

**Representative Rebecca D. Lockhart** proposes the following substitute bill:

**PHARMACY PRACTICE ACT AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: Rebecca D. Lockhart

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**LONG TITLE**

**General Description:**

This bill amends the Pharmacy Practice Act.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions related to exemptions from licensure;
- ▶ defines terms;
- ▶ exempts prescribing physicians from licensure under the Pharmacy Practice Act when a physician dispenses a cosmetic drug or an injectable weight loss drug to the physician's patient; and
- ▶ requires certain drug labeling and record keeping standards for the dispensing physician.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**58-17b-309**, as last amended by Laws of Utah 2005, Chapter 71



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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; and

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

(A) a controlled substance;

(B) compounded by the prescribing practitioner; or

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

(b) "Injectable weight loss drug":

(i) means an injectable prescription drug prescribed to promote weight loss; and

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

(c) "Physician" means an individual licensed under either Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act.

[(+)] (2) In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the acts or practices described in this Subsection [(+)] (2) without being licensed under this chapter:

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

(b) 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[-]; and

(c) a physician who prescribes and dispenses a cosmetic drug or an injectable weight loss drug to the physician's patient in accordance with Subsection (4).

57 ~~[(2)]~~ (3) In accordance with Subsection 58-1-303~~[(1)]~~ (2)(a), an individual exempt  
58 under Subsection ~~[(1)]~~ (2)(b) must take all examinations as required by division rule following  
59 completion of an approved curriculum of education, within the required time frame. This  
60 exemption expires immediately upon notification of a failing score of an examination, and the  
61 individual may not continue working as a pharmacy technician even under direct supervision.

62 (4) A physician is exempt from licensing under the provisions of Subsection (2)(c) if  
63 the physician:

64 (a) (i) writes a prescription for a cosmetic drug or an injectable weight loss drug; and

65 (ii) informs the patient:

66 (A) that the prescription may be filled at a pharmacy or dispensed in the physician's  
67 office;

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

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

70 (D) how to contact the physician if the patient has questions or concerns regarding the  
71 drug;

72 (b) dispenses a cosmetic drug or injectable weight loss drug:

73 (i) only to the physician's patients; and

74 (ii) in a package labeled with:

75 (A) the physician's name, address, and telephone number;

76 (B) the date the drug is dispensed;

77 (C) the patient's name;

78 (D) the name and strength of the drug; and

79 (E) directions for the drug's use, and any cautionary statements;

80 (c) enters into the patient's medical record:

81 (i) the name and strength of the drug dispensed; and

82 (ii) the date the drug was dispensed;

83 (d) keeps the cosmetic drug or injectable weight loss drug in a locked cabinet or room,  
84 controls access to the cabinet or room, and maintains an ongoing inventory of the cabinet's or  
85 room's contents; and

86 (e) when compounding an injectable weight loss drug, complies with state and federal  
87 laws that govern a pharmacy that compounds prescription drugs.

88           (5) (a) The division shall adopt an administrative rule pursuant to Title 63G, Chapter 3,  
89 Utah Administrative Rulemaking Act to designate the prescription drugs that may be dispensed  
90 as cosmetic drugs under this section.

91           (b) The division may inspect the office of a physician who is dispensing under the  
92 provisions of this section, in order to determine whether the physician is in compliance with the  
93 provisions of this section. If a physician chooses to dispense under the provisions of this  
94 section, the physician consents to the jurisdiction of the division to inspect the physician's  
95 office and determine if the provisions of this section are being met by the physician.

96           (c) If a physician violates a provision of this section the physician may be subject to  
97 discipline under:

98           (i) this chapter; and

99           (ii) (A) Chapter 67, Utah Medical Practice Act; or

100           (B) Chapter 68, Utah Osteopathic Medical Practice Act.

101           (6) This section does not restrict or limit the scope of practice of an optometrist or  
102 optometric physician licensed under Chapter 16a, Utah Optometry Practice Act.