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AMENDMENTS TO LB181

Introduced by Health and Human Services.

1. Strike the original sections and insert the following new sections:

Section 1. Section 38-2801, Revised Statutes Cumulative Supplement, 2022, is amended to read:

38-2801 Sections 38-2801 to 38-28,107 and section 2 of this act and the Nebraska Drug Product Selection Act shall be known and may be cited as the Pharmacy Practice Act.

Sec. 2. A prescription that is valid when written remains valid for the period stated in the medical order notwithstanding the prescribing practitioner's subsequent death or retirement or the suspension or revocation of the prescribing practitioner's credential by the appropriate board, and a pharmacist may use professional judgment to fill or refill such a prescription which has sufficient fills remaining. This section shall not apply to a prescription issued by a veterinarian.

Sec. 3. Section 38-2852, Reissue Revised Statutes of Nebraska, is amended to read:

38-2852 Every applicant for licensure as a pharmacist shall be required to attain a grade to be determined by the board in an examination in pharmacy and ~~a grade of seventy-five~~ in an examination in jurisprudence of pharmacy.

Sec. 4. Section 38-2867.01, Reissue Revised Statutes of Nebraska, is amended to read:

38-2867.01 (1) Any person authorized to compound shall compound in compliance with the standards of chapters 795 and 797 of The United States Pharmacopeia and The National Formulary, as such chapters existed on January 1, 2023 ~~2015~~, and shall compound (a) as the result of a practitioner's medical order or initiative occurring in the course of

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practice based upon the relationship between the practitioner, patient, and pharmacist, (b) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing, or (c) for office use only and not for resale.

(2) Compounding in a hospital pharmacy may occur for any hospital which is part of the same health care system under common ownership or which is a member of or an affiliated member of a formal network or partnership agreement.

(3)(a) Any authorized person may reconstitute a commercially available drug product in accordance with directions contained in approved labeling provided by the product's manufacturer and other manufacturer directions consistent with labeling.

(b) Any authorized person using beyond-use dating must follow the approved product manufacturer's labeling or the standards of The United States Pharmacopeia and The National Formulary if the product manufacturer's labeling does not specify beyond-use dating.

(c) Any authorized person engaged in activities listed in this subsection is not engaged in compounding, except that any variance from the approved product manufacturer's labeling will result in the person being engaged in compounding.

(4) Any authorized person splitting a scored tablet along scored lines or adding flavoring to a commercially available drug product is not engaged in compounding.

(5) No person shall compound:

(a) A drug that has been identified by the federal Food and Drug Administration as withdrawn or removed from the market because the drug was found to be unsafe or ineffective;

(b) A drug that is essentially a copy of an approved drug unless there is a drug shortage as determined by the board or unless a patient has an allergic reaction to the approved drug; or

(c) A drug that has been identified by the federal Food and Drug

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Administration or the board as a product which may not be compounded.

Sec. 5. Section 38-2891, Revised Statutes Cumulative Supplement, 2022, is amended to read:

38-2891 (1) A pharmacy technician shall only perform tasks which do not require the professional judgment of a pharmacist and which are subject to verification to assist a pharmacist in the practice of pharmacy.

(2) A pharmacy technician may administer vaccines, and such administration shall not be considered to be performing a task requiring the professional judgment of a pharmacist, when:

(a) The vaccines are verified by the pharmacist responsible for the supervision and verification of the activities of the pharmacy technician prior to administration;

(b) Administration is limited to intra-muscular in the deltoid muscle or subcutaneous on the arm to a person three years of age or older;

(c) The pharmacy technician is certified as required by section 38-2890;

(d) The pharmacy technician has completed certificate training in vaccine administration that includes, at a minimum, vaccine administration, blood-borne pathogen exposure, safety measures during administration, and biohazard handling;

(e) The pharmacy technician is currently certified in basic life-support skills for health care providers as determined by the board; and

(f) The pharmacist responsible for the supervision and verification of the activities of the pharmacy technician is on site.

(3) ~~(2)~~ The functions and tasks which shall not be performed by pharmacy technicians include, but are not limited to:

(a) Receiving oral medical orders from a practitioner or his or her agent except as otherwise provided in subsection (4) of section 38-2870;

(b) Providing patient counseling;

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(c) Performing any evaluation or necessary clarification of a medical order or performing any functions other than strictly clerical functions involving a medical order;

(d) Supervising or verifying the tasks and functions of pharmacy technicians;

(e) Interpreting or evaluating the data contained in a patient's record maintained pursuant to section 38-2869;

(f) Releasing any confidential information maintained by the pharmacy;

(g) Performing any professional consultations; and

(h) Drug product selection, with regard to an individual medical order, in accordance with the Nebraska Drug Product Selection Act.

(4) ~~(3)~~ The director shall, with the recommendation of the board, waive any of the limitations in subsection (2) of this section for purposes of a scientific study of the role of pharmacy technicians approved by the board. Such study shall be based upon providing improved patient care or enhanced pharmaceutical care. Any such waiver shall state the length of the study and shall require that all study data and results be made available to the board upon the completion of the study. Nothing in this subsection requires the board to approve any study proposed under this subsection.

Sec. 6. Section 71-475, Reissue Revised Statutes of Nebraska, is amended to read:

71-475 (1)(a) When administration of a drug occurs in a hospital pursuant to a chart order, hospital personnel may provide the unused portion of the drug to the patient upon discharge from the hospital for continued use in treatment of the patient if:

(i) The drug has been opened and used for treatment of the patient at the hospital and is necessary for the continued treatment of the patient and would be wasted if not used by the patient; and

(ii) The drug is:

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(A) In a multidose device or a multidose container; or

(B) In the form of a liquid reconstituted from a dry stable state to a liquid resulting in a limited stability.

(b) A drug provided to a patient in accordance with this subsection shall be labeled with the name of the patient, the name of the drug including the quantity if appropriate, the date the drug was provided, and the directions for use.

(2)(a) A licensed health care practitioner authorized to prescribe controlled substances may provide to his or her patients being discharged from a hospital a sufficient quantity of drugs adequate, in the judgment of the practitioner, to continue treatment, which began in the hospital, until the patient is reasonably able to access a pharmacy.

(b) The pharmacist-in-charge at the hospital shall maintain records of the drugs provided to patients in accordance with this subsection which shall include the name of the patient, the name of the drug including the quantity if appropriate, the date the drug was provided, and the directions for use.

(3) If a drug is provided to a patient in accordance with subsection (1) or (2) of this section:

(a) The drug shall be kept in a locked cabinet or automated medication system with access only by a licensed health care practitioner authorized to prescribe, dispense, or administer controlled substances;

(b) Prior to providing the drug to the patient, a written or electronic order shall be in the patient's record;

(c) The process at the hospital shall be under the direct supervision of the prescriber;

(d) If the label is prepared by a nurse, the prescriber shall verify the drug and the directions for the patient;

(e) When possible, the directions for the patient shall be preprinted on the label by the pharmacist;

(f) The label shall include the name of the patient, the name of the

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drug including the quantity if appropriate, the date the drug was provided, and the directions for use;

(g) A written information sheet shall be given to the patient for each drug provided; and

(h) Documentation in a readily retrievable format shall be maintained each time a drug is provided to a patient from the hospital pharmacy's inventory which shall include the date, the patient, the drug, and the prescriber.

(4)(a) When a hospital, an ambulatory surgical center, or a health care practitioner facility provides medication that is ordered at least twenty-four hours in advance for surgical procedures and is administered to a patient at the hospital, ambulatory surgical center, or health care practitioner facility, any unused portion of the medication shall be offered to the patient upon discharge when it is required for continuing treatment. The unused portion of any such medication accepted by the patient upon discharge shall be labeled by the prescriber or a pharmacist consistent with labeling requirements in section 71-2479.

(b) For purposes of this subsection, medication means any topical antibiotic, anti-inflammatory, dilation, or glaucoma drop or ointment that a hospital, ambulatory surgical center, or health care practitioner facility has on stand-by or is retrieved from a dispensing system for a specified patient for use during a procedure or visit.

(c) If the medication is used in an operating room or emergency department setting, the prescriber is responsible for counseling the patient on its proper use and administration and no other patient counseling is required under section 38-2869.

Sec. 7. Section 71-2461.01, Revised Statutes Cumulative Supplement, 2022, is amended to read:

71-2461.01 (1) Central fill means the preparation, other than by compounding, of a drug, device, or biological pursuant to a medical order where the preparation occurs in a pharmacy other than the pharmacy

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dispensing to the patient or caregiver as defined in section 38-2809.

(2) If the dispensing pharmacy and central fill pharmacy are under common ownership, the central fill pharmacy may deliver such drug, device, or biological to the patient or caregiver on behalf of the dispensing pharmacy.

Sec. 8. Section 71-2479, Revised Statutes Cumulative Supplement, 2022, is amended to read:

71-2479 (1) Any prescription for a legend drug which is not a controlled substance shall be kept by the pharmacy or the practitioner who holds a pharmacy license in a readily retrievable format and shall be maintained for a minimum of five years. The pharmacy or practitioner shall make all such files readily available to the department and law enforcement for inspection without a search warrant.

(2) Before dispensing a legend drug which is not a controlled substance pursuant to a written, oral, or electronic prescription, a label shall be affixed to the container in which the drug is dispensed. Such label shall bear (a) the name, address, and telephone number of the pharmacy or practitioner and the name and address of the central fill pharmacy if central fill is used, (b) the name of the patient, (c) the date of filling, (d) the serial number of the prescription under which it is recorded in the practitioner's prescription records, (e) the name of the prescribing practitioner, (f) the directions for use, (g) the name of the drug, device, or biological unless instructed to omit by the prescribing practitioner, (h) the strength of the drug or biological, if applicable, (i) the quantity of the drug, device, or biological in the container, except unit-dose containers, (j) the dosage form of the drug or biological, and (k) any cautionary statements contained in the prescription.

(3) For multidrug containers, more than one drug, device, or biological may be dispensed in the same container when (a) such container is prepackaged by the manufacturer, packager, or distributor and shipped

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directly to the pharmacy in this manner or (b) the container does not accommodate greater than a thirty-one-day supply of compatible dosage units and is labeled to identify each drug or biological in the container in addition to all other information required by law.

Sec. 9. Sections 1, 2, 3, 4, 6, 7, 8, and 10 of this act become operative three calendar months after adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 10. Original sections 38-2852, 38-2867.01, and 71-475, Reissue Revised Statutes of Nebraska, and sections 38-2801, 71-2461.01, and 71-2479, Revised Statutes Cumulative Supplement, 2022, are repealed.

Sec. 11. Original section 38-2891, Revised Statutes Cumulative Supplement, 2022, is repealed.

Sec. 12. Since an emergency exists, this act takes effect when passed and approved according to law.