

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 274**

Final Reading

Introduced by Gloor, 35; Bloomfield, 17; Campbell, 25; Dubas, 34;  
Fulton, 29; Hadley, 37; Krist, 10; Schumacher, 22;  
Wallman, 30.

Read first time January 11, 2011

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to dispensed drugs and devices; to amend sections  
2 71-2421 and 71-2453, Reissue Revised Statutes of  
3 Nebraska; to change provisions relating to return of  
4 dispensed drugs and devices; to harmonize provisions; and  
5 to repeal the original sections.

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

1                   Section 1. Section 71-2421, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   71-2421 (1) To protect the public safety, dispensed drugs  
4 or devices: ~~may be returned to the dispensing pharmacy only under the~~  
5 ~~following conditions:~~

6                   ~~(a) For immediate destruction by a pharmacist, except~~  
7 ~~that drugs and devices dispensed to residents of a long-term care~~  
8 ~~facility shall be destroyed on the site of the long-term care~~  
9 ~~facility;~~

10                  ~~(b) In response to a recall by the manufacturer,~~  
11 ~~packager, or distributor;~~

12                  ~~(c) If a device is defective or malfunctioning; or~~

13                  ~~(d) Return from a long-term care facility for credit, (a)~~  
14 May be collected in a pharmacy for disposal;

15                  (b) May be returned to a pharmacy in response to a recall  
16 by the manufacturer, packager, or distributor or if a device is  
17 defective or malfunctioning;

18                  (c) Shall not be returned to saleable inventory nor made  
19 available for subsequent relabeling and redispensing, except as  
20 provided in subdivision (1)(d) of this section; or

21                  (d) May be returned from a long-term care facility to the  
22 pharmacy from which they were dispensed for credit or for relabeling  
23 and redispensing, except that:

24                  (i) No controlled substance may be returned;

25                  (ii) The decision to accept the return of the dispensed

1 drug or device shall rest solely with the pharmacist;

2 (iii) The dispensed drug or device shall have been in the  
3 control of the long-term care facility at all times;

4 (iv) The dispensed drug or device shall be in the  
5 original and unopened labeled container with a tamper-evident seal  
6 intact, as dispensed by the ~~pharmacy.~~ pharmacist. Such container  
7 shall bear the expiration date or calculated expiration date and lot  
8 number; and

9 (v) Tablets or capsules shall have been dispensed in a  
10 unit dose ~~with a tamper-evident container~~ which is impermeable to  
11 moisture and approved by the Board of Pharmacy.

12 ~~(2) Returned dispensed drugs or devices shall not be~~  
13 ~~retained in inventory nor made available for subsequent dispensing,~~  
14 ~~except as provided in subdivision (1)(d) of this section.~~

15 (2) Pharmacies may charge a fee for collecting dispensed  
16 drugs or devices for disposal or from a long-term care facility for  
17 credit or for relabeling and redispensing.

18 (3) Any person or entity which exercises reasonable care  
19 in collecting dispensed drugs or devices for disposal or from a long-  
20 term care facility for credit or for relabeling and redispensing  
21 pursuant to this section shall be immune from civil or criminal  
22 liability or professional disciplinary action of any kind for any  
23 injury, death, or loss to person or property relating to such  
24 activities.

25 (4) A drug manufacturer which exercises reasonable care

1 shall be immune from civil or criminal liability for any injury,  
2 death, or loss to persons or property relating to the relabeling and  
3 redispensing of drugs returned from a long-term care facility.

4 (5) Notwithstanding subsection (4) of this section, the  
5 relabeling and redispensing of drugs returned from a long-term care  
6 facility does not absolve a drug manufacturer of any criminal or  
7 civil liability that would have existed but for the relabeling and  
8 redispensing and such relabeling and redispensing does not increase  
9 the liability of such drug manufacturer that would have existed but  
10 for the relabeling and redispensing.

11 ~~(3)~~ (6) For purposes of this section:

12 (a) Calculated expiration date means ~~an expiration date~~  
13 ~~on the prepackaged product which is not greater than twenty five~~  
14 ~~percent of the time between the date of repackaging and the~~  
15 ~~expiration date of the bulk container nor greater than six months~~  
16 ~~from the date of repackaging;~~ the expiration date on the  
17 manufacturer's, packager's, or distributor's container or one year  
18 from the date the drug or device is repackaged, whichever is earlier;

19 (b) Dispense, drugs, and devices are defined in the  
20 Pharmacy Practice Act; and

21 (c) Long-term care facility does not include an assisted-  
22 living facility as defined in section 71-406.

23 Sec. 2. Section 71-2453, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 71-2453 (1) Prescription drugs or devices which have been

1 dispensed pursuant to a valid prescription and delivered to a  
2 Department of Correctional Services facility, a criminal detention  
3 facility, a juvenile detention facility, or a jail for administration  
4 to a prisoner or detainee held at such facility or jail, but which  
5 are not administered to such prisoner or detainee, may be returned to  
6 the ~~dispensing~~ pharmacy from which they were dispensed under contract  
7 with the facility or jail for credit or for relabeling and  
8 redispensing and administration to another prisoner or detainee held  
9 at such facility or jail pursuant to a valid prescription as provided  
10 in this section.

11 (2)(a) The decision to accept return of a dispensed  
12 prescription drug or device for credit or for relabeling and  
13 redispensing rests solely with the pharmacist at the contracting  
14 pharmacy.

15 (b) A dispensed prescription drug or device shall be  
16 properly stored and in the control of the facility or jail at all  
17 times prior to the return of the drug or device for credit or for  
18 relabeling and redispensing. The drug or device shall be returned in  
19 the original and unopened labeled container dispensed by the  
20 pharmacist with the tamper-evident seal intact, and the container  
21 shall bear the expiration date or calculated expiration date and lot  
22 number of the drug or device.

23 (c) A prescription drug or device shall not be returned  
24 or relabeled and redispensed under this section if the drug or device  
25 is a controlled substance or if the relabeling and redispensing is

1 otherwise prohibited by law.

2 (3) For purposes of this section:

3 (a) Administration has the definition found in section  
4 38-2807;

5 (b) Calculated expiration date has the definition found  
6 in ~~subdivision (3)(a)~~ of section 71-2421;

7 (c) Criminal detention facility has the definition found  
8 in section 83-4,125;

9 (d) Department of Correctional Services facility has the  
10 definition of facility found in section 83-170;

11 (e) Dispense or dispensing has the definition found in  
12 section 38-2817;

13 (f) Jail has the definition found in section 47-117;

14 (g) Juvenile detention facility has the definition found  
15 in section 83-4,125;

16 (h) Prescription has the definition found in section  
17 38-2840; and

18 (i) Prescription drug or device has the definition found  
19 in section 38-2841.

20 (4) The Jail Standards Board, in consultation with the  
21 Board of Pharmacy, shall adopt and promulgate rules and regulations  
22 relating to the return of dispensed prescription drugs or devices for  
23 credit, relabeling, or redispensing under this section, including,  
24 but not limited to, rules and regulations relating to (a) education  
25 and training of persons authorized to administer the prescription

1 drug or device to a prisoner or detainee, (b) the proper storage and  
2 protection of the drug or device consistent with the directions  
3 contained on the label or written drug information provided by the  
4 pharmacist for the drug or device, (c) limits on quantity to be  
5 dispensed, (d) transferability of drugs or devices for prisoners or  
6 detainees between facilities, (e) container requirements, (f)  
7 establishment of a drug formulary, and (g) fees for the ~~dispensing~~  
8 pharmacy to accept the returned drug or device.

9 (5) Any person or entity which exercises reasonable care  
10 in accepting, distributing, or dispensing prescription drugs or  
11 devices under this section or rules and regulations adopted and  
12 promulgated under this section shall be immune from civil or criminal  
13 liability or professional disciplinary action of any kind for any  
14 injury, death, or loss to person or property relating to such  
15 activities.

16 Sec. 3. Original sections 71-2421 and 71-2453, Reissue  
17 Revised Statutes of Nebraska, are repealed.