

Senator Evan J. Vickers proposes the following substitute bill:

PHARMACY PRACTICE ACT AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Suzanne Harrison

LONG TITLE

General Description:

This bill amends provisions relating to the practice of pharmacy.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ authorizes the dispensing of epinephrine auto-injectors and stock albuterol under certain circumstances;
- ▶ authorizes the dispensing of a quantity or dosage form different from a prescription in certain instances;
- ▶ amends provisions related to the dispensing of a substitute for albuterol;
- ▶ amends provisions relating to emergency refills;
- ▶ authorizes the dispensing of certain prescription medical devices without a prescription;
- ▶ authorizes ~~§~~ → [a physician] certain physicians ← ~~§~~ to issue a standing prescription drug order for an epinephrine auto-injector or stock albuterol in accordance with a protocol that meets certain requirements;
- ▶ exempts a physician from liability for civil damages for acts or omissions resulting from the dispensing of an epinephrine auto-injector or stock albuterol under the



119 (b) stock albuterol for use in accordance with this chapter.

120 [~~(2) A qualified adult may obtain from a physician, pharmacist, or any other person or~~
 121 ~~entity authorized to prescribe or dispense prescription drugs, a prescription for an epinephrine~~
 122 ~~auto-injector or stock albuterol.]~~

123 (2) (a) A qualified adult may obtain an epinephrine auto-injector for use in accordance
 124 with this chapter that is ~~§~~→ [dispersed] dispensed ←~~§~~ by:

125 (i) a pharmacist as provided under Section 58-17b-1004; or

126 (ii) a pharmacy intern as provided under Section 58-17b-1004.

127 (b) A qualified adult may obtain stock albuterol for use in accordance with this chapter
 128 that is ~~§~~→ [dispersed] dispensed ←~~§~~ by:

129 (i) a pharmacist as provided under Section 58-17b-1004; or

130 (ii) a pharmacy intern as provided under Section 58-17b-1004.

131 (3) A qualified adult:

132 (a) may immediately administer an epinephrine auto-injector to a person exhibiting
 133 potentially life-threatening symptoms of anaphylaxis when a physician is not immediately
 134 available; and

135 (b) shall initiate emergency medical services or other appropriate medical follow-up in
 136 accordance with the training materials retained under Section 26-41-104 after administering an
 137 epinephrine auto-injector.

138 (4) If a school nurse is not immediately available, a qualified adult:

139 (a) may immediately administer stock albuterol to an individual who:

140 (i) has a diagnosis of asthma by a health care provider;

141 (ii) has a current asthma action plan on file with the school; and

142 (iii) is showing symptoms of an asthma emergency as described in the student's asthma
 143 action plan; and

144 (b) shall initiate appropriate medical follow-up in accordance with the training
 145 materials retained under Section 26-41-104.1 after administering stock albuterol.

146 (5) (a) A qualified entity that complies with Subsection (5)(b) or (c), may obtain [~~from~~
 147 ~~a physician, pharmacist, or any other person authorized to prescribe or dispense prescription~~
 148 ~~drugs, a prescription for]~~ a supply of epinephrine auto-injectors or stock albuterol, respectively,
 149 from a pharmacist under Section 58-17b-1004, or a pharmacy intern under Section

150 58-17b-1004 for:

151 (i) storing:

152 (A) the epinephrine auto-injectors on the qualified epinephrine auto-injector entity's
153 premises; and

154 (B) stock albuterol on the qualified stock albuterol entity's premises; and

155 (ii) use by a qualified adult in accordance with Subsection (3) or (4).

156 (b) A qualified epinephrine auto-injector entity shall:

157 (i) designate an individual to complete an initial and annual refresher training program
158 regarding the proper storage and emergency use of an epinephrine auto-injector available to a
159 qualified adult; and

160 (ii) store epinephrine auto-injectors in accordance with the standards established by the
161 department in Section 26-41-107.

162 (c) A qualified stock albuterol entity shall:

163 (i) designate an individual to complete an initial and annual refresher training program
164 regarding the proper storage and emergency use of stock albuterol available to a qualified
165 adult; and

166 (ii) store stock albuterol in accordance with the standards established by the department
167 in Section 26-41-107.

168 Section 3. Section **58-17b-602.1** is enacted to read:

169 **58-17b-602.1. Dispensing quantity or dosage form different from prescription.**

170 (1) Without specific authorization from a prescriber, a pharmacist or pharmacy intern
171 may dispense:

172 (a) a prescription in a quantity different than the quantity prescribed if the prescribed
173 quantity or package size is not commercially available; and

174 (b) a prescription in a dosage form different than the dosage form prescribed ~~§~~ , ~~§~~ if in
174a the

175 professional judgement of the pharmacist or pharmacy intern ~~§~~ , ~~§~~ dispensing a different
175a dosage

176 form is in the best interest of the patient.

177 (2) This section does not apply if:

178 (a) the substitute would change the bioavailability of the medication;

179 (b) the substitute would change the treatment parameters; or

180 (c) the prescriber has written or clearly designated "dispense as written" on the

243 (iii) a nongeneric drug for another nongeneric drug; or

244 (iv) a nongeneric drug for a generic drug.

245 (b) A prescribing practitioner who makes a finding under Subsection (6)(a) for a
246 patient with a seizure disorder shall indicate a prohibition on substitution of a drug product
247 equivalent in the manner provided in Subsection (6)(a) or (b).

248 (c) Except as provided in Subsection (8)(d), a pharmacist or pharmacy intern who
249 cannot dispense the prescribed drug as written, and who needs to substitute a drug product
250 equivalent for the drug prescribed to the patient to treat or prevent seizures shall notify the
251 prescribing practitioner prior to the substitution.

252 (d) Notification under Subsection (8)(c) is not required if the drug product equivalent is
253 paid for in whole or in part by Medicaid.

254 (9) (a) The division shall designate by rule made in accordance with Title 63G, Chapter
255 3, Utah Administrative Rulemaking Act, and in consultation with the board, the Physicians
256 Licensing Board created in Section 58-67-201, and the Osteopathic Physician and Surgeon's
257 Licensing Board created in Section 58-68-201, appropriate substitutes for albuterol.

258 (b) Subsections (2)(b) and (4) do not apply to the substitution of a drug product
259 equivalent for albuterol.

260 [~~9~~] (10) Failure of a licensed medical practitioner to specify that no substitution is
261 authorized does not constitute evidence of negligence.

262 Section 5. Section ~~58-17b-608~~ is repealed and reenacted to read:

263 **58-17b-608. Emergency refills.**

264 (1) If a prescription may not ~~be~~ **refilled** ~~by~~ **a**
264a **pharmacist or pharmacy intern**
265 **may refill the prescription in an emergency without the prescribing practitioner's authorization**
266 **if:**

267 **(a) the prescription is for a drug that is not a controlled substance;**

268 **(b) the patient is currently using the drug prescribed;**

269 **(c) the prescribing practitioner is not available promptly to authorize the refill;**

270 **(d) the pharmacist or pharmacy intern, or another pharmacist or pharmacy ~~intern~~ **intern****
270a **at the**

271 **same pharmacy, has not previously dispensed a refill for the prescription under this section;**

272 **(e) refilling the prescription is in the interest of the patient's health;**

273 **(f) in the professional judgment of the pharmacist or pharmacy intern the prescription**

274 should be refilled;

275 (g) except as provided in Subsection (1)(h), the pharmacist or pharmacy intern
 276 dispenses the medication in accordance with the prescribing practitioner's instructions included
 277 with the prescription; and

278 (h) the pharmacist or pharmacy intern dispenses no more than the amount necessary to
 279 address the emergency.

280 (2) If the prescription for a drug dispensed under Subsection (1) is on file with the
 281 pharmacy where the drug is dispensed, the pharmacist or pharmacy intern may dispense more
 282 than a three-day supply only if:

283 (a) (i) the prescription has expired within the past 30 days; or

284 (ii) no refills are remaining on the prescription; and

285 (b) the amount dispensed does not exceed the lesser of:

286 (i) a 30-day supply; or

287 (ii) the quantity last dispensed at the pharmacy pursuant to the prescription as either a
 288 fill or a refill ~~§~~ → [;and] . ← ~~§~~

289 (3) A pharmacist or pharmacy intern who dispenses a prescription refill under this
 290 section shall inform the prescribing practitioner of the emergency refill as soon as practicable.

291 Section 6. Section **58-17b-610.8** is enacted to read:

292 **58-17b-610.8. Prescription devices.**

293 ~~§~~ → **(1) A pharmacist or pharmacy intern may prescribe and dispense a prescription device**
 294 **described in Subsection (2) to a patient if:**

295 ~~— (a) the patient has a current diagnosis, prescription, or treatment protocol from a~~
 296 ~~prescribing practitioner for which one or more of the devices described in Subsection (2) is~~
 297 ~~indicated; and~~

298 ~~— (b) the pharmacist or pharmacy intern acts in accordance with rules made by the~~
 299 ~~division under Subsection (3);~~

300 ~~— (2) This section applies to:~~

301 ~~— (a) nebulizers;~~

302 ~~— (b) spacers for use with nebulizers or inhalers; and~~

303 ~~— (c) diabetic testing supplies.~~

304 ~~— (3) The division shall make rules in accordance with Title 63G, Chapter 3, Utah]~~ ← ~~§~~

305 ~~H→ [Administrative Rulemaking Act, and in consultation with the board, the Physicians Licensing~~
306 ~~Board created in Section 58-67-201, and the Osteopathic Physician and Surgeon's Licensing~~
307 ~~Board created in Section 58-68-201, to implement this section.]~~

307a (1) Any of the following documents from a prescribing practitioner shall be considered
307b a prescription for purposes of the dispensing of and payment for a device described in
307c Subsection (3), if the device is prescribed or indicated by the document and the document is on
307d file with a pharmacy:

307e (a) a written prescription; or

307f (b) a written record of a patient's:

307g (i) current diagnosis; or

307h (ii) treatment protocol.

307i (2) A pharmacist or pharmacy intern at a pharmacy at which a document considered a
307j prescription in Subsection (1) is on file may dispense a prescription device described in
307k Subsection (3) to the patient in accordance with:

307l (a) the document; and

307m (b) rules made by the division under Subsection (4).

307n (3) This section applies to:

307o (a) nebulizers;

307p (b) spacers for use with nebulizers or inhalers; and

307q (c) diabetic testing supplies.

307r (4) The division shall make rules in accordance with Title 63G, Chapter 3, Utah

307s Administrative Rulemaking Act, and in consultation with the board, the Physicians Licensing

307t Board created in Section 58-67-201, and the Osteopathic Physician and Surgeon's Licensing

307u Board created in Section 58-68-201, to implement this section. ←H

308 Section 7. Section **58-17b-1001** is enacted to read:

309 **Part 10. Epinephrine Auto-Injector and Stock Albuterol Act**
310 **58-17b-1001. Title.**

311 This part is known as the "Epinephrine Auto-Injector and Stock Albuterol Act."

312 Section 8. Section **58-17b-1002** is enacted to read:

313 **58-17b-1002. Definitions.**

314 As used in this part:

315 (1) "Epinephrine auto-injector" means the same as that term is defined in Section
316 26-41-102.

317 (2) "Local health department" means the same as that term is defined in Section⊕

318 26A-1-102.

319 (3) "Physician" means the same as that term is defined in Section 58-10-102.

320 (4) "Qualified adult" means the same as that term is defined in Section 26-41-102.

321 (5) "Qualified epinephrine auto-injector entity" means the same as that term is defined
322 in Section 26-41-102.

323 (6) "Qualified stock albuterol entity" means the same as that term is defined in Section
324 26-41-102.

325 (7) "Stock albuterol" means the same as that term is defined in Section 26-41-102.

326 Section 9. Section **58-17b-1003** is enacted to read:

327 **58-17b-1003. Voluntary participation.**

328 This part does not create a duty or standard of care for a person to prescribe or dispense
329 an epinephrine auto-injector or stock albuterol.

330 Section 10. Section **58-17b-1004** is enacted to read:

331 **58-17b-1004. Authorization to dispense an epinephrine auto-injector and stock**
332 **albuterol pursuant to a standing order.**

333 (1) Notwithstanding any other provision of this chapter, a pharmacist or pharmacy
334 intern may dispense an epinephrine auto-injector:

335 (a) (i) to a qualified adult for use in accordance with Title 26, Chapter 41, Emergency

336 Response for Life-threatening Conditions; or

337 (ii) to a qualified epinephrine auto-injector entity for use in accordance with Title 26,

338 Chapter 41, Emergency Response for Life-threatening Conditions;

339 (b) pursuant to a standing prescription drug order made in accordance with Section

340 58-17b-1005;

341 (c) without any other prescription drug order from a person licensed to prescribe an

342 epinephrine auto-injector; and

343 (d) in accordance with the dispensing guidelines in Section 58-17b-1006.

344 (2) Notwithstanding any other provision of this chapter, a pharmacist or pharmacist

345 intern may dispense stock albuterol:

346 (a) (i) to a qualified adult for use in accordance with Title 26, Chapter 41, Emergency

347 Response for Life-threatening Conditions; or

348 (ii) to a qualified stock albuterol entity for use in accordance with Title 26, Chapter 41,

349 Emergency Response for Life-threatening Conditions;

350 (b) pursuant to a standing prescription drug order made in accordance with Section

351 58-17b-1005;

352 (c) without any other prescription drug order from a person licensed to prescribe stock

353 albuterol; and

354 (d) in accordance with the dispensing guidelines in Section 58-17b-1006.

355 Section 11. Section **58-17b-1005** is enacted to read:

356 **58-17b-1005. Standing prescription drug orders for epinephrine auto-injectors**
357 **and stock albuterol.**

358 (1) A physician acting in the physician's capacity as an employee of the Department of

359 Health or as a medical director of a local health department may issue a standing prescription

360 drug order authorizing the dispensing of ~~§~~ **→ [the] an ←** ~~§~~ epinephrine auto-injector under Section

361 58-17b-1004 in accordance with a protocol that:

362 (a) requires the physician to specify the persons, by professional license number,

363 authorized to dispense the epinephrine auto-injector;

364 (b) requires the physician to review at least annually the dispensing practices of those

365 authorized by the physician to dispense the epinephrine auto-injector;

366 (c) requires those authorized by the physician to dispense the epinephrine auto-injector

367 to make and retain a record of each dispensing, including:

368 (i) the name of the qualified adult ~~§~~ [;] ~~or~~ ~~←§~~ qualified epinephrine auto-injector entity

368a ~~§~~ ~~→~~ [~~;~~ ~~or~~

369 individual ~~18 years old or older~~] ~~←§~~ to whom the epinephrine auto-injector is dispensed;

370 (ii) a description of the epinephrine auto-injector dispensed; and

371 (iii) other relevant information; and

372 (d) is approved by the division by administrative rule made in accordance with Title
 373 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians
 374 Licensing Board created in Section 58-67-201 and the Board of Pharmacy.

375 (2) A physician acting in the physician's capacity as an employee of the Department of
 376 Health or as a medical director of a local health department may issue a standing prescription
 377 drug order authorizing the dispensing of the stock albuterol under Section 58-17b-1004 in
 378 accordance with a protocol that:

379 (a) requires the physician to specify the persons, by professional license number,
 380 authorized to dispense the stock albuterol;

381 (b) requires the physician to review at least annually the dispensing practices of those
 382 authorized by the physician to dispense the stock albuterol;

383 (c) requires those authorized by the physician to dispense the stock albuterol to make
 384 and retain a record of each dispensing, including:

385 (i) the name of the qualified adult ~~§~~ [;] ~~or~~ ~~←§~~ qualified stock albuterol entity ~~§~~ ~~→~~ [~~;~~ ~~or~~
 385a individual 18

386 years old or older] ~~←§~~ to whom the stock albuterol is dispensed;

387 (ii) a description of the stock albuterol dispensed; and

388 (iii) other relevant information; and

389 (d) is approved by the division by administrative rule made in accordance with Title
 390 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians
 391 Licensing Board created in Section 58-67-201 and the board.

392 Section 12. Section **58-17b-1006** is enacted to read:

393 **58-17b-1006. Guidelines for dispensing an epinephrine auto-injector and stock**
 394 **albuterol.**

395 (1) A pharmacist or pharmacy intern who dispenses an epinephrine auto-injector under
 396 this part shall, at a minimum, provide patient counseling to the qualified adult ~~§~~ [;] ~~or~~ ~~←§~~
 396a qualified

397 epinephrine auto-injector entity ~~§~~ ~~→~~ [~~;~~ ~~or~~ individual 18 years old or older] ~~←§~~ to whom the
 397a epinephrine

398 auto-injector is dispensed regarding:

399 (a) the appropriate administration and storage of the epinephrine auto-injector;

400 (b) potential side effects and risks of the epinephrine auto-injector; and

401 (c) when to seek emergency medical attention.

402 (2) A pharmacist or pharmacy intern who dispenses stock albuterol under this part

403 shall, at a minimum, provide patient counseling to the qualified adult ~~§~~ [;] or ~~←§~~ qualified stock

403a albuterol

404 entity ~~§~~ [; or individual 18 years old or older] ~~←§~~ to whom the stock albuterol is dispensed

404a regarding:

405 (a) the appropriate administration and storage of the stock albuterol;

406 (b) potential side effects and risks of the stock albuterol; and

407 (c) when to seek emergency medical attention.

408 Section 13. Section **58-17b-1007** is enacted to read:

409 **58-17b-1007. Limited civil liability.**

410 (1) A physician who issues a standing prescription drug order in accordance with

411 Subsection 58-17b-1005(1) is not liable for any civil damages for acts or omissions resulting

412 from the dispensing of an epinephrine auto-injector under this part.

413 (2) A physician who issues a standing prescription drug order in accordance with

414 Subsection 58-17b-1005(2) is not liable for any civil damages for acts or omissions resulting

415 from the dispensing of stock albuterol under this part.

416 Section 14. Section **58-37f-201** is amended to read:

417 **58-37f-201. Controlled substance database -- Creation -- Purpose.**

418 (1) There is created within the division a controlled substance database.

419 (2) The division shall administer and direct the functioning of the database in

420 accordance with this chapter.

421 (3) The division may, under state procurement laws, contract with another state agency

422 or a private entity to establish, operate, or maintain the database.

423 (4) The division shall, in collaboration with the board, determine whether to operate

424 the database within the division or contract with another entity to operate the database, based

425 on an analysis of costs and benefits.

426 (5) The purpose of the database is to contain:

427 (a) the data described in Section 58-37f-203 regarding [~~every prescription for a~~

428 ~~controlled substance dispensed in the state to any individual other than an inpatient in a~~