

PHARMACY COMPOUNDING AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Raymond P. Ward

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends certain state prohibitions against the compounding of drugs in the Pharmacy Practice Act.

Highlighted Provisions:

This bill:

- ▶ amends the definition of compounding; and
- ▶ amends the definition of unprofessional conduct related to compounding of certain drugs.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

58-17b-502, as last amended by Laws of Utah 2016, Chapter 405

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

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

58-17b-102. Definitions.



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

29 (1) "Administering" means:

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

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

37 (2) "Adulterated drug or device" means a drug or device considered adulterated under
38 21 U.S.C. Sec. 351 (2003).

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

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

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

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

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

56 (7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created
57 in Section 58-17b-201.

58 (8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically

59 underserved area, used for the storage and dispensing of prescription drugs, which is dependent
60 upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and
61 approved by the division as the parent pharmacy.

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

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

69 (11) "Class B pharmacy":

70 (a) means a pharmacy located in Utah:

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

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

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

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

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

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

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

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

86 (16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or
87 more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or
88 more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical
89 care functions authorized by the practitioner or practitioners under certain specified conditions

90 or limitations.

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

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

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

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

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

103 (b) "Compounding" does not include:

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

106 [~~(ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a~~
107 ~~dosage form which is regularly and commonly available from a manufacturer in quantities and~~
108 ~~strengths prescribed by a practitioner; or]~~

109 [~~(iii)~~ (ii) the preparation of a prescription drug, sterile product, or device ~~[which] that~~
110 has been withdrawn from the market for safety reasons.

111 (19) "Confidential information" has the same meaning as "protected health
112 information" under the Standards for Privacy of Individually Identifiable Health Information,
113 45 C.F.R. Parts 160 and 164.

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

115 (21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter
116 417, Sec. 3a(ff) which is incorporated by reference.

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

- 121 (23) "Dispensing medical practitioner" means an individual who is:
122 (a) currently licensed as:
123 (i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;
124 (ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical
125 Practice Act;
126 (iii) a physician assistant under Chapter 70a, Physician Assistant Act;
127 (iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or
128 (v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist
129 is acting within the scope of practice for an optometrist; and
130 (b) licensed by the division under the Pharmacy Practice Act to engage in the practice
131 of a dispensing medical practitioner.
- 132 (24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy
133 located within a licensed dispensing medical practitioner's place of practice.
- 134 (25) "Distribute" means to deliver a drug or device other than by administering or
135 dispensing.
- 136 (26) (a) "Drug" means:
137 (i) a substance recognized in the official United States Pharmacopoeia, official
138 Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any
139 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or
140 prevention of disease in humans or animals;
141 (ii) a substance that is required by any applicable federal or state law or rule to be
142 dispensed by prescription only or is restricted to administration by practitioners only;
143 (iii) a substance other than food intended to affect the structure or any function of the
144 body of humans or other animals; and
145 (iv) substances intended for use as a component of any substance specified in
146 Subsections (26)(a)(i), (ii), (iii), and (iv).
- 147 (b) "Drug" does not include dietary supplements.
- 148 (27) "Drug regimen review" includes the following activities:
149 (a) evaluation of the prescription drug order and patient record for:
150 (i) known allergies;
151 (ii) rational therapy-contraindications;

152 (iii) reasonable dose and route of administration; and
153 (iv) reasonable directions for use;
154 (b) evaluation of the prescription drug order and patient record for duplication of
155 therapy;
156 (c) evaluation of the prescription drug order and patient record for the following
157 interactions:

158 (i) drug-drug;
159 (ii) drug-food;
160 (iii) drug-disease; and
161 (iv) adverse drug reactions; and
162 (d) evaluation of the prescription drug order and patient record for proper utilization,
163 including over- or under-utilization, and optimum therapeutic outcomes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

201 (38) "Misbranded drug or device" means a drug or device considered misbranded under
202 21 U.S.C. Sec. 352 (2003).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

238 (iii) arresting or slowing a disease process.

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

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

244 (47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility

245 engaged in the business of wholesale vending or selling of a prescription drug or device to
246 other than a consumer or user of the prescription drug or device that the pharmaceutical facility
247 has not produced, manufactured, compounded, or dispensed.

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

250 (i) intracompany sales;

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

255 (A) hospitals;

256 (B) pharmacies;

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

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

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

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

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

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

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

270 (A) the facility's total distribution-related sales of prescription drugs does not exceed
271 5% of the facility's total prescription drug sales; and

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

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

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

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

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

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

283 (a) drugs are dispensed;

284 (b) pharmaceutical care is provided;

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

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

287 (52) "Pharmacy benefits manager or coordinator" means a person or entity that
288 provides pharmacy benefit management services as defined in Section 49-20-502 on behalf of a
289 self-insured employer, insurance company, health maintenance organization, or other plan
290 sponsor, as defined by rule.

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

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

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

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

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

302 or

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

305 (56) (a) "Practice as a licensed pharmacy technician" means engaging in practice as a
306 pharmacy technician under the general supervision of a licensed pharmacist and in accordance

307 with a scope of practice defined by division rule made in collaboration with the board.

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

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

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

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

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

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

320 (a) providing pharmaceutical care;

321 (b) collaborative pharmacy practice in accordance with a collaborative pharmacy
322 practice agreement;

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

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

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

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

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

333 (d) participating in drug utilization review;

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

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

337 (g) providing information on drugs or devices, which may include advice relating to

338 therapeutic values, potential hazards, and uses;

339 (h) providing drug product equivalents;

340 (i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy
341 technicians;

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

343 (k) providing emergency refills as defined by rule;

344 (l) telepharmacy; and

345 (m) formulary management intervention.

346 (58) "Practice of telepharmacy" means the practice of pharmacy through the use of
347 telecommunications and information technologies.

348 (59) "Practice of telepharmacy across state lines" means the practice of pharmacy
349 through the use of telecommunications and information technologies that occurs when the
350 patient is physically located within one jurisdiction and the pharmacist is located in another
351 jurisdiction.

352 (60) "Practitioner" means an individual currently licensed, registered, or otherwise
353 authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of
354 professional practice.

355 (61) "Prescribe" means to issue a prescription:

356 (a) orally or in writing; or

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

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

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

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

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

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

371 (65) "Repackage":

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

374 (b) does not include:

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

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

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

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

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

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

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

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

393 (68) "Self-audit" means an internal evaluation of a pharmacy to determine compliance
394 with this chapter.

395 (69) "Supervising pharmacist" means a pharmacist who is overseeing the operation of
396 the pharmacy during a given day or shift.

397 (70) "Supportive personnel" means unlicensed individuals who:

398 (a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed
399 pharmacy technician in nonjudgmental duties not included in the definition of the practice of

400 pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as
401 those duties may be further defined by division rule adopted in collaboration with the board;
402 and

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

405 (71) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
406 and 58-17b-501.

407 (72) "Unprofessional conduct" means the same as that term is defined in Sections
408 58-1-501 and 58-17b-502 and may be further defined by rule.

409 (73) "Veterinary pharmaceutical facility" means a pharmaceutical facility that
410 dispenses drugs intended for use by animals or for sale to veterinarians for the administration
411 for animals.

412 Section 2. Section 58-17b-502 is amended to read:

413 **58-17b-502. Unprofessional conduct.**

414 "Unprofessional conduct" includes:

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

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

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

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

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

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

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

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

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

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

431 (5) except as provided in Section 58-17b-503 or Part 9, Charitable Prescription Drug
432 Recycling Act, accepting back and redistributing any unused drug, or a part of it, after it has
433 left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section
434 58-17b-503, or the manufacturer's sealed container, as defined in rule;

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

438 (7) violating Federal Title II, P.L. 91, Controlled Substances Act, Title 58, Chapter 37,
439 Utah Controlled Substances Act, or rules or regulations adopted under either act;

440 (8) requiring or permitting pharmacy interns or technicians to engage in activities
441 outside the scope of practice for their respective license classifications, as defined in this
442 chapter and division rules made in collaboration with the board, or beyond their scope of
443 training and ability;

444 (9) administering:

445 (a) without appropriate training, as defined by rule;

446 (b) without a physician's order, when one is required by law; and

447 (c) in conflict with a practitioner's written guidelines or written protocol for
448 administering;

449 (10) disclosing confidential patient information in violation of the provisions of the
450 Health Insurance Portability and Accountability Act of 1996 or other applicable law;

451 (11) engaging in the practice of pharmacy without a licensed pharmacist designated as
452 the pharmacist-in-charge; and

453 (12) failing to report to the division any adverse action taken by another licensing
454 jurisdiction, government agency, law enforcement agency, or court for conduct that in
455 substance would be considered unprofessional conduct under this section[; ~~and~~].

456 [~~(13) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage~~
457 ~~form which is regularly and commonly available from a manufacturer in quantities and~~
458 ~~strengths prescribed by a practitioner.]~~