

Utah:

Notes: California Model. This bill was introduced and died in 2006. The Utah folks say they may re-introduce the bill. There was nothing that talked about why the bill died. It could be because of the fiscal note attached below: there was no way to recoup the investigative costs. However, there is no provisions for investigations in the bill, so it may have been a bogus way to kill the bill.

**1 PROVIDING HEALTH CARE SERVICE -
2 EXEMPTIONS FROM LICENSURE**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Bradley M. Daw**

6 Senate Sponsor: _____

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions of Title 58, Occupations and Professions, related to
11 creating exemptions from licensure for certain persons who provide health care
12 services.

13 **Highlighted Provisions:**

14 This bill:

15 < provides that individuals may provide certain health care services, as defined in the
16 bill, without being licensed or certified under Title 58, Occupations and
17 Professions;

18 < provides the qualifications required for an exemption from licensure in providing
19 health care services;

20 < requires written disclosure by an exempted practitioner prior to providing health
21 care services and a written acknowledgment from the potential client of the received
22 disclosure;

23 < limits the application of a health care services provider's exemption; and

24 < provides a penalty.

25 **Monies Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**

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28 None

29 **Utah Code Sections Affected:**

30 ENACTS:

31 **58-1-307.5**, Utah Code Annotated 1953

32

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

34 Section 1. Section **58-1-307.5** is enacted to read:

35 **58-1-307.5. Providing health care services -- Exemption from licensure --**

36 **Disclosure -- Limitations -- Penalty.**

37 (1) As used in this section, "health care services" means the broad domain of health
38 care and healing therapies and methods which are:

39 (a) provided by an individual who does not hold a license, permit, certification, or
40 registration issued by the division under Title 58, Occupations and Professions; and
41 (b) not prohibited under this section.

42 (2) Notwithstanding any other provision of this title, an individual providing health
43 care services in compliance with this section is exempt from the requirement of
licensure in

44 providing health care services if the individual:

45 (a) provides the health care services in accordance with this section; and

46 (b) does not:

47 (i) perform surgery or any other procedure that punctures the skin, except for finger
48 pricking for screening purposes;

49 (ii) set fractures;

50 (iii) prescribe or administer X-ray radiation to an individual;

51 (iv) prescribe or administer a prescription drug, a prescription device, or a controlled
52 substance to an individual;

53 (v) diagnose and treat a mental or physical condition of an individual and as a direct
54 result of that service knowingly and willfully cause the individual recognizable and
eminent

55 risk of significant and discernable physical or mental injury;

56 (vi) state, advertise, or otherwise represent to any person that the individual is
licensed,

57 certified, or registered to practice a health care profession in Utah;

58 (vii) perform a chiropractic adjustment of an articulation of the spine; and

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59 (viii) recommend the discontinuance of a medically prescribed drug or medically
60 prescribed treatment.

61 (3) (a) An individual providing health care services under this section, who is
62 advertising or charging a fee for those services, shall, prior to providing the services,
disclose

63 to the client in a plainly worded written statement:

64 (i) the individual's name, business address, and telephone number;

65 (ii) that the individual is not a health care practitioner licensed by the state;

66 (iii) the nature of the health care services to be provided; and

67 (iv) the degrees, training, experience, credentials, or other qualifications of the
68 individual regarding the health care services to be provided.

69 (b) (i) Before the individual provides health care services to a client for the first time,
70 the individual must obtain a written acknowledgment from the client or the client's
legal

71 guardian stating that the client has been provided with the information required under
72 Subsection (3)(a).

73 (ii) The client shall receive a copy of the written acknowledgment required under
74 Subsection (3)(b)(i) and the individual providing the health care services shall
maintain the

75 written acknowledgment for a period of two years.

76 (iii) Any change in the disclosure information required under Subsection (3)(a) shall
be

77 given to the client in writing prior to the providing of health care services that would occur

78 after the change.

79 (4) Nothing in this section:

80 (a) shall be construed to apply to the practice, conduct, activities, or services of a
81 person licensed, registered, certified, or otherwise credentialed under Title 58,
Occupations and

82 Professions;

83 (b) applies to, controls, or prevents:

84 (i) a health care practice from being practiced if it is already exempt from Title 58,
85 Occupations and Professions, any professional practice acts, or under state law; or

86 (ii) an individual from providing health care services if the individual is already
87 exempt from Title 58, Occupations and Professions, any professional practice acts, or
under

88 state law;

89 (c) shall be interpreted to apply to, control, prevent, or restrict the practice, service, or

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90 activity of lawfully marketing, selling, or distributing products such as food, dietary
91 supplements, or homeopathic remedies, educating consumers about the products, or
explaining

92 the use of the products; and

93 (d) limits the right of an individual to seek relief for negligence or any other civil
94 remedy against an individual providing services subject to the requirements of this
section.

95 (5) Any person who violates Subsection (3)(a) or (3)(b)(iii) by knowingly making a
96 misrepresentation in the disclosure statement is guilty of a class A misdemeanor.

Legislative Review Note

as of 1-13-06 3:01 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

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Fiscal Note	Providing Health Care Service - Exemptions from	<i>26-Jan-06</i>
Bill Number HB0136	Licensure	<i>2:25 PM</i>

State Impact

Implementation will require two investigators at a cost of \$194,500 from the Commerce Service Fund. Second year costs are \$157,400. Spending from the Commerce Service Fund could affect revenue available to the General Fund.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
Commerce Service Fund	\$194,500	\$157,400	\$0	\$0
TOTAL	\$194,500	\$157,400	\$0	\$0

Individual and Business Impact

Some individuals previously required to pay for licensure will no longer have to meet that requirement at a savings of \$30 to \$200.

Office of the Legislative Fiscal Analyst