

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 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;
- ▶ requires the division to consider approving certain devices for online prescribing;
- ▶ specifies that health insurance is not required to pay for the online prescribing or dispensing of medical devices; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

- 27 [58-83-102](#), 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) (i) for a drug:

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

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

56 (ii) for a device:

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

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

63 (b) an Internet contract pharmacy to:

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

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

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

67 and (b).

68 (5) "Device":

69 (a) means an instrument, apparatus, implement, machine, contrivance, in vitro reagent,
70 or other similar or related article, including a component part or accessory, that:

71 (i) is recognized in the official National Formulary, or the United States
72 Pharmacopoeia, or any supplement to them;

73 (ii) is intended for use in the diagnosis of disease or other conditions, or in the cure,
74 mitigation, treatment, or prevention of disease, in humans; or

75 (iii) (A) is intended to affect the structure or any function of the human body;

76 (B) does not achieve any of its primary intended purposes through chemical action
77 within or on the human body; and

78 (C) is not dependent upon being metabolized for the achievement of any of its primary
79 intended purposes; and

80 (b) does not mean a device that:

81 (i) requires surgical implantation;

82 (ii) is a Class III medical device, as defined by the United States Food and Drug
83 Administration; or

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

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

86 [~~(4)~~] (7) "Division" means the Utah Division of Occupational and Professional
87 Licensing.

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

89 ~~[(5)]~~ (9) "Internet facilitator" means a licensed provider of a web-based system for
90 electronic communication between and among an online prescriber, the online prescriber's
91 patient, and the online contract pharmacy.

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

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

98 ~~[(7)]~~ (12) "Online prescriber" means ~~[a person: (a) licensed under another chapter of~~
99 ~~this title; (b) whose license under another chapter of this title includes assessing, diagnosing,~~
100 ~~and prescribing authority for humans; and (c)]~~ a physician licensed under Chapter 67, Utah
101 Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act, who has obtained
102 a license under [this chapter to engage in online prescribing.] Part 3, Licensing, to prescribe
103 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 Utah State Board of Pharmacy, created by Section 58-17b-201;

114 (ii) the Physicians Licensing Board, created by Section 58-67-201; and

115 (iii) the Osteopathic Physician and Surgeon's Licensing Board, created by Section
116 58-68-201.

117 ~~[(8)]~~ (19) "Unlawful conduct" ~~[is as]~~ means the same as that term is defined in Sections
118 58-1-501 [and], 58-83-501, and 58-83-503.

119 ~~[(9)] (20)~~ "Unprofessional conduct" ~~[is as defined in Sections 58-1-203 and 58-83-502,~~
 120 ~~and as further defined by the division in accordance with Title 63G, Chapter 3, Utah~~
 121 ~~Administrative Rulemaking Act]~~ means the same as that term is defined:

122 (a) in Sections [58-1-501](#), [58-1-203](#), and [58-83-502](#); and

123 (b) by rule made pursuant to Section [58-1-203](#) or [58-83-502](#).

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

125 **58-83-301. Licensure required -- Issuance of licenses.**

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

127 (a) a physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68,
 128 Utah Osteopathic Medical Practice Act, shall be licensed under this chapter to engage in the
 129 delivery of online pharmaceutical services;

130 (b) an online contract pharmacy shall be licensed under this chapter to engage in the
 131 delivery of online pharmaceutical services; and

132 (c) an Internet facilitator shall be licensed under this chapter to engage in the delivery
 133 of online pharmaceutical services.

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

135 (a) to prescribe online;

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

137 (c) to operate as an Internet facilitator.

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

140 (b) Nothing in this chapter shall prohibit a physician licensed under Chapter 67, Utah
 141 Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act, from electronic
 142 prescribing or Internet prescribing as permitted by Chapter 67, Utah Medical Practice Act, or
 143 Chapter 68, Utah Osteopathic Medical Practice Act, or other law.

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

145 **58-83-302. Qualifications for licensure.**

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

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

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

149 (c) be of good moral character;

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

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

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

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

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

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

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

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

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

174 (i) how the online prescriber will comply with the requirements of Section 58-83-305;

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

176 (A) the Internet facilitator; and

177 (B) the online contract pharmacy; and

178 (iii) how the online prescriber will allow and facilitate the division's ability to conduct
179 audits in accordance with Section 58-83-308.

180 (2) An online prescriber may not use the services of an Internet facilitator or online

181 contract pharmacy whose license is not active and in good standing.

182 (3) Each applicant for licensure as an online contract pharmacy under this chapter
183 shall:

184 (a) be licensed in good standing ~~[in Utah]~~ under Chapter 17b, Pharmacy Practice Act,
185 as a ~~[Class A Retail Pharmacy]~~ class A retail pharmacy or a ~~[Class B Closed Door Pharmacy]~~
186 class B closed-door pharmacy;

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

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

189 (d) submit any contract between the applicant and the Internet facilitator with which
190 the applicant is or will be affiliated;

191 (e) submit proof of liability insurance acceptable to the division that expressly covers
192 all activities the online contract pharmacy will engage in under this chapter, which coverage
193 shall be in a minimum amount of \$1,000,000 per occurrence with a policy limit of not less than
194 \$3,000,000;

195 (f) submit a signed affidavit to the division attesting that the online contract pharmacy
196 will not dispense a drug or device that is prescribed by an online prescriber engaged in the
197 delivery of online pharmaceutical services under the provisions of this chapter unless:

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

200 (ii) both the prescribing and the dispensing of the drug or device were facilitated by the
201 Internet facilitator with whom the Internet contract pharmacy is associated under Subsection
202 58-83-302(3)(d);

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

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

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

- 212 (a) submit a written application in the form prescribed by the division;
- 213 (b) pay a fee as determined by the department under Section 63J-1-504;
- 214 (c) submit any contract between the applicant and the following with which the
215 applicant will be affiliated:
 - 216 (i) each online prescriber; and
 - 217 (ii) the single online contract pharmacy;
- 218 (d) submit written policies and procedures satisfactory to the division that:
 - 219 (i) address patient privacy, including compliance with 45 C.F.R. Parts 160, 162, and
220 164, Health Insurance Portability and Accountability Act of 1996;
 - 221 (ii) ensure compliance with all applicable laws by health care personnel and the online
222 prescriber who will process patient communications;
 - 223 (iii) list the hours of operation;
 - 224 (iv) describe the types of services that will be permitted electronically;
 - 225 (v) describe the required patient information to be included in the communication, such
226 as patient name, identification number, and type of transaction;
 - 227 (vi) establish procedures for archiving and retrieving information; and
 - 228 (vii) establish quality oversight mechanisms;
- 229 (e) submit written documentation of the applicant's security measures to ensure the
230 confidentiality and integrity of any user-identifiable medical information;
- 231 (f) submit a description of the mechanism for:
 - 232 (i) patients to access, supplement, and amend patient-provided personal health
233 information;
 - 234 (ii) back-up regarding the Internet facilitator electronic interface;
 - 235 (iii) the quality of information and services provided via the interface; and
 - 236 (iv) patients to register complaints regarding the Internet facilitator, the online
237 prescriber, or the online contract pharmacy;
- 238 (g) submit a copy of the Internet facilitator's website;
- 239 (h) sign an affidavit attesting that:
 - 240 (i) the applicant will not access any medical records or information contained in the
241 medical record except as necessary to administer the website and the branching questionnaire;
242 and

243 (ii) the applicant and its principals, and any entities affiliated with them, will only use
244 the services of a single online contract pharmacy named on the license approved by the
245 division; and

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

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

248 **58-83-305. Duties and responsibilities.**

249 (1) The online prescriber shall:

250 (a) be held to the same standards of appropriate practice as those applicable in
251 traditional settings which, for purposes of this chapter, include the delivery of online
252 pharmaceutical services;

253 (b) conduct an assessment and diagnosis based upon a comprehensive health history
254 and an assessment tool such as a branching questionnaire;

255 (c) ensure that a comprehensive health history, assessment, and diagnosis have been
256 made before prescribing ~~any~~ a medication or device;

257 (d) conduct the online assessment and diagnosis only through the approved Internet
258 facilitator identified in the online prescriber's application;

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

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

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

262 (h) treat the patient with courtesy, respect, dignity, responsiveness, and timely attention
263 to the patient's needs;

264 (i) comply with the requirements for confidentiality as required by this title and
265 applicable federal law;

266 (j) continue to provide the user with reasonable assistance and sufficient opportunity to
267 make alternative arrangements for care;

268 (k) be available for ongoing consultation with the patient through e-mail or other forms
269 of communication;

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

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

272 (ii) consult with the patient electronically or through other means about the patient's
273 medical condition; and

- 274 (iii) diagnose and prescribe [~~medications~~] a medication or device to the patient;
- 275 (m) conduct the online assessment and diagnosis and the electronic communication
276 between the online prescriber and the patient only through the approved Internet facilitator;
- 277 (n) (i) maintain the online medical records of the patient; and
- 278 (ii) if maintenance of the records is delegated by the online prescriber, delegate that
279 authority only to the approved Internet facilitator;
- 280 (o) inform a patient of the patient's freedom of choice to select the pharmacy to
281 dispense the patient's prescription by providing the patient with the phone number of the online
282 contract pharmacy so that the patient may contact the online contract pharmacy and request a
283 transfer of the prescription to another pharmacy; and
- 284 (p) authorize the Internet facilitator to provide the online contract pharmacy with the
285 patient's:
- 286 (i) full name;
- 287 (ii) current address and telephone number;
- 288 (iii) date of birth or age and gender;
- 289 (iv) height, weight, and vital signs (if known);
- 290 (v) medication allergies or drug reactions; and
- 291 (vi) current medications, including over-the-counter products, and any additional
292 comments relevant to the patient's drug or device use.
- 293 (2) The online contract pharmacy shall:
- 294 (a) only dispense a prescription [~~drugs~~] drug or device that:
- 295 (i) [~~are~~] is approved by the division in accordance with Section 58-83-306; and
- 296 (ii) [~~were~~] is prescribed by an online prescriber who is using the Internet facilitator that
297 is under contract with the online contract pharmacy;
- 298 (b) maintain a toll-free number with a pharmacist available for patients using the
299 services of the online contract pharmacy to receive [~~medications~~] a medication or device
300 prescribed online;
- 301 (c) use a tracking identification number system when shipping [~~medications~~] a
302 medication or device prescribed for [~~patients~~] a patient by an online prescriber; and
- 303 (d) provide to the division a quarterly report of all drugs and devices dispensed in
304 accordance with this chapter.

305 (3) The Internet facilitator shall:

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

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

310 (i) is secure and confidential;

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

313 (iii) provides privacy and security that complies with the provisions of 45 C.F.R. Parts
314 160, 162, and 164, Health Insurance Portability and Accountability Act of 1996;

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

317 (d) disclose on its website:

318 (i) the owner of the website;

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

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

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

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

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

327 **58-83-306. Completion of branching questionnaire required for prescription --**

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

329 **Delivery of prescription drugs or devices -- Health insurance not required to cover online**
330 **prescribing and dispensing.**

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

336 ~~[(1)]~~ (2) An online prescriber may only prescribe, an online contract pharmacy may
337 only dispense, and an Internet facilitator may only facilitate the prescribing and dispensing of~~;~~
338 ~~non-controlled,~~ a device or a legend ~~[drugs]~~ drug that is not a controlled substance:

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

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

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

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

348 ~~[(1)]~~ (a) that ~~[are]~~ is prescribed for a person who is:

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

350 (ii) at least 16 years of age:

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

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

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

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

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

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

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

364 (b) The division shall consider approving under Subsection (2)(c) each of the following
365 devices for online prescribing:

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

- 367 (ii) a device that provides continuous positive airway pressure;
368 (iii) a device used by a patient for the care or management of diabetes; and
369 (iv) a hearing aid, as that term is defined in Section 58-41-17.

370 ~~[(2)]~~ (5) If ~~[, after January 1, 2010,]~~ the Food and Drug Administration issues a clinical
371 black box warning with respect to any drug or device approved by the board under Subsection
372 (1), the division shall determine what action, if any, is necessary to protect the public health or
373 welfare as a result of the black box warning.

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

378 (7) Nothing in this chapter requires health insurance, as defined in Section 31A-1-301,
379 to pay for the online prescribing, the online dispensing, or the facilitation of online prescribing
380 or online dispensing of a device.

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

382 **58-83-307. Approval of additional drugs or devices -- Request to facilitate.**

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

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

390 Section 7. Section **58-83-308** is amended to read:

391 **58-83-308. Audits.**

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

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

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

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

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

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

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

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

409 (b) the number of comprehensive histories/assessments received by the Internet
410 facilitator;

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

413 (d) the demographic data of the patients receiving prescriptions through the Internet
414 facilitator;

415 (e) the number of prescriptions:

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

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

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

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

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

423 **58-83-401. Grounds for denial of license -- Disciplinary proceedings --**

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

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

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

430 (b) includes:

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

433 (ii) any other violation of this chapter.

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

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

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

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

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

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

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

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

458 (ii) a legend drug or device not authorized by the division in accordance with Section
459 58-83-306; and

- 460 (iii) any controlled substance;
- 461 (b) violating this chapter after having been given reasonable opportunity to cure the
462 violation;
- 463 (c) using the name or official seal of the state, the Utah Department of Commerce, or
464 the Utah Division of Occupational and Professional Licensing, or their boards, in an
465 unauthorized manner; or
- 466 (d) failing to respond to a request from the division within the time frame requested
467 for:
 - 468 (i) an audit of the website; or
 - 469 (ii) records of the online prescriber, the Internet facilitator, or the online contract
470 pharmacy.

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

472 **58-83-501. Practice without a license.**

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

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

477 **58-83-503. Unlawful conduct.**

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

- 479 (1) online prescribing, dispensing₂, or facilitating of a legend drug or device not
480 authorized by the division in accordance with Section **58-83-306**; or
- 481 (2) online prescribing, dispensing₂, or facilitating of a controlled substance.