LEGISLATIVE GENERAL COUNSEL
₵ Approved for Filing: D.M. Cheung ₵
₵ 02-21-22 5:36 PM ₵

PHARMACY PRACTICE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: _____

LONG TITLE

General Description:

This bill amends the Pharmacy Practice Act **Ŝ→ [~~and the Insurance Code~~] ←Ŝ** .

Highlighted Provisions:

This bill:

Ŝ→ [~~► prohibits an insurer or pharmacy benefit manager from asking a pharmacy or insured to disclose how a drug was paid for except to ensure compliance with state or federal law;~~] ←Ŝ

- ► amends provisions related to the accepting back and redistributing of an unused drug;
- ► amends the definition of "interchangeable biological drug product";
- ► requires the Division of Occupational and Professional Licensing to designate by rule therapeutically appropriate substitutes for insulin;
- ► amends refill provisions for insulin;
- ► amends provisions related to the dispensing of diabetes supplies;
- ► amends provisions related to the dispensing of prescription drugs by a hospital pharmacy;
- ► authorizes the dispensing of a drug to treat a sexually transmitted disease by a physician treating a patient at a state or local health department clinic; and
- ► makes technical changes.

Money Appropriated in this Bill:

S.B. 236

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-17b-502, as last amended by Laws of Utah 2020, Chapter 25

58-17b-503, as last amended by Laws of Utah 2016, Chapter 405

58-17b-605.5, as last amended by Laws of Utah 2015, Chapter 266

58-17b-608.2, as enacted by Laws of Utah 2020, Chapter 310

58-17b-610.6, as enacted by Laws of Utah 2017, Chapter 44

58-17b-610.8, as enacted by Laws of Utah 2020, Chapter 372

58-17b-803, as last amended by Laws of Utah 2015, Chapter 206

Ŝ→ [~~ENACTS:~~

~~31A-22-657~~, Utah Code Annotated 1953] ←Ŝ

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

Ŝ→ [Section 1. Section **31A-22-657 is enacted to read:**

~~31A-22-657.~~ Method of payment for drugs may not be requested.

~~Except to ensure compliance with state or federal law, neither an insurer nor a pharmacy benefit manager as defined in Section 31A-46-102 may ask a pharmacy or an enrollee of the insurer to disclose how a drug purchased from the pharmacy by the enrollee was paid for, including whether payment was received from one or more persons other than the enrollee.~~] ←Ŝ

Section 2. Section **58-17b-502** is amended to read:

58-17b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

(b) except as provided in Subsection (2):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals;

(c) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(d) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases;

(e) except as provided in Section 58-17b-503 Ŝ→ **[~~or Part 9, Charitable Prescription Drug Recycling Act~~]** ←Ŝ , accepting back and redistributing any unused drug, or a part of it, after it has left the premises of [~~any~~] a pharmacy Ŝ→ **[~~, unless the drug is in a unit pack, as defined in Section 58-17b-503, or the manufacturer's sealed container, as defined in rule~~]** ←Ŝ ;

(f) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person's professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

(g) violating:

(i) the federal Controlled Substances Act, Title II, P.L. 91-513;

(ii) Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) rules or regulations adopted under either act;

(h) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

(i) administering:

(i) without appropriate training, as defined by rule;

(ii) without a physician's order, when one is required by law; and

(iii) in conflict with a practitioner's written guidelines or written protocol for administering;

(j) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or other applicable law;

(k) engaging in the practice of pharmacy without a licensed pharmacist designated as

an intermediate care facility for people with an intellectual disability that is licensed as a nursing care facility or a small health care facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(b) "Nursing care facility" means the same as that term is defined in Section 26-21-2.

(c) "Unit pack" means a tamper-resistant nonreusable single-dose single-drug package with identification that indicates the lot number and expiration date for the drug.

(2) A pharmacist may Ŝ→ **accept and redistribute an unused drug, or part of it, after it has left the premises of the pharmacy** ←Ŝ :

(a) Ŝ→ **[~~accept and redistribute an unused drug under~~]** **in accordance with** ←Ŝ Part 9, Charitable Prescription Drug Recycling Act; Ŝ→ **[~~or~~]** ←Ŝ

(b) Ŝ→ **[~~accept back and redistribute any unused drug, or a part of it, after it has left the premises of the pharmacy~~]** ←Ŝ if:

(i) the drug was prescribed to a patient in a nursing care facility, licensed intermediate care facility for people with an intellectual disability, or state prison facility, county jail, or state hospital;

(ii) the drug was stored under the supervision of a licensed health care provider according to manufacturer recommendations;

(iii) the drug is in a unit pack or in the manufacturer's sealed container;

(iv) the drug was returned to the original dispensing pharmacy;

(v) the drug was initially dispensed by a licensed pharmacist or licensed pharmacy intern; and

(vi) accepting back and redistributing of the drug complies with federal Food and Drug Administration and Drug Enforcement Administration regulations Ŝ→ **[~~.~~]** **;** ←Ŝ

Ŝ→ **[~~(3) A pharmacist may accept back and redistribute any unused drug, or a part of it, after it has left the premises of the pharmacy~~]**

(c) ←Ŝ if:

Ŝ→ **[~~(a)~~]** **(i)** ←Ŝ the pharmacy has attempted to deliver the drug to a patient or a patient's agent via the United States Postal Service, a licensed common carrier, or supportive personnel;

Ŝ→ **[~~(b)~~]** **(ii)** ←Ŝ the drug is returned to the pharmacy by the same person or carrier that attempted to deliver the drug; and

Ŝ→ **[~~(c)~~]** **(iii)** ←Ŝ in accordance with United States Food and Drug Administration regulations and rules established by the division, a pharmacist at the pharmacy determines that the drug has not been adversely affected by the drug's attempted delivery and return.