

Representative Raymond P. Ward proposes the following substitute bill:

MEDICATION DISPENSER AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Raymond P. Ward

Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill enacts provisions relating to the dispensing of drugs by a licensed prescriber.

Highlighted Provisions:

This bill:

- ▶ enacts requirements for licensure as a licensed dispensing practice;
- ▶ permits a prescriber who practices at a licensed dispensing practice to dispense certain drugs to the prescriber's patients;
- ▶ authorizes the division to perform administrative inspections of a licensed dispensing practice;
- ▶ requires the division to make certain rules regarding the operating standards of a licensed practice; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 58-17b-302, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

27 58-17b-309, as last amended by Laws of Utah 2016, Chapter 207

28 ENACTS:

29 58-88-201, Utah Code Annotated 1953

30 58-88-202, Utah Code Annotated 1953

31 58-88-203, Utah Code Annotated 1953

32 58-88-204, Utah Code Annotated 1953

33 58-88-205, Utah Code Annotated 1953



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

36 Section 1. Section 58-17b-302 is amended to read:

37 **58-17b-302. License required -- License classifications for pharmacy facilities.**

38 (1) A license is required to act as a pharmacy, except:

39 (a) as specifically exempted from licensure under Section 58-1-307; [~~and~~]

40 (b) for the operation of a medical cannabis pharmacy under Title 26, Chapter 61a, Utah

41 Medical Cannabis Act[-]; and

42 (c) to operate a licensed dispensing practice under Chapter 88, Part 2, Dispensing

43 Practice.

44 (2) The division shall issue a pharmacy license to a facility that qualifies under this
45 chapter in the classification of a:

46 (a) class A pharmacy;

47 (b) class B pharmacy;

48 (c) class C pharmacy;

49 (d) class D pharmacy;

50 (e) class E pharmacy; or

51 (f) dispensing medical practitioner clinic pharmacy.

52 (3) (a) Each place of business shall require a separate license.

53 (b) If multiple pharmacies exist at the same address, a separate license shall be required
54 for each pharmacy.

55 (4) (a) The division may further define or supplement the classifications of pharmacies.

56 (b) The division may impose restrictions upon classifications to protect the public

57 health, safety, and welfare.

58 (5) Each pharmacy shall have a pharmacist-in-charge, except as otherwise provided by
59 rule.

60 (6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy,
61 the pharmacist-in-charge and the owner of the pharmacy shall be responsible for all activities
62 of the pharmacy, regardless of the form of the business organization.

63 Section 2. Section **58-17b-309** is amended to read:

64 **58-17b-309. Exemptions from licensure.**

65 In addition to the exemptions from licensure in Section **58-1-307**, the following
66 individuals may engage in the acts or practices described in this section without being licensed
67 under this chapter:

68 (1) a person selling or providing contact lenses in accordance with Section **58-16a-801**;

69 (2) an animal shelter that:

70 (a) under the indirect supervision of a veterinarian, stores, handles, or administers a
71 drug used for euthanising an animal; and

72 (b) under the indirect supervision of a veterinarian who is under contract with the
73 animal shelter, stores, handles, or administers a rabies vaccine; [~~and~~]

74 (3) an overdose outreach provider, as defined in Section **26-55-102**, that obtains,
75 stores, or furnishes an opiate antagonist in accordance with Title 26, Chapter 55, Opiate
76 Overdose Response Act[-]; and

77 (4) a dispensing practitioner, as defined in Section **58-88-201**, dispensing a drug under
78 Chapter 88, Part 2, Dispensing Practice.

79 Section 3. Section **58-88-201** is enacted to read:

80 **CHAPTER 88. GENERAL HEALTH PROFESSIONS**

81 **Part 2. Dispensing Practice**

82 **58-88-201. Definitions.**

83 As used in this part:

84 (1) (a) "Dispense" means the delivery by a prescriber of a prescription drug or device to
85 a patient, including the packaging, labeling, and security necessary to prepare and safeguard the
86 drug or device for supplying to a patient.

87 (b) "Dispense" does not include:

- 88 (i) prescribing or administering a drug or device; or
- 89 (ii) delivering to a patient a sample packaged for individual use by a licensed
- 90 manufacturer or re-packager of a drug or device.
- 91 (2) "Dispensing practitioner" means an individual who:
- 92 (a) is currently licensed as:
- 93 (i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;
- 94 (ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical
- 95 Practice Act;
- 96 (iii) an advanced practice registered nurse under Subsection 58-31b-301(2)(d); or
- 97 (iv) a physician assistant under Chapter 70a, Utah Physician Assistant Act;
- 98 (b) is authorized by state law to prescribe and administer drugs in the course of
- 99 professional practice; and
- 100 (c) practices at a licensed dispensing practice.
- 101 (3) "Drug" means the same as that term is defined in Section 58-17b-102.
- 102 (4) "Health care practice" means:
- 103 (a) a health care facility as defined in Section 26-21-2; or
- 104 (b) the offices of one or more private prescribers, whether for individual or group
- 105 practice.
- 106 (5) "Licensed dispensing practice" means a health care practice that is licensed as a
- 107 dispensing practice under Section 58-88-202.
- 108 Section 4. Section 58-88-202 is enacted to read:
- 109 **58-88-202. Dispensing practice -- Drugs that may be dispensed -- Limitations and**
- 110 **exceptions.**
- 111 (1) Notwithstanding Section 58-17b-302, a dispensing practitioner may dispense a drug
- 112 at a licensed dispensing practice if the drug is:
- 113 (a) packaged in a fixed quantity per package by:
- 114 (i) the drug manufacturer;
- 115 (ii) a pharmaceutical wholesaler or distributor; or
- 116 (iii) a pharmacy licensed under Chapter 17b, Pharmacy Practice Act;
- 117 (b) dispensed:
- 118 (i) at a licensed dispensing practice at which the dispensing practitioner regularly

119 practices; and
120 (ii) under a prescription issued by the dispensing practitioner to the dispensing
121 practitioner's patient;
122 (c) for a condition that is not expected to last longer than 30 days; and
123 (d) for a condition for which the patient has been evaluated by the dispensing
124 practitioner on the same day on which the dispensing practitioner dispenses the drug.
125 (2) A dispensing practitioner may not dispense:
126 (a) a controlled substance as defined in Section [58-37-2](#);
127 (b) a drug or class of drugs that is designated by the division under Subsection
128 [58-88-205\(2\)](#);
129 (c) gabapentin; or
130 (d) a supply of a drug under this part that exceeds a 30-day supply.
131 (3) A dispensing practitioner may not make a claim against workers' compensation or
132 automobile insurance for a drug dispensed under this part for outpatient use unless the
133 dispensing practitioner is contracted with a pharmacy network established by the claim payor.
134 (4) When a dispensing practitioner dispenses a drug to the patient under this part, a
135 dispensing practitioner shall:
136 (a) disclose to the patient verbally and in writing that the patient is not required to fill
137 the prescription through the licensed dispensing practice and that the patient has a right to fill
138 the prescription through a pharmacy; and
139 (b) if the patient will be responsible to pay cash for the drug, disclose:
140 (i) that the patient will be responsible to pay cash for the drug; and
141 (ii) the amount that the patient will be charged by the licensed dispensing practice for
142 the drug.
143 (5) This part does not:
144 (a) require a dispensing practitioner to dispense a drug under this part;
145 (b) limit a health care prescriber from dispensing under Chapter 17b, Part 8,
146 Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy; or
147 (c) apply to a physician who dispenses:
148 (i) a drug sample, as defined in Section [58-17b-102](#), to a patient in accordance with
149 Section [58-1-501.3](#) or Section [58-17b-610](#);

150 (ii) a prescription drug or device to a patient for a patient's immediate need in an
151 emergency department in accordance with Section 58-17b-610.5; or

152 (iii) a drug in an emergency situation as defined by the division in rule under Chapter
153 17b, Pharmacy Practice Act.

154 Section 5. Section 58-88-203 is enacted to read:

155 **58-88-203. Application for licensure as a licensed dispensing practice --**

156 **Requirements -- Notification -- Dispensing.**

157 (1) An applicant for licensure as a dispensing practice shall:

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

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

160 (c) provide any additional information required by the division by rule.

161 (2) (a) A dispensing practice shall designate at least one responsible dispensing
162 practitioner who is responsible for all activities of the licensed dispensing practice related to
163 the dispensing of drugs under this part.

164 (b) A responsible dispensing practitioner for the licensed dispensing practice shall:

165 (i) be currently licensed ~~or registered, or otherwise authorized by state law~~ to
165a prescribe

166 and administer drugs in the course of professional practice;

167 (ii) practice at the licensed dispensing practice;

168 (iii) accept responsibility for the operation of the licensed dispensing practice related to
169 the dispensing of drugs under this part and in accordance with all laws and rules relating to the
170 dispensing of drugs at the licensed dispensing practice; and

171 (iv) be personally in full and actual charge of the operation of the licensed dispensing
172 practice related to the dispensing of drugs under this part.

173 (c) Whenever an applicable statute or rule requires or prohibits action by a licensed
174 dispensing practice, the responsible dispensing practitioner or practitioners and the owner of
175 the licensed dispensing practice shall be responsible for all activities of the licensed dispensing
176 practice, regardless of the form of the business or entity.

177 (3) (a) Each license issued under this section shall be issued for a single, specific
178 address, and is not transferable or assignable.

179 (b) Each license issued under this section shall be issued in accordance with a two-year
180 renewal cycle established by the division by rule.

181 (c) The division may extend or shorten a renewal period for a period of up to one year
 182 to maintain established renewal cycles or to change an established renewal cycle.

183 (d) Each license automatically expires on the expiration date shown on the license
 184 unless the license is renewed by the licensee in accordance with Section 58-1-308.

185 (4) (a) A licensed dispensing practice shall report in writing to the division not later
 186 than 10 business days before the date of:

187 (i) a permanent closure of the licensed dispensing practice;

188 (ii) a change of name or ownership of the licensed dispensing practice;

189 (iii) a change of location of the licensed dispensing practice; and

190 (iv) any matter or occurrence that the division requires by rule to be reported.

191 (b) As defined by the division by rule, a licensed dispensing practice shall report in
 192 writing to the division ~~§~~ :

192a (i) **theft of a drug, immediately after the licensed dispensing practice is aware that theft has**
 192b **occurred; and**

192c (ii) ~~§~~ a disaster, accident, or emergency that may affect the purity or labeling
 193 of a drug, medication, device, or other material used in the diagnosis or treatment of injury,
 194 illness, or disease immediately upon the occurrence of the disaster, accident, or emergency.

195 (c) A reporting licensed dispensing practice shall maintain a copy of any notification
 196 required by this Subsection (4) for two years and make a copy of the notification available to
 197 the division for inspection at the division's request.

198 Section 6. Section **58-88-204** is enacted to read:

199 **58-88-204. Administrative inspections of a dispensing practice -- Penalties.**

200 (1) The division shall conduct audits and inspections of licensed dispensing practices
 201 in accordance with standards established by the division by rule.

202 (2) Penalties for a violation of this part, including fines and citations, shall be issued by
 203 the division under:

204 (a) Section 58-1-502; and

205 (b) the dispensing practitioner's respective licensing chapter.

206 Section 7. Section **58-88-205** is enacted to read:

207 **58-88-205. Operating standards -- Rulemaking.**

208 (1) The division shall make rules in accordance with Title 63G, Chapter 3, Utah
 209 Administrative Rulemaking Act, regarding the operating standards for a licensed dispensing
 210 practice licensed under this part which shall include, but is not limited to, standards for:

211 (a) security;

212 (b) labeling;

213 (c) storage; ~~and~~

214 (d) supervision ;

214a **(e) inventory control; and**

214b **(f) patient counseling.**

215 (2) The division may designate individual medications and classes of medications that
216 may not be dispensed at a licensed dispensing practice under this chapter.

217 (3) When making rules under this part, the division shall consult with a group
218 consisting of:

219 (a) two members of the Physicians Licensing Board created in Section [58-67-201](#); and

220 (b) two members of the Utah State Board of Pharmacy created in Section [58-17b-201](#).