

**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 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 physician; 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:

(A) an injectable prescription drug 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) "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

57 program as defined in division rule[-]; and

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

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

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

67 (a) (i) writes a prescription for a cosmetic drug or injectable weight loss drug; and  
68 (ii) informs the patient:

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

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

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

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

75 (b) dispenses a cosmetic drug or injectable weight loss drug only to the physician's  
76 patients; and

77 (c) follows labeling, record keeping, patient counseling, and storage requirements  
78 established by administrative rule adopted by the division in consultation with the boards listed  
79 in Subsection (5)(a).

80 (5) (a) The division, in consultation with the board under this chapter, the Physician  
81 Licensing Board, and the Osteopathic Physician Licensing Board, shall adopt administrative  
82 rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act to designate:

83 (i) the prescription drugs that may be dispensed as a cosmetic drug or weight loss drug  
84 under this section; and

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

86 (b) When making a determination under Subsection (1)(a), the division and boards  
87 listed in Subsection (5)(a), may consider any federal Food and Drug Administration indications

88 or approval associated with a drug when adopting a rule to designate a prescription drug that  
89 may be dispensed under this section.

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

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

97 (i) this chapter; and

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

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

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