

**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

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**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 dispensing practice;
- ▶ permits a prescriber who practices at a licensed dispensing practice to dispense certain drugs to the prescriber's patients, if the drug is:
  - not a controlled substance;
  - pre-packaged by the drug's manufacturer, a wholesaler or distributor, or a pharmacy; and
  - is dispensed to the prescriber's patient at the dispensing practice;
- ▶ authorizes the division to perform administrative inspections of a dispensing practice;
- ▶ requires the division to make certain rules regarding the operating standards of a dispensing practice; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **58-17b-302**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

31 **58-17b-309**, as last amended by Laws of Utah 2016, Chapter 207

32 ENACTS:

33 **58-88-201**, Utah Code Annotated 1953

34 **58-88-202**, Utah Code Annotated 1953

35 **58-88-203**, Utah Code Annotated 1953

36 **58-88-204**, Utah Code Annotated 1953

37 **58-88-205**, Utah Code Annotated 1953



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

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

41 **58-17b-302. License required -- License classifications for pharmacy facilities.**

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

43 (a) as specifically exempted from licensure under Section **58-1-307**; ~~and~~

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

45 Medical Cannabis Act[-]; and

46 (c) to operate a dispensing practice under Chapter 88, Part 2, Dispensing Practice.

47 (2) The division shall issue a pharmacy license to a facility that qualifies under this

48 chapter in the classification of a:

49 (a) class A pharmacy;

50 (b) class B pharmacy;

51 (c) class C pharmacy;

52 (d) class D pharmacy;

53 (e) class E pharmacy; or

54 (f) dispensing medical practitioner clinic pharmacy.

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

56 (b) If multiple pharmacies exist at the same address, a separate license shall be required

57 for each pharmacy.

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

59 (b) The division may impose restrictions upon classifications to protect the public  
60 health, safety, and welfare.

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

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

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

67 **58-17b-309. Exemptions from licensure.**

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

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

72 (2) an animal shelter that:

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

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

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

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

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

83 **CHAPTER 88. GENERAL HEALTH PROFESSIONS**

84 **Part 2. Dispensing Practice**

85 **58-88-201. Definitions.**

86 As used in this part:

87 (1) (a) "Dispense" means the delivery by a prescriber of a prescription drug or device to

88 a patient, including the packaging, labeling, and security necessary to prepare and safeguard the  
89 drug or device for supplying to a patient.

90 (b) "Dispense" does not include:

91 (i) prescribing or administering a drug or device; or

92 (ii) delivering to a patient a sample packaged for individual use by a licensed  
93 manufacturer or re-packager of a drug or device.

94 (2) "Dispensing practitioner" means an individual who:

95 (a) is currently licensed as:

96 (i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

97 (ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical  
98 Practice Act;

99 (iii) an advanced practice registered nurse under Subsection [58-31b-301\(2\)\(d\)](#); or

100 (iv) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

101 (b) is authorized by state law to prescribe and administer drugs in the course of  
102 professional practice; and

103 (c) practices at a licensed dispensing practice.

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

105 (4) "Health care practice" means:

106 (a) a health care facility as defined in Section [26-21-2](#); or

107 (b) the offices of one or more private prescribers, whether for individual or group  
108 practice.

109 (5) "Licensed dispensing practice" means a health care practice that is licensed as a  
110 dispensing practice under Section [58-88-202](#).

111 Section 4. Section **58-88-202** is enacted to read:

112 **58-88-202. Dispensing practice -- Drugs that may be dispensed -- Limitations and**  
113 **exceptions.**

114 (1) Notwithstanding Section [58-17b-302](#), a dispensing practitioner may dispense a drug  
115 at a licensed dispensing practice if the drug is:

116 (a) not a controlled substance;

117 (b) packaged in a fixed quantity per package by:

118 (i) the drug manufacturer;

- 119 (ii) a pharmaceutical wholesaler or distributor; or
- 120 (iii) a pharmacy licensed under Chapter 17b, Pharmacy Practice Act; and
- 121 (c) dispensed:
- 122 (i) at a dispensing practice at which the dispensing practitioner regularly practices; and
- 123 (ii) under a prescription issued by the dispensing practitioner to the dispensing
- 124 practitioner's patient.

125 (2) A dispensing practitioner may not dispense a supply of a drug under this part that  
 126 exceeds a 30-day supply.

127 (3) A dispensing practitioner may not make a claim against workers' compensation or  
 128 automobile insurance for a drug dispensed under this part for outpatient use unless the  
 129 dispensing practitioner is contracted with a pharmacy network established by the claim payor.

130 (4) This part does not:

131 (a) require a dispensing practitioner to dispense a drug under this part;

132 (b) limit a health care prescriber from dispensing under Chapter 17b, Part 8,  
 133 Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy; or

134 (c) apply to a physician who dispenses:

135 (i) a drug sample, as defined in Section 58-17b-102, to a patient in accordance with  
 136 Section 58-1-501.3 or Section 58-17b-610;

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

139 (iii) a drug in an emergency situation as defined by the division in rule under Chapter  
 140 17b, Pharmacy Practice Act.

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

142 **58-88-203. Application for licensure as a dispensing practice -- Requirements --**

143 **Notification -- Dispensing.**

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

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

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

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

148 (2) A dispensing practice shall designate a contact dispensing practitioner who is

149 responsible for all activities of the dispensing practice related to the dispensing of drugs under

150 this part.

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

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

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

157 (d) Each license automatically expires on the expiration date shown on the license  
158 unless the license is renewed by the licensee in accordance with Section [58-1-308](#).

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

161 (i) a permanent closure of the dispensing practice;

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

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

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

165 (b) As defined by the division by rule, a dispensing practice shall report in writing to  
166 the division a disaster, accident, or emergency that may affect the purity or labeling of a drug,  
167 medication, device, or other material used in the diagnosis or treatment of injury, illness, or  
168 disease immediately upon the occurrence of the disaster, accident, or emergency.

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

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

173 **58-88-204. Administrative inspections of a dispensing practice -- Penalties.**

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

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

178 (a) Section [58-1-502](#); and

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

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

181 **58-88-205. Operating standards -- Rulemaking.**

182 (1) The division shall make rules in accordance with Title 63G, Chapter 3, Utah  
183 Administrative Rulemaking Act, regarding the operating standards for a dispensing practice  
184 licensed under this part.

185 (2) When making rules under this part, the division shall consult with a group  
186 consisting of:

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

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