ONLINE PRESCRIBING, DISPENSING, AND FACILITATION LICENSING ACT REPEALER

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:
This bill repeals the Online Prescribing, Dispensing, and Facilitation Licensing Act.

Highlighted Provisions:
This bill:
- repeals Title 58, Chapter 83, Online Prescribing, Dispensing, and Facilitation Licensing Act; and
- makes conforming changes.

Money Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:
AMENDS:
26-60-103, as last amended by Laws of Utah 2021, Chapter 64

REPEALS:
58-83-101, as enacted by Laws of Utah 2010, Chapter 180
58-83-102, as last amended by Laws of Utah 2022, Chapter 415
58-83-201, as enacted by Laws of Utah 2010, Chapter 180
58-83-301, as last amended by Laws of Utah 2022, Chapter 274
58-83-302, as last amended by Laws of Utah 2022, Chapter 415
Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-60-103 is amended to read:

26-60-103. Scope of telehealth practice.

(1) A provider offering telehealth services shall:

(a) at all times:

(i) act within the scope of the provider's license under Title 58, Occupations and Professions, in accordance with the provisions of this chapter and all other applicable laws and rules; and

(ii) be held to the same standards of practice as those applicable in traditional health care settings;

(b) if the provider does not already have a provider-patient relationship with the patient, establish a provider-patient relationship during the patient encounter in a manner consistent with the standards of practice, determined by the Division of Professional Licensing in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including providing the provider's licensure and credentials to the patient;

(c) before providing treatment or prescribing a prescription drug, establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment after:
(i) obtaining from the patient or another provider the patient's relevant clinical history;
and
(ii) documenting the patient's relevant clinical history and current symptoms;
(d) be available to a patient who receives telehealth services from the provider for
subsequent care related to the initial telemedicine services, in accordance with community
standards of practice;
(e) be familiar with available medical resources, including emergency resources near
the originating site, in order to make appropriate patient referrals when medically indicated;
(f) in accordance with any applicable state and federal laws, rules, and regulations,
generate, maintain, and make available to each patient receiving telehealth services the patient's
medical records; and
(g) if the patient has a designated health care provider who is not the telemedicine
provider:
(i) consult with the patient regarding whether to provide the patient's designated health
care provider a medical record or other report containing an explanation of the treatment
provided to the patient and the telemedicine provider's evaluation, analysis, or diagnosis of the
patient's condition;
(ii) collect from the patient the contact information of the patient's designated health
care provider; and
(iii) within two weeks after the day on which the telemedicine provider provides
services to the patient, and to the extent allowed under HIPAA as that term is defined in
Section 26-18-17, provide the medical record or report to the patient's designated health care
provider, unless the patient indicates that the patient does not want the telemedicine provider to
send the medical record or report to the patient's designated health care provider.
(2) Subsection (1)(g) does not apply to prescriptions for eyeglasses or contacts.
(3) [Except as specifically provided in Title 58, Chapter 83, Online Prescribing,
Dispensing, and Facilitation Licensing Act, and unless a provider has established a
A provider offering telemedicine services may not diagnose a patient, provide treatment, or prescribe a prescription drug based solely on one of the following:

(a) an online questionnaire;
(b) an email message; or
(c) a patient-generated medical history.

(4) A provider may not offer telehealth services if:
(a) the provider is not in compliance with applicable laws, rules, and regulations regarding the provider's licensed practice; or
(b) the provider's license under Title 58, Occupations and Professions, is not active and in good standing.

Section 2. **Repealer.**

This bill repeals:

Section 58-83-101, Title.
Section 58-83-102, Definitions.
Section 58-83-201, Board.

Section 58-83-301, Licensure required -- Issuance of licenses.
Section 58-83-302, Qualifications for licensure.
Section 58-83-303, Term of license -- Expiration -- Renewal.
Section 58-83-305, Duties and responsibilities.
Section 58-83-306, Drugs approved for online prescribing, dispensing, and facilitation -- Delivery of prescription drugs.

Section 58-83-307, Approval of additional drugs -- Request to facilitate.
Section 58-83-308, Audits.
Section 58-83-401, Grounds for denial of license -- Disciplinary proceedings -- Termination of authority to prescribe -- Immediate and significant danger.

Section 58-83-501, Practice without a license.
Section 58-83-502, Unprofessional conduct.

Section 58-83-503, Unlawful conduct.