Online Prescribing, Dispensing, and Facilitation Licensing

This Act enables online prescribing and dispensing drugs. The Act requires a state license to engage in online prescribing, online dispensing, and certain related transactions it defines as Internet facilitation. It establishes requirements for licensing and allows certain online prescribers, online contract pharmacies, and Internet facilitators to continue delivering online pharmaceutical services while their applications for licensure are pending with the state. The legislation establishes duties for a licensed online prescriber, online contract pharmacy, and Internet facilitator. It limits the type of drugs that can be prescribed online.

Submitted as:
Utah
SB 274 (Enrolled copy)
Status: Enacted into law in 2010.

Suggested State Legislation

(Title, enacting clause, etc.)

Section 1. [Short Title.] This Act shall be cited as “The Online Prescribing, Dispensing, and Facilitation Licensing Act.”

Section 2. [Definitions.] As used in this Act:

(1) “Board” means the [Online Prescribing, Dispensing, and Facilitation Licensing Board] created in Section 3.

(2) “Branching questionnaire” means an adaptive and progressive assessment tool approved by the [board].

(3) “Delivery of online pharmaceutical services” means the process in which a prescribing practitioner diagnoses a patient and prescribes one or more of the drugs authorized by Section 9, using:

(a) a branching questionnaire or other assessment tool approved by the [division] for the purpose of diagnosing and assessing a patient’s health status;

(b) an Internet contract pharmacy to dispense the prescribed drug or transfer the prescription to another pharmacy; and

(c) an Internet facilitator to facilitate the practices described in Subsections (3)(a) and (b).

(4) “Division” means the [Division of Occupational and Professional Licensing].

(5) “Internet facilitator” means a licensed provider of a web-based system for electronic communication between and among an online prescriber, the online prescriber’s patient, and the online contract pharmacy.

(6) “Online contract pharmacy” means a pharmacy licensed and in good standing under [insert citation], as either a [Class A Retail Pharmacy] or a [Class B Closed Door Pharmacy] and licensed under this Act to fulfill prescriptions issued by an online prescriber through a specific Internet facilitator.

(7) “Online prescriber” means a person:

(a) licensed under [insert citation];
(b) whose license under [insert citation] includes assessing, diagnosing, and
prescribing authority for humans; and
(c) who has obtained a license under this Act to engage in online prescribing.

(8) “Unlawful conduct” means conduct, by any person, that is defined as unlawful under
this Act and includes:
(a) practicing or engaging in, representing oneself to be practicing or engaging in,
or attempting to practice or engage in any occupation or profession requiring licensure under this
Act if the person is not licensed to do so or not exempted from licensure under this Act or
restricted from doing so by a suspended, revoked, restricted, temporary, probationary, or inactive
license;
(b) impersonating another licensee or practicing an occupation or profession
under a false or assumed name, except as permitted by law;
(c) knowingly employing any other person to practice or engage in or attempt to
practice or engage in any occupation or profession licensed under this Act if the employee is not
licensed to do so under this Act;
(d) knowingly permitting the person’s authority to practice or engage in any
occupation or profession licensed under this Act to be used by another, except as permitted by
law;
(e) obtaining a passing score on a licensure examination, applying for or obtaining
a license, or otherwise dealing with the [division] or a [licensing board] through the use of fraud,
forgery, or intentional deception, misrepresentation, misstatement, or omission;
(f) (I) issuing, or aiding and abetting in the issuance of, an order or
prescription for a drug or device to a person located in this state:
(A) without prescriptive authority conferred by a license issued
under this Act, or by an exemption to licensure under this Act; or
(B) with prescriptive authority conferred by an exception issued
under this Act or a multistate practice privilege recognized under this Act if the prescription was
issued without first obtaining information, in the usual course of professional practice, that is
sufficient to establish a diagnosis, to identify underlying conditions, and to identify
contraindications to the proposed treatment; and
(II) Subsection (8)(f)(I) does not apply to treatment rendered in an
emergency, on-call or cross coverage situation, provided that the person who issues the
prescription has prescriptive authority conferred by a license under this Act, or is exempt from
licensure under this Act.
(g) engaging in the practice of Internet prescribing without a license under this
Act.
(h) online prescribing, dispensing or facilitating of a legend drug not authorized
by the [division] in accordance with Section 9; or
(i) online prescribing, dispensing or facilitating of a controlled substance.

(9) “Unprofessional conduct” means conduct, by a licensee or applicant, that is defined as
unprofessional conduct under this Act or under any rule adopted under this Act and includes:
(a) violating, or aiding or abetting any other person to violate, any statute, rule, or
order regulating an occupation or profession under this Act;
(b) violating, or aiding or abetting any other person to violate, any generally
accepted professional or ethical standard applicable to an occupation or profession regulated
under this Act;
(c) engaging in conduct that results in conviction, a plea of nolo contendere, or a
plea of guilty or nolo contendere which is held in abeyance pending the successful completion of
probation with respect to a crime of moral turpitude or any other crime that, when considered
with the functions and duties of the occupation or profession for which the license was issued or
is to be issued, bears a reasonable relationship to the licensee’s or applicant’s ability to safely or
competently practice the occupation or profession;
    (d) engaging in conduct that results in disciplinary action, including reprimand,
censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory
authority having jurisdiction over the licensee or applicant in the same occupation or profession
if the conduct would, in this state, constitute grounds for denial of licensure or disciplinary
proceedings under [insert citation];
    (e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or
similar chemicals, to the extent that the conduct does, or might reasonably be considered to,
impair the ability of the licensee or applicant to safely engage in the occupation or profession;
    (f) practicing or attempting to practice an occupation or profession regulated
under this Act despite being physically or mentally unfit to do so;
    (g) practicing or attempting to practice an occupation or profession regulated
under this Act through gross incompetence, gross negligence, or a pattern of incompetency or
negligence;
    (h) practicing or attempting to practice an occupation or profession requiring
licensure under this Act by any form of action or communication which is false, misleading,
deceptive, or fraudulent;
    (i) practicing or attempting to practice an occupation or profession regulated
under this Act beyond the scope of the licensee’s competency, abilities, or education;
    (j) practicing or attempting to practice an occupation or profession regulated
under this Act beyond the scope of the licensee’s license;
    (k) verbally, physically, mentally, or sexually abusing or exploiting any person
through conduct connected with the licensee’s practice under this Act or otherwise facilitated by
the licensee’s license;
    (l) acting as a supervisor without meeting the qualification requirements for that
position that are defined by statute or rule;
    (m) issuing, or aiding and abetting in the issuance of, an order or prescription for
a drug or device:
        (I) without first obtaining information in the usual course of professional
practice, that is sufficient to establish a diagnosis, to identify conditions, and to identify
contraindications to the proposed treatment; or
        (II) with prescriptive authority conferred by an exception issued under this
Act, or a multi-state practice privilege recognized under this Act, if the prescription was issued
without first obtaining information, in the usual course of professional practice, that is sufficient
to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the
proposed treatment;
    (n) violating a provision of [insert citation]; or
    (o) as may be further defined by administrative rule:
        (I) online prescribing, dispensing, or facilitation with respect to a person
under the age of [18] years;
        (II) using the name or official seal of the state, the [Department of
Commerce], or the [Division of Occupational and Professional Licensing], or their boards, in an
unauthorized manner;
        (III) failing to respond promptly to a request by the [division] for
information including an audit of the website or records of the online prescriber, the Internet
facilitator, or the online contract pharmacy;

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(IV) using an online prescriber, online contract pharmacy, or Internet facilitator without approval of the [division];

(V) failing to inform a patient of the patient’s freedom of choice in selecting who will dispense a prescription in accordance with Section 8(1)(o); and

(VI) failing to keep the [division] informed of the name and contact information of the Internet facilitator or online contract pharmacy.

Section 3. [Board.]

(1) There is created the [Online Prescribing, Dispensing, and Facilitation Licensing Board] consisting of the following [seven] members:

(a) [two] members who are licensed under either [The Medical Practices Act, or The Osteopathic Medical Practices Act], of which one shall be engaged in the delivery of online pharmaceutical services and one may not be an online prescriber licensed under this Act;

(b) [two] members who are licensed as a [pharmacist] under [insert citation], of which [one] shall be associated with an online contract pharmacy and [one] may not be associated with an online contract pharmacy;

(c) [two] members of the general public who are not associated with an online prescriber; an online contract pharmacy; or an Internet facilitator; and

(d) [one] member who is licensed under this Act as an Internet facilitator.

(2) Notwithstanding any other requirement for membership on the [board], no more than [one] member of the [board] may be associated in any of the following ways with the same Internet facilitator as an owner; as an employee; as an officer; as a director; contracted with; as an agent of; or having any direct or indirect financial interest.

(3) The [board] shall be appointed and serve in accordance with [insert citation].

(4) (a) The duties and responsibilities of the [board] shall be in accordance with [insert citation] and as otherwise provided in this Act.

(b) The [board] may designate one of its members on a permanent or rotating basis to assist the [division] in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee and advise the [division] in its investigation of a complaint.

(5) A [board] member who has, under Subsection (4), reviewed a complaint or advised in its investigation may be disqualified from participating with the [board] when the [board] serves as a presiding officer of an administrative proceeding concerning the complaint.

Section 4. [Licensure Required; Issuance of Licenses.]

(1) Beginning [insert date] and except as provided in Section 10:

(a) a physician licensed under [The Medical Practice Act] or [The Osteopathic Medical Practice Act], shall be licensed under this Act to engage in the delivery of online pharmaceutical services;

(b) an online contract pharmacy shall be licensed under this Act to engage in the delivery of online pharmaceutical services; and

(c) an Internet facilitator shall be licensed under this Act to engage in the delivery of online pharmaceutical services.

(2) The [division] shall issue, to any person who qualifies under this Act, a license to prescribe online; to operate as an online contract pharmacy; or to operate as an Internet facilitator.

(3) A license under this Act is not required to engage in electronic prescribing under [insert citation] and (b) nothing in this Act shall prohibit a physician licensed under [The Medical Practice Act], or [The Osteopathic Medical Practice Act], from electronic prescribing or Internet prescribing as permitted by [insert citation].
Section 5. [Qualifications for Licensure.]

(1) Each applicant for licensure as an online prescriber under this Act shall:

(a) submit an application in a form prescribed by the [division];
(b) pay a fee determined by the [department] under [insert citation];
(c) be of good moral character;
(d) document that the applicant holds a license from this state that is active and in good standing and authorizes the licensee to engage in the assessment, diagnosis, and treatment of human ailments and the prescription of medications;
(e) document that any other professional license the applicant possesses from other jurisdictions is in good standing;
(f) submit to the [division] an outline of the applicant’s proposed online assessment, diagnosis, and prescribing tool, such as a branching questionnaire and demonstrate the proposed online assessment, diagnosis, and prescribing tool to the [board] and establish to the [board’s] satisfaction that the utilization of that assessment tool to facilitate the prescription of the drugs approved for online prescribing under Section 8 does not compromise the public’s health, safety, or welfare;
(g) submit policies and procedures that address patient confidentiality, including measures that will be taken to ensure that the age and other identifying information of the person completing the online branching questionnaire are accurate;
(h) describe the mechanism by which the online prescriber and patient will communicate with one another, including electronic and telephonic communication;
(i) describe how the online prescriber/patient relationship will be established and maintained;
(j) submit the name, address, and contact person of the Internet facilitator with whom the online prescriber has contracted to provide services that the online prescriber will use to engage in online assessment, diagnosis, and prescribing; and
(k) submit documentation satisfactory to the [board] regarding public health, safety, and welfare demonstrating:
  (I) how the online prescriber will comply with the requirements of Section 9; the contractual services arrangement between the online prescriber; the Internet facilitator; and the online contract pharmacy; and
  (II) how the online prescriber will allow and facilitate the [division’s] ability to conduct audits in accordance with Section 11.

(2) An online prescriber may not use the services of an Internet facilitator or online contract pharmacy whose license is not active and in good standing.

(3) Each applicant for licensure as an online contract pharmacy under this Act shall be licensed in good standing in this state as a [Class A Retail Pharmacy] or a [Class B Closed Door Pharmacy] and:

(a) submit a written application in the form prescribed by the [division];
(b) pay a fee as determined by the [department] under [insert citation];
(c) submit any contract between the applicant and the Internet facilitator with which the applicant is or will be affiliated;
(d) submit proof of liability insurance acceptable to the [division] that expressly covers all activities the online contract pharmacy will engage in under this Act, which coverage shall be in a minimum amount of [$1,000,000] per occurrence with a policy limit of not less than [$3,000,000];
(e) submit a signed affidavit to the [division] attesting that the online contract pharmacy will not dispense a drug that is prescribed by an online prescriber engaged in the
delivery of online pharmaceutical services under the provisions of this Act unless the drug is specifically approved by the [division] under Section 9 and both the prescribing and the dispensing of the drug were facilitated by the Internet facilitator with whom the Internet contract pharmacy is associated under Section 8(3)(d);

(f) document that any other professional license the applicant possesses from other jurisdictions is active and in good standing; and

(g) demonstrate to the [division] that the applicant has satisfied any background check required by [insert citation], and each owner, officer, or manager of the applicant online contract pharmacy has not engaged in any act, practice, or omission, which when considered with the duties and responsibilities of a licensee under this Act indicates there is cause to believe that issuing a license under this Act is inconsistent with the public’s health, safety, or welfare.

(4) Each applicant for licensure as an Internet facilitator under this Act shall:

(a) submit a written application in the form prescribed by the [division];

(b) pay a fee as determined by the department under [insert citation];

(c) submit any contract between the applicant and each online prescriber and the single online contract pharmacy with which the applicant will be affiliated:

(d) submit written policies and procedures satisfactory to the [division] that
   (I) address patient privacy, including compliance with 45 C.F.R. Parts 160, 162, and Health Insurance Portability and Accountability Act of 1996;
   (II) ensure compliance with all applicable laws by health care personnel and the online prescriber who will process patient communications;
   (III) list the hours of operation;
   (IV) describe the types of services that will be permitted electronically;
   (V) describe the required patient information to be included in the communication, such as patient name, identification number, and type of transaction;
   (VI) establish procedures for archiving and retrieving information; and
   (VII) establish quality oversight mechanisms;

(e) submit written documentation of the applicant’s security measures to ensure the confidentiality and integrity of any user-identifiable medical information;

(f) submit a description of the mechanism for:
   (I) patients to access, supplement, and amend patient-provided personal health information;
   (II) back-up regarding the Internet facilitator electronic interface;
   (III) the quality of information and services provided via the interface; and
   (IV) patients to register complaints regarding the Internet facilitator, the online prescriber, or the online contract pharmacy;

(g) submit a copy of the Internet facilitator’s website;

(h) sign an affidavit attesting that the applicant will not access any medical records or information contained in the medical record except as necessary to administer the website and the branching questionnaire and the applicant and its principals, and any entities affiliated with them, will only use the services of a single online contract pharmacy named on the license approved by the [division]; and

(i) submit any other information required by the [division].

Section 6. [Term of License. Expiration. Renewal.]

(1) The online prescriber’s license shall be associated with the online prescriber’s primary professional license and may be renewed at the time the primary license is renewed in accordance with [insert citation].
(2) The online contract pharmacy license shall be associated with the online contract pharmacy’s primary professional license and may be renewed at the time the primary license is renewed in accordance with [insert citation].

(3) The Internet facilitator license shall be renewed in accordance with [insert citation].

(4) Each licensee shall, at the time of applying for renewal, demonstrate compliance with this Act.

(5) Each license shall automatically expire on the expiration date shown on the license unless the licensee renews it in accordance with [insert citation].

Section 7. [Existing Written Agreements for Online Prescribing: Pending Applications.]

(1) (a) Subject to the provisions of this section, and until [insert date], an entity or individual not licensed by the [division] to engage in the delivery of online pharmaceutical services under this Act may nevertheless engage in the delivery of online pharmaceutical services if permitted by the [division] to do so prior to [insert date], under either a non-disciplinary stipulation and consent order with the [division] or a letter agreement with the [division].

(b) An entity or individual subject to Subsection (1)(a) shall only be permitted to engage in the delivery of online pharmaceutical services after [insert date], if, on or before that date, it has obtained a license in accordance with the provisions of this Act.

(2) An entity or individual engaged in the delivery of online pharmaceutical services under the provisions of Subsection (1), may continue to operate in accordance with the terms and conditions of the written consent or agreement subject to the following:

(a) On or before [insert date], the entity or individual shall file an application with the [division] in accordance with this Act for an online prescriber license; an online contract pharmacy license; or an Internet facilitator license.

(b) After the application for a license under this Act is filed in accordance with Subsection (2)(a), the applicant may continue to operate under the terms and conditions of the written consent agreement under Subsection (1)(a) until the [division] has issued its decision on the application.

(c) If the application is approved and a license is issued, the licensee shall operate under the terms of the license under this Act and may not operate under the terms and conditions of the prior written consent or agreement of the [division].

(d) If the application for license under this Act is denied, the applicant may not operate under the prior written consent or agreement with the [division] after the date the application for a license under this Act is denied by the [division].

(3) (a) The following provisions apply to any application for authorization to engage in the delivery of online pharmaceutical services that was pending with the [division] on the effective date of this Act:

(I) the applicant shall no later than [insert date], provide supplemental documentation to the [division] to correct any deficiency in the application and notify the [division] in writing that the application is ready to be acted upon by the [division] or

(II) the applicant may rely upon the existing application submitted to the [division] without any supplementation under Subsection (1) if the applicant notifies the [division] in writing that the application is ready to be acted upon by the [division].

(b) The [division] shall not, prior to [insert date], act on an application pending with the [division] on the effective date of this Act unless the [division] prior to [insert date], receives a notification from the applicant that the application is ready to be acted upon by the [division].
Section 8. [Online Prescriber Duties and Responsibilities.]

(1) The online prescriber shall:

(a) be held to the same standards of appropriate practice as those applicable in traditional settings which, for purposes of this Act, include the delivery of online pharmaceutical services;

(b) conduct an assessment and diagnosis based upon a comprehensive health history and an assessment tool such as a branching questionnaire;

(c) ensure that a comprehensive health history, assessment, and diagnosis have been made before prescribing any medication;

(d) conduct the online assessment and diagnosis only through the approved Internet facilitator identified in the online prescriber’s application;

(e) comply with all applicable state and federal laws, rules, regulations, and orders;

(f) inform the patient electronically of the benefits and risks of appropriate treatment;

(g) guide the patient regarding the optimal course of action;

(h) treat the patient with courtesy, respect, dignity, responsiveness, and timely attention to the patient’s needs;

(i) comply with the requirements for confidentiality as required by this Act and applicable federal law;

(j) continue to provide the user with reasonable assistance and sufficient opportunity to make alternative arrangements for care;

(k) be available for ongoing consultation with the patient through e-mail or other forms of communication;

(l) not delegate to a third party the professional responsibility to review and evaluate the results of the branching questionnaire; consult with the patient electronically or through other means about the patient’s medical condition; and diagnose and prescribe medications to the patient;

(m) conduct the online assessment and diagnosis and the electronic communication between the online prescriber and the patient only through the approved Internet facilitator;

(n) maintain the online medical records of the patient; and if maintenance of the records is delegated by the online prescriber, delegate that authority only to the approved Internet facilitator;

(o) inform a patient of the patient’s freedom of choice to select the pharmacy to dispense the patient’s prescription by providing the patient with the phone number of the online contract pharmacy so that the patient may contact the online contract pharmacy and request a transfer of the prescription to another pharmacy; and

(p) authorize the Internet facilitator to provide the online contract pharmacy with the patient’s:

(I) full name;

(II) current address and telephone number;

(III) date of birth or age and gender;

(IV) height, weight, and vital signs (if known);

(V) medication allergies or drug reactions; and

(VI) current medications, including over-the-counter products, and any additional comments relevant to the patient’s drug use.

(2) The online contract pharmacy shall:
(a) only dispense prescription drugs that are approved by the [division] in accordance with Section 9 and were prescribed by an online prescriber who is using the Internet facilitator that is under contract with the online contract pharmacy;

(b) maintain a toll-free number with a pharmacist available for patients using the services of the online contract pharmacy to receive medications prescribed online;

(c) use a tracking identification number system when shipping medications prescribed for patients by an online prescriber; and

(d) provide to the [division] a [quarterly] report of all drugs dispensed in accordance with this Act.

(3) The Internet facilitator shall:

(a) provide services that the online prescriber will use in implementing the branching questionnaire;

(b) provide electronic or telephonic communication between the online prescriber and the patient that is secure and confidential; allows the online prescriber to be directly accessible to a patient to answer questions regarding the patient’s treatment plan; and provides privacy and security that complies with the provisions of 45 C.F.R. Parts 475, 160, 162, and 164, Health Insurance Portability and Accountability Act of 1996;

(c) facilitate secure and confidential communication of the prescription issued by the online prescriber to the online contract pharmacy in accordance with Subsection (1)(p);

(d) disclose on its website the owner of the website; the specific services provided by any associated online prescribers; and other information the [division] may require by rule; and

(e) only facilitate the delivery of online pharmaceutical services for the specific legend drugs approved by the [division] in accordance with Section 10; or not facilitate, directly or indirectly, through related entities or affiliates, the dispensing or online prescribing of any drug whether controlled or legend that is not specifically approved under Section 10.

Section 9. [Drugs Approved for Online Prescribing, Dispensing, and Facilitation.]

(1) An online prescriber may only prescribe, an online contract pharmacy may only dispense, and an Internet facilitator may only facilitate the prescribing and dispensing of, non-controlled, legend drugs that have been:

(a) approved by the Food and Drug Administration;

(b) prescribed to treat the condition for which the drug was approved; and

(c) specifically approved by the [division] for online prescribing by administrative rule adopted in accordance with [insert citation].

(2) If, after [insert date], the Food and Drug Administration issues a clinical black box warning with respect to any drug approved by the [board] under Subsection (1), the [division] shall determine what action, if any, is necessary to protect the public health or welfare as a result of the black box warning.

Section 10. [Request to Facilitate Approval of Additional Drugs.]

(1) An Internet facilitator licensed under this Act may seek the [division’s] approval to facilitate the online prescribing and dispensing of prescriptions for additional drugs.

(2) The Internet facilitator shall make a request for approval of additional drugs by petitioning for an amendment to the administrative rule adopted by the [division] in accordance with Section 9 and [insert citation].

Section 11. [Audits.]
(1) Each licensee under this Act shall allow and facilitate an audit by the [division] regarding the licensee’s delivery of online pharmaceutical services to ensure compliance with state and federal statutes, rules, and regulations including ensuring that:

(a) a comprehensive history and assessment have been obtained and a diagnosis has been made for a patient before any medications are prescribed; and
(b) only the approved medications are being prescribed and dispensed.

(2) The [division] shall be provided with the following, in the manner that allows access from the [division’s] office for the purpose of conducting an audit:

(a) full remote, read-only access rights to the data related to the online prescribing and dispensing of a drug under this Act and that is used and stored in the Internet facilitator’s system; and
(b) the information available to the online prescriber.

(3) An Internet facilitator licensed under this Act shall provide to the [division], at the times designated by the [division] by administrative rule, a report containing the following information:

(a) the number of prescriptions issued by the online prescribers associated with the Internet facilitator by drug name;
(b) the number of comprehensive histories/assessments received by the Internet facilitator;
(c) the number of comprehensive histories/assessments reviewed by an online prescriber;
(d) the demographic data of the patients receiving prescriptions through the Internet facilitator;
(e) the number of prescriptions dispensed by the online contract pharmacy or transferred to a different pharmacy at the patient’s request; and
(f) any other information specified by the [division] by administrative rule.

(4) The [division’s] authority to conduct an audit pursuant to this Act shall survive any termination or expiration of any prescriptive authority for online prescribing, dispensing, or facilitation.


(1) Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order:

(a) shall be in accordance with [insert citation]; and
(b) includes prescribing, dispensing, or facilitating the prescribing or dispensing of a drug not approved by the [board] under Section 9 or any other violation of this Act.

(2) The termination or expiration of a license under this Act for any reason does not limit the [division’s] authority to start or continue any investigation or adjudicative proceeding.

(3) Because of the working business relationship between and among the online prescriber, the Internet facilitator, and the online contract pharmacy, each entity’s ability to comply with this Act may depend in some respects on the actions of the others. It is possible that a particular action or inaction by the online prescriber, the Internet facilitator, or the online contract pharmacy could have the effect of causing the other licensed entities to be out of compliance with this Act, and each entity may, therefore, be held accountable for any related party’s non-compliance, if the party knew or reasonably should have known of the other person’s non-compliance.
(4) An online prescriber may lose the practitioner’s professional license to prescribe any drug under this Act if the online prescriber knew or reasonably should have known that the provisions of this Act were violated by the online prescriber, the Internet facilitator, or the online contract pharmacy. It is not a defense to an alleged violation under this Act that the alleged violation was a result of an action or inaction not by the charged party but by the related online prescriber, the online contract pharmacy, or the Internet facilitator.

(5) The following actions may result in an immediate suspension of the online prescriber’s license, the online contract pharmacy’s license, or the Internet facilitator’s license, and each is considered an immediate and significant danger to the public health, safety, or welfare requiring immediate action by the [division] pursuant to [insert citation] to terminate the delivery of online pharmaceutical services by the licensee:

(a) online prescribing, dispensing, or facilitation with respect to a person under the age of 18 years; a legend drug not authorized by the [division] in accordance with Section 9; and any controlled substance;

(b) violating this Act after having been given reasonable opportunity to cure the violation;

(c) using the name or official seal of the state, the [Department of Commerce], or the [Division of Occupational and Professional Licensing], or their boards, in an unauthorized manner; or

(d) failing to respond to a request from the [division] within the time frame requested for an audit of the website or records of the online prescriber, the Internet facilitator, or the online contract pharmacy.

Section 13. [Severability.] [Insert severability clause.]

Section 14. [Repealer.] [Insert repealer clause.]

Section 15. [Effective date.] [Insert effective date.]