

1 **ONLINE PRESCRIBING, DISPENSING, AND**
2 **FACILITATION LICENSING ACT REPEALER**

3 2023 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: James A. Dunnigan**

6 Senate Sponsor: Curtis S. Bramble

8 **LONG TITLE**

9 **General Description:**

10 This bill repeals the Online Prescribing, Dispensing, and Facilitation Licensing Act.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ repeals Title 58, Chapter 83, Online Prescribing, Dispensing, and Facilitation

14 Licensing Act; and

15 ▶ makes conforming changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **26-60-103**, as last amended by Laws of Utah 2021, Chapter 64

23 REPEALS:

24 **58-83-101**, as enacted by Laws of Utah 2010, Chapter 180

25 **58-83-102**, as last amended by Laws of Utah 2022, Chapter 415

26 **58-83-201**, as enacted by Laws of Utah 2010, Chapter 180

27 **58-83-301**, as last amended by Laws of Utah 2022, Chapter 274

28 **58-83-302**, as last amended by Laws of Utah 2022, Chapter 415

- 29 **58-83-303**, as enacted by Laws of Utah 2010, Chapter 180
 - 30 **58-83-305**, as enacted by Laws of Utah 2010, Chapter 180
 - 31 **58-83-306**, as last amended by Laws of Utah 2015, Chapter 321
 - 32 **58-83-307**, as enacted by Laws of Utah 2010, Chapter 180
 - 33 **58-83-308**, as enacted by Laws of Utah 2010, Chapter 180
 - 34 **58-83-401**, as last amended by Laws of Utah 2022, Chapter 415
 - 35 **58-83-501**, as enacted by Laws of Utah 2010, Chapter 180
 - 36 **58-83-502**, as last amended by Laws of Utah 2022, Chapter 415
 - 37 **58-83-503**, as enacted by Laws of Utah 2010, Chapter 180
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39 *Be it enacted by the Legislature of the state of Utah:*

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

41 **26-60-103. Scope of telehealth practice.**

42 (1) A provider offering telehealth services shall:

43 (a) at all times:

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

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

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

54 (c) before providing treatment or prescribing a prescription drug, establish a diagnosis
55 and identify underlying conditions and contraindications to a recommended treatment after:

56 (i) obtaining from the patient or another provider the patient's relevant clinical history;
57 and

58 (ii) documenting the patient's relevant clinical history and current symptoms;

59 (d) be available to a patient who receives telehealth services from the provider for
60 subsequent care related to the initial telemedicine services, in accordance with community
61 standards of practice;

62 (e) be familiar with available medical resources, including emergency resources near
63 the originating site, in order to make appropriate patient referrals when medically indicated;

64 (f) in accordance with any applicable state and federal laws, rules, and regulations,
65 generate, maintain, and make available to each patient receiving telehealth services the patient's
66 medical records; and

67 (g) if the patient has a designated health care provider who is not the telemedicine
68 provider:

69 (i) consult with the patient regarding whether to provide the patient's designated health
70 care provider a medical record or other report containing an explanation of the treatment
71 provided to the patient and the telemedicine provider's evaluation, analysis, or diagnosis of the
72 patient's condition;

73 (ii) collect from the patient the contact information of the patient's designated health
74 care provider; and

75 (iii) within two weeks after the day on which the telemedicine provider provides
76 services to the patient, and to the extent allowed under HIPAA as that term is defined in
77 Section 26-18-17, provide the medical record or report to the patient's designated health care
78 provider, unless the patient indicates that the patient does not want the telemedicine provider to
79 send the medical record or report to the patient's designated health care provider.

80 (2) Subsection (1)(g) does not apply to prescriptions for eyeglasses or contacts.

81 (3) ~~[Except as specifically provided in Title 58, Chapter 83, Online Prescribing,~~
82 ~~Dispensing, and Facilitation Licensing Act, and unless a provider has established a~~

83 ~~provider-patient relationship with a patient, a]~~ A provider offering telemedicine services may
84 not diagnose a patient, provide treatment, or prescribe a prescription drug based solely on one
85 of the following:

- 86 (a) an online questionnaire;
- 87 (b) an email message; or
- 88 (c) a patient-generated medical history.
- 89 (4) A provider may not offer telehealth services if:
 - 90 (a) the provider is not in compliance with applicable laws, rules, and regulations
 - 91 regarding the provider's licensed practice; or
 - 92 (b) the provider's license under Title 58, Occupations and Professions, is not active and
 - 93 in good standing.

94 Section 2. **Repealer.**

95 This bill repeals:

96 Section **58-83-101**, **Title.**

97 Section **58-83-102**, **Definitions.**

98 Section **58-83-201**, **Board.**

99 Section **58-83-301**, **Licensure required -- Issuance of licenses.**

100 Section **58-83-302**, **Qualifications for licensure.**

101 Section **58-83-303**, **Term of license -- Expiration -- Renewal.**

102 Section **58-83-305**, **Duties and responsibilities.**

103 Section **58-83-306**, **Drugs approved for online prescribing, dispensing, and**
104 **facilitation -- Delivery of prescription drugs.**

105 Section **58-83-307**, **Approval of additional drugs -- Request to facilitate.**

106 Section **58-83-308**, **Audits.**

107 Section **58-83-401**, **Grounds for denial of license -- Disciplinary proceedings --**
108 **Termination of authority to prescribe -- Immediate and significant danger.**

109 Section **58-83-501**, **Practice without a license.**

- 110 Section **58-83-502**, **Unprofessional conduct.**
- 111 Section **58-83-503**, **Unlawful conduct.**