

1 **PHARMACY PRACTICE MODIFICATIONS**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Norman K. Thurston**

5 Senate Sponsor: Curtis S. Bramble

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Pharmacy Practice Act.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ amends the definition of the practice of pharmacy to include issuing a prescription
13 for certain prescription drugs and devices;

14 ▶ defines the types of prescription drugs and devices that may be prescribed by a
15 pharmacist; and

16 ▶ authorizes the Division of Occupational and Professional Licensing to make rules to
17 implement the provisions of this bill.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **58-17b-102**, as last amended by Laws of Utah 2019, Chapter 343

25 ENACTS:

26 **58-17b-627**, Utah Code Annotated 1953

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

29 Section 1. Section **58-17b-102** is amended to read:

30 **58-17b-102. Definitions.**

31 In addition to the definitions in Section 58-1-102, as used in this chapter:

32 (1) "Administering" means:

33 (a) the direct application of a prescription drug or device, whether by injection,
34 inhalation, ingestion, or by any other means, to the body of a human patient or research subject
35 by another person; or

36 (b) the placement by a veterinarian with the owner or caretaker of an animal or group
37 of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other
38 means directed to the body of the animal by the owner or caretaker in accordance with written
39 or verbal directions of the veterinarian.

40 (2) "Adulterated drug or device" means a drug or device considered adulterated under
41 21 U.S.C. Sec. 351 (2003).

42 (3) (a) "Analytical laboratory" means a facility in possession of prescription drugs for
43 the purpose of analysis.

44 (b) "Analytical laboratory" does not include a laboratory possessing prescription drugs
45 used as standards and controls in performing drug monitoring or drug screening analysis if the
46 prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid
47 components, organic solvents, or inorganic buffers at a concentration not exceeding one
48 milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic
49 use.

50 (4) "Animal euthanasia agency" means an agency performing euthanasia on animals by
51 the use of prescription drugs.

52 (5) "Automated pharmacy systems" includes mechanical systems which perform
53 operations or activities, other than compounding or administration, relative to the storage,
54 packaging, dispensing, or distribution of medications, and which collect, control, and maintain
55 all transaction information.

56 (6) "Beyond use date" means the date determined by a pharmacist and placed on a
57 prescription label at the time of dispensing that indicates to the patient or caregiver a time

58 beyond which the contents of the prescription are not recommended to be used.

59 (7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created
60 in Section [58-17b-201](#).

61 (8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically
62 underserved area, used for the storage and dispensing of prescription drugs, which is dependent
63 upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and
64 approved by the division as the parent pharmacy.

65 (9) "Centralized prescription processing" means the processing by a pharmacy of a
66 request from another pharmacy to fill or refill a prescription drug order or to perform
67 processing functions such as dispensing, drug utilization review, claims adjudication, refill
68 authorizations, and therapeutic interventions.

69 (10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a
70 retail pharmacy to compound or dispense a drug or dispense a device to the public under a
71 prescription order.

72 (11) "Class B pharmacy":

73 (a) means a pharmacy located in Utah:

74 (i) that is authorized to provide pharmaceutical care for patients in an institutional
75 setting; and

76 (ii) whose primary purpose is to provide a physical environment for patients to obtain
77 health care services; and

78 (b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

79 (ii) pharmaceutical administration and sterile product preparation facilities.

80 (12) "Class C pharmacy" means a pharmacy that engages in the manufacture,
81 production, wholesale, or distribution of drugs or devices in Utah.

82 (13) "Class D pharmacy" means a nonresident pharmacy.

83 (14) "Class E pharmacy" means all other pharmacies.

84 (15) (a) "Closed-door pharmacy" means a pharmacy that:

85 (i) provides pharmaceutical care to a defined and exclusive group of patients who have

86 access to the services of the pharmacy because they are treated by or have an affiliation with a
87 specific entity, including a health maintenance organization or an infusion company; or

88 (ii) engages exclusively in the practice of telepharmacy and does not serve walk-in
89 retail customers.

90 (b) "Closed-door pharmacy" does not include a hospital pharmacy, a retailer of goods
91 to the general public, or the office of a practitioner.

92 (16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or
93 more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or
94 more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical
95 care functions authorized by the practitioner or practitioners under certain specified conditions
96 or limitations.

97 (17) "Collaborative pharmacy practice agreement" means a written and signed
98 agreement between one or more pharmacists and one or more practitioners that provides for
99 collaborative pharmacy practice for the purpose of drug therapy management of patients and
100 prevention of disease of human subjects.

101 (18) (a) "Compounding" means the preparation, mixing, assembling, packaging, or
102 labeling of a limited quantity drug, sterile product, or device:

103 (i) as the result of a practitioner's prescription order or initiative based on the
104 practitioner, patient, or pharmacist relationship in the course of professional practice;

105 (ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and
106 not for sale or dispensing; or

107 (iii) in anticipation of prescription drug orders based on routine, regularly observed
108 prescribing patterns.

109 (b) "Compounding" does not include:

110 (i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to
111 another pharmacist or pharmaceutical facility;

112 (ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a
113 dosage form which is regularly and commonly available from a manufacturer in quantities and

114 strengths prescribed by a practitioner; or

115 (iii) the preparation of a prescription drug, sterile product, or device which has been
116 withdrawn from the market for safety reasons.

117 (19) "Confidential information" has the same meaning as "protected health
118 information" under the Standards for Privacy of Individually Identifiable Health Information,
119 45 C.F.R. Parts 160 and 164.

120 (20) "Controlled substance" means the same as that term is defined in Section 58-37-2.

121 (21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter
122 417, Sec. 3a(ff) which is incorporated by reference.

123 (22) "Dispense" means the interpretation, evaluation, and implementation of a
124 prescription drug order or device or nonprescription drug or device under a lawful order of a
125 practitioner in a suitable container appropriately labeled for subsequent administration to or use
126 by a patient, research subject, or an animal.

127 (23) "Dispensing medical practitioner" means an individual who is:

128 (a) currently licensed as:

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

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

132 (iii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

133 (iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

134 (v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist
135 is acting within the scope of practice for an optometrist; and

136 (b) licensed by the division under the Pharmacy Practice Act to engage in the practice
137 of a dispensing medical practitioner.

138 (24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy
139 located within a licensed dispensing medical practitioner's place of practice.

140 (25) "Distribute" means to deliver a drug or device other than by administering or
141 dispensing.

142 (26) (a) "Drug" means:

143 (i) a substance recognized in the official United States Pharmacopoeia, official
144 Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any
145 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or
146 prevention of disease in humans or animals;

147 (ii) a substance that is required by any applicable federal or state law or rule to be
148 dispensed by prescription only or is restricted to administration by practitioners only;

149 (iii) a substance other than food intended to affect the structure or any function of the
150 body of humans or other animals; and

151 (iv) substances intended for use as a component of any substance specified in
152 Subsections (26)(a)(i), (ii), (iii), and (iv).

153 (b) "Drug" does not include dietary supplements.

154 (27) "Drug regimen review" includes the following activities:

155 (a) evaluation of the prescription drug order and patient record for:

156 (i) known allergies;

157 (ii) rational therapy-contraindications;

158 (iii) reasonable dose and route of administration; and

159 (iv) reasonable directions for use;

160 (b) evaluation of the prescription drug order and patient record for duplication of
161 therapy;

162 (c) evaluation of the prescription drug order and patient record for the following
163 interactions:

164 (i) drug-drug;

165 (ii) drug-food;

166 (iii) drug-disease; and

167 (iv) adverse drug reactions; and

168 (d) evaluation of the prescription drug order and patient record for proper utilization,
169 including over- or under-utilization, and optimum therapeutic outcomes.

170 (28) "Drug sample" means a prescription drug packaged in small quantities consistent
171 with limited dosage therapy of the particular drug, which is marked "sample", is not intended to
172 be sold, and is intended to be provided to practitioners for the immediate needs of patients for
173 trial purposes or to provide the drug to the patient until a prescription can be filled by the
174 patient.

175 (29) "Electronic signature" means a trusted, verifiable, and secure electronic sound,
176 symbol, or process attached to or logically associated with a record and executed or adopted by
177 a person with the intent to sign the record.

178 (30) "Electronic transmission" means transmission of information in electronic form or
179 the transmission of the exact visual image of a document by way of electronic equipment.

180 (31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to
181 inpatients of a general acute hospital or specialty hospital licensed by the Department of Health
182 under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

183 (32) "Legend drug" has the same meaning as prescription drug.

184 (33) "Licensed pharmacy technician" means an individual licensed with the division,
185 that may, under the supervision of a pharmacist, perform the activities involved in the
186 technician practice of pharmacy.

187 (34) "Manufacturer" means a person or business physically located in Utah licensed to
188 be engaged in the manufacturing of drugs or devices.

189 (35) (a) "Manufacturing" means:

190 (i) the production, preparation, propagation, conversion, or processing of a drug or
191 device, either directly or indirectly, by extraction from substances of natural origin or
192 independently by means of chemical or biological synthesis, or by a combination of extraction
193 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling
194 or relabeling of its container; and

195 (ii) the promotion and marketing of such drugs or devices.

196 (b) "Manufacturing" includes the preparation and promotion of commercially available
197 products from bulk compounds for resale by pharmacies, practitioners, or other persons.

198 (c) "Manufacturing" does not include the preparation or compounding of a drug by a
199 pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation,
200 compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical
201 analysis.

202 (36) "Medical order" means a lawful order of a practitioner which may include a
203 prescription drug order.

204 (37) "Medication profile" or "profile" means a record system maintained as to drugs or
205 devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze
206 the profile to provide pharmaceutical care.

207 (38) "Misbranded drug or device" means a drug or device considered misbranded under
208 21 U.S.C. Sec. 352 (2003).

209 (39) (a) "Nonprescription drug" means a drug which:

210 (i) may be sold without a prescription; and

211 (ii) is labeled for use by the consumer in accordance with federal law.

212 (b) "Nonprescription drug" includes homeopathic remedies.

213 (40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a
214 person in Utah.

215 (41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.

216 (42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located
217 outside the state that is licensed and in good standing in another state, that:

218 (a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in
219 this state pursuant to a lawfully issued prescription;

220 (b) provides information to a patient in this state on drugs or devices which may
221 include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses;
222 or

223 (c) counsels pharmacy patients residing in this state concerning adverse and therapeutic
224 effects of drugs.

225 (43) "Patient counseling" means the written and oral communication by the pharmacist

226 or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of
227 drugs, devices, and dietary supplements.

228 (44) "Pharmaceutical administration facility" means a facility, agency, or institution in
229 which:

230 (a) prescription drugs or devices are held, stored, or are otherwise under the control of
231 the facility or agency for administration to patients of that facility or agency;

232 (b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist
233 or pharmacy intern with whom the facility has established a prescription drug supervising
234 relationship under which the pharmacist or pharmacy intern provides counseling to the facility
235 or agency staff as required, and oversees drug control, accounting, and destruction; and

236 (c) prescription drugs are professionally administered in accordance with the order of a
237 practitioner by an employee or agent of the facility or agency.

238 (45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a
239 prescribing practitioner, and in accordance with division rule:

240 (i) designing, implementing, and monitoring a therapeutic drug plan intended to
241 achieve favorable outcomes related to a specific patient for the purpose of curing or preventing
242 the patient's disease;

243 (ii) eliminating or reducing a patient's symptoms; or

244 (iii) arresting or slowing a disease process.

245 (b) "Pharmaceutical care" does not include prescribing of drugs without consent of a
246 prescribing practitioner.

247 (46) "Pharmaceutical facility" means a business engaged in the dispensing, delivering,
248 distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this
249 state.

250 (47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility
251 engaged in the business of wholesale vending or selling of a prescription drug or device to
252 other than a consumer or user of the prescription drug or device that the pharmaceutical facility
253 has not produced, manufactured, compounded, or dispensed.

254 (b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical
255 facility carrying out the following business activities:

256 (i) intracompany sales;

257 (ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,
258 purchase, or trade a prescription drug or device, if the activity is carried out between one or
259 more of the following entities under common ownership or common administrative control, as
260 defined by division rule:

261 (A) hospitals;

262 (B) pharmacies;

263 (C) chain pharmacy warehouses, as defined by division rule; or

264 (D) other health care entities, as defined by division rule;

265 (iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,
266 purchase, or trade a prescription drug or device, for emergency medical reasons, including
267 supplying another pharmaceutical facility with a limited quantity of a drug, if:

268 (A) the facility is unable to obtain the drug through a normal distribution channel in
269 sufficient time to eliminate the risk of harm to a patient that would result from a delay in
270 obtaining the drug; and

271 (B) the quantity of the drug does not exceed an amount reasonably required for
272 immediate dispensing to eliminate the risk of harm;

273 (iv) the distribution of a prescription drug or device as a sample by representatives of a
274 manufacturer; and

275 (v) the distribution of prescription drugs, if:

276 (A) the facility's total distribution-related sales of prescription drugs does not exceed
277 5% of the facility's total prescription drug sales; and

278 (B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

279 (48) "Pharmacist" means an individual licensed by this state to engage in the practice
280 of pharmacy.

281 (49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing

282 who accepts responsibility for the operation of a pharmacy in conformance with all laws and
283 rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally
284 in full and actual charge of the pharmacy and all personnel.

285 (50) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or
286 more years of licensed experience. The preceptor serves as a teacher, example of professional
287 conduct, and supervisor of interns in the professional practice of pharmacy.

288 (51) "Pharmacy" means any place where:

289 (a) drugs are dispensed;

290 (b) pharmaceutical care is provided;

291 (c) drugs are processed or handled for eventual use by a patient; or

292 (d) drugs are used for the purpose of analysis or research.

293 (52) "Pharmacy benefits manager or coordinator" means a person or entity that
294 provides a pharmacy benefits management service as defined in Section [49-20-502](#) on behalf of
295 a self-insured employer, insurance company, health maintenance organization, or other plan
296 sponsor, as defined by rule.

297 (53) "Pharmacy intern" means an individual licensed by this state to engage in practice
298 as a pharmacy intern.

299 (54) "Pharmacy technician training program" means an approved technician training
300 program providing education for pharmacy technicians.

301 (55) (a) "Practice as a dispensing medical practitioner" means the practice of pharmacy,
302 specifically relating to the dispensing of a prescription drug in accordance with Part 8,
303 Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and
304 division rule adopted after consultation with the Board of pharmacy and the governing boards
305 of the practitioners described in Subsection (23)(a).

306 (b) "Practice as a dispensing medical practitioner" does not include:

307 (i) using a vending type of dispenser as defined by the division by administrative rule;

308 or

309 (ii) except as permitted by Section [58-17b-805](#), dispensing of a controlled substance as

310 defined in Section 58-37-2.

311 (56) "Practice as a licensed pharmacy technician" means engaging in practice as a
312 pharmacy technician under the general supervision of a licensed pharmacist and in accordance
313 with a scope of practice defined by division rule made in collaboration with the board.

314 (57) "Practice of pharmacy" includes the following:

315 (a) providing pharmaceutical care;

316 (b) collaborative pharmacy practice in accordance with a collaborative pharmacy
317 practice agreement;

318 (c) compounding, packaging, labeling, dispensing, administering, and the coincident
319 distribution of prescription drugs or devices, provided that the administration of a prescription
320 drug or device is:

321 (i) pursuant to a lawful order of a practitioner when one is required by law; and

322 (ii) in accordance with written guidelines or protocols:

323 (A) established by the licensed facility in which the prescription drug or device is to be
324 administered on an inpatient basis; or

325 (B) approved by the division, in collaboration with the board and the Physicians
326 Licensing Board, created in Section 58-67-201, if the prescription drug or device is to be
327 administered on an outpatient basis solely by a licensed pharmacist;

328 (d) participating in drug utilization review;

329 (e) ensuring proper and safe storage of drugs and devices;

330 (f) maintaining records of drugs and devices in accordance with state and federal law
331 and the standards and ethics of the profession;

332 (g) providing information on drugs or devices, which may include advice relating to
333 therapeutic values, potential hazards, and uses;

334 (h) providing drug product equivalents;

335 (i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy
336 technicians;

337 (j) providing patient counseling, including adverse and therapeutic effects of drugs;

- 338 (k) providing emergency refills as defined by rule;
- 339 (l) telepharmacy;
- 340 (m) formulary management intervention; [~~and~~]
- 341 (n) prescribing and dispensing a self-administered hormonal contraceptive in
342 accordance with Title 26, Chapter 64, Family Planning Access Act[-]; and
- 343 (o) issuing a prescription in accordance with Section [58-17b-627](#).
- 344 (58) "Practice of telepharmacy" means the practice of pharmacy through the use of
345 telecommunications and information technologies.
- 346 (59) "Practice of telepharmacy across state lines" means the practice of pharmacy
347 through the use of telecommunications and information technologies that occurs when the
348 patient is physically located within one jurisdiction and the pharmacist is located in another
349 jurisdiction.
- 350 (60) "Practitioner" means an individual currently licensed, registered, or otherwise
351 authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of
352 professional practice.
- 353 (61) "Prescribe" means to issue a prescription:
 - 354 (a) orally or in writing; or
 - 355 (b) by telephone, facsimile transmission, computer, or other electronic means of
356 communication as defined by division rule.
- 357 (62) "Prescription" means an order issued:
 - 358 (a) by a licensed practitioner in the course of that practitioner's professional practice or
359 by collaborative pharmacy practice agreement; and
 - 360 (b) for a controlled substance or other prescription drug or device for use by a patient
361 or an animal.
- 362 (63) "Prescription device" means an instrument, apparatus, implement, machine,
363 contrivance, implant, in vitro reagent, or other similar or related article, and any component
364 part or accessory, which is required under federal or state law to be prescribed by a practitioner
365 and dispensed by or through a person or entity licensed under this chapter or exempt from

366 licensure under this chapter.

367 (64) "Prescription drug" means a drug that is required by federal or state law or rule to
368 be dispensed only by prescription or is restricted to administration only by practitioners.

369 (65) "Repackage":

370 (a) means changing the container, wrapper, or labeling to further the distribution of a
371 prescription drug; and

372 (b) does not include:

373 (i) Subsection (65)(a) when completed by the pharmacist responsible for dispensing the
374 product to a patient; or

375 (ii) changing or altering a label as necessary for a dispensing practitioner under Part 8,
376 Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, for
377 dispensing a product to a patient.

378 (66) "Research using pharmaceuticals" means research:

379 (a) conducted in a research facility, as defined by division rule, that is associated with a
380 university or college in the state accredited by the Northwest Commission on Colleges and
381 Universities;

382 (b) requiring the use of a controlled substance, prescription drug, or prescription
383 device;

384 (c) that uses the controlled substance, prescription drug, or prescription device in
385 accordance with standard research protocols and techniques, including, if required, those
386 approved by an institutional review committee; and

387 (d) that includes any documentation required for the conduct of the research and the
388 handling of the controlled substance, prescription drug, or prescription device.

389 (67) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs
390 and devices to the general public.

391 (68) (a) "Self-administered hormonal contraceptive" means a self-administered
392 hormonal contraceptive that is approved by the United States Food and Drug Administration to
393 prevent pregnancy.

394 (b) "Self-administered hormonal contraceptive" includes an oral hormonal
395 contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

396 (c) "Self-administered hormonal contraceptive" does not include any drug intended to
397 induce an abortion, as that term is defined in Section 76-7-301.

398 (69) "Self-audit" means an internal evaluation of a pharmacy to determine compliance
399 with this chapter.

400 (70) "Supervising pharmacist" means a pharmacist who is overseeing the operation of
401 the pharmacy during a given day or shift.

402 (71) "Supportive personnel" means unlicensed individuals who:

403 (a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed
404 pharmacy technician in nonjudgmental duties not included in the definition of the practice of
405 pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as
406 those duties may be further defined by division rule adopted in collaboration with the board;
407 and

408 (b) are supervised by a pharmacist in accordance with rules adopted by the division in
409 collaboration with the board.

410 (72) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
411 and 58-17b-501.

412 (73) "Unprofessional conduct" means the same as that term is defined in Sections
413 58-1-501 and 58-17b-502 and may be further defined by rule.

414 (74) "Veterinary pharmaceutical facility" means a pharmaceutical facility that
415 dispenses drugs intended for use by animals or for sale to veterinarians for the administration
416 for animals.

417 Section 2. Section 58-17b-627 is enacted to read:

418 **58-17b-627. Prescription of drugs or devices by a pharmacist.**

419 (1) Beginning January 1, 2022, a pharmacist may prescribe a prescription drug or
420 device if:

421 (a) prescribing the prescription drug or device is within the scope of the pharmacist's

422 training and experience;

423 (b) the prescription drug or device is designated by the division by rule under
424 Subsection (3)(a); and

425 (c) the prescription drug or device is not a controlled substance that is included in
426 Schedules I, II, III, or IV of:

427 (i) Section 58-37-4; or

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

429 (2) Nothing in this section requires a pharmacist to issue a prescription for a
430 prescription drug or device.

431 (3) The division shall make rules in accordance with Title 63G, Chapter 3, Utah
432 Administrative Rulemaking Act, to:

433 (a) designate the prescription drugs or devices that may be prescribed by a pharmacist
434 under this section, beginning with prescription drugs or devices that address a public health
435 concern that is designated by the Department of Health, including:

436 (i) post-exposure HIV prophylaxis;

437 (ii) pre-exposure HIV prophylaxis;

438 (iii) self-administered hormonal contraceptives;

439 (iv) smoking cessation; and

440 (v) naloxone;

441 (b) create guidelines that a pharmacist must follow when prescribing a prescription
442 drug or device, including guidelines:

443 (i) for notifying the patient's primary care or other health care provider about the
444 prescription; and

445 (ii) to prevent the over-prescription of drugs or devices including but not limited to
446 antibiotics;

447 (c) address when a pharmacist should refer the patient to an appropriate health care
448 provider or otherwise encourage the patient to seek further medical care; and

449 (d) implement the provisions of this section.

450 (4) The division shall make rules under Subsection (3) in collaboration with:
451 (a) individuals representing pharmacies and pharmacists;
452 (b) individuals representing physicians and advanced practice clinicians; and
453 (c) (i) if the executive director of the Department of Health is a physician, the
454 executive director of the Department of Health;
455 (ii) if the executive director of the Department of Health is not a physician, a deputy
456 director who is a physician in accordance with Subsection [26-1-9\(4\)](#); or
457 (iii) a designee of the individual described in Subsection (4)(c)(i) or (ii).
458 (5) Before November 1 of each year, the division, in consultation with the individuals
459 described in Subsection (4), shall:
460 (a) develop recommendations for statutory changes to improve patient access to
461 prescribed drugs in the state; and
462 (b) report the recommendations developed under Subsection (5)(a) to the Health and
463 Human Services Interim Committee.