

SB0077S02 compared with SB0077S01

~~text~~ shows text that was in SB0077S01 but was deleted in SB0077S02.

text shows text that was not in SB0077S01 but was inserted into SB0077S02.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Evan J. Vickers proposes the following substitute bill:

PHARMACY PRACTICE ACT AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Pharmacy Practice Act related to pharmacies and prescription drugs.

Highlighted Provisions:

This bill:

- ▶ directs the Division of Occupational and Professional Licensing to issue a pharmacy technician trainee license to an individual under certain circumstances; ~~and~~
- ▶ allows a pharmacy to sell a prescription drug to a practitioner for use in the practitioner's office or facility under certain circumstances; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

SB0077S02 compared with SB0077S01

Other Special Clauses:

~~{ None }~~ This bill takes effect on July 1, 2014.

This bill coordinates with S.B. 55, Pharmaceutical Dispensing Amendments, by providing technical and substantive amendments.

Utah Code Sections Affected:

AMENDS:

58-17b-301, as last amended by Laws of Utah 2013, Chapter 52

58-17b-309, as last amended by Laws of Utah 2013, Chapter 278

ENACTS:

58-17b-305.1, Utah Code Annotated 1953

58-17b-624, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

58-17b-309, as last amended by Laws of Utah 2013, Chapter 278

58-17b-624, Utah Code Annotated 1953

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

Section 1. Section **58-17b-301** is amended to read:

58-17b-301. License required -- License classifications for individuals.

(1) A license is required to engage in the practice of pharmacy, telepharmacy, or the practice of a pharmacy technician, except as specifically provided in Section 58-1-307, 58-17b-309, or 58-17-309.6.

(2) The division shall issue to an individual who qualifies under this chapter a license in the classification of:

- (a) pharmacist;
- (b) pharmacy intern; ~~[or]~~
- (c) pharmacy technician~~[-];~~ or
- (d) pharmacy technician trainee.

Section 2. Section **58-17b-305.1** is enacted to read:

58-17b-305.1. Qualifications for licensure of pharmacy technician trainee.

(1) An applicant for licensure as a pharmacy technician trainee shall:

- (a) submit an application to the division on a form created by the division;

SB0077S02 compared with SB0077S01

(b) pay a fee established by the ~~{department}~~division in accordance with Section 63J-1-504;

(c) submit satisfactory evidence, as determined by the ~~{department}~~division, of good moral character as it relates to the applicant's ability to practice pharmacy;

(d) ~~unless exempted by the division,~~ submit a completed criminal background check;

~~{~~ ~~(e) submit evidence that the applicant has not engaged in conduct that is considered unlawful conduct or unprofessional conduct under Section 58-1-501, 58-17b-501, or 58-17b-502;~~

~~†~~ ~~(ff)e~~ demonstrate, as determined by the ~~{department}~~division, that the applicant does not have a physical or mental condition that would prevent the applicant from engaging in practice as a pharmacy technician with reasonable skill, competency, and safety to the public;

~~————~~ ~~(g) have completed training that meets the standards established; and~~

~~(f) submit evidence that the applicant is enrolled in a training program approved by the division~~ ~~{ in collaboration with the board; and~~

~~————~~ ~~(h) pass an examination designated by the division in collaboration with the board;~~

(2) A pharmacist whose license has been denied, revoked, suspended, or restricted for disciplinary purposes is not eligible to be licensed as a pharmacy technician trainee during division probation.

Section 3. Section 58-17b-309 is amended to read:

58-17b-309. Exemptions from licensure.

(1) For purposes of this section:

(a) "Cosmetic drug":

(i) means a prescription drug that is:

(A) for the purpose of promoting attractiveness or altering the appearance of an individual; and

(B) listed as a cosmetic drug subject to the exemption under this section by the division by administrative rule or has been expressly approved for online dispensing, whether or not it is dispensed online or through a physician's office; and

(ii) does not include a prescription drug that is:

(A) a controlled substance;

(B) compounded by the physician; or

SB0077S02 compared with SB0077S01

(C) prescribed or used for the patient for the purpose of diagnosing, curing, or preventing a disease.

(b) "Injectable weight loss drug":

(i) means an injectable prescription drug:

(A) prescribed to promote weight loss; and

(B) listed as an injectable prescription drug subject to exemption under this section by the division by administrative rule; and

(ii) does not include a prescription drug that is a controlled substance.

(c) "Prescribing practitioner" means an individual licensed under:

(i) Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse with prescriptive practice;

(ii) Chapter 67, Utah Medical Practice Act;

(iii) Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) Chapter 70a, Physician Assistant Act.

(2) In addition to the exemptions from licensure in Sections 58-1-307 and 58-17b-309.5, the following individuals may engage in the acts or practices described in this section without being licensed under this chapter:

(a) if the individual is described in Subsections (2)(b), (d), or (e), the individual notifies the division in writing of the individual's intent to dispense a drug under this subsection;

(b) a person selling or providing contact lenses in accordance with Section 58-16a-801;

~~[(c) an individual engaging in the practice of pharmacy technician under the direct personal supervision of a pharmacist while making satisfactory progress in an approved program as defined in division rule;]~~

~~[(d)]~~ [(c)] a prescribing practitioner who prescribes and dispenses a cosmetic drug or an injectable weight loss drug to the prescribing practitioner's patient in accordance with Subsection ~~[(4)]~~ [(3)]; or

~~[(e)]~~ [(d)] an optometrist, as defined in Section 58-16a-102, acting within the optometrist's scope of practice as defined in Section 58-16a-601, who prescribes and dispenses a cosmetic drug to the optometrist's patient in accordance with Subsection ~~[(4)]~~ [(3)].

~~[(3) In accordance with Subsection 58-1-303(1)(a), an individual exempt under~~

SB0077S02 compared with SB0077S01

~~Subsection (2)(c) must take all examinations as required by division rule following completion of an approved curriculum of education, within the required time frame. This exemption expires immediately upon notification of a failing score of an examination, and the individual may not continue working as a pharmacy technician even under direct supervision.~~

~~(4)~~(3) A prescribing practitioner or optometrist is exempt from licensing under the provisions of this part if the prescribing practitioner or optometrist:

(a) (i) writes a prescription for a drug the prescribing practitioner or optometrist has the authority to dispense under Subsection ~~(4)~~(3)(b); and

(ii) informs the patient:

(A) that the prescription may be filled at a pharmacy or dispensed in the prescribing practitioner's or optometrist's office;

(B) of the directions for appropriate use of the drug;

(C) of potential side-effects to the use of the drug; and

(D) how to contact the prescribing practitioner or optometrist if the patient has questions or concerns regarding the drug;

(b) dispenses a cosmetic drug or injectable weight loss drug only to the prescribing practitioner's patients or for an optometrist, dispenses a cosmetic drug only to the optometrist's patients;

(c) follows labeling, record keeping, patient counseling, storage, purchasing and distribution, operating, treatment, and quality of care requirements established by administrative rule adopted by the division in consultation with the boards listed in Subsection ~~(5)~~(4)(a); and

(d) follows USP-NF 797 standards for sterile compounding if the drug dispensed to patients is reconstituted or compounded.

~~(5)~~(4) (a) The division, in consultation with the board under this chapter and the relevant professional board, including the Physician Licensing Board, the Osteopathic Physician Licensing Board, the Physician Assistant Licensing Board, the Board of Nursing, the Optometrist Licensing Board, or the Online Prescribing, Dispensing, and Facilitation Board, shall adopt administrative rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act to designate:

(i) the prescription drugs that may be dispensed as a cosmetic drug or weight loss drug

SB0077S02 compared with SB0077S01

under this section; and

(i) the requirements under Subsection ~~[(4)]~~[(3)](c).

(b) When making a determination under Subsection (1)(a), the division and boards listed in Subsection ~~[(5)]~~[(4)](a) may consider any federal Food and Drug Administration indications or approval associated with a drug when adopting a rule to designate a prescription drug that may be dispensed under this section.

(c) The division may inspect the office of a prescribing practitioner or optometrist who is dispensing under the provisions of this section, in order to determine whether the prescribing practitioner or optometrist is in compliance with the provisions of this section. If a prescribing practitioner or optometrist chooses to dispense under the provisions of this section, the prescribing practitioner or optometrist consents to the jurisdiction of the division to inspect the prescribing practitioner's or optometrist's office and determine if the provisions of this section are being met by the prescribing practitioner or optometrist.

(d) If a prescribing practitioner or optometrist violates a provision of this section, the prescribing practitioner or optometrist may be subject to discipline under:

(i) this chapter; and

(ii) (A) Chapter 16a, Utah Optometry Practice Act;

(B) Chapter 31b, Nurse Practice Act;

(C) Chapter 67, Utah Medical Practice Act;

(D) Chapter 68, Utah Osteopathic Medical Practice Act;

(E) Chapter 70a, Physician Assistant Act; or

(F) Chapter 83, Online Prescribing, Dispensing, and Facilitation Act.

~~[(6)]~~[(5)] Except as provided in Subsection (2)(e), this section does not restrict or limit the scope of practice of an optometrist or optometric physician licensed under Chapter 16a, Utah Optometry Practice Act.

Section ~~[(3)]~~4. Section **58-17b-624** is enacted to read:

58-17b-624. Prescription drugs -- Sale to a practitioner for office use.

(1) A pharmacy licensed under this chapter may, subject to rules established by the division, repackage or compound a prescription drug for sale to a practitioner if:

(a) the prescription drug:

(i) does not include a compounded drug; or

SB0077S02 compared with SB0077S01

(ii) (A) includes a compounded drug; and

(B) is not a controlled substance;

(b) the pharmacy labels the prescription drug "for office use only";

(c) the practitioner administers the drug to a patient in the practitioner's office or facility; and

(d) the practitioner does not dispense the drug to the patient.

(2) The division shall establish, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescription drug labeling and control standards for a prescription drug that a pharmacy provides to a practitioner under this section.

Section 5. Effective date.

This bill takes effect on July 1, 2014.

Section 6. Coordinating S.B. 77 with S.B. 55 -- Technical and substantive amendments.

If this S.B. 77 and S.B. 55, Pharmaceutical Dispensing Amendments both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by:

(1) modifying Section 58-17b-309 to read:

"58-17b-309. Exemption from licensure -- Contact lenses.

In addition to the exemptions from licensure in Section 58-1-307, a person selling or providing contact lenses in accordance with Section 58-16a-801 is exempt from the licensing provisions of this chapter."; and

(2) modifying Subsection 58-17b-624(1)(d) to read:

"(d) except in accordance with Title 58, Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, the practitioner does not dispense the drug to the patient."