

1 **CHARITABLE PRESCRIPTION DRUG RECYCLING**
2 **PROGRAM AMENDMENTS**

3 2021 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Evan J. Vickers**

6 House Sponsor: _____

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Charitable Prescription Drug Recycling Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ allows an individual to transfer prescription drugs to an eligible pharmacy or an
14 eligible physician's office;
15 ▶ removes the requirement that only state residents receive donated drugs; and
16 ▶ requires that a medically indigent individual be located in the state when the drug is
17 dispensed.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **58-17b-902**, as last amended by Laws of Utah 2020, Chapter 384

25 **58-17b-903**, as last amended by Laws of Utah 2020, Chapter 384

26 **58-17b-905**, as enacted by Laws of Utah 2016, Chapter 405

27 **58-17b-907**, as last amended by Laws of Utah 2020, Chapter 384



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

Section 1. Section **58-17b-902** is amended to read:

58-17b-902. Definitions.

As used in this part:

(1) "Assisted living facility" means the same as that term is defined in Section [26-21-2](#).

(2) "Cancer drug" means a drug that controls or kills neoplastic cells and includes a drug used in chemotherapy to destroy cancer cells.

(3) "Charitable clinic" means a charitable nonprofit corporation that:

(a) holds a valid exemption from federal income taxation issued under Section 501(a), Internal Revenue Code;

(b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(c) provides, on an outpatient basis, for a period of less than 24 consecutive hours, to an individual not residing or confined at a facility owned or operated by the charitable nonprofit corporation:

(i) advice;

(ii) counseling;

(iii) diagnosis;

(iv) treatment;

(v) surgery; or

(vi) care or services relating to the preservation or maintenance of health; and

(d) has a licensed outpatient pharmacy.

(4) "Charitable pharmacy" means an eligible pharmacy that is operated by a charitable clinic.

(5) "County health department" means the same as that term is defined in Section [26A-1-102](#).

(6) "Donated prescription drug" means a prescription drug that an eligible donor or individual donates to an eligible pharmacy under the program.

(7) "Eligible donor" means a donor that donates a prescription drug from within the state and is:

- 59 (a) a nursing care facility;
- 60 (b) an assisted living facility;
- 61 (c) a licensed intermediate care facility for people with an intellectual disability;
- 62 (d) a manufacturer;
- 63 (e) a pharmaceutical wholesale distributor;
- 64 (f) an eligible pharmacy; or
- 65 (g) a physician's office.
- 66 (8) "Eligible pharmacy" means a pharmacy that:
 - 67 (a) is registered by the division as eligible to participate in the program; and
 - 68 (b) (i) is licensed in the state as a Class A retail pharmacy; or
 - 69 (ii) is operated by:
 - 70 (A) a county;
 - 71 (B) a county health department;
 - 72 (C) a pharmacy under contract with a county health department;
 - 73 (D) the Department of Health, created in Section 26-1-4;
 - 74 (E) the Division of Substance Abuse and Mental Health, created in Section
 - 75 62A-15-103; or
 - 76 (F) a charitable clinic.
- 77 (9) "Eligible prescription drug" means a prescription drug, described in Section
- 78 58-17b-904, that is not:
 - 79 (a) a controlled substance; or
 - 80 (b) a drug that can only be dispensed to a patient registered with the drug's
 - 81 manufacturer in accordance with federal Food and Drug Administration requirements.
- 82 (10) "Licensed intermediate care facility for people with an intellectual disability"
- 83 means the same as that term is defined in Section 58-17b-503.
- 84 (11) "Medically indigent individual" means an individual who:
 - 85 (a) (i) does not have health insurance; and
 - 86 (ii) lacks reasonable means to purchase prescribed medications; or
 - 87 (b) (i) has health insurance; and
 - 88 (ii) lacks reasonable means to pay the insured's portion of the cost of the prescribed
 - 89 medications.

90 (12) "Nursing care facility" means the same as that term is defined in Section
91 26-18-501.

92 (13) "Physician's office" means a fixed medical facility that:

93 (a) is staffed by a physician, physician's assistant, nurse practitioner, or registered
94 nurse, licensed under Title 58, Occupations and Professions; and

95 (b) treats an individual who presents at, or is transported to, the facility.

96 (14) "Program" means the Charitable Prescription Drug Recycling Program created in
97 Section 58-17b-903.

98 (15) "Unit pack" means the same as that term is defined in Section 58-17b-503.

99 (16) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
100 and 58-17b-501.

101 (17) "Unprofessional conduct" means the same as that term is defined in Sections
102 58-1-501 and 58-17b-502.

103 Section 2. Section 58-17b-903 is amended to read:

104 **58-17b-903. Charitable Prescription Drug Recycling Program -- Creation --**
105 **Requirements.**

106 (1) There is created the Charitable Prescription Drug Recycling Program.

107 (2) The division, in consultation with the board, shall:

108 (a) implement the program, on a statewide basis, to permit:

109 (i) an individual or an eligible donor to transfer an eligible prescription drug to an
110 eligible pharmacy for dispensing to a medically indigent individual; and

111 (ii) an individual to transfer an eligible prescription drug to a physician's office:

112 (A) that is an eligible donor; and

113 (B) for transfer to an eligible pharmacy for dispensing to a medically indigent
114 individual;

115 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
116 make rules necessary to implement the program; and

117 (c) provide technical assistance to entities that desire to participate in the program.

118 Section 3. Section 58-17b-905 is amended to read:

119 **58-17b-905. Participation in program -- Requirements -- Fees.**

120 (1) An eligible donor, an individual, or an eligible pharmacy may participate in the

121 program.

122 (2) An eligible pharmacy:

123 (a) shall comply with all applicable federal and state laws related to the storage and
124 distribution of a prescription drug;

125 (b) shall comply with all applicable federal and state laws related to the acceptance and
126 transfer of a prescription drug, including 21 U.S.C. Chapter 9, Subchapter V, Part H,
127 Pharmaceutical Distribution Supply Chain;

128 (c) shall, before accepting or dispensing a prescription drug under the program, inspect
129 each prescription drug to determine whether the prescription drug is an eligible prescription
130 drug;

131 (d) may dispense an eligible prescription drug to a medically indigent individual who:

132 (i) ~~[is a resident of the state]~~ is located in the state when the drug is dispensed; and

133 (ii) has a prescription issued by a practitioner;

134 (e) may charge a handling fee, adopted by the division under Section 63J-1-504; and

135 (f) may not accept, transfer, or dispense a prescription drug in violation of the federal
136 Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

137 Section 4. Section 58-17b-907 is amended to read:

138 **58-17b-907. Rules made by the division.**

139 The rules made by the division under Subsection 58-17b-903(2)(b) shall include:

140 (1) registration requirements to establish the eligibility of a pharmacy to participate in
141 the program;

142 (2) a formulary that includes all eligible prescription drugs approved by the federal
143 Food and Drug Administration;

144 (3) standards and procedures for:

145 (a) verifying whether a pharmacy or pharmacist participating in the program is licensed
146 and in good standing with the board;

147 (b) handling of an eligible prescription drug transferred in accordance with Subsection
148 58-17b-903(2) to an eligible pharmacy or a physician's office, including:

149 (i) acceptance;

150 (ii) identification, including redundant criteria for verification;

151 (iii) documentation, under 21 U.S.C. Sec. 360eee-1, of transaction information, history,

152 and statements;

153 (iv) safe storage;

154 (v) security;

155 (vi) inspection;

156 (vii) transfer; and

157 (viii) dispensing;

158 (c) a pharmacist, pharmacy intern, or licensed pharmacy technician;

159 (i) working in or consulting with a participating eligible donor; or

160 (ii) assisting an individual donating the eligible prescription drug;

161 (d) disposition of a donated prescription drug that is a controlled substance;

162 (e) record keeping regarding:

163 ~~[(i) the eligible donor that donated each prescription drug;]~~

164 ~~[(ii) an individual who transferred an eligible prescription drug to a physician's office~~

165 ~~under Subsection 58-17b-903(2)(a)(ii);]~~

166 (i) the individual or eligible donor that transferred an eligible prescription drug under

167 Subsection 58-17b-903(2)(a);

168 ~~[(iii)]~~ (ii) the identification and evaluation of a donated prescription drug by a

169 pharmacist or licensed pharmacy technician; and

170 ~~[(iv)]~~ (iii) the dispensing or disposition of a prescription drug;

171 (f) determining the status of a medically indigent individual;

172 (g) labeling requirements to:

173 (i) ensure compliance with patient privacy laws relating to:

174 (A) an individual who receives an eligible prescription drug; and

175 (B) patient information that may appear on a donated prescription drug;

176 (ii) clearly identify an eligible prescription drug dispensed under the program; and

177 (iii) communicate necessary information regarding the manufacturer's recommended

178 expiration date or the beyond use date; and

179 (h) ensuring compliance with the requirements of this part;

180 (4) a process for seeking input from:

181 (a) the Department of Health, created in Section 26-1-4, to establish program standards

182 and procedures for assisted living facilities and nursing care facilities; and

183 (b) the Division of Substance Abuse and Mental Health, created in Section
184 [62A-15-103](#), to establish program standards and procedures for mental health and substance
185 abuse clients; and

186 (5) the creation of a special training program that a pharmacist and a licensed pharmacy
187 technician at an eligible pharmacy must complete before participating in the program.