

**Senator Scott K. Jenkins** proposes the following substitute bill:

**SHELTER ANIMAL VACCINE AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott K. Jenkins**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the Veterinary Practice Act.

**Highlighted Provisions:**

This bill:

- ▶ exempts an employee of an animal shelter, who meets certain training requirements, from the requirement to be licensed as a veterinarian for the purpose of administering certain vaccinations to a shelter animal;
- ▶ requires an animal shelter to establish a consulting relationship with a veterinarian for training shelter animal employees regarding proper storage, handling, and administration of vaccinations;
- ▶ establishes requirements for the relationship between the veterinarian and the animal shelter;
- ▶ authorizes the animal shelter to obtain, store, and handle vaccinations under the license of the veterinarian; and
- ▶ exempts an animal shelter operating under the license of a veterinarian from the requirement to obtain a license as a pharmacy for purposes of handling, storing, and administering a vaccination.

**Money Appropriated in this Bill:**



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **58-17b-309**, as last amended by Laws of Utah 2013, Chapter 278

32 **58-28-307**, as last amended by Laws of Utah 2013, Chapter 278

33 ENACTS:

34 **58-28-309**, Utah Code Annotated 1953



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

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

38 **58-17b-309. Exemptions from licensure.**

39 (1) For purposes of this section:

40 (a) "Cosmetic drug":

41 (i) means a prescription drug that is:

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

44 (B) listed as a cosmetic drug subject to the exemption under this section by the division  
45 by administrative rule or has been expressly approved for online dispensing, whether or not it is  
46 dispensed online or through a physician's office; 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, or  
51 preventing a disease.

52 (b) "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) "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 Sections [58-1-307](#) and  
65 [58-17b-309.5](#), the following individuals may engage in the acts or practices described in this  
66 section without being licensed under this chapter:
- 67 (a) if the individual is described in Subsections (2)(b), (d), or (e), the individual  
68 notifies the division in writing of the individual's intent to dispense a drug under this  
69 subsection;
- 70 (b) a person selling or providing contact lenses in accordance with Section [58-16a-801](#);
- 71 (c) an individual engaging in the practice of pharmacy technician under the direct  
72 personal supervision of a pharmacist while making satisfactory progress in an approved  
73 program as defined in division rule;
- 74 (d) a prescribing practitioner who prescribes and dispenses a cosmetic drug or an  
75 injectable weight loss drug to the prescribing practitioner's patient in accordance with  
76 Subsection (4); [~~or~~]
- 77 (e) an optometrist, as defined in Section [58-16a-102](#), acting within the optometrist's  
78 scope of practice as defined in Section [58-16a-601](#), who prescribes and dispenses a cosmetic  
79 drug to the optometrist's patient in accordance with Subsection (4)[~~;~~]; and
- 80 (f) an animal shelter if:
- 81 (i) the employee and the animal shelter comply with Section [58-28-309](#) for a  
82 vaccination program; or
- 83 (ii) the employee is performing euthanasia in accordance with Subsection  
84 [58-17b-309\(14\)\(a\)](#).
- 85 (3) In accordance with Subsection [58-1-303\(1\)\(a\)](#), an individual exempt under  
86 Subsection (2)(c) must take all examinations as required by division rule following completion  
87 of an approved curriculum of education, within the required time frame. This exemption

88 expires immediately upon notification of a failing score of an examination, and the individual  
89 may not continue working as a pharmacy technician even under direct supervision.

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

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

94 (ii) informs the patient:

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

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

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

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

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

104 (c) follows labeling, record keeping, patient counseling, storage, purchasing and  
105 distribution, operating, treatment, and quality of care requirements established by  
106 administrative rule adopted by the division in consultation with the boards listed in Subsection  
107 (5)(a); and

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

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

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

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

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

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

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

- 132 (i) this chapter; and
- 133 (ii) (A) Chapter 16a, Utah Optometry Practice Act;
- 134 (B) Chapter 31b, Nurse Practice Act;
- 135 (C) Chapter 67, Utah Medical Practice Act;
- 136 (D) Chapter 68, Utah Osteopathic Medical Practice Act;
- 137 (E) Chapter 70a, Physician Assistant Act; or
- 138 (F) Chapter 83, Online Prescribing, Dispensing, and Facilitation Act.

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

142 Section 2. Section **58-28-307** is amended to read:

143 **58-28-307. Exemptions from chapter.**

144 In addition to the exemptions from licensure in Section **58-1-307** this chapter does not  
145 apply to:

146 (1) any person who practices veterinary medicine, surgery, or dentistry upon any  
147 animal owned by him, and the employee of that person when the practice is upon an animal  
148 owned by his employer, and incidental to his employment, except:

149 (a) this exemption does not apply to any person, or his employee, when the ownership

150 of an animal was acquired for the purpose of circumventing this chapter; and

151 (b) this exemption does not apply to the administration, dispensing, or prescribing of a  
152 prescription drug, or nonprescription drug intended for off label use, unless the administration,  
153 dispensing, or prescribing of the drug is obtained through an existing veterinarian-patient  
154 relationship;

155 (2) any person who as a student at a veterinary college approved by the board engages  
156 in the practice of veterinary medicine, surgery, and dentistry as part of his academic training  
157 and under the direct supervision and control of a licensed veterinarian, if that practice is during  
158 the last two years of the college course of instruction and does not exceed an 18-month  
159 duration;

160 (3) a veterinarian who is an officer or employee of the government of the United  
161 States, or the state, or its political subdivisions, and technicians under his supervision, while  
162 engaged in the practice of veterinary medicine, surgery, or dentistry for that government;

163 (4) any person while engaged in the vaccination of poultry, pullorum testing, typhoid  
164 testing of poultry, and related poultry disease control activity;

165 (5) any person who is engaged in bona fide and legitimate medical, dental,  
166 pharmaceutical, or other scientific research, if that practice of veterinary medicine, surgery, or  
167 dentistry is directly related to, and a necessary part of, that research;

168 (6) veterinarians licensed under the laws of another state rendering professional  
169 services in association with licensed veterinarians of this state for a period not to exceed 90  
170 days;

171 (7) registered pharmacists of this state engaged in the sale of veterinary supplies,  
172 instruments, and medicines, if the sale is at his regular place of business;

173 (8) any person in this state engaged in the sale of veterinary supplies, instruments, and  
174 medicines, except prescription drugs which must be sold in compliance with state and federal  
175 regulations, if the supplies, instruments, and medicines are sold in original packages bearing  
176 adequate identification and directions for application and administration and the sale is made in  
177 the regular course of, and at the regular place of business;

178 (9) any person rendering emergency first aid to animals in those areas where a licensed  
179 veterinarian is not available, and if suspicious reportable diseases are reported immediately to  
180 the state veterinarian;

- 181 (10) any person performing or teaching nonsurgical bovine artificial insemination;
- 182 (11) any person affiliated with an institution of higher education who teaches  
183 nonsurgical bovine embryo transfer or any technician trained by or approved by an institution  
184 of higher education who performs nonsurgical bovine embryo transfer, but only if any  
185 prescription drug used in the procedure is prescribed and administered under the direction of a  
186 veterinarian licensed to practice in Utah;
- 187 (12) (a) upon written referral by a licensed veterinarian, the practice of animal  
188 chiropractic by a chiropractic physician licensed under Chapter 73, Chiropractic Physician  
189 Practice Act, who has completed an animal chiropractic course approved by the American  
190 Veterinary Chiropractic Association or the division;
- 191 (b) upon written referral by a licensed veterinarian, the practice of animal physical  
192 therapy by a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act, who  
193 has completed at least 100 hours of animal physical therapy training, including quadruped  
194 anatomy and hands-on training, approved by the division;
- 195 (c) upon written referral by a licensed veterinarian, the practice of animal massage  
196 therapy by a massage therapist licensed under Chapter 47b, Massage Therapy Practice Act,  
197 who has completed at least 60 hours of animal massage therapy training, including quadruped  
198 anatomy and hands-on training, approved by the division; and
- 199 (d) upon written referral by a licensed veterinarian, the practice of acupuncture by an  
200 acupuncturist licensed under Chapter 72, Acupuncture Licensing Act, who has completed a  
201 course of study on animal acupuncture approved by the division;
- 202 (13) unlicensed assistive personnel performing duties appropriately delegated to the  
203 unlicensed assistive personnel in accordance with Section [58-28-502](#);
- 204 (14) an animal shelter employee who is:
- 205 (a) (i) acting under the indirect supervision of a licensed veterinarian; and  
206 ~~[(b)]~~ (ii) performing animal euthanasia in the course and scope of employment; and  
207 (b) acting in accordance with Section [58-28-309](#); and
- 208 (15) an individual providing appropriate training for animals; however, this exception  
209 does not include diagnosing any medical condition, or prescribing or dispensing any  
210 prescription drugs or therapeutics.

211 Section 3. Section **58-28-309** is enacted to read:

212 **58-28-309. Animal shelter employees -- Rabies vaccine -- Vaccination Program.**

213 (1) For purposes of this section:

214 (a) (i) "Animal shelter" means a facility or program that provides services to stray, lost,  
215 or unwanted animals, including holding and placing the animal for adoption.

216 (ii) "Animal shelter" does not include:

217 (A) an institution conducting research on animals as defined in Section 26-26-1; or

218 (B) a private humane society or private animal welfare organization.

219 (b) "Employee" means an individual:

220 (i) employed by the animal shelter; or

221 (ii) volunteering at the animal shelter.

222 (c) "Vaccination program" means the storage, handling, and administration of rabies  
223 vaccines or other vaccines that promote health or prevent disease.

224 (2) An employee may administer a vaccine to a shelter animal without being licensed  
225 under this chapter if the employee complies with Subsection (4) and the animal shelter  
226 complies with Subsection (3).

227 (3) (a) The animal shelter shall have a written agreement with a licensed veterinarian  
228 for the oversight of the vaccination program in which:

229 (i) the veterinarian provides training at least annually to employees regarding:

230 (A) the standards developed under Subsection (4)(a);

231 (B) the proper storage, handling, administration, and record keeping for vaccinations  
232 administered at the animal shelter;

233 (C) contraindications for vaccinations and possible reactions to vaccinations; and

234 (D) if the rabies vaccination will be administered, the protocols for rabies vaccination  
235 under the Compendium of Animal Rabies Prevention and Control;

236 (ii) the veterinarian inspects the animal shelter:

237 (A) at least annually to verify the proper storage, handling, administration, and record  
238 keeping for vaccinations administered at the animal shelter; and

239 (B) at designated intervals to audit and reconcile the inventory of vaccines and the  
240 rabies certificates;

241 (iii) the veterinarian provides a treatment protocol for adverse vaccine reactions; and

242 (iv) the veterinarian agrees that the animal shelter is operating the vaccination program



243 under the license of the veterinarian.

244 (b) If a rabies vaccination is administered by an employee, the animal shelter shall:

245 (i) create and maintain a record for each animal that received the rabies vaccination for  
246 a period of five years after the date of the rabies vaccination; and

247 (ii) include in the records the name of the person who administered the vaccination, the  
248 vaccine identification, and the rabies tag number.

249 (c) (i) Except as provided in Subsection (3)(c)(ii) an animal shelter may administer  
250 vaccinations only to impounded shelter animals or animals owned by the shelter.

251 (ii) An animal shelter may administer vaccinations to nonshelter animals if a  
252 veterinarian is available for direct supervision of the vaccinations.

253 (d) An animal shelter shall maintain a record of employee training and competency test  
254 results.

255 (4) An employee shall:

256 (a) receive training developed by the Utah Veterinary Medical Association that  
257 includes the proper storage, handling, and administration of vaccines;

258 (b) pass a competency exam based on the training material developed under Subsection  
259 (4)(a);

260 (c) receive training at least annually by the veterinarian under contract with the animal  
261 shelter in accordance with Subsection (3)(a);

262 (d) follow storage, handling, administration, and record keeping requirements  
263 developed by the veterinarian under Subsection (3);

264 (e) follow treatment protocols developed by the veterinarian under Subsection (3); and

265 (f) if the rabies vaccine is administered by an employee, administer the vaccine under  
266 the indirect supervision of a veterinarian.

267 (5) An animal shelter that is operating under the license of a veterinarian under the  
268 provisions of Subsection (3), is not subject to licensing as a pharmacy under Chapter 17b,  
269 Pharmacy Practice Act.