable assistance and sufficient opportunity to

272 make alternative arrangements for care;

273 (k) be available for ongoing consultation with the patient through e-mail or other forms

274 of communication;

275 (l) not delegate to a third party the professional responsibility to:

276 (i) review and evaluate the results of the branching questionnaire;

277 (ii) consult with the patient electronically or through other means about the patient's

278 medical condition; and

279 (iii) diagnose and prescribe [~~medications~~] a medication or device to the patient;

280 (m) conduct the online assessment and diagnosis and the electronic communication

281 between the online prescriber and the patient only through the approved Internet facilitator;

282 (n) (i) maintain the online medical records of the patient; and

283 (ii) if maintenance of the records is delegated by the online prescriber, delegate that

284 authority only to the approved Internet facilitator;

285 (o) inform a patient of the patient's freedom of choice to select the pharmacy to

286 dispense the patient's prescription by providing the patient with the phone number of the online

287 contract pharmacy so that the patient may contact the online contract pharmacy and request a

288 transfer of the prescription to another pharmacy; and

289 (p) authorize the Internet facilitator to provide the online contract pharmacy with the

290 patient's:

291 (i) full name;

292 (ii) current address and telephone number;

293 (iii) date of birth or age and gender;

294 (iv) height, weight, and vital signs (if known);

295 (v) medication allergies or drug reactions; and

296 (vi) current medications, including over-the-counter products, and any additional

297 comments relevant to the patient's drug or device use.

298 (2) The online contract pharmacy shall:

299 (a) only dispense a prescription [~~drugs~~] drug or device that:

300 (i) [~~are~~] is approved by the division in accordance with Section 58-83-306; and

301 (ii) [~~were~~] is prescribed by an online prescriber who is using the Internet facilitator that

302 is under contract with the online contract pharmacy;

303 (b) maintain a toll-free number with a pharmacist available for patients using the

304 services of the online contract pharmacy to receive [~~medications~~] a medication or device

305 prescribed online;

306 (c) use a tracking identification number system when shipping [~~medications~~] a
307 medication or device prescribed for [~~patients~~] a patient by an online prescriber; and

308 (d) provide to the division a quarterly report of all drugs and devices dispensed in
309 accordance with this chapter.

310 (3) The Internet facilitator shall:

311 (a) provide services that the online prescriber will use in implementing the branching
312 questionnaire or other assessment tool;

313 (b) provide electronic or telephonic communication between the online prescriber and
314 the patient that:

315 (i) is secure and confidential;

316 (ii) allows the online prescriber to be directly accessible to a patient to answer
317 questions regarding the patient's treatment plan; and

318 (iii) provides privacy and security that complies with the provisions of 45 C.F.R. Parts
319 160, 162, and 164, Health Insurance Portability and Accountability Act of 1996;

320 (c) facilitate secure and confidential communication of the prescription issued by the
321 online prescriber to the online contract pharmacy in accordance with Subsection (1)(p);

322 (d) disclose on its website:

323 (i) the owner of the website;

324 (ii) the specific services provided by any associated online prescribers; and

325 (iii) other information the division may require by rule; and

326 (e) (i) only facilitate the delivery of online pharmaceutical services for the specific
327 legend drugs or devices approved by the division in accordance with Section ~~58-83-306~~; or

328 (ii) not facilitate, directly or indirectly, through related entities or affiliates, the
329 dispensing or online prescribing of any drug [~~whether controlled or legend~~] or device that is not
330 specifically approved under Section ~~58-83-306~~.

331 Section 5. Section ~~58-83-306~~ is amended to read:

332 **58-83-306. Completion of branching questionnaire required for prescription --**

333 **Drugs and devices approved for online prescribing, dispensing, and facilitation --**

334 **Delivery of prescription drugs or devices -- Limit on contact lenses -- Health insurance**

335 **not required to cover online prescribing and dispensing.**

336 (1) An online prescriber may prescribe a device or a legend drug that is not a controlled
337 substance only if the patient has completed, and the online prescriber has evaluated, a
338 branching questionnaire or other assessment, diagnosis, and prescribing tool approved by the
339 division and described by Subsections 58-83-102(3)(a), 58-83(302)(1)(f), and 58-83-305(1)(b)
340 and (c).

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

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

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

347 (c) that ~~[are]~~ is, subject to Subsection (4), specifically approved by the division for
348 online prescribing by administrative rule adopted in accordance with Title 63G, Chapter 3,
349 Utah Administrative Rulemaking Act[;].

350 (3) An online prescriber may only prescribe, an online contract pharmacy may only
351 dispense, and an Internet facilitator may only facilitate the prescribing and dispensing of a
352 legend drug that is not a controlled substance:

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

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

355 (ii) at least 16 years of age:

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

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

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

360 ~~[(e)]~~ (b) to a person who is located in another country, if the country is designated by
361 the division, by administrative rule, as a country with a regulatory framework for prescribing
362 and dispensing of drugs.

363 (4) (a) The division may not approve a drug or device under Subsection (2)(c) for
364 online prescribing unless:

365 (i) for a device, the division has provided the respective boards with the opportunity for
366 input as to whether the device should be approved; and

367 (ii) the division determines that online prescribing of the drug or device does not
368 compromise the public's health, safety, or welfare.

369 (b) The division may approve a drug or device for online prescribing by an optometrist
370 only if an optometrist may prescribe the drug or device under Chapter 16a, Utah Optometry
371 Practice Act.

372 [~~(2)~~] (5) If [~~after January 1, 2010;~~] the Food and Drug Administration issues a clinical
373 black box warning with respect to any drug or device approved by the board under Subsection
374 (1), the division shall determine what action, if any, is necessary to protect the public health or
375 welfare as a result of the black box warning.

376 (6) An online prescriber may issue an online prescription for contact lenses only if:

377 (a) a branching questionnaire or other assessment, diagnosis, and prescribing tool has
378 been completed as required by Subsection (1);

379 (b) the patient provides the online prescriber with proof of an expired contact lens
380 prescription, as defined in Subsection 58-16a-102(3) and issued in accordance with 15 U.S.C.
381 Sec. 7604; and

382 (c) the prescription issued by the online prescriber is for one renewal of the expired
383 contact lens prescription.

384 (7) An online prescriber may issue an online prescription for a catheter intended for
385 insertion by the patient, or for a device used by the patient for the care or management of
386 diabetes, only if a branching questionnaire or other assessment, diagnosis, and prescribing tool
387 has been completed as required by Subsection (1).

388 (8) Nothing in this chapter requires health insurance, as defined in Section 31A-1-301,
389 to pay for the online prescribing, the online dispensing, or the facilitation of online prescribing
390 or online dispensing of a device, including contact lenses.

391 Section 6. Section **58-83-307** is amended to read:

392 **58-83-307. Approval of additional drugs or devices -- Request to facilitate.**

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

396 (2) The Internet facilitator shall make a request for approval of additional drugs or
397 devices by petitioning for an amendment to the administrative rule adopted by the division in

398 accordance with Section ~~58-83-306~~ and Title 63G, Chapter 3, Utah Administrative Rulemaking
399 Act.

400 Section 7. Section ~~58-83-308~~ is amended to read:

401 **~~58-83-308. Audits.~~**

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

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

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

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

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

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

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

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

419 (b) the number of comprehensive histories/assessments received by the Internet
420 facilitator;

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

423 (d) the demographic data of the patients receiving prescriptions through the Internet
424 facilitator;

425 (e) the number of prescriptions:

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

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

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

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

432 Section 8. Section **58-83-401** is amended to read:

433 **58-83-401. Grounds for denial of license -- Disciplinary proceedings --**
434 **Termination of authority to prescribe -- Immediate and significant danger.**

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

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

440 (b) includes:

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

443 (ii) any other violation of this chapter.

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

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

449 (b) It is possible that a particular action or inaction by the online prescriber, the Internet
450 facilitator, or the online contract pharmacy could have the effect of causing the other licensed
451 entities to be out of compliance with this chapter, and each entity may, therefore, be held
452 accountable for any related party's non-compliance, if the party knew or reasonably should
453 have known of the other person's non-compliance.

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

458 (b) It is not a defense to an alleged violation under this chapter that the alleged
459 violation was a result of an action or inaction not by the charged party but by the related online

460 prescriber, the online contract pharmacy, or the Internet facilitator.

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

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

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

468 (ii) a legend drug or device not authorized by the division in accordance with Section
469 58-83-306; and

470 (iii) any controlled substance;

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

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

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

478 (i) an audit of the website; or

479 (ii) records of the online prescriber, the Internet facilitator, or the online contract
480 pharmacy.

481 Section 9. Section 58-83-501 is amended to read:

482 **58-83-501. Practice without a license.**

483 [~~Unlawful conduct~~] Unlawful conduct includes, in addition to the definition in
484 Section 58-1-501, engaging in the practice of Internet prescribing without a license under this
485 chapter.

486 Section 10. Section 58-83-503 is amended to read:

487 **58-83-503. Unlawful conduct.**

488 Unlawful conduct includes, in addition to the definition in Section 58-1-501:

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

491

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