

1                   **PHARMACY LICENSE EXEMPTION FOR ANIMAL CONTROL**

2                                   **FUNCTIONS**

3   2014 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Richard A. Greenwood**

6                                   Senate Sponsor: \_\_\_\_\_

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill amends the Pharmacy Practice Act.

11                   **Highlighted Provisions:**

12                   This bill:

13                   ▶ exempts an animal shelter and animal shelter employee from the requirement to be  
14 licensed under the Pharmacy Practice Act for the purpose of handling, storing, or  
15 administering a rabies vaccine or euthanasia drugs.

16                   **Money Appropriated in this Bill:**

17                   None

18                   **Other Special Clauses:**

19                   None

20                   **Utah Code Sections Affected:**

21                   AMENDS:

22                   **58-17b-309**, as last amended by Laws of Utah 2013, Chapter 278

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

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

26                   **58-17b-309. Exemptions from licensure.**

27                   (1) For purposes of this section:



- 28 (a) "Cosmetic drug":  
29 (i) means a prescription drug that is:  
30 (A) for the purpose of promoting attractiveness or altering the appearance of an  
31 individual; and  
32 (B) listed as a cosmetic drug subject to the exemption under this section by the division  
33 by administrative rule or has been expressly approved for online dispensing, whether or not it is  
34 dispensed online or through a physician's office; and  
35 (ii) does not include a prescription drug that is:  
36 (A) a controlled substance;  
37 (B) compounded by the physician; or  
38 (C) prescribed or used for the patient for the purpose of diagnosing, curing, or  
39 preventing a disease.
- 40 (b) "Injectable weight loss drug":  
41 (i) means an injectable prescription drug:  
42 (A) prescribed to promote weight loss; and  
43 (B) listed as an injectable prescription drug subject to exemption under this section by  
44 the division by administrative rule; and  
45 (ii) does not include a prescription drug that is a controlled substance.
- 46 (c) "Prescribing practitioner" means an individual licensed under:  
47 (i) Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse with  
48 prescriptive practice;  
49 (ii) Chapter 67, Utah Medical Practice Act;  
50 (iii) Chapter 68, Utah Osteopathic Medical Practice Act; or  
51 (iv) Chapter 70a, Physician Assistant Act.
- 52 (2) In addition to the exemptions from licensure in Sections [58-1-307](#) and  
53 [58-17b-309.5](#), the following individuals or facilities may engage in the acts or practices  
54 described in this section without being licensed under this chapter:  
55 (a) if the individual is described in Subsections (2)(b), (d), or (e), the individual  
56 notifies the division in writing of the individual's intent to dispense a drug under this  
57 subsection;  
58 (b) a person selling or providing contact lenses in accordance with Section [58-16a-801](#);

59 (c) an individual engaging in the practice of pharmacy technician under the direct  
60 personal supervision of a pharmacist while making satisfactory progress in an approved  
61 program as defined in division rule;

62 (d) a prescribing practitioner who prescribes and dispenses a cosmetic drug or an  
63 injectable weight loss drug to the prescribing practitioner's patient in accordance with  
64 Subsection (4); [or]

65 (e) an optometrist, as defined in Section 58-16a-102, acting within the optometrist's  
66 scope of practice as defined in Section 58-16a-601, who prescribes and dispenses a cosmetic  
67 drug to the optometrist's patient in accordance with Subsection (4)[-]; or

68 (f) an animal shelter and animal shelter employee that, under the indirect supervision of  
69 a veterinarian, stores, handles, or administers a rabies vaccine or a drug used for euthanising an  
70 animal.

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

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

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

80 (ii) informs the patient:

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

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

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

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

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

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

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

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

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

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

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

109 (c) The division may inspect the office of a prescribing practitioner or optometrist who  
110 is dispensing under the provisions of this section, in order to determine whether the prescribing  
111 practitioner or optometrist is in compliance with the provisions of this section. If a prescribing  
112 practitioner or optometrist chooses to dispense under the provisions of this section, the  
113 prescribing practitioner or optometrist consents to the jurisdiction of the division to inspect the  
114 prescribing practitioner's or optometrist's office and determine if the provisions of this section  
115 are being met by the prescribing practitioner or optometrist.

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

118 (i) this chapter; and

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

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

- 121 (C) Chapter 67, Utah Medical Practice Act;  
122 (D) Chapter 68, Utah Osteopathic Medical Practice Act;  
123 (E) Chapter 70a, Physician Assistant Act; or  
124 (F) Chapter 83, Online Prescribing, Dispensing, and Facilitation Licensing Act.  
125 (6) Except as provided in Subsection (2)(e), this section does not restrict or limit the  
126 scope of practice of an optometrist or optometric physician licensed under Chapter 16a, Utah  
127 Optometry Practice Act.
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**Legislative Review Note**  
**as of 2-14-14 12:22 PM**

**Office of Legislative Research and General Counsel**