

1 **PHARMACIST DISPENSING AUTHORITY AMENDMENTS**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Todd Weiler**

5 House Sponsor: Raymond P. Ward

7 **LONG TITLE**

8 **General Description:**

9 This bill permits a pharmacist to dispense a self-administered hormonal contraceptive
10 under a standing prescription drug order.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ authorizes the use of a standing prescription drug order issued by a physician to
14 dispense a self-administered hormonal contraceptive to a patient who is 18 years old
15 or older;
- 16 ▶ creates standards and procedures that a pharmacist must follow when prescribing a
17 self-administered hormonal contraceptive;
- 18 ▶ limits liability for physicians who issue a standing prescription drug order for a
19 self-administered hormonal contraceptive; and
- 20 ▶ specifies that the prescribing or dispensing of a self-administered hormonal
21 contraceptive by a pharmacist is not unprofessional or unlawful conduct.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **58-17b-102**, as last amended by Laws of Utah 2015, Chapter 336

29 **58-17b-501**, as last amended by Laws of Utah 2017, Chapter 392

30 [58-17b-502](#), as last amended by Laws of Utah 2016, Chapter 405

31 ENACTS:

32 [26-62-101](#), Utah Code Annotated 1953

33 [26-62-102](#), Utah Code Annotated 1953

34 [26-62-103](#), Utah Code Annotated 1953

35 [26-62-104](#), Utah Code Annotated 1953

36 [26-62-105](#), Utah Code Annotated 1953

37 [26-62-106](#), Utah Code Annotated 1953

38 [26-62-107](#), Utah Code Annotated 1953

39

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

41 Section 1. Section [26-62-101](#) is enacted to read:

42 **CHAPTER 62. FAMILY PLANNING ACCESS ACT**

43 **[26-62-101](#). Title.**

44 This chapter is known as the "Family Planning Access Act."

45 Section 2. Section [26-62-102](#) is enacted to read:

46 **[26-62-102](#). Definitions.**

47 As used in this chapter:

48 (1) "Dispense" means the same as that term is defined in Section [58-17b-102](#).

49 (2) "Division" means the Division of Occupational and Professional Licensing created
50 in Section [58-1-103](#).

51 (3) "Local health department" means:

52 (a) a local health department, as defined in Section [26A-1-102](#); or

53 (b) a multicounty local health department, as defined in Section [26A-1-102](#).

54 (4) "Patient counseling" means the same as that term is defined in Section [58-17b-102](#).

55 (5) "Pharmacist" means the same as that term is defined in Section [58-17b-102](#).

56 (6) "Pharmacy intern" means the same as that term is defined in Section [58-17b-102](#).

57 (7) "Physician" means the same as that term is defined in Section [58-67-102](#).

58 (8) "Prescribe" means the same as that term is defined in Section [58-17b-102](#).

59 (9) (a) "Self-administered hormonal contraceptive" means a self-administered
60 hormonal contraceptive that is approved by the United States Food and Drug Administration to
61 prevent pregnancy.

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

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

66 Section 3. Section **26-62-103** is enacted to read:

67 **26-62-103. Voluntary participation.**

68 This chapter does not create a duty or standard of care for a person to prescribe or
69 dispense a self-administered hormonal contraceptive.

70 Section 4. Section **26-62-104** is enacted to read:

71 **26-62-104. Authorization to dispense self-administered hormonal contraceptives.**

72 Notwithstanding Title 58, Chapter 17b, Pharmacy Practice Act, a person licensed under
73 Title 58, Chapter 17b, Pharmacy Practice Act, to dispense a self-administered hormonal
74 contraceptive may dispense the self-administered hormonal contraceptive:

75 (1) to a patient who is 18 years old or older;

76 (2) pursuant to a standing prescription drug order made in accordance with Section
77 [26-62-105](#);

78 (3) without any other prescription drug order from a person licensed to prescribe a
79 self-administered hormonal contraceptive; and

80 (4) in accordance with the dispensing guidelines in Section [26-62-106](#).

81 Section 5. Section **26-62-105** is enacted to read:

82 **26-62-105. Standing prescription drug orders for a self-administered hormonal**
83 **contraceptive.**

84 A physician who is licensed to prescribe a self-administered hormonal contraceptive,
85 including a physician acting in the physician's capacity as an employee of the department, or a

86 medical director of a local health department, may issue a standing prescription drug order
87 authorizing the dispensing of the self-administered hormonal contraceptive under Section
88 26-62-104 in accordance with a protocol that:

89 (1) requires the physician to specify the persons, by professional license number,
90 authorized to dispense the self-administered hormonal contraceptive;

91 (2) requires the physician to review at least annually the dispensing practices of those
92 authorized by the physician to dispense the self-administered hormonal contraceptive;

93 (3) requires those authorized by the physician to dispense the self-administered
94 hormonal contraceptive to make and retain a record of each person to whom the
95 self-administered hormonal contraceptive is dispensed, including:

96 (a) the name of the person;

97 (b) the drug dispensed; and

98 (c) other relevant information; and

99 (4) is approved by the department by administrative rule made in accordance with Title
100 63G, Chapter 3, Utah Administrative Rulemaking Act.

101 Section 6. Section **26-62-106** is enacted to read:

102 **26-62-106. Guidelines for dispensing a self-administered hormonal contraceptive.**

103 (1) A pharmacist or pharmacist intern who dispenses a self-administered hormonal
104 contraceptive under this chapter:

105 (a) shall obtain a completed self-screening risk assessment questionnaire, that has been
106 approved by the division in collaboration with the Board of Pharmacy and the Physicians
107 Licensing Board, from the patient before dispensing the self-administered hormonal
108 contraceptive;

109 (b) if the results of the evaluation in Subsection (1)(a) indicate that it is unsafe to
110 dispense a self-administered hormonal contraceptive to a patient:

111 (i) may not dispense a self-administered hormonal contraceptive to the patient; and

112 (ii) shall refer the patient to a primary care or women's health care practitioner;

113 (c) may not continue to dispense a self-administered hormonal contraceptive to a

114 patient for more than 24 months after the date of the initial prescription without evidence that
115 the patient has consulted with a primary care or women's health care practitioner during the
116 preceding 24 months; and

117 (d) shall provide the patient with:

118 (i) written information regarding:

119 (A) the importance of seeing the patient's primary care practitioner or women's health
120 care practitioner to obtain recommended tests and screening; and

121 (B) the effectiveness and availability of long-acting reversible contraceptives as an
122 alternative to self-administered hormonal contraceptives; and

123 (ii) a copy of the record of the encounter with the patient that includes:

124 (A) the patient's completed self-assessment tool; and

125 (B) a description of the contraceptives dispensed, or the basis for not dispensing a
126 contraceptive.

127 (2) If a pharmacist dispenses a self-administered hormonal contraceptive to a patient,
128 the pharmacist shall, at a minimum, provide patient counseling to the patient regarding:

129 (a) the appropriate administration and storage of the self-administered hormonal
130 contraceptive;

131 (b) potential side effects and risks of the self-administered hormonal contraceptive;

132 (c) the need for backup contraception;

133 (d) when to seek emergency medical attention; and

134 (e) the risk of contracting a sexually transmitted infection or disease, and ways to
135 reduce the risk of contraction.

136 (3) The division, in collaboration with the Board of Pharmacy and the Physicians
137 Licensing Board, shall make rules in accordance with Title 63G, Chapter 3, Utah
138 Administrative Rulemaking Act, establishing the self-screening risk assessment questionnaire
139 described in Subsection (1)(a).

140 Section 7. Section **26-62-107** is enacted to read:

141 **26-62-107. Limited civil liability.**

142 A physician who issues a standing prescription drug order in accordance with Section
143 26-62-105 is not liable for any civil damages for acts or omissions resulting from the
144 dispensing of a self-administered hormonal contraceptive under this chapter.

145 Section 8. Section **58-17b-102** is amended to read:

146 **58-17b-102. Definitions.**

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

148 (1) "Administering" means:

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

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

156 (2) "Adulterated drug or device" means a drug or device considered adulterated under
157 21 U.S.C. Sec. 351 (2003).

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

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

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

168 (5) "Automated pharmacy systems" includes mechanical systems which perform
169 operations or activities, other than compounding or administration, relative to the storage,

170 packaging, dispensing, or distribution of medications, and which collect, control, and maintain
171 all transaction information.

172 (6) "Beyond use date" means the date determined by a pharmacist and placed on a
173 prescription label at the time of dispensing that indicates to the patient or caregiver a time
174 beyond which the contents of the prescription are not recommended to be used.

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

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

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

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

188 (11) "Class B pharmacy":

189 (a) means a pharmacy located in Utah:

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

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

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

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

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

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

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

200 (15) "Closed-door pharmacy" means a pharmacy that provides pharmaceutical care to a
201 defined and exclusive group of patients who have access to the services of the pharmacy
202 because they are treated by or have an affiliation with a specific entity, including a health
203 maintenance organization or an infusion company, but not including a hospital pharmacy, a
204 retailer of goods to the general public, or the office of a practitioner.

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

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

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

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

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

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

222 (b) "Compounding" does not include:

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

225 (ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a

226 dosage form which is regularly and commonly available from a manufacturer in quantities and
227 strengths prescribed by a practitioner; or

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

230 (19) "Confidential information" has the same meaning as "protected health
231 information" under the Standards for Privacy of Individually Identifiable Health Information,
232 45 C.F.R. Parts 160 and 164.

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

234 (21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter
235 417, Sec. 3a(ff) which is incorporated by reference.

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

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

241 (a) currently licensed as:

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

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

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

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

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

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

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

253 (25) "Distribute" means to deliver a drug or device other than by administering or

254 dispensing.

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

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

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

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

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

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

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

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

269 (i) known allergies;

270 (ii) rational therapy-contraindications;

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

272 (iv) reasonable directions for use;

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

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

277 (i) drug-drug;

278 (ii) drug-food;

279 (iii) drug-disease; and

280 (iv) adverse drug reactions; and

281 (d) evaluation of the prescription drug order and patient record for proper utilization,

282 including over- or under-utilization, and optimum therapeutic outcomes.

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

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

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

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

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

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

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

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

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

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

309 (b) "Manufacturing" includes the preparation and promotion of commercially available

310 products from bulk compounds for resale by pharmacies, practitioners, or other persons.

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

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

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

320 (38) "Misbranded drug or device" means a drug or device considered misbranded under
321 21 U.S.C. Sec. 352 (2003).

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

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

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

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

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

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

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

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

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

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

338 (43) "Patient counseling" means the written and oral communication by the pharmacist
339 or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of
340 drugs, devices, and dietary supplements.

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

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

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

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

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

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

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

357 (iii) arresting or slowing a disease process.

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

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

363 (47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility
364 engaged in the business of wholesale vending or selling of a prescription drug or device to
365 other than a consumer or user of the prescription drug or device that the pharmaceutical facility

366 has not produced, manufactured, compounded, or dispensed.

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

369 (i) intracompany sales;

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

374 (A) hospitals;

375 (B) pharmacies;

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

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

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

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

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

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

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

389 (A) the facility's total distribution-related sales of prescription drugs does not exceed
390 5% of the facility's total prescription drug sales; and

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

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

394 (49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing
395 who accepts responsibility for the operation of a pharmacy in conformance with all laws and
396 rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally
397 in full and actual charge of the pharmacy and all personnel.

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

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

402 (a) drugs are dispensed;

403 (b) pharmaceutical care is provided;

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

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

406 (52) "Pharmacy benefits manager or coordinator" means a person or entity that
407 provides a pharmacy [~~benefit~~] benefits management [~~services~~] service as defined in Section
408 [49-20-502](#) on behalf of a self-insured employer, insurance company, health maintenance
409 organization, or other plan sponsor, as defined by rule.

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

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

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

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

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

421 or

422 (ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as
423 defined in Section 58-37-2.

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

427 (b) "Practice as a licensed pharmacy technician" does not include:

428 (i) performing a drug utilization review, prescription drug order clarification from a
429 prescriber, final review of the prescription, dispensing of the drug, or counseling a patient with
430 respect to a prescription drug;

431 (ii) except as permitted by rules made by the division in consultation with the board,
432 final review of a prescribed drug prepared for dispensing;

433 (iii) counseling regarding nonprescription drugs and dietary supplements unless
434 delegated by the supervising pharmacist; or

435 (iv) receiving new prescription drug orders when communicating telephonically or
436 electronically unless the original information is recorded so the pharmacist may review the
437 prescription drug order as transmitted.

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

439 (a) providing pharmaceutical care;

440 (b) collaborative pharmacy practice in accordance with a collaborative pharmacy
441 practice agreement;

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

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

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

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

449 (B) approved by the division, in collaboration with the board and the Physicians

- 450 Licensing Board, created in Section 58-67-201, if the prescription drug or device is to be
451 administered on an outpatient basis solely by a licensed pharmacist;
- 452 (d) participating in drug utilization review;
 - 453 (e) ensuring proper and safe storage of drugs and devices;
 - 454 (f) maintaining records of drugs and devices in accordance with state and federal law
455 and the standards and ethics of the profession;
 - 456 (g) providing information on drugs or devices, which may include advice relating to
457 therapeutic values, potential hazards, and uses;
 - 458 (h) providing drug product equivalents;
 - 459 (i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy
460 technicians;
 - 461 (j) providing patient counseling, including adverse and therapeutic effects of drugs;
 - 462 (k) providing emergency refills as defined by rule;
 - 463 (l) telepharmacy; [~~and~~]
 - 464 (m) formulary management intervention[:]; and
 - 465 (n) prescribing and dispensing a self-administered hormonal contraceptive in
466 accordance with Title 26, Chapter 62, Family Planning Access Act.
- 467 (58) "Practice of telepharmacy" means the practice of pharmacy through the use of
468 telecommunications and information technologies.
- 469 (59) "Practice of telepharmacy across state lines" means the practice of pharmacy
470 through the use of telecommunications and information technologies that occurs when the
471 patient is physically located within one jurisdiction and the pharmacist is located in another
472 jurisdiction.
- 473 (60) "Practitioner" means an individual currently licensed, registered, or otherwise
474 authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of
475 professional practice.
- 476 (61) "Prescribe" means to issue a prescription:
- 477 (a) orally or in writing; or

478 (b) by telephone, facsimile transmission, computer, or other electronic means of
479 communication as defined by division rule.

480 (62) "Prescription" means an order issued:

481 (a) by a licensed practitioner in the course of that practitioner's professional practice or
482 by collaborative pharmacy practice agreement; and

483 (b) for a controlled substance or other prescription drug or device for use by a patient
484 or an animal.

485 (63) "Prescription device" means an instrument, apparatus, implement, machine,
486 contrivance, implant, in vitro reagent, or other similar or related article, and any component
487 part or accessory, which is required under federal or state law to be prescribed by a practitioner
488 and dispensed by or through a person or entity licensed under this chapter or exempt from
489 licensure under this chapter.

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

492 (65) "Repackage":

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

495 (b) does not include:

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

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

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

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

505 (b) requiring the use of a controlled substance, prescription drug, or prescription

506 device;

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

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

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

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

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

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

521 ~~[(68)]~~ (69) "Self-audit" means an internal evaluation of a pharmacy to determine
522 compliance with this chapter.

523 ~~[(69)]~~ (70) "Supervising pharmacist" means a pharmacist who is overseeing the
524 operation of the pharmacy during a given day or shift.

525 ~~[(70)]~~ (71) "Supportive personnel" means unlicensed individuals who:

526 (a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed
527 pharmacy technician in nonjudgmental duties not included in the definition of the practice of
528 pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as
529 those duties may be further defined by division rule adopted in collaboration with the board;
530 and

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

533 ~~[(71)]~~ (72) "Unlawful conduct" means the same as that term is defined in Sections

534 58-1-501 and 58-17b-501.

535 [(72)] (73) "Unprofessional conduct" means the same as that term is defined in
536 Sections 58-1-501 and 58-17b-502 and may be further defined by rule.

537 [(73)] (74) "Veterinary pharmaceutical facility" means a pharmaceutical facility that
538 dispenses drugs intended for use by animals or for sale to veterinarians for the administration
539 for animals.

540 Section 9. Section 58-17b-501 is amended to read:

541 **58-17b-501. Unlawful conduct.**

542 "Unlawful conduct" includes:

543 (1) knowingly preventing or refusing to permit an authorized agent of the division to
544 conduct an inspection pursuant to Section 58-17b-103;

545 (2) failing to deliver the license, permit, or certificate to the division upon demand, if it
546 has been revoked, suspended, or refused;

547 (3) (a) using the title "pharmacist," "druggist," "pharmacy intern," "pharmacy
548 technician," or a term having similar meaning, except by a person licensed as a pharmacist,
549 pharmacy intern, or pharmacy technician; or

550 (b) conducting or transacting business under a name that contains, as part of that name,
551 the words "drugstore," "pharmacy," "drugs," "medicine store," "medicines," "drug shop,"
552 "apothecary," "prescriptions," or a term having a similar meaning, or in any manner
553 advertising, otherwise describing, or referring to the place of the conducted business or
554 profession, unless the place is a pharmacy issued a license by the division, except an
555 establishment selling nonprescription drugs and supplies may display signs bearing the words
556 "packaged drugs," "drug sundries," or "nonprescription drugs," and is not considered to be a
557 pharmacy or drugstore by reason of the display;

558 (4) buying, selling, causing to be sold, or offering for sale, a drug or device that bears,
559 or the package bears or originally did bear, the inscription "sample," "not for resale," "for
560 investigational or experimental use only," or other similar words, except when a cost is
561 incurred in the bona fide acquisition of an investigational or experimental drug;

562 (5) using to a person's own advantages or revealing to anyone other than the division,
563 board, and its authorized representatives, or to the courts, when relevant to a judicial or
564 administrative proceeding under this chapter, information acquired under authority of this
565 chapter or concerning a method of process that is a trade secret;

566 (6) procuring or attempting to procure a drug or to have someone else procure or
567 attempt to procure a drug:

568 (a) by fraud, deceit, misrepresentation, or subterfuge;

569 (b) by forgery or alteration of a prescription or a written order;

570 (c) by concealment of a material fact;

571 (d) by use of a false statement in a prescription, chart, order, or report; or

572 (e) by theft;

573 (7) filling, refilling, or advertising the filling or refilling of prescriptions for a
574 consumer or patient residing in this state if the person is not licensed:

575 (a) under this chapter; or

576 (b) in the state from which he is dispensing;

577 (8) requiring an employed pharmacist, pharmacy intern, pharmacy technician, or
578 authorized supportive personnel to engage in conduct in violation of this chapter;

579 (9) being in possession of a prescription drug for an unlawful purpose;

580 (10) dispensing a prescription drug to a person who does not have a prescription from a
581 practitioner, except as permitted under:

582 (a) Title 26, Chapter 55, Opiate Overdose Response Act~~[;]~~; or

583 (b) Title 26, Chapter 62, Family Planning Access Act;

584 (11) dispensing a prescription drug to a person who the person dispensing the drug
585 knows or should know is attempting to obtain drugs by fraud or misrepresentation;

586 ~~[(11)]~~ (12) selling, dispensing, distributing, or otherwise trafficking in prescription
587 drugs when not licensed to do so or when not exempted from licensure; and

588 ~~[(12)]~~ (13) a person using a prescription drug or controlled substance that was not
589 lawfully prescribed for the person by a practitioner.

590 Section 10. Section **58-17b-502** is amended to read:

591 **58-17b-502. Unprofessional conduct.**

592 "Unprofessional conduct" includes:

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

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

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

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

601 (b) Subsection (2)(a) does not apply to:

602 (i) giving or receiving price discounts based on purchase volume;

603 (ii) passing along pharmaceutical manufacturer's rebates; or

604 (iii) providing compensation for services to a veterinarian.

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

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

609 (5) except as provided in Section **58-17b-503** or Part 9, Charitable Prescription Drug
610 Recycling Act, accepting back and redistributing any unused drug, or a part of it, after it has
611 left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section
612 **58-17b-503**, or the manufacturer's sealed container, as defined in rule;

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

616 (7) violating [~~Federal Title II, P.L. 91, Controlled Substances Act,~~];

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

- 618 **(b)** Title 58, Chapter 37, Utah Controlled Substances Act~~[-]~~; or
619 **(c)** rules or regulations adopted under either act;
- 620 **(8)** requiring or permitting pharmacy interns or technicians to engage in activities
621 outside the scope of practice for their respective license classifications, as defined in this
622 chapter and division rules made in collaboration with the board, or beyond their scope of
623 training and ability;
- 624 **(9)** administering:
- 625 **(a)** without appropriate training, as defined by rule;
- 626 **(b)** without a physician's order, when one is required by law; and
- 627 **(c)** in conflict with a practitioner's written guidelines or written protocol for
628 administering;
- 629 **(10)** disclosing confidential patient information in violation of the provisions of the
630 Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat.
631 1936, as amended, or other applicable law;
- 632 **(11)** engaging in the practice of pharmacy without a licensed pharmacist designated as
633 the pharmacist-in-charge;
- 634 **(12)** failing to report to the division any adverse action taken by another licensing
635 jurisdiction, government agency, law enforcement agency, or court for conduct that in
636 substance would be considered unprofessional conduct under this section; ~~and~~
- 637 **(13)** as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage
638 form which is regularly and commonly available from a manufacturer in quantities and
639 strengths prescribed by a practitioner~~[-]~~; and
- 640 **(14)** failing to act in accordance with Title 26, Chapter 62, Family Planning Access
641 Act, when dispensing a self-administered hormonal contraceptive under a standing order.