

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 redispatching of drugs returned from a long-term care facility.

4 (5) Notwithstanding subsection (4) of this section, the
5 relabeling and redispatching 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 redispatching and such relabeling and redispatching does not increase
9 the liability of such drug manufacturer that would have existed but
10 for the relabeling and redispatching.

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 redispatching 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 redispatching 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 redispatching. 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 redispatched under this section if the drug or device
25 is a controlled substance or if the relabeling and redispatching 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.