

1 **CHARITABLE PRESCRIPTION DRUG RECYCLING**
2 **PROGRAM**

3 2020 GENERAL SESSION

4 STATE OF UTAH

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

6 House Sponsor: Brad M. Daw

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Charitable Prescription Drug Recycling Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ expands eligibility for the Charitable Prescription Drug Recycling Program;
- 14 ▶ authorizes an individual to transfer certain unused prescription drugs to a
- 15 physician's office for donation to the program; and
- 16 ▶ amends rulemaking requirements for the program.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **58-17b-902**, as enacted by Laws of Utah 2016, Chapter 405

24 **58-17b-903**, as enacted by Laws of Utah 2016, Chapter 405

25 **58-17b-907**, as enacted by Laws of Utah 2016, Chapter 405

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



28 Section 1. Section **58-17b-902** is amended to read:

29 **58-17b-902. Definitions.**

30 As used in this part:

31 (1) "Assisted living facility" means the same as that term is defined in Section [26-21-2](#).

32 (2) "Cancer drug" means a drug that controls or kills neoplastic cells and includes a
33 drug used in chemotherapy to destroy cancer cells.

34 (3) "Charitable clinic" means a charitable nonprofit corporation that:

35 (a) holds a valid exemption from federal income taxation issued under Section 501(a),
36 Internal Revenue Code;

37 (b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue
38 Code;

39 (c) provides, on an outpatient basis, for a period of less than 24 consecutive hours, to
40 an individual not residing or confined at a facility owned or operated by the charitable
41 nonprofit corporation:

42 (i) advice;

43 (ii) counseling;

44 (iii) diagnosis;

45 (iv) treatment;

46 (v) surgery; or

47 (vi) care or services relating to the preservation or maintenance of health; and

48 (d) has a licensed outpatient pharmacy.

49 (4) "Charitable pharmacy" means an eligible pharmacy that is operated by a charitable
50 clinic.

51 (5) "County health department" means the same as that term is defined in Section
52 [26A-1-102](#).

53 (6) "Donated prescription drug" means a prescription drug that an eligible donor
54 donates to an eligible pharmacy under the program.

55 (7) "Eligible donor" means a donor that donates a prescription drug from within the
56 state and is:

57 (a) a nursing care facility;

58 (b) an assisted living facility;

59 (c) a licensed intermediate care facility for people with an intellectual disability;

60 (d) a manufacturer;

61 (e) a pharmaceutical wholesale distributor;

62 (f) an eligible pharmacy; or

63 (g) a physician's office.

64 (8) "Eligible pharmacy" means a pharmacy that:

65 (a) is registered by the division as eligible to participate in the program; and

65a **Ŝ→ (b) (i) is licensed in the state as a Class A retail pharmacy; or ←Ŝ**

66 **Ŝ→ [(b)] (ii) ←Ŝ** is operated by:

67 **Ŝ→ [(i)] (A) ←Ŝ** a county;

68 **Ŝ→ [(ii)] (B) ←Ŝ** a county health department;

69 **Ŝ→ [(iii)] (C) ←Ŝ** a pharmacy under contract with a county health department;

70 **Ŝ→ [(iv)] (D) ←Ŝ** the Department of Health, created in Section 26-1-4;

71 **Ŝ→ [(v)] (E) ←Ŝ** the Division of Substance Abuse and Mental Health, created in Section

72 62A-15-103; or

73 **Ŝ→ [(vi)] (F) ←Ŝ** a charitable clinic.

74 (9) "Eligible prescription drug" means a prescription drug, described in Section

75 58-17b-904, that is not:

76 (a) a controlled substance; or

77 (b) a drug that can only be dispensed to a patient registered with the drug's

78 manufacturer in accordance with federal Food and Drug Administration requirements.

79 (10) "Licensed intermediate care facility for people with an intellectual disability"

80 means the same as that term is defined in Section 58-17b-503.

81 (11) "Medically indigent individual" means an individual who:

82 (a) (i) does not have health insurance; and

83 (ii) lacks reasonable means to purchase prescribed medications; or

84 (b) (i) [~~is covered under Medicaid or Medicare~~] has health insurance; and

85 (ii) lacks reasonable means to pay the insured's portion of the cost of the prescribed

86 medications.

87 (12) "Nursing care facility" means the same as that term is defined in Section

88 26-18-501.

89 (13) "Physician's office" means a fixed medical facility that:

90 (a) is staffed by a physician, physician's assistant, nurse practitioner, or registered
91 nurse, licensed under Title 58, Occupations and Professions; and

92 (b) treats an individual who presents at, or is transported to, the facility.

93 (14) "Program" means the Charitable Prescription Drug Recycling Program created in
94 Section 58-17b-903.

95 (15) "Unit pack" means the same as that term is defined in Section 58-17b-503.

96 (16) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
97 and 58-17b-501.

98 (17) "Unprofessional conduct" means the same as that term is defined in Sections
99 58-1-501 and 58-17b-502.

100 Section 2. Section 58-17b-903 is amended to read:

101 **58-17b-903. Charitable Prescription Drug Recycling Program -- Creation --**

102 **Requirements.**

103 (1) There is created the Charitable Prescription Drug Recycling Program.

104 (2) The division, in consultation with the board, shall:

105 (a) implement the program, on a statewide basis, to permit:

106 (i) an eligible donor to transfer an eligible prescription drug to an eligible pharmacy for
107 dispensing to a medically indigent individual; and

108 (ii) an individual to transfer an eligible prescription drug to a physician's office:

109 (A) that is an eligible donor; and

110 (B) for transfer to an eligible pharmacy for dispensing to a medically indigent
111 individual;

112 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
113 make rules necessary to implement the program; and

114 (c) provide technical assistance to entities that desire to participate in the program.

115 Section 3. Section 58-17b-907 is amended to read:

116 **58-17b-907. Rules made by the division.**

117 The rules made by the division under Subsection 58-17b-903(2)(b) shall include:

118 (1) registration requirements to establish the eligibility of a pharmacy to participate in
119 the program;

120 (2) a formulary that includes all eligible prescription drugs approved by the federal

- 121 Food and Drug Administration;
- 122 (3) standards and procedures for:
- 123 (a) verifying whether a pharmacy or pharmacist participating in the program is licensed
124 and in good standing with the board;
- 125 (b) handling of ~~[a donated]~~ an eligible prescription drug transferred in accordance with
126 Subsection 58-17b-903(2) to an eligible pharmacy or a physician's office, including:
- 127 (i) acceptance;
- 128 (ii) identification, including redundant criteria for verification;
- 129 (iii) documentation, under 21 U.S.C. Sec. 360eee-1, of transaction information, history,
130 and statements;
- 131 (iv) safe storage;
- 132 (v) security;
- 133 (vi) inspection;
- 134 (vii) transfer; and
- 135 (viii) dispensing;
- 136 (c) a pharmacist or licensed pharmacy technician working in or consulting with a
137 participating eligible donor;
- 138 (d) disposition of a donated prescription drug that is a controlled substance;
- 139 (e) record keeping regarding:
- 140 (i) the eligible donor that donated each prescription drug;
- 141 (ii) an individual who transferred an eligible prescription drug to a physician's office
142 under Subsection 58-17b-903(2)(a)(ii);
- 143 ~~[(ii)]~~ (iii) the identification and evaluation of a donated prescription drug by a
144 pharmacist or licensed pharmacy technician; and
- 145 ~~[(iii)]~~ (iv) the dispensing or disposition of a prescription drug;
- 146 (f) determining the status of a medically indigent individual;
- 147 (g) labeling requirements to:
- 148 (i) ensure compliance with patient privacy laws relating to:
- 149 (A) an individual who receives an eligible prescription drug; and
- 150 (B) patient information that may appear on a donated prescription drug;
- 151 (ii) clearly identify an eligible prescription drug dispensed under the program; and

152 (iii) communicate necessary information regarding the manufacturer's recommended
153 expiration date or the beyond use date; and
154 (h) ensuring compliance with the requirements of this part;
155 (4) a process for seeking input from:
156 (a) the Department of Health, created in Section 26-1-4, to establish program standards
157 and procedures for assisted living facilities and nursing care facilities; and
158 (b) the Division of Substance Abuse and Mental Health, created in Section
159 62A-15-103, to establish program standards and procedures for mental health and substance
160 abuse clients; and
161 (5) the creation of a special training program that a pharmacist and a licensed pharmacy
162 technician at an eligible pharmacy must complete before participating in the program.