

Senator Evan J. Vickers proposes the following substitute bill:

PHARMACY PRACTICE ACT AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Stewart Barlow

LONG TITLE

General Description:

This bill amends provisions of the Pharmacy Practice Act related to pharmacies and prescription drugs.

Highlighted Provisions:

This bill:

- ▶ directs the Division of Occupational and Professional Licensing to issue a pharmacy technician trainee license to an individual under certain circumstances;
- ▶ allows a pharmacy to sell a prescription drug to a practitioner for use in the practitioner's office or facility under certain circumstances; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

This bill coordinates with S.B. 55, Pharmaceutical Dispensing Amendments, by providing technical and substantive amendments.

Utah Code Sections Affected:

AMENDS:



26 [58-17b-301](#), as last amended by Laws of Utah 2013, Chapter 52

27 [58-17b-309](#), as last amended by Laws of Utah 2013, Chapter 278

28 ENACTS:

29 [58-17b-305.1](#), Utah Code Annotated 1953

30 [58-17b-624](#), Utah Code Annotated 1953

31 **Utah Code Sections Affected by Coordination Clause:**

32 [58-17b-309](#), as last amended by Laws of Utah 2013, Chapter 278

33 [58-17b-624](#), Utah Code Annotated 1953



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

36 Section 1. Section **58-17b-301** is amended to read:

37 **58-17b-301. License required -- License classifications for individuals.**

38 (1) A license is required to engage in the practice of pharmacy, telepharmacy, or the
39 practice of a pharmacy technician, except as specifically provided in Section [58-1-307](#),
40 [58-17b-309](#), or [58-17-309.6](#).

41 (2) The division shall issue to an individual who qualifies under this chapter a license
42 in the classification of:

- 43 (a) pharmacist;
- 44 (b) pharmacy intern; [or]
- 45 (c) pharmacy technician[-]; or
- 46 (d) pharmacy technician trainee.

47 Section 2. Section **58-17b-305.1** is enacted to read:

48 **58-17b-305.1. Qualifications for licensure of pharmacy technician trainee.**

49 (1) An applicant for licensure as a pharmacy technician trainee shall:

- 50 (a) submit an application to the division on a form created by the division;
- 51 (b) pay a fee established by the division in accordance with Section [63J-1-504](#);
- 52 (c) submit satisfactory evidence, as determined by the division, of good moral character
53 as it relates to the applicant's ability to practice pharmacy;
- 54 (d) unless exempted by the division, submit a completed criminal background check;
- 55 (e) demonstrate, as determined by the division, that the applicant does not have a
56 physical or mental condition that would prevent the applicant from engaging in practice as a

57 pharmacy technician with reasonable skill, competency, and safety to the public; and
58 (f) submit evidence that the applicant is enrolled in a training program approved by the
59 division.

60 (2) A pharmacist whose license has been denied, revoked, suspended, or restricted for
61 disciplinary purposes is not eligible to be licensed as a pharmacy technician trainee during
62 division probation.

63 Section 3. Section **58-17b-309** is amended to read:

64 **58-17b-309. Exemptions from licensure.**

65 (1) For purposes of this section:

66 (a) "Cosmetic drug":

67 (i) means a prescription drug that is:

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

70 (B) listed as a cosmetic drug subject to the exemption under this section by the division
71 by administrative rule or has been expressly approved for online dispensing, whether or not it is
72 dispensed online or through a physician's office; and

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

74 (A) a controlled substance;

75 (B) compounded by the physician; or

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

78 (b) "Injectable weight loss drug":

79 (i) means an injectable prescription drug:

80 (A) prescribed to promote weight loss; and

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

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

84 (c) "Prescribing practitioner" means an individual licensed under:

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

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

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

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

90 (2) In addition to the exemptions from licensure in Sections 58-1-307 and

91 58-17b-309.5, the following individuals may engage in the acts or practices described in this

92 section without being licensed under this chapter:

93 (a) if the individual is described in Subsections (2)(b), (d), or (e), the individual

94 notifies the division in writing of the individual's intent to dispense a drug under this

95 subsection;

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

97 ~~[(c) an individual engaging in the practice of pharmacy technician under the direct~~

98 ~~personal supervision of a pharmacist while making satisfactory progress in an approved~~

99 ~~program as defined in division rule;]~~

100 ~~[(d)] (c) a prescribing practitioner who prescribes and dispenses a cosmetic drug or an~~

101 ~~injectable weight loss drug to the prescribing practitioner's patient in accordance with~~

102 ~~Subsection [(4)] (3); or~~

103 ~~[(e)] (d) an optometrist, as defined in Section 58-16a-102, acting within the~~

104 ~~optometrist's scope of practice as defined in Section 58-16a-601, who prescribes and dispenses~~

105 ~~a cosmetic drug to the optometrist's patient in accordance with Subsection [(4)] (3).~~

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

107 ~~Subsection (2)(c) must take all examinations as required by division rule following completion~~

108 ~~of an approved curriculum of education, within the required time frame. This exemption~~

109 ~~expires immediately upon notification of a failing score of an examination, and the individual~~

110 ~~may not continue working as a pharmacy technician even under direct supervision.]~~

111 ~~[(4)] (3) A prescribing practitioner or optometrist is exempt from licensing under the~~

112 ~~provisions of this part if the prescribing practitioner or optometrist:~~

113 (a) (i) writes a prescription for a drug the prescribing practitioner or optometrist has the

114 authority to dispense under Subsection ~~[(4)] (3)~~(b); and

115 (ii) informs the patient:

116 (A) that the prescription may be filled at a pharmacy or dispensed in the prescribing

117 practitioner's or optometrist's office;

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

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

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

122 (b) dispenses a cosmetic drug or injectable weight loss drug only to the prescribing
123 practitioner's patients or for an optometrist, dispenses a cosmetic drug only to the optometrist's
124 patients;

125 (c) follows labeling, record keeping, patient counseling, storage, purchasing and
126 distribution, operating, treatment, and quality of care requirements established by
127 administrative rule adopted by the division in consultation with the boards listed in Subsection
128 ~~[(5)]~~ (4)(a); and

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

131 ~~[(5)]~~ (4) (a) The division, in consultation with the board under this chapter and the
132 relevant professional board, including the Physician Licensing Board, the Osteopathic
133 Physician Licensing Board, the Physician Assistant Licensing Board, the Board of Nursing, the
134 Optometrist Licensing Board, or the Online Prescribing, Dispensing, and Facilitation Board,
135 shall adopt administrative rules pursuant to Title 63G, Chapter 3, Utah Administrative
136 Rulemaking Act to designate:

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

139 (ii) the requirements under Subsection ~~[(4)]~~ (3)(c).

140 (b) When making a determination under Subsection (1)(a), the division and boards
141 listed in Subsection ~~[(5)]~~ (4)(a) may consider any federal Food and Drug Administration
142 indications or approval associated with a drug when adopting a rule to designate a prescription
143 drug that may be dispensed under this section.

144 (c) The division may inspect the office of a prescribing practitioner or optometrist who
145 is dispensing under the provisions of this section, in order to determine whether the prescribing
146 practitioner or optometrist is in compliance with the provisions of this section. If a prescribing
147 practitioner or optometrist chooses to dispense under the provisions of this section, the
148 prescribing practitioner or optometrist consents to the jurisdiction of the division to inspect the
149 prescribing practitioner's or optometrist's office and determine if the provisions of this section

150 are being met by the prescribing practitioner or optometrist.

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

153 (i) this chapter; and

154 (ii) (A) Chapter 16a, Utah Optometry Practice Act;

155 (B) Chapter 31b, Nurse Practice Act;

156 (C) Chapter 67, Utah Medical Practice Act;

157 (D) Chapter 68, Utah Osteopathic Medical Practice Act;

158 (E) Chapter 70a, Physician Assistant Act; or

159 (F) Chapter 83, Online Prescribing, Dispensing, and Facilitation Act.

160 ~~[(6)]~~ (5) Except as provided in Subsection (2)(e), this section does not restrict or limit
161 the scope of practice of an optometrist or optometric physician licensed under Chapter 16a,
162 Utah Optometry Practice Act.

163 Section 4. Section **58-17b-624** is enacted to read:

164 **58-17b-624. Prescription drugs -- Sale to a practitioner for office use.**

165 (1) A pharmacy licensed under this chapter may, subject to rules established by the
166 division, repackage or compound a prescription drug for sale to a practitioner if:

167 (a) the prescription drug:

168 (i) does not include a compounded drug; or

169 (ii) (A) includes a compounded drug; and

170 (B) is not a controlled substance;

171 (b) the pharmacy labels the prescription drug "for office use only";

172 (c) the practitioner administers the drug to a patient in the practitioner's office or
173 facility; and

174 (d) the practitioner does not dispense the drug to the patient.

175 (2) The division shall establish, in accordance with Title 63G, Chapter 3, Utah
176 Administrative Rulemaking Act, prescription drug labeling and control standards for a
177 prescription drug that a pharmacy provides to a practitioner under this section.

178 Section 5. **Effective date.**

179 This bill takes effect on July 1, 2014.

180 Section 6. **Coordinating S.B. 77 with S.B. 55 -- Technical and substantive**

181 **amendments.**

182 If this S.B. 77 and S.B. 55, Pharmaceutical Dispensing Amendments both pass and
183 become law, it is the intent of the Legislature that the Office of Legislative Research and
184 General Counsel shall prepare the Utah Code database for publication by:

185 (1) modifying Section 58-17b-309 to read:

186 "58-17b-309. Exemption from licensure -- Contact lenses.

187 In addition to the exemptions from licensure in Section 58-1-307, a person selling or
188 providing contact lenses in accordance with Section 58-16a-801 is exempt from the licensing
189 provisions of this chapter."; and

190 (2) modifying Subsection 58-17b-624(1)(d) to read:

191 "(d) except in accordance with Title 58, Chapter 17b, Part 8, Dispensing Medical
192 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, the practitioner does not
193 dispense the drug to the patient.".