

## SB0120S02 compared with SB0120S01

~~{deleted text}~~ shows text that was in SB0120S01 but was deleted in SB0120S02.

inserted text shows text that was not in SB0120S01 but was inserted into SB0120S02.

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Senator Scott K. Jenkins proposes the following substitute bill:

### SHELTER ANIMAL VACCINE AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott K. Jenkins**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill amends the Veterinary Practice Act.

##### Highlighted Provisions:

This bill:

- ▶ exempts an employee of an animal shelter, ~~{who meets certain training requirements, }~~ from the requirement to be licensed as a veterinarian for the purpose of administering ~~{certain vaccinations}~~ a rabies vaccination to a shelter animal; ~~{~~
  - ~~requires an animal shelter to establish a consulting relationship with a veterinarian for training shelter animal employees regarding proper storage, handling, and administration of vaccinations;~~
  - ~~establishes requirements for the relationship between the veterinarian and the animal shelter;~~~~}~~

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~~authorizes the animal shelter to obtain, store, and handle vaccinations under the license of the veterinarian; and~~

~~} and~~

- ~~▶ exempts an animal shelter operating under the ~~{license}~~ indirect supervision of a veterinarian from the requirement to obtain a license as a pharmacy for purposes of handling, storing, and administering a rabies vaccination, or a drug used for purposes of animal euthanasia.~~

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

**58-28-307**, as last amended by Laws of Utah 2013, Chapter 278

~~{ENACTS:~~

~~**58-28-309**, Utah Code Annotated 1953~~

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

Section 1. 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;

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(B) compounded by the physician; or

(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) 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); ~~or~~

(e) 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)~~[-]; and~~

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(f) an animal shelter ~~if:~~

~~(i) the employee and the animal shelter comply;~~ that, in accordance with Section 58-28-309 for a vaccination program; or

~~(ii) the employee is performing euthanasia in accordance with Subsection 58-17b-309(14)(a);~~ 58-28-307 and under the indirect supervision of a veterinarian, stores, handles, or administers a rabies vaccine or a drug used for euthanising an animal;

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

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

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(5) (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 under this section; and

(ii) the requirements under Subsection (4)(c).

(b) When making a determination under Subsection (1)(a), the division and boards listed in Subsection (5)(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) 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

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Optometry Practice Act.

Section 2. Section **58-28-307** is amended to read:

### **58-28-307. Exemptions from chapter.**

In addition to the exemptions from licensure in Section 58-1-307 this chapter does not apply to:

(1) any person who practices veterinary medicine, surgery, or dentistry upon any animal owned by him, and the employee of that person when the practice is upon an animal owned by his employer, and incidental to his employment, except:

(a) this exemption does not apply to any person, or his employee, when the ownership of an animal was acquired for the purpose of circumventing this chapter; and

(b) this exemption does not apply to the administration, dispensing, or prescribing of a prescription drug, or nonprescription drug intended for off label use, unless the administration, dispensing, or prescribing of the drug is obtained through an existing veterinarian-patient relationship;

(2) any person who as a student at a veterinary college approved by the board engages in the practice of veterinary medicine, surgery, and dentistry as part of his academic training and under the direct supervision and control of a licensed veterinarian, if that practice is during the last two years of the college course of instruction and does not exceed an 18-month duration;

(3) a veterinarian who is an officer or employee of the government of the United States, or the state, or its political subdivisions, and technicians under his supervision, while engaged in the practice of veterinary medicine, surgery, or dentistry for that government;

(4) any person while engaged in the vaccination of poultry, pullorum testing, typhoid testing of poultry, and related poultry disease control activity;

(5) any person who is engaged in bona fide and legitimate medical, dental, pharmaceutical, or other scientific research, if that practice of veterinary medicine, surgery, or dentistry is directly related to, and a necessary part of, that research;

(6) veterinarians licensed under the laws of another state rendering professional services in association with licensed veterinarians of this state for a period not to exceed 90 days;

(7) registered pharmacists of this state engaged in the sale of veterinary supplies,

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instruments, and medicines, if the sale is at his regular place of business;

(8) any person in this state engaged in the sale of veterinary supplies, instruments, and medicines, except prescription drugs which must be sold in compliance with state and federal regulations, if the supplies, instruments, and medicines are sold in original packages bearing adequate identification and directions for application and administration and the sale is made in the regular course of, and at the regular place of business;

(9) any person rendering emergency first aid to animals in those areas where a licensed veterinarian is not available, and if suspicious reportable diseases are reported immediately to the state veterinarian;

(10) any person performing or teaching nonsurgical bovine artificial insemination;

(11) any person affiliated with an institution of higher education who teaches nonsurgical bovine embryo transfer or any technician trained by or approved by an institution of higher education who performs nonsurgical bovine embryo transfer, but only if any prescription drug used in the procedure is prescribed and administered under the direction of a veterinarian licensed to practice in Utah;

(12) (a) upon written referral by a licensed veterinarian, the practice of animal chiropractic by a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act, who has completed an animal chiropractic course approved by the American Veterinary Chiropractic Association or the division;

(b) upon written referral by a licensed veterinarian, the practice of animal physical therapy by a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act, who has completed at least 100 hours of animal physical therapy training, including quadruped anatomy and hands-on training, approved by the division;

(c) upon written referral by a licensed veterinarian, the practice of animal massage therapy by a massage therapist licensed under Chapter 47b, Massage Therapy Practice Act, who has completed at least 60 hours of animal massage therapy training, including quadruped anatomy and hands-on training, approved by the division; and

(d) upon written referral by a licensed veterinarian, the practice of acupuncture by an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act, who has completed a course of study on animal acupuncture approved by the division;

(13) unlicensed assistive personnel performing duties appropriately delegated to the

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unlicensed assistive personnel in accordance with Section 58-28-502;

(14) an animal shelter employee who is:

(a) (i) acting under the indirect supervision of a licensed veterinarian; and

~~[(b)]~~ (ii) (A) performing animal euthanasia in the course and scope of employment;

[and] or

~~(~~(b)~~(B) ~~facting~~)~~ administering a rabies vaccine to a shelter animal in accordance with ~~{Section 58-28-309}~~ the Compendium of Animal Rabies Prevention and Control; and

(15) an individual providing appropriate training for animals; however, this exception does not include diagnosing any medical condition, or prescribing or dispensing any prescription drugs or therapeutics.

~~{~~ ~~Section 3. Section 58-28-309 is enacted to read:~~

~~58-28-309. Animal shelter employees -- Rabies vaccine -- Vaccination Program.~~

~~(1) For purposes of this section:~~

~~(a) (i) "Animal shelter" means a facility or program that provides services to stray, lost, or unwanted animals, including holding and placing the animal for adoption.~~

~~(ii) "Animal shelter" does not include:~~

~~(A) an institution conducting research on animals as defined in Section 26-26-1; or~~

~~(B) a private humane society or private animal welfare organization.~~

~~(b) "Employee" means an individual:~~

~~(i) employed by the animal shelter; or~~

~~(ii) volunteering at the animal shelter.~~

~~(c) "Vaccination program" means the storage, handling, and administration of rabies vaccines or other vaccines that promote health or prevent disease.~~

~~(2) An employee may administer a vaccine to a shelter animal without being licensed under this chapter if the employee complies with Subsection (4) and the animal shelter complies with Subsection (3):~~

~~(3) (a) The animal shelter shall have a written agreement with a licensed veterinarian for the oversight of the vaccination program in which:~~

~~(i) the veterinarian provides training at least annually to employees regarding:~~

~~(A) the standards developed under Subsection (4)(a);~~

~~(B) the proper storage, handling, administration, and record keeping for vaccinations~~



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~~administered at the animal shelter:~~

~~—— (C) contraindications for vaccinations and possible reactions to vaccinations; and~~

~~—— (D) if the rabies vaccination will be administered, the protocols for rabies vaccination under the Compendium of Animal Rabies Prevention and Control;~~

~~—— (ii) the veterinarian inspects the animal shelter:~~

~~—— (A) at least annually to verify the proper storage, handling, administration, and record keeping for vaccinations administered at the animal shelter; and~~

~~—— (B) at designated intervals to audit and reconcile the inventory of vaccines and the rabies certificates;~~

~~—— (iii) the veterinarian provides a treatment protocol for adverse vaccine reactions; and~~

~~—— (iv) the veterinarian agrees that the animal shelter is operating the vaccination program under the license of the veterinarian.~~

~~—— (b) If a rabies vaccination is administered by an employee, the animal shelter shall:~~

~~—— (i) create and maintain a record for each animal that received the rabies vaccination for a period of five years after the date of the rabies vaccination; and~~

~~—— (ii) include in the records the name of the person who administered the vaccination, the vaccine identification, and the rabies tag number.~~

~~—— (c) (i) Except as provided in Subsection (3)(c)(ii) an animal shelter may administer vaccinations only to impounded shelter animals or animals owned by the shelter.~~

~~—— (ii) An animal shelter may administer vaccinations to nonshelter animals if a veterinarian is available for direct supervision of the vaccinations.~~

~~—— (d) An animal shelter shall maintain a record of employee training and competency test results:~~

~~—— (4) An employee shall:~~

~~—— (a) receive training developed by the Utah Veterinary Medical Association that includes the proper storage, handling, and administration of vaccines;~~

~~—— (b) pass a competency exam based on the training material developed under Subsection (4)(a);~~

~~—— (c) receive training at least annually by the veterinarian under contract with the animal shelter in accordance with Subsection (3)(a);~~

~~—— (d) follow storage, handling, administration, and record keeping requirements~~

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~~developed by the veterinarian under Subsection (3);~~

~~—— (e) follow treatment protocols developed by the veterinarian under Subsection (3); and~~

~~—— (f) if the rabies vaccine is administered by an employee, administer the vaccine under the indirect supervision of a veterinarian;~~

~~—— (5) An animal shelter that is operating under the license of a veterinarian under the provisions of Subsection (3), is not subject to licensing as a pharmacy under Chapter 17b, Pharmacy Practice Act.~~

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