

PHARMACY PRACTICE ACT REVISIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill amends the exemptions from licensure in the Pharmacy Practice Act.

Highlighted Provisions:

This bill:

- ▶ defines a cancer drug treatment regimen;
- ▶ exempts an oncologist from the Pharmacy Practice Act when the oncologist provides a cancer drug treatment regime to a patient;
- ▶ excludes Schedule I, II, and III drugs from the drugs an oncologist may provide to a patient under the exemption from the Pharmacy Practice Act; and
- ▶ includes assistants to the oncologist who are under the general supervision of the oncologist in the exemption from the Pharmacy Practice Act.

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 2011, Chapter 76

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



28 Section 1. Section **58-17b-309** is amended to read:

29 **58-17b-309. Exemptions from licensure.**

30 (1) For purposes of this section:

31 (a) " Cancer drug treatment regimen":

32 (i) means a prescription drug used to treat cancer, manage its symptoms, or provide
33 continuity of care for a cancer patient;

34 (ii) includes:

35 (A) a chemotherapy drug administered intravenously, orally, rectally, or by dermal
36 methods; and

37 (B) a drug used to support cancer treatment, including to treat, alleviate, or minimize
38 physical and psychological symptoms or pain, or to improve patient tolerance of cancer
39 treatments or prepare a patient for a subsequent course of therapy; and

40 (iii) does not mean a drug listed under federal law as a Schedule I, II, or III drug.

41 [~~(a)~~] (b) "Cosmetic drug":

42 (i) means a prescription drug that is:

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

45 (B) listed as a cosmetic drug subject to the exemption under this section by the division
46 by administrative rule; and

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

48 (A) a controlled substance;

49 (B) compounded by the physician; or

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

52 [~~(b)~~] (c) "Injectable weight loss drug":

53 (i) means an injectable prescription drug:

54 (A) prescribed to promote weight loss; and

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

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

58 [~~(c)~~] (d) "Prescribing practitioner" means an individual licensed under:

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

61 (ii) Chapter 67, Utah Medical Practice Act;

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

63 (iv) Chapter 70a, Physician Assistant Act.

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

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

68 (b) an individual engaging in the practice of pharmacy technician under the direct
69 personal supervision of a pharmacist while making satisfactory progress in an approved
70 program as defined in division rule;

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

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

77 (e) (i) a prescribing practitioner who:

78 (A) treats patients in an outpatient clinic setting;

79 (B) provides a cancer drug treatment regimen to a patient;

80 (C) is certified or eligible to be certified by the American Board of Internal Medicine in
81 medical oncology; and

82 (D) follows labeling, recordkeeping, patient counseling, and storage requirements
83 established by administrative rule adopted by the division in consultation with the board; and

84 (ii) a person who is not a prescribing practitioner who is:

85 (A) employed by the prescribing practitioner or the outpatient clinic setting in which
86 the prescribing practitioner works;

87 (B) acting under the general supervision of the prescribing practitioner; and

88 (C) follows Subsection (2)(e)(i)(D).

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

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

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

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

98 (ii) informs the patient:

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

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

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

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

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

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

111 (5) (a) The division, in consultation with the board under this chapter, the Physician
112 Licensing Board, the Osteopathic Physician Licensing Board, the Physician Assistant Licensing
113 Board, the Board of Nursing, and the Optometrist Licensing Board shall adopt administrative
114 rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act to designate:

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

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

118 (b) When making a determination under Subsection (1)~~(a)~~(b), the division and boards
119 listed in Subsection (5)(a), may consider any federal Food and Drug Administration indications
120 or approval associated with a drug when adopting a rule to designate a prescription drug that

121 may be dispensed under this section.

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

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

- 131 (i) this chapter; and
- 132 (ii) (A) Chapter 16a, Utah Optometry Practice Act;
- 133 (B) Chapter 31b, Nurse Practice Act;
- 134 (C) Chapter 67, Utah Medical Practice Act;
- 135 (D) Chapter 68, Utah Osteopathic Medical Practice Act; or
- 136 (E) Chapter 70a, Physician Assistant Act.

137 (6) Except as provided in Subsection (2)(d), this section does not restrict or limit the
138 scope of practice of an optometrist or optometric physician licensed under Chapter 16a, Utah
139 Optometry Practice Act.

Legislative Review Note
as of 2-1-12 6:30 AM

Office of Legislative Research and General Counsel