

**PROVIDING HEALTH CARE SERVICE -
EXEMPTIONS FROM LICENSURE**

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley M. Daw

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of Title 58, Occupations and Professions, related to creating exemptions from licensure for certain persons who provide health care services.

Highlighted Provisions:

This bill:

- ▶ provides that individuals may provide certain health care services, as defined in the bill, without being licensed or certified under Title 58, Occupations and Professions;
- ▶ provides the qualifications required for an exemption from licensure in providing health care services;
- ▶ requires written disclosure by an exempted practitioner prior to providing health care services and a written acknowledgment from the potential client of the received disclosure;
- ▶ limits the application of a health care services provider's exemption; and
- ▶ provides a penalty.

Monies Appropriated in this Bill:

None

Other Special Clauses:



None

Utah Code Sections Affected:

ENACTS:

58-1-307.5, Utah Code Annotated 1953

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

Section 1. Section **58-1-307.5** is enacted to read:

58-1-307.5. Providing health care services -- Exemption from licensure -- Disclosure -- Limitations -- Penalty.

(1) As used in this section, "health care services" means the broad domain of health care and healing therapies and methods which are:

(a) provided by an individual who does not hold a license, permit, certification, or registration issued by the division under Title 58, Occupations and Professions; and

(b) not prohibited under this section.

(2) Notwithstanding any other provision of this title, an individual providing health care services in compliance with this section is exempt from the requirement of licensure in providing health care services if the individual:

(a) provides the health care services in accordance with this section; and

(b) does not:

(i) perform surgery or any other procedure that punctures the skin, except for finger pricking for screening purposes;

(ii) set fractures;

(iii) prescribe or administer X-ray radiation to an individual;

(iv) prescribe or administer a prescription drug, a prescription device, or a controlled substance to an individual;

(v) diagnose and treat a mental or physical condition of an individual and as a direct result of that service knowingly and willfully cause the individual recognizable and eminent risk of significant and discernable physical or mental injury;

(vi) state, advertise, or otherwise represent to any person that the individual is licensed, certified, or registered to practice a health care profession in Utah;

(vii) perform a chiropractic adjustment of an articulation of the spine; and

(viii) recommend the discontinuance of a medically prescribed drug or medically prescribed treatment.

(3) (a) An individual providing health care services under this section, who is advertising or charging a fee for those services, shall, prior to providing the services, disclose to the client in a plainly worded written statement:

(i) the individual's name, business address, and telephone number;

(ii) that the individual is not a health care practitioner licensed by the state;

(iii) the nature of the health care services to be provided; and

(iv) the degrees, training, experience, credentials, or other qualifications of the individual regarding the health care services to be provided.

(b) (i) Before the individual provides health care services to a client for the first time, the individual must obtain a written acknowledgment from the client or the client's legal guardian stating that the client has been provided with the information required under Subsection (3)(a).

(ii) The client shall receive a copy of the written acknowledgment required under Subsection (3)(b)(i) and the individual providing the health care services shall maintain the written acknowledgment for a period of two years.

(iii) Any change in the disclosure information required under Subsection (3)(a) shall be given to the client in writing prior to the providing of health care services that would occur after the change.

(4) Nothing in this section:

(a) shall be construed to apply to the practice, conduct, activities, or services of a person licensed, registered, certified, or otherwise credentialed under Title 58, Occupations and Professions;

(b) applies to, controls, or prevents:

(i) a health care practice from being practiced if it is already exempt from Title 58, Occupations and Professions, any professional practice acts, or under state law; or

(ii) an individual from providing health care services if the individual is already exempt from Title 58, Occupations and Professions, any professional practice acts, or under state law;

(c) shall be interpreted to apply to, control, prevent, or restrict the practice, service, or

90 activity of lawfully marketing, selling, or distributing products such as food, dietary
91 supplements, or homeopathic remedies, educating consumers about the products, or explaining
92 the use of the products; and
93 (d) limits the right of an individual to seek relief for negligence or any other civil
94 remedy against an individual providing services subject to the requirements of this section.
95 (5) Any person who violates Subsection (3)(a) or (3)(b)(iii) by knowingly making a
96 misrepresentation in the disclosure statement is guilty of a class A misdemeanor.

Legislative Review Note
as of 1-13-06 3:01 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0136**Providing Health Care Service - Exemptions from
Licensure***26-Jan-06
2:25 PM*

State Impact

Implementation will require two investigators at a cost of \$194,500 from the Commerce Service Fund. Second year costs are \$157,400. Spending from the Commerce Service Fund could affect revenue available to the General Fund.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
Commerce Service Fund	\$194,500	\$157,400	\$0	\$0
TOTAL	\$194,500	\$157,400	\$0	\$0

Individual and Business Impact

Some individuals previously required to pay for licensure will no longer have to meet that requirement at a savings of \$30 to \$200.

Office of the Legislative Fiscal Analyst