

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 166**

Introduced by Kolterman, 24.

Read first time January 10, 2017

Committee:

1 A BILL FOR AN ACT relating to controlled substances; to amend sections  
2 28-410, 28-411, 28-414, 28-414.01, 28-414.03, 28-442, 38-1,124,  
3 38-1,125, 38-2801, 38-2802, 38-2836, 38-2866.01, 38-2867, 38-2870,  
4 38-2892, 38-2894, 71-2412, and 71-2413, Reissue Revised Statutes of  
5 Nebraska, and sections 71-401, 71-2445, 71-2478, and 71-2479,  
6 Revised Statutes Cumulative Supplement, 2016; to change provisions  
7 of the Uniform Controlled Substances Act and the Pharmacy Practice  
8 Act; to change provisions relating to manufacturing, distributing,  
9 storing, prescribing, administering, dispensing, and recordkeeping  
10 for controlled substances; to change drug paraphernalia provisions;  
11 to define and redefine terms; to change and eliminate provisions  
12 relating to pharmacy technicians, pharmacist interns, and reporting  
13 of impaired practitioners; to eliminate provisions relating to  
14 temporary pharmacist licenses; to harmonize provisions; to repeal  
15 the original sections; to outright repeal sections 38-2853 and  
16 38-2897, Reissue Revised Statutes of Nebraska; and to declare an  
17 emergency.

18 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-410, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 28-410 (1) Each registrant manufacturing, distributing, or  
4 dispensing controlled substances in Schedule I, II, III, IV, or V of  
5 section 28-405 shall keep and maintain a complete and accurate record of  
6 all stocks of such controlled substances on hand. Such records shall be  
7 maintained for five years.

8 (2) ~~Each Commencing January 1, 2009,~~ each registrant manufacturing,  
9 distributing, storing, or dispensing such controlled substances shall  
10 prepare an annual inventory of each controlled substance in his or her  
11 possession. Such inventory shall (a) ~~be taken within two years after the~~  
12 ~~previous biennial inventory date but in no event later than December 31,~~  
13 ~~2009, and each year thereafter~~ be taken within one year after the  
14 previous annual inventory date, (b) contain such information as shall be  
15 required by the Board of Pharmacy, (c) be copied and such copy forwarded  
16 to the department within thirty days after completion, (d) be maintained  
17 at the location listed on the registration for a period of five years,  
18 (e) contain the name, address, and Drug Enforcement Administration number  
19 of the registrant, the date and time of day the inventory was completed,  
20 and the signature of the person responsible for taking the inventory, (f)  
21 list the exact count or measure of all controlled substances listed in  
22 Schedules I, II, III, IV, and V of section 28-405, and (g) be maintained  
23 in permanent, read-only format separating the inventory for controlled  
24 substances listed in Schedules I and II of section 28-405 from the  
25 inventory for controlled substances listed in Schedules III, IV, and V of  
26 section 28-405. A registrant whose inventory fails to comply with this  
27 subsection shall be guilty of a Class IV misdemeanor.

28 (3) This section shall not apply to practitioners who prescribe or  
29 administer, as a part of their practice, controlled substances listed in  
30 Schedule II, III, IV, or V of section 28-405 unless such practitioner  
31 regularly engages in dispensing any such drug or drugs to his or her

1 patients.

2 (4) Controlled substances shall be stored in accordance with the  
3 following:

4 (a) All controlled substances listed in Schedule I of section 28-405  
5 must be stored in a locked cabinet; and

6 (b) All controlled substances listed in Schedule II, III, IV, or V  
7 of section 28-405 must be stored in a locked cabinet or distributed  
8 throughout the inventory of noncontrolled substances in a manner which  
9 will obstruct theft or diversion of the controlled substances or both.

10 (5) Each pharmacy which is registered with the administration and in  
11 which controlled substances are stored or dispensed shall complete a  
12 controlled-substances inventory when there is a change in the pharmacist-  
13 in-charge. The inventory shall contain the information required in the  
14 annual inventory, and the original copy shall be maintained in the  
15 pharmacy for five years after the date it is completed.

16 Sec. 2. Section 28-411, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 28-411 (1) Every practitioner who is authorized to administer or  
19 professionally use controlled substances shall keep a record of such  
20 controlled substances received by him or her and a record of all such  
21 controlled substances administered or professionally used by him or her,  
22 other than by medical order issued by a practitioner authorized to  
23 prescribe, in accordance with subsection (4) of this section.

24 (2) Manufacturers, wholesalers, distributors, and reverse  
25 distributors shall keep records of all controlled substances compounded,  
26 mixed, cultivated, grown, or by any other process produced or prepared  
27 and of all controlled substances received and disposed of by them, in  
28 accordance with subsection (4) of this section.

29 (3) Pharmacies shall keep records of all controlled substances  
30 received and disposed of by them, in accordance with subsection (4) of  
31 this section.

1           (4)(a) ~~(4)~~ The record of controlled substances received shall in  
2 every case show (i) ~~(a)~~ the date of receipt, (ii) ~~(b)~~ the name, address,  
3 and Drug Enforcement Administration number of the person receiving the  
4 controlled substances, (iii) ~~(c)~~ the name, address, and Drug Enforcement  
5 Administration number of the person from whom received, (iv) ~~(d)~~ the kind  
6 and quantity of controlled substances received, (v) ~~(e)~~ the kind and  
7 quantity of controlled substances produced or removed from process of  
8 manufacture, and (vi) ~~(f)~~ the date of such production or removal from  
9 process of manufacture.

10           (b) The record shall in every case show the proportion of morphine,  
11 cocaine, or ecgonine contained in or producible from crude opium or coca  
12 leaves received or produced. The record of all controlled substances  
13 sold, administered, dispensed, or otherwise disposed of shall show the  
14 date of selling, administering, or dispensing, the name and address of  
15 the person to whom or for whose use or the owner and species of animal  
16 for which the controlled substances were sold, administered, or  
17 dispensed, and the kind and quantity of controlled substances. For any  
18 lost, destroyed, or stolen controlled substances, the record shall list  
19 the kind and quantity of such controlled substances and the discovery  
20 date of such loss, destruction, or theft.

21           (c) Every such record shall be kept for a period of five years from  
22 the date of the transaction recorded.

23           (5) Any person authorized to compound controlled substances shall  
24 comply with section 38-2867.01.

25           Sec. 3. Section 28-414, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27           28-414 (1) Except as otherwise provided in this section or section  
28 28-412 or when administered directly by a practitioner to an ultimate  
29 user, a controlled substance listed in Schedule II of section 28-405  
30 shall not be dispensed without a prescription from a practitioner  
31 authorized to prescribe. No prescription for a controlled substance

1 listed in Schedule II of section 28-405 shall be filled more than six  
2 months from the date of issuance. A prescription for a controlled  
3 substance listed in Schedule II of section 28-405 shall not be refilled.

4 (2) A prescription for controlled substances listed in Schedule II  
5 of section 28-405 must contain the following information prior to being  
6 filled by a pharmacist or dispensing practitioner: (a) Patient's name and  
7 address, (b) name of the drug, device, or biological, (c) strength of the  
8 drug or biological, if applicable, (d) dosage form of the drug or  
9 biological, ~~if applicable,~~ (e) quantity of the drug, device, or  
10 biological prescribed, (f) directions for use, (g) date of issuance, (h)  
11 prescribing practitioner's name and address, and (i) Drug Enforcement  
12 Administration number of the prescribing practitioner. If the  
13 prescription is a written paper prescription, the paper prescription must  
14 contain the prescribing practitioner's manual signature. If the  
15 prescription is an electronic prescription, the electronic prescription  
16 must contain all of the elements in subdivisions (a) through (i) of this  
17 subsection, must be digitally signed, and must be transmitted to and  
18 received by the pharmacy electronically to meet all of the requirements  
19 of the Controlled Substances Act, 21 U.S.C. 801 et seq., as it existed on  
20 January 1, 2014, pertaining to electronic prescribing of controlled  
21 substances.

22 ~~(3)(a) (3)~~ In emergency situations ~~as defined by rule and regulation~~  
23 ~~of the department,~~ a controlled substance listed in Schedule II of  
24 section 28-405 may be dispensed pursuant to an oral prescription reduced  
25 to writing in accordance with subsection (2) of this section, except for  
26 the prescribing practitioner's signature, and bearing the word  
27 "emergency".

28 (b) For purposes of this section, emergency situation means a  
29 situation in which a prescribing practitioner determines that (i)  
30 immediate administration of the controlled substance is necessary for  
31 proper treatment of the patient, (ii) no appropriate alternative

1 treatment is available, including administration of a drug which is not a  
2 controlled substance listed in Schedule II of section 28-405, and (iii)  
3 it is not reasonably possible for the prescribing practitioner to provide  
4 a signed, written or electronic prescription to be presented to the  
5 person dispensing the controlled substance prior to dispensing.

6 (4)(a) In nonemergency situations:

7 (i) A controlled substance listed in Schedule II of section 28-405  
8 may be dispensed pursuant to a facsimile of a written, signed paper  
9 prescription if the original written, signed paper prescription is  
10 presented to the pharmacist for review before the controlled substance is  
11 dispensed, except as provided in subdivision (a)(ii) or (iii) of this  
12 subsection;

13 (ii) A narcotic drug listed in Schedule II of section 28-405 may be  
14 dispensed pursuant to a facsimile of a written, signed paper prescription  
15 (A) to be compounded for direct parenteral administration to a patient  
16 for the purpose of home infusion therapy or (B) for administration to a  
17 patient enrolled in a hospice care program and bearing the words "hospice  
18 patient"; and

19 (iii) A controlled substance listed in Schedule II of section 28-405  
20 may be dispensed pursuant to a facsimile of a written, signed paper  
21 prescription for administration to a resident of a long-term care  
22 facility.

23 (b) For purposes of subdivisions (a)(ii) and (iii) of this  
24 subsection, a facsimile of a written, signed paper prescription shall  
25 serve as the original written prescription and shall be maintained in  
26 accordance with subsection (1) of section 28-414.03.

27 (5)(a) A prescription for a controlled substance listed in Schedule  
28 II of section 28-405 may be partially filled if the pharmacist does not  
29 supply the full quantity prescribed and he or she makes a notation of the  
30 quantity supplied on the face of the prescription or in the electronic  
31 record. The remaining portion of the prescription may be filled no later

1 than thirty days after the date on which the prescription is written  
2 within seventy-two hours of the first partial filling. The pharmacist  
3 shall notify the prescribing practitioner if the remaining portion of the  
4 prescription is not or cannot be filled within such period. No further  
5 quantity may be supplied after such period without a new written, signed  
6 paper prescription or electronic prescription.

7 (b) A prescription for a controlled substance listed in Schedule II  
8 of section 28-405 written for a patient in a long-term care facility or  
9 for a patient with a medical diagnosis documenting a terminal illness may  
10 be partially filled. Such prescription shall bear the words "terminally  
11 ill" or "long-term care facility patient" on its face or in the  
12 electronic record. If there is any question whether a patient may be  
13 classified as having a terminal illness, the pharmacist shall contact the  
14 prescribing practitioner prior to partially filling the prescription.  
15 Both the pharmacist and the prescribing practitioner have a corresponding  
16 responsibility to assure that the controlled substance is for a  
17 terminally ill patient. For each partial filling, the dispensing  
18 pharmacist shall record on the back of the prescription or on another  
19 appropriate record, uniformly maintained and readily retrievable, the  
20 date of the partial filling, quantity dispensed, remaining quantity  
21 authorized to be dispensed, and the identification of the dispensing  
22 pharmacist. The total quantity of controlled substances listed in  
23 Schedule II which is dispensed in all partial fillings shall not exceed  
24 the total quantity prescribed. A prescription for a Schedule II  
25 controlled substance for a patient in a long-term care facility or a  
26 patient with a medical diagnosis documenting a terminal illness is valid  
27 for sixty days from the date of issuance or until discontinuance of the  
28 prescription, whichever occurs first.

29 Sec. 4. Section 28-414.01, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 28-414.01 (1) Except as otherwise provided in this section or when

1 administered directly by a practitioner to an ultimate user, a controlled  
2 substance listed in Schedule III, IV, or V of section 28-405 shall not be  
3 dispensed without a written, oral, or electronic medical order. Such  
4 medical order is valid for six months after the date of issuance.  
5 Original prescription information for any controlled substance listed in  
6 Schedule III, IV, or V of section 28-405 may be transferred between  
7 pharmacies for purposes of refill dispensing pursuant to section 38-2871.

8 (2) A prescription for controlled substances listed in Schedule III,  
9 IV, or V of section 28-405 must contain the following information prior  
10 to being filled by a pharmacist or dispensing practitioner: (a) Patient's  
11 name and address, (b) name of the drug, device, or biological, (c)  
12 strength of the drug or biological, if applicable, (d) dosage form of the  
13 drug or biological, ~~if applicable,~~ (e) quantity of the drug, device, or  
14 biological prescribed, (f) directions for use, (g) date of issuance, (h)  
15 number of refills, including pro re nata or PRN refills, not to exceed  
16 five refills within six months after the date of issuance, (i)  
17 prescribing practitioner's name and address, and (j) Drug Enforcement  
18 Administration number of the prescribing practitioner. If the  
19 prescription is a written paper prescription, the paper prescription must  
20 contain the prescribing practitioner's manual signature. If the  
21 prescription is an electronic prescription, the electronic prescription  
22 must contain all of the elements in subdivisions (a) through (j) of this  
23 subsection, must be digitally signed, and must be transmitted to and  
24 received by the pharmacy electronically to meet all of the requirements  
25 of 21 C.F.R. 1311, as the regulation existed on January 1, 2014,  
26 pertaining to electronic prescribing of controlled substances.

27 (3) A controlled substance listed in Schedule III, IV, or V of  
28 section 28-405 may be dispensed pursuant to a facsimile of a written,  
29 signed paper prescription. The facsimile of a written, signed paper  
30 prescription shall serve as the original written prescription for  
31 purposes of this subsection and shall be maintained in accordance with



1 subsection (2) of section 28-414.03.

2 (4) A prescription for a controlled substance listed in Schedule  
3 III, IV, or V of section 28-405 may be partially filled if (a) each  
4 partial filling is recorded in the same manner as a refilling, (b) the  
5 total quantity dispensed in all partial fillings does not exceed the  
6 total quantity prescribed, and (c) each partial filling is dispensed  
7 within six months after the prescription was issued.

8 Sec. 5. Section 28-414.03, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 28-414.03 (1) Paper prescriptions for all controlled substances  
11 listed in Schedule II of section 28-405 shall be kept in a separate file  
12 by the dispensing practitioner and shall be maintained for a minimum of  
13 five years. The practitioner shall make all such files readily available  
14 to the department and law enforcement for inspection without a search  
15 warrant.

16 (2) Prescriptions for all controlled substances listed in Schedule  
17 III, IV, or V of section 28-405 shall be maintained either separately  
18 from other prescriptions or in a form in which the information required  
19 is readily retrievable from ordinary business records of the dispensing  
20 practitioner and shall be maintained for a minimum of five years. The  
21 practitioner shall make all such records readily available to the  
22 department, the administration, and law enforcement for inspection  
23 without a search warrant.

24 (3) Before dispensing any controlled substance listed in Schedule  
25 II, III, IV, or V of section 28-405, the dispensing practitioner shall  
26 affix a label to the container in which the controlled substance is  
27 dispensed. Such label shall bear the name and address of the pharmacy or  
28 dispensing practitioner, the name of the patient, the date of filling,  
29 the serial number of the prescription under which it is recorded in the  
30 practitioner's prescription records, the name of the prescribing  
31 practitioner, and the directions for use of the controlled substance.

1 Unless the prescribing practitioner writes "do not label" or words of  
2 similar import on the original paper prescription or so designates in an  
3 electronic prescription or an oral prescription, such label shall also  
4 bear the name of the controlled substance.

5 (4) For multidrug containers, more than one drug, device, or  
6 biological may be dispensed in the same container when (a) such container  
7 is prepackaged by the manufacturer, packager, or distributor and shipped  
8 directly to the pharmacy in this manner or (b) the container does not  
9 accommodate greater than a thirty-one day supply of compatible dosage  
10 units and is labeled to identify each drug or biological in the container  
11 in addition to all other information required by law.

12 (5) If a pharmacy fills prescriptions for controlled substances on  
13 behalf of another pharmacy under contractual agreement or common  
14 ownership, the prescription label shall contain the Drug Enforcement  
15 Administration number of the pharmacy at which the prescriptions are  
16 filled.

17 Sec. 6. Section 28-442, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19 28-442 (1) It shall be unlawful for any person to deliver, possess  
20 with intent to deliver, or manufacture with intent to deliver, drug  
21 paraphernalia, knowing, or under circumstances in which one reasonably  
22 should know, that it will be used to manufacture, inject, ingest, or  
23 inhale or otherwise be used to introduce into the human body a controlled  
24 substance in violation of sections 28-101, 28-431, and 28-439 to 28-444.

25 (2) This section shall not apply to pharmacists, pharmacist interns,  
26 pharmacy technicians, and pharmacy clerks who sell hypodermic syringes or  
27 needles for the prevention of the spread of infectious diseases.

28 (3) Any person who violates this section shall be guilty of a Class  
29 II misdemeanor.

30 Sec. 7. Section 38-1,124, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1           38-1,124 (1) The department shall enforce the Uniform Credentialing  
2 Act and for that purpose shall make necessary investigations. Every  
3 credential holder and every member of a board shall furnish the  
4 department such evidence as he or she may have relative to any alleged  
5 violation which is being investigated.

6           (2) Every credential holder shall report to the department the name  
7 of every person without a credential that he or she has reason to believe  
8 is engaged in practicing any profession or operating any business for  
9 which a credential is required by the Uniform Credentialing Act. The  
10 department may, along with the Attorney General and other law enforcement  
11 agencies, investigate such reports or other complaints of unauthorized  
12 practice. The director, with the recommendation of the appropriate board,  
13 may issue an order to cease and desist the unauthorized practice of such  
14 profession or the unauthorized operation of such business as a measure to  
15 obtain compliance with the applicable credentialing requirements by the  
16 person prior to referral of the matter to the Attorney General for  
17 action. Practice of such profession or operation of such business without  
18 a credential after receiving a cease and desist order is a Class III  
19 felony.

20           (3) Any credential holder who is required to file a report of loss  
21 or theft of a controlled substance to the federal Drug Enforcement  
22 Administration shall provide a copy of such report to the department.  
23 This subsection shall not apply to pharmacist interns or pharmacy  
24 technicians.

25           Sec. 8. Section 38-1,125, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27           38-1,125 (1) Except as otherwise provided in this section, every  
28 Every credential holder, ~~except pharmacist interns and pharmacy~~  
29 ~~technicians,~~ shall, within thirty days of an occurrence described in this  
30 subsection, report to the department in such manner and form as the  
31 department may require whenever he or she:

1 (a) Has first-hand knowledge of facts giving him or her reason to  
2 believe that any person in his or her profession:

3 (i) Has acted with gross incompetence or gross negligence;

4 (ii) Has engaged in a pattern of incompetent or negligent conduct as  
5 defined in section 38-177;

6 (iii) Has engaged in unprofessional conduct as defined in section  
7 38-179;

8 (iv) Has been practicing while his or her ability to practice is  
9 impaired by alcohol, controlled substances, mind-altering substances, or  
10 physical, mental, or emotional disability; or

11 (v) Has otherwise violated the regulatory provisions governing the  
12 practice of the profession;

13 (b) Has first-hand knowledge of facts giving him or her reason to  
14 believe that any person in another profession:

15 (i) Has acted with gross incompetence or gross negligence; or

16 (ii) Has been practicing while his or her ability to practice is  
17 impaired by alcohol, controlled substances, mind-altering substances, or  
18 physical, mental, or emotional disability; or

19 (c) Has been the subject of any of the following actions:

20 (i) Loss of privileges in a hospital or other health care facility  
21 due to alleged incompetence, negligence, unethical or unprofessional  
22 conduct, or physical, mental, or chemical impairment or the voluntary  
23 limitation of privileges or resignation from the staff of any health care  
24 facility when that occurred while under formal or informal investigation  
25 or evaluation by the facility or a committee of the facility for issues  
26 of clinical competence, unprofessional conduct, or physical, mental, or  
27 chemical impairment;

28 (ii) Loss of employment due to alleged incompetence, negligence,  
29 unethical or unprofessional conduct, or physical, mental, or chemical  
30 impairment;

31 (iii) An adverse judgment, settlement, or award arising out of a

1 professional liability claim, including a settlement made prior to suit  
2 in which the consumer releases any professional liability claim against  
3 the credentialed person, or adverse action by an insurance company  
4 affecting professional liability coverage. The department may define what  
5 constitutes a settlement that would be reportable when a credential  
6 holder refunds or reduces a fee or makes no charge for reasons related to  
7 a consumer complaint other than costs;

8 (iv) Denial of a credential or other form of authorization to  
9 practice by any jurisdiction due to alleged incompetence, negligence,  
10 unethical or unprofessional conduct, or physical, mental, or chemical  
11 impairment;

12 (v) Disciplinary action against any credential or other form of  
13 permit he or she holds taken by any jurisdiction, the settlement of such  
14 action, or any voluntary surrender of or limitation on any such  
15 credential or other form of permit;

16 (vi) Loss of membership in, or discipline of a credential related to  
17 the applicable profession by, a professional organization due to alleged  
18 incompetence, negligence, unethical or unprofessional conduct, or  
19 physical, mental, or chemical impairment; or

20 (vii) Conviction of any misdemeanor or felony in this or any other  
21 jurisdiction.

22 (2) The requirement to file a report under subdivision (1)(a) or (b)  
23 of this section shall not apply:

24 (a) To the spouse of the credential holder;

25 (b) To a practitioner who is providing treatment to such credential  
26 holder in a practitioner-consumer relationship concerning information  
27 obtained or discovered in the course of treatment unless the treating  
28 practitioner determines that the condition of the credential holder may  
29 be of a nature which constitutes a danger to the public health and safety  
30 by the credential holder's continued practice; or

31 (c) When a credential holder who is chemically impaired enters the

1 Licensee Assistance Program authorized by section 38-175 except as  
2 otherwise provided in such section.

3 (3) The requirement to file a report under subsection (1) of this  
4 section shall not apply to pharmacist interns or pharmacy technicians,  
5 except that a pharmacy technician shall, within thirty days after having  
6 first-hand knowledge of facts giving him or her reason to believe that  
7 any person in his or her profession, or any person in another profession  
8 under the regulation of the department, may be practicing while his or  
9 her ability to practice is impaired by alcohol, controlled substances, or  
10 narcotic drugs, report to the department in such manner and form as the  
11 department may require. A report made pursuant to this subsection shall  
12 be confidential. A pharmacy technician making a report to the department  
13 under this subsection, except for self-reporting, shall be completely  
14 immune from criminal or civil liability of any nature, whether direct or  
15 derivative, for filing a report or for disclosure of documents, records,  
16 or other information to the department under this subsection. The  
17 immunity granted under this subsection shall not apply to a person  
18 causing damage or injury by his or her willful, wanton, or grossly  
19 negligent act or commission or omission.

20 (4) ~~(3)~~ A report submitted by a professional liability insurance  
21 company on behalf of a credential holder within the thirty-day period  
22 prescribed in subsection (1) or (3) of this section shall be sufficient  
23 to satisfy the credential holder's reporting requirement under subsection  
24 (1) or (3) of this section.

25 Sec. 9. Section 38-2801, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 38-2801 Sections 38-2801 to 38-28,107 and sections 12 and 14 of this  
28 act and the Nebraska Drug Product Selection Act shall be known and may be  
29 cited as the Pharmacy Practice Act.

30 Sec. 10. Section 38-2802, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1           38-2802 For purposes of the Pharmacy Practice Act and elsewhere in  
2 the Uniform Credentialing Act, unless the context otherwise requires, the  
3 definitions found in sections 38-2803 to 38-2847 and section 12 of this  
4 act apply.

5           Sec. 11. Section 38-2836, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7           38-2836 Pharmacy technician means an individual registered under  
8 sections 38-2890 to 38-2896 ~~38-2897~~.

9           Sec. 12. Repackage means the act of taking a drug product from the  
10 container in which it was distributed by the manufacturer and placing it  
11 into a different container without further manipulation of the drug.  
12 Repackaging also includes the act of placing the contents of multiple  
13 containers, such as vials, of the same finished drug product into one  
14 container so long as the container does not contain other ingredients or  
15 is not further manipulated to change the drug product in any way.

16           Sec. 13. Section 38-2866.01, Reissue Revised Statutes of Nebraska,  
17 is amended to read:

18           38-2866.01 A pharmacist may supervise any combination of pharmacy  
19 technicians and pharmacist interns at any time up to a total of three  
20 people. A pharmacist intern shall be supervised at all times while  
21 performing the functions of a pharmacist intern which may include all  
22 aspects of the practice of pharmacy unless otherwise restricted. This  
23 section does not apply to a pharmacist intern who is receiving  
24 experiential training directed by the accredited pharmacy program in  
25 which he or she is enrolled.

26           Sec. 14. (1) A pharmacist may enter into a practice agreement as  
27 provided in this section with a licensed health care practitioner  
28 authorized to prescribe independently to provide pharmaceutical care  
29 according to written protocols. The pharmacist shall notify the board of  
30 any practice agreement at the initiation of the agreement and at the time  
31 of any change in parties to the agreement or written protocols. The

1 notice shall be given to both the Board of Pharmacy and the board which  
2 licensed the health care practitioner. The notice shall contain the name  
3 of each pharmacist participating in the agreement and each licensed  
4 health care practitioner authorized to prescribe independently  
5 participating in the agreement and a description of the therapy being  
6 monitored or initiated.

7 (2) A copy of the practice agreement and written protocols shall be  
8 available for review by a representative of the department. A copy of the  
9 practice agreement shall be sent to the Board of Pharmacy upon request by  
10 the board.

11 (3) A practice agreement shall be in writing. Each pharmacist  
12 participating in the agreement and each licensed health care practitioner  
13 authorized to prescribe independently participating in the agreement  
14 shall sign the agreement and the written protocols at the initiation of  
15 the agreement and shall review, sign, and date the documents every two  
16 years thereafter. A practice agreement is active after it is signed by  
17 all the parties listed in the agreement.

18 (4) A practice agreement and written protocols cease immediately  
19 upon (a) the death of either the pharmacist or the practitioner, (b) the  
20 loss of license to practice by either the pharmacist or the practitioner,  
21 (c) a disciplinary action limiting the ability of either the pharmacist  
22 or practitioner to enter into practice agreement, or (d) the individual  
23 decision of either the pharmacist or practitioner or mutual agreement by  
24 the parties to terminate the agreement.

25 (5) A pharmacist intern may participate in a practice agreement  
26 without expressly being mentioned in the agreement if the pharmacist  
27 intern is supervised by a pharmacist who is a party to the agreement.

28 Sec. 15. Section 38-2867, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

30 38-2867 (1) Except as provided for pharmacy technicians in sections  
31 38-2890 to ~~38-2896~~ 38-2897, for persons described in subdivision (10) or



1 (11) of section 38-2850, and for individuals authorized to dispense under  
2 a delegated dispensing permit, no person other than a licensed  
3 pharmacist, a pharmacist intern, or a practitioner with a pharmacy  
4 license shall provide pharmaceutical care, compound and dispense drugs or  
5 devices, or dispense pursuant to a medical order. Notwithstanding any  
6 other provision of law to the contrary, a pharmacist or pharmacist intern  
7 may dispense drugs or devices pursuant to a medical order of a  
8 practitioner authorized to prescribe in another state if such  
9 practitioner could be authorized to prescribe such drugs or devices in  
10 this state.

11 (2) Except as provided for pharmacy technicians in sections 38-2890  
12 to ~~38-2896~~ ~~38-2897~~, for persons described in subdivision (10) or (11) of  
13 section 38-2850, and for individuals authorized to dispense under a  
14 delegated dispensing permit, it shall be unlawful for any person to  
15 permit or direct a person who is not a pharmacist intern, a licensed  
16 pharmacist, or a practitioner with a pharmacy license to provide  
17 pharmaceutical care, compound and dispense drugs or devices, or dispense  
18 pursuant to a medical order.

19 (3) It shall be unlawful for any person to coerce or attempt to  
20 coerce a pharmacist to enter into a delegated dispensing agreement or to  
21 supervise any pharmacy technician for any purpose or in any manner  
22 contrary to the professional judgment of the pharmacist. Violation of  
23 this subsection by a health care professional regulated pursuant to the  
24 Uniform Credentialing Act shall be considered an act of unprofessional  
25 conduct. A violation of this subsection by a facility shall be prima  
26 facie evidence in an action against the license of the facility pursuant  
27 to the Health Care Facility Licensure Act. Any pharmacist subjected to  
28 coercion or attempted coercion pursuant to this subsection has a cause of  
29 action against the person and may recover his or her damages and  
30 reasonable attorney's fees.

31 (4) Violation of this section by an unlicensed person shall be a

1 Class III misdemeanor.

2 Sec. 16. Section 38-2870, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4 38-2870 (1) All medical orders shall be written, oral, or electronic  
5 and shall be valid for the period stated in the medical order, except  
6 that (a) if the medical order is for a controlled substance listed in  
7 section 28-405, such period shall not exceed six months from the date of  
8 issuance at which time the medical order shall expire and (b) if the  
9 medical order is for a drug or device which is not a controlled substance  
10 listed in section 28-405 or is an order issued by a practitioner for  
11 pharmaceutical care, such period shall not exceed twelve months from the  
12 date of issuance at which time the medical order shall expire.

13 (2) Prescription drugs or devices may only be dispensed by a  
14 pharmacist or pharmacist intern pursuant to a medical order, by an  
15 individual dispensing pursuant to a delegated dispensing permit, or as  
16 otherwise provided in section 38-2850. Notwithstanding any other  
17 provision of law to the contrary, a pharmacist or a pharmacist intern may  
18 dispense drugs or devices pursuant to a medical order or an individual  
19 dispensing pursuant to a delegated dispensing permit may dispense drugs  
20 or devices pursuant to a medical order. The Pharmacy Practice Act shall  
21 not be construed to require any pharmacist or pharmacist intern to  
22 dispense, compound, administer, or prepare for administration any drug or  
23 device pursuant to any medical order. A pharmacist or pharmacist intern  
24 shall retain the professional right to refuse to dispense.

25 (3) Except as otherwise provided in sections 28-414 and 28-414.01, a  
26 practitioner or the practitioner's agent may transmit a medical order to  
27 a pharmacist or pharmacist intern by the following means: (a) In writing,  
28 (b) orally, (c) by facsimile transmission of a written medical order or  
29 electronic transmission of a medical order signed by the practitioner, or  
30 (d) by facsimile transmission of a written medical order or electronic  
31 transmission of a medical order which is not signed by the practitioner.

1 Such an unsigned medical order shall be verified with the practitioner.

2 (4)(a) Except as otherwise provided in sections 28-414 and  
3 28-414.01, any medical order transmitted by facsimile or electronic  
4 transmission shall:

5 (i) Be transmitted by the practitioner or the practitioner's agent  
6 directly to a pharmacist or pharmacist intern in a licensed pharmacy of  
7 the patient's choice. No intervening person shall be permitted access to  
8 the medical order to alter such order or the licensed pharmacy chosen by  
9 the patient. Such medical order may be transmitted through a third-party  
10 intermediary who shall facilitate the transmission of the order from the  
11 practitioner or practitioner's agent to the pharmacy;

12 (ii) Identify the transmitter's telephone number or other suitable  
13 information necessary to contact the transmitter for written or oral  
14 confirmation, the time and date of the transmission, the identity of the  
15 pharmacy intended to receive the transmission, and other information as  
16 required by law; and

17 (iii) Serve as the original medical order if all other requirements  
18 of this subsection are satisfied.

19 (b) Medical orders transmitted by electronic transmission shall be  
20 signed by the practitioner either with an electronic signature for legend  
21 drugs which are not controlled substances or a digital signature for  
22 legend drugs which are controlled substances.

23 (5) The pharmacist shall exercise professional judgment regarding  
24 the accuracy, validity, and authenticity of any medical order transmitted  
25 by facsimile or electronic transmission.

26 (6) The quantity of drug indicated in a medical order for a resident  
27 of a long-term care facility shall be sixty days unless otherwise limited  
28 by the prescribing practitioner.

29 Sec. 17. Section 38-2892, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 38-2892 (1) The pharmacist in charge of a pharmacy or hospital

1 pharmacy employing pharmacy technicians shall be responsible for the  
2 supervision and performance of the pharmacy technicians.

3 ~~(2) The pharmacist in charge shall be responsible for the practice~~  
4 ~~of pharmacy and the onsite training, functions, supervision, and~~  
5 ~~verification of the performance of pharmacy technicians.~~ Except as  
6 otherwise provided in the Automated Medication Systems Act, the  
7 supervision of pharmacy technicians at a pharmacy shall be performed by  
8 the pharmacist who is on duty in the facility with the pharmacy  
9 technicians or located in pharmacies that utilize a real-time, online  
10 data base and have a pharmacist in all pharmacies. The supervision of  
11 pharmacy technicians at a hospital pharmacy shall be performed by the  
12 pharmacist assigned by the pharmacist in charge to be responsible for the  
13 supervision and verification of the activities of the pharmacy  
14 technicians.

15 Sec. 18. Section 38-2894, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17 38-2894 (1) A registration to practice as a pharmacy technician may  
18 be denied, refused renewal, removed, or suspended or have other  
19 disciplinary measures taken against it by the department, with the  
20 recommendation of the board, for failure to meet the requirements of or  
21 for violation of any of the provisions of subdivisions (1) through (17)  
22 and (19) through (24) of section 38-178 and sections 38-2890 to 38-2896  
23 ~~38-2897~~ or the rules and regulations adopted under such sections.

24 (2) If the department proposes to deny, refuse renewal of, or remove  
25 or suspend a registration, it shall send the applicant or registrant a  
26 notice setting forth the action to be taken and the reasons for the  
27 determination. The denial, refusal to renew, removal, or suspension shall  
28 become final thirty days after mailing the notice unless the applicant or  
29 registrant gives written notice to the department of his or her desire  
30 for an informal conference or for a formal hearing.

31 (3) Notice may be served by any method specified in section

1 25-505.01, or the department may permit substitute or constructive  
2 service as provided in section 25-517.02 when service cannot be made with  
3 reasonable diligence by any of the methods specified in section  
4 25-505.01.

5 (4) Pharmacy technicians may participate in the Licensee Assistance  
6 Program described in section 38-175.

7 Sec. 19. Section 71-401, Revised Statutes Cumulative Supplement,  
8 2016, is amended to read:

9 71-401 Sections 71-401 to 71-474 and section 20 of this act shall be  
10 known and may be cited as the Health Care Facility Licensure Act.

11 Sec. 20. (1)(a) When administration of a drug occurs in a hospital  
12 pursuant to a chart order, hospital personnel may provide the unused  
13 portion of the drug to the patient upon discharge from the hospital for  
14 continued use in treatment of the patient if:

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

18 (ii) The drug is:

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

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

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

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

31 (b) The pharmacist-in-charge at the hospital shall maintain records

1 of the drugs provided to patients in accordance with this subsection  
2 which shall include the name of the patient, the name of the drug  
3 including the quantity if appropriate, the date the drug was provided,  
4 directions for use, and the prescriber's name.

5 (3) If a drug is provided to a patient in accordance with this  
6 section:

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

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

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

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

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

18 (f) The label shall include the name of the patient, the name of the  
19 drug including the quantity if appropriate, the date the drug was  
20 provided, directions for use, and the prescriber's name;

21 (g) A written information sheet shall be provided to the patient for  
22 each drug dispensed;

23 (h) An inventory list of the drugs shall be available at the  
24 hospital pharmacy;

25 (i) A log sheet shall be maintained to document each time a drug is  
26 dispensed from the hospital pharmacy's inventory which shall include the  
27 date of dispensing, the patient, the drug, and the prescriber; and

28 (j) The pharmacist-in-charge or his or her designee shall conduct a  
29 physical inventory of the drugs at least every thirty days to verify  
30 accountability, expiration dates, and proper storage conditions.

31 Sec. 21. Section 71-2412, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 71-2412 Drugs may be administered to residents of a long-term care  
3 facility by authorized personnel of the long-term care facility from the  
4 contents of emergency boxes located within such long-term care facility  
5 if such drugs and boxes meet all of the following requirements:

6 (1) All emergency box drugs shall be provided by and all emergency  
7 boxes containing such drugs shall be sealed by a supplying pharmacy with  
8 the seal on such emergency box to be of such a nature that it can be  
9 easily identified if it has been broken;

10 (2) Emergency boxes shall be stored in a medication room or other  
11 secured area within the long-term care facility. Only authorized  
12 personnel of the long-term care facility or the supplying pharmacy shall  
13 obtain access to such room or secured area, by key or combination, in  
14 order to prevent unauthorized access and to ensure a proper environment  
15 for preservation of the emergency box drugs;

16 (3) The exterior of each emergency box shall be labeled so as to  
17 clearly indicate that it is an emergency box for use in emergencies only.  
18 The label shall contain a listing of the drugs contained in the box,  
19 including the name, strength, route of administration, quantity, and  
20 expiration date of each drug, and the name, address, and telephone number  
21 of the supplying pharmacy;

22 (4) All emergency boxes shall be inspected by a pharmacist  
23 designated by the supplying pharmacy at least once every thirty days or  
24 after a reported usage of any drug to determine the expiration date and  
25 quantity of the drugs in the box. Every inspection shall be documented  
26 and the record retained by the long-term care facility for a period of  
27 five years;

28 (5) An emergency box ~~shall not contain multiple dose vials,~~ shall  
29 not contain more than ten drugs which are controlled substances, and  
30 shall contain no more than a total of fifty drugs; and

31 (6) All drugs in emergency boxes shall be in the original

1 manufacturer's or distributor's containers or shall be repackaged by the  
2 supplying pharmacy and shall include the manufacturer's or distributor's  
3 name, lot number, drug name, strength, dosage form, NDC number, route of  
4 administration, and expiration date on a typewritten label. Any drug  
5 which is repackaged shall contain on the label the calculated expiration  
6 date.

7 For purposes of the Emergency Box Drug Act, calculated expiration  
8 date has the same meaning as in ~~subdivision (7)(b) of section 38-2808.01~~  
9 ~~38-2884~~.

10 Sec. 22. Section 71-2413, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 71-2413 (1) The supplying pharmacy and the medical director and  
13 quality assurance committee of the long-term care facility shall jointly  
14 determine the drugs, by identity and quantity, to be included in the  
15 emergency boxes. The supplying pharmacy shall maintain a list of  
16 emergency box drugs which is identical to the list on the exterior of the  
17 emergency box and shall make such list available to the department upon  
18 request. The supplying pharmacy shall obtain a receipt upon delivery of  
19 the emergency box to the long-term care facility signed by the director  
20 of nursing of the long-term care facility or his or her designee which  
21 acknowledges that the drugs initially placed in the emergency box are  
22 identical to the initial list on the exterior of the emergency box. The  
23 receipt shall be retained by the supplying pharmacy for a period of five  
24 years.

25 (2) Except for the removal of expired drugs as provided in  
26 subsection (4) of this section, drugs shall be removed from emergency  
27 boxes only pursuant to a prescription. Whenever access to the emergency  
28 box occurs, the prescription and proof of use shall be provided to the  
29 supplying pharmacy and shall be recorded on the resident's medical record  
30 by authorized personnel of the long-term care facility. Removal of any  
31 drug from an emergency box by authorized personnel of the long-term care



1 facility shall be recorded on a form showing the name of the resident who  
2 received the drug, his or her room number, the name of the drug, the  
3 strength of the drug, the quantity used, the dose administered, the route  
4 of administration, the date the drug was used, the time of usage, the  
5 disposal of waste, if any, and the signature or signatures of authorized  
6 personnel. The form shall be maintained at the long-term care facility  
7 for a period of five years from the date of removal with a copy of the  
8 form to be provided to the supplying pharmacy.

9 (3) Whenever an emergency box is opened, the supplying pharmacy  
10 shall be notified by the charge nurse or the director of nursing of the  
11 long-term care facility within twenty-four hours and a pharmacist  
12 designated by the supplying pharmacy shall restock and refill the box,  
13 reseal the box, and update the drug listing on the exterior of the box.

14 (4) Upon the expiration of any drug in the emergency box, the  
15 supplying pharmacy shall replace the expired drug, reseal the box, and  
16 update the drug listing on the exterior of the box. Emergency box drugs  
17 shall be considered inventory of the supplying pharmacy until such time  
18 as they are removed for administration.

19 (5) Authorized personnel of the long-term care facility shall  
20 examine the emergency boxes once every twenty-four hours and shall  
21 immediately notify the supplying pharmacy upon discovering evidence of  
22 tampering with any emergency box. Proof of examination by authorized  
23 personnel of the long-term care facility shall be recorded and maintained  
24 at the long-term care facility for a period of five years from the date  
25 of examination.

26 (6) The supplying pharmacy and the medical director and quality  
27 assurance committee of the long-term care facility shall jointly  
28 establish written procedures for the safe and efficient distribution of  
29 emergency box drugs.

30 Sec. 23. Section 71-2445, Revised Statutes Cumulative Supplement,  
31 2016, is amended to read:

1           71-2445 For purposes of the Automated Medication Systems Act:

2           (1) Automated medication distribution machine means a type of  
3 automated medication system that stores medication to be administered to  
4 a patient by a person credentialed under the Uniform Credentialing Act;

5           (2) Automated medication system means a mechanical system that  
6 performs operations or activities, other than compounding,  
7 administration, or other technologies, relative to storage and packaging  
8 for dispensing or distribution of medications and that collects,  
9 controls, and maintains all transaction information and includes, but is  
10 not limited to, a prescription medication distribution machine or an  
11 automated medication distribution machine. An automated medication system  
12 may only be used in conjunction with the provision of pharmacist care;

13           (3) Chart order means an order for a drug or device issued by a  
14 practitioner for a patient who is in the hospital where the chart is  
15 stored, for a patient receiving detoxification treatment or maintenance  
16 treatment pursuant to section 28-412, or for a resident in a long-term  
17 care facility in which a long-term care automated pharmacy is located  
18 from which drugs will be dispensed. Chart order does not include a  
19 prescription;

20           (4) Hospital has the definition found in section 71-419;

21           (5) Long-term care automated pharmacy means a designated area in a  
22 long-term care facility where an automated medication system is located,  
23 that stores medications for dispensing pursuant to a medical order to  
24 residents in such long-term care facility, that is installed and operated  
25 by a pharmacy licensed under the Health Care Facility Licensure Act, and  
26 that is licensed under section 71-2451;

27           (6) Long-term care facility means an intermediate care facility, an  
28 intermediate care facility for persons with developmental disabilities, a  
29 long-term care hospital, a mental health center, a nursing facility, or a  
30 skilled nursing facility, as such terms are defined in the Health Care  
31 Facility Licensure Act;

1 (7) Medical order means a prescription, a chart order, or an order  
2 for pharmaceutical care issued by a practitioner;

3 (8) Pharmacist means any person who is licensed by the State of  
4 Nebraska to practice pharmacy;

5 (9) Pharmacist care means the provision by a pharmacist of  
6 medication therapy management, with or without the dispensing of drugs or  
7 devices, intended to achieve outcomes related to the cure or prevention  
8 of a disease, elimination or reduction of a patient's symptoms, or  
9 arresting or slowing of a disease process;

10 (10) Pharmacist remote order entry means entering an order into a  
11 computer system or drug utilization review by a pharmacist licensed to  
12 practice pharmacy in the State of Nebraska and located within the United  
13 States, pursuant to medical orders in a hospital, long-term care  
14 facility, or pharmacy licensed under the Health Care Facility Licensure  
15 Act;

16 (11) Practice of pharmacy has the definition found in section  
17 38-2837 ~~means (a) the interpretation, evaluation, and implementation of a~~  
18 ~~medical order, (b) the dispensing of drugs and devices, (c) drug product~~  
19 ~~selection, (d) the administration of drugs or devices, (e) drug~~  
20 ~~utilization review, (f) patient counseling, (g) the provision of~~  
21 ~~pharmaceutical care, and (h) the responsibility for compounding and~~  
22 ~~labeling of dispensed or repackaged drugs and devices, proper and safe~~  
23 ~~storage of drugs and devices, and maintenance of proper records. The~~  
24 ~~active practice of pharmacy means the performance of the functions set~~  
25 ~~out in this subdivision by a pharmacist as his or her principal or~~  
26 ~~ordinary occupation;~~

27 (12) Practitioner means a certified registered nurse anesthetist, a  
28 certified nurse midwife, a dentist, an optometrist, a nurse practitioner,  
29 a physician assistant, a physician, a podiatrist, or a veterinarian;

30 (13) Prescription means an order for a drug or device issued by a  
31 practitioner for a specific patient, for emergency use, or for use in

1 immunizations. Prescription does not include a chart order;

2 (14) Prescription medication distribution machine means a type of  
3 automated medication system that packages, labels, or counts medication  
4 in preparation for dispensing of medications by a pharmacist pursuant to  
5 a prescription; and

6 (15) Telepharmacy means the provision of pharmacist care, by a  
7 pharmacist located within the United States, using telecommunications,  
8 remote order entry, or other automations and technologies to deliver care  
9 to patients or their agents who are located at sites other than where the  
10 pharmacist is located.

11 Sec. 24. Section 71-2478, Revised Statutes Cumulative Supplement,  
12 2016, is amended to read:

13 71-2478 (1) Except as otherwise provided in this section or the  
14 Uniform Controlled Substances Act or except when administered directly by  
15 a practitioner to an ultimate user, a legend drug which is not a  
16 controlled substance shall not be dispensed without a written, oral, or  
17 electronic prescription. Such prescription shall be valid for twelve  
18 months after the date of issuance.

19 (2) A prescription for a legend drug which is not a controlled  
20 substance shall contain the following information prior to being filled  
21 by a pharmacist or practitioner who holds a pharmacy license under  
22 subdivision (1) of section 38-2850: (a) Patient's name, (b) name of the  
23 drug, device, or biological, (c) strength of the drug or biological, if  
24 applicable, (d) dosage form of the drug or biological, (e) quantity of  
25 the drug, device, or biological prescribed, (f) directions for use, (g)  
26 date of issuance, (h) number of authorized refills, including pro re nata  
27 or PRN refills, (i) prescribing practitioner's name, and (j) if the  
28 prescription is written, prescribing practitioner's signature.  
29 Prescriptions for controlled substances must meet the requirements of  
30 sections 28-414 and 28-414.01.

31 (3) A written, signed paper prescription may be transmitted to the

1 pharmacy via facsimile which shall serve as the original written  
2 prescription. An electronic prescription may be electronically or  
3 digitally signed and transmitted to the pharmacy and may serve as the  
4 original prescription.

5 (4) It shall be unlawful for any person knowingly or intentionally  
6 to possess or to acquire or obtain or to attempt to acquire or obtain, by  
7 means of misrepresentation, fraud, forgery, deception, or subterfuge,  
8 possession of any drug substance not classified as a controlled substance  
9 under the Uniform Controlled Substances Act which can only be lawfully  
10 dispensed, under federal statutes in effect on January 1, 2015, upon the  
11 written or oral prescription of a practitioner authorized to prescribe  
12 such substances.

13 Sec. 25. Section 71-2479, Revised Statutes Cumulative Supplement,  
14 2016, is amended to read:

15 71-2479 (1) Any prescription for a legend drug which is not a  
16 controlled substance shall be kept by the pharmacy or the practitioner  
17 who holds a pharmacy license in a readily retrievable format and shall be  
18 maintained for a minimum of five years. The pharmacy or practitioner  
19 shall make all such files readily available to the department and law  
20 enforcement for inspection without a search warrant.

21 (2) Before dispensing a legend drug which is not a controlled  
22 substance pursuant to a written, oral, or electronic prescription, a  
23 label shall be affixed to the container in which the drug is dispensed.  
24 Such label shall bear (a) the name, address, and telephone number of the  
25 pharmacy or practitioner, (b) the name of the patient, (c) the date of  
26 filling, (d) the serial number of the prescription under which it is  
27 recorded in the practitioner's prescription records, (e) the name of the  
28 prescribing practitioner, (f) the directions for use, (g) the name of the  
29 drug, device, or biological unless instructed to omit by the prescribing  
30 practitioner, (h) the strength of the drug or biological, if applicable,  
31 (i) the quantity of the drug, device, or biological in the container,

1 except unit-dose containers, (j) the dosage form of the drug or  
2 biological, and (k) any cautionary statements contained in the  
3 prescription.

4 (3) For multidrug containers, more than one drug, device, or  
5 biological may be dispensed in the same container when (a) such container  
6 is prepackaged by the manufacturer, packager, or distributor and shipped  
7 directly to the pharmacy in this manner or (b) the container does not  
8 accommodate greater than a thirty-one day supply of compatible dosage  
9 units and is labeled to identify each drug or biological in the container  
10 in addition to all other information required by law.

11 Sec. 26. Original sections 28-410, 28-411, 28-414, 28-414.01,  
12 28-414.03, 28-442, 38-1,124, 38-1,125, 38-2801, 38-2802, 38-2836,  
13 38-2866.01, 38-2867, 38-2870, 38-2892, 38-2894, 71-2412, and 71-2413,  
14 Reissue Revised Statutes of Nebraska, and sections 71-401, 71-2445,  
15 71-2478, and 71-2479, Revised Statutes Cumulative Supplement, 2016, are  
16 repealed.

17 Sec. 27. The following sections are outright repealed: Sections  
18 38-2853 and 38-2897, Reissue Revised Statutes of Nebraska.

19 Sec. 28. Since an emergency exists, this act takes effect when  
20 passed and approved according to law.