

AMENDMENTS TO LB 382

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

3 "Section 1. Section 28-401, Revised Statutes Supplement,
4 2004, is amended to read:

5 28-401. As used in the Uniform Controlled Substances
6 Act, unless the context otherwise requires:

7 (1) Administer shall mean to directly apply a controlled
8 substance by injection, inhalation, ingestion, or any other means
9 to the body of a patient or research subject;

10 (2) Agent shall mean an authorized person who acts on
11 behalf of or at the direction of another person but shall not
12 include a common or contract carrier, public warehouse keeper, or
13 employee of a carrier or warehouse keeper;

14 (3) Administration shall mean the Drug Enforcement
15 Administration, United States Department of Justice;

16 (4) Controlled substance shall mean a drug, biological,
17 substance, or immediate precursor in Schedules I to V of section
18 28-405. Controlled substance shall not include distilled spirits,
19 wine, malt beverages, tobacco, or any nonnarcotic substance if such
20 substance may, under the Federal Food, Drug, and Cosmetic Act, 21
21 U.S.C. 301 et seq., as such act existed on January 1, 2003, and the
22 law of this state, be lawfully sold over the counter without a
23 prescription;

24 (5) Counterfeit substance shall mean a controlled

1 substance which, or the container or labeling of which, without
2 authorization, bears the trademark, trade name, or other
3 identifying mark, imprint, number, or device, or any likeness
4 thereof, of a manufacturer, distributor, or dispenser other than
5 the person or persons who in fact manufactured, distributed, or
6 dispensed such substance and which thereby falsely purports or is
7 represented to be the product of, or to have been distributed by,
8 such other manufacturer, distributor, or dispenser;

9 (6) Department shall mean the Department of Health and
10 Human Services Regulation and Licensure;

11 (7) Division of Drug Control shall mean the personnel of
12 the Nebraska State Patrol who are assigned to enforce the Uniform
13 Controlled Substances Act;

14 (8) Dispense shall mean to deliver a controlled substance
15 to an ultimate user or a research subject pursuant to a medical
16 order issued by a practitioner authorized to prescribe, including
17 the packaging, labeling, or compounding necessary to prepare the
18 controlled substance for such delivery;

19 (9) Distribute shall mean to deliver other than by
20 administering or dispensing a controlled substance;

21 (10) Prescribe shall mean to issue a medical order;

22 (11) Drug shall mean (a) articles recognized in the
23 official United States Pharmacopoeia, official Homeopathic
24 Pharmacopoeia of the United States, official National Formulary, or
25 any supplement to any of them, (b) substances intended for use in
26 the diagnosis, cure, mitigation, treatment, or prevention of
27 disease in human beings or animals, and (c) substances intended for

1 use as a component of any article specified in subdivision (a) or
2 (b) of this subdivision, but shall not include devices or their
3 components, parts, or accessories;

4 (12) Deliver or delivery shall mean the actual,
5 constructive, or attempted transfer from one person to another of a
6 controlled substance, whether or not there is an agency
7 relationship;

8 (13) Marijuana shall mean all parts of the plant of the
9 genus cannabis, whether growing or not, the seeds thereof, and
10 every compound, manufacture, salt, derivative, mixture, or
11 preparation of such plant or its seeds, but shall not include the
12 mature stalks of such plant, hashish, tetrahydrocannabinols
13 extracted or isolated from the plant, fiber produced from such
14 stalks, oil or cake made from the seeds of such plant, any other
15 compound, manufacture, salt, derivative, mixture, or preparation of
16 such mature stalks, or the sterilized seed of such plant which is
17 incapable of germination. When the weight of marijuana is referred
18 to in the Uniform Controlled Substances Act, it shall mean its
19 weight at or about the time it is seized or otherwise comes into
20 the possession of law enforcement authorities, whether cured or
21 uncured at that time;

22 (14) Manufacture shall mean the production, preparation,
23 propagation, compounding, conversion, or processing of a controlled
24 substance, either directly or indirectly, by extraction from
25 substances of natural origin, independently by means of chemical
26 synthesis, or by a combination of extraction and chemical
27 synthesis, and shall include any packaging or repackaging of the

1 substance or labeling or relabeling of its container. Manufacture
2 shall not include the preparation or compounding of a controlled
3 substance by an individual for his or her own use, except for the
4 preparation or compounding of components or ingredients used for or
5 intended to be used for the manufacture of methamphetamine, or the
6 preparation, compounding, conversion, packaging, or labeling of a
7 controlled substance: (a) By a practitioner as an incident to his
8 or her prescribing, administering, or dispensing of a controlled
9 substance in the course of his or her professional practice; or (b)
10 by a practitioner, or by his or her authorized agent under his or
11 her supervision, for the purpose of, or as an incident to,
12 research, teaching, or chemical analysis and not for sale;

13 (15) Narcotic drug shall mean any of the following,
14 whether produced directly or indirectly by extraction from
15 substances of vegetable origin, independently by means of chemical
16 synthesis, or by a combination of extraction and chemical
17 synthesis: (a) Opium, opium poppy and poppy straw, coca leaves,
18 and opiates; (b) a compound, manufacture, salt, derivative, or
19 preparation of opium, coca leaves, or opiates; or (c) a substance
20 and any compound, manufacture, salt, derivative, or preparation
21 thereof which is chemically equivalent to or identical with any of
22 the substances referred to in subdivisions (a) and (b) of this
23 subdivision, except that the words narcotic drug as used in the
24 Uniform Controlled Substances Act shall not include decocainized
25 coca leaves or extracts of coca leaves, which extracts do not
26 contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

27 (16) Opiate shall mean any substance having an

1 addiction-forming or addiction-sustaining liability similar to
2 morphine or being capable of conversion into a drug having such
3 addiction-forming or addiction-sustaining liability. Opiate shall
4 not include the dextrorotatory isomer of 3-methoxy-n
5 methylmorphinan and its salts. Opiate shall include its racemic
6 and levorotatory forms;

7 (17) Opium poppy shall mean the plant of the species
8 *Papaver somniferum* L., except the seeds thereof;

9 (18) Poppy straw shall mean all parts, except the seeds,
10 of the opium poppy after mowing;

11 (19) Person shall mean any corporation, association,
12 partnership, limited liability company, or one or more individuals;

13 (20) Practitioner shall mean a physician, physician
14 assistant, dentist, veterinarian, pharmacist, podiatrist,
15 optometrist, certified nurse midwife, advanced practice registered
16 nurse, certified registered nurse anesthetist, scientific
17 investigator, pharmacy, hospital, or any other person licensed,
18 registered, or otherwise permitted to distribute, dispense,
19 prescribe, conduct research with respect to, or administer a
20 controlled substance in the course of practice or research in this
21 state, including an emergency medical service as defined in section
22 71-5175;

23 (21) Production shall include the manufacture, planting,
24 cultivation, or harvesting of a controlled substance;

25 (22) Immediate precursor shall mean a substance which is
26 the principal compound commonly used or produced primarily for use
27 and which is an immediate chemical intermediary used or likely to

1 be used in the manufacture of a controlled substance, the control
2 of which is necessary to prevent, curtail, or limit such
3 manufacture;

4 (23) State shall mean the State of Nebraska;

5 (24) Ultimate user shall mean a person who lawfully
6 possesses a controlled substance for his or her own use, for the
7 use of a member of his or her household, or for administration to
8 an animal owned by him or her or by a member of his or her
9 household;

10 (25) Hospital shall have the same meaning as in section
11 71-419;

12 (26) Cooperating individual shall mean any person, other
13 than a commissioned law enforcement officer, who acts on behalf of,
14 at the request of, or as agent for a law enforcement agency for the
15 purpose of gathering or obtaining evidence of offenses punishable
16 under the Uniform Controlled Substances Act;

17 (27) Hashish or concentrated cannabis shall mean: (a)
18 The separated resin, whether crude or purified, obtained from a
19 plant of the genus cannabis; or (b) any material, preparation,
20 mixture, compound, or other substance which contains ten percent or
21 more by weight of tetrahydrocannabinols;

22 (28) Exceptionally hazardous drug shall mean (a) a
23 narcotic drug, (b) thiophene analog of phencyclidine, (c)
24 phencyclidine, (d) amobarbital, (e) secobarbital, or (f)
25 pentobarbital;

26 (29) Imitation controlled substance shall mean a
27 substance which is not a controlled substance but which, by way of

1 express or implied representations and consideration of other
2 relevant factors including those specified in section 28-445, would
3 lead a reasonable person to believe the substance is a controlled
4 substance. A placebo or registered investigational drug
5 manufactured, distributed, possessed, or delivered in the ordinary
6 course of practice or research by a health care professional shall
7 not be deemed to be an imitation controlled substance;

8 (30) (a) Controlled substance analogue shall mean a
9 substance (i) the chemical structure of which is substantially
10 similar to the chemical structure of a Schedule I or Schedule II
11 controlled substance as provided in section 28-405 or (ii) which
12 has a stimulant, depressant, analgesic, or hallucinogenic effect on
13 the central nervous system that is substantially similar to or
14 greater than the stimulant, depressant, analgesic, or
15 hallucinogenic effect on the central nervous system of a Schedule I
16 or Schedule II controlled substance as provided in section 28-405.
17 A controlled substance analogue shall, to the extent intended for
18 human consumption, be treated as a controlled substance under
19 Schedule I of section 28-405 for purposes of the Uniform Controlled
20 Substances Act; and

21 (b) Controlled substance analogue shall not include (i) a
22 controlled substance, (ii) any substance generally recognized as
23 safe and effective within the meaning of the Federal Food, Drug,
24 and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on
25 January 1, 2003, (iii) any substance for which there is an approved
26 new drug application, or (iv) with respect to a particular person,
27 any substance if an exemption is in effect for investigational use

1 for that person, under section 505 of the Federal Food, Drug, and
2 Cosmetic Act, 21 U.S.C. 355, as such section existed on January 1,
3 2003, to the extent conduct with respect to such substance is
4 pursuant to such exemption;

5 (31) Anabolic steroid shall mean any drug or hormonal
6 substance, chemically and pharmacologically related to testosterone
7 (other than estrogens, progestins, and corticosteroids), that
8 promotes muscle growth and includes any controlled substance in
9 Schedule III(d) of section 28-405. Anabolic steroid shall not
10 include any anabolic steroid which is expressly intended for
11 administration through implants to cattle or other nonhuman species
12 and has been approved by the Secretary of Health and Human Services
13 for such administration, but if any person prescribes, dispenses,
14 or distributes such a steroid for human use, such person shall be
15 considered to have prescribed, dispensed, or distributed an
16 anabolic steroid within the meaning of this subdivision;

17 (32) Chart order shall mean an order for a controlled
18 substance issued by a practitioner for a patient who is in the
19 hospital where the chart is stored or for a patient receiving
20 detoxification treatment or maintenance treatment pursuant to
21 section 28-412. Chart order shall not include a prescription;

22 (33) Medical order shall mean a prescription, a chart
23 order, or an order for pharmaceutical care issued by a
24 practitioner;

25 (34) Prescription shall mean an order for a controlled
26 substance issued by a practitioner. Prescription shall not include
27 a chart order;

1 (35) Registrant shall mean any person who has a
2 controlled substances registration issued by the state or the
3 administration;

4 (36) Reverse distributor shall mean a person whose
5 primary function is to act as an agent for a pharmacy, wholesaler,
6 manufacturer, or other entity by receiving, inventorying, and
7 managing the disposition of outdated, expired, or otherwise
8 nonsaleable controlled substances; ~~and~~

9 (37) Signature shall mean the name, word, or mark of a
10 person written in his or her own hand with the intent to
11 authenticate a writing or other form of communication or a digital
12 signature which complies with section 86-611 or an electronic
13 signature;

14 (38) Facsimile shall mean a copy generated by a system
15 that encodes a document or photograph into electrical signals,
16 transmits those signals over telecommunications lines, and
17 reconstructs the signals to create an exact duplicate of the
18 original document at the receiving end;

19 (39) Electronic signature shall have the definition found
20 in section 86-621; and

21 (40) Electronic transmission shall mean transmission of
22 information in electronic form. Electronic transmission may
23 include computer-to-computer transmission or computer-to-facsimile
24 transmission.

25 Sec. 2. Section 28-405, Revised Statutes Supplement,
26 2004, is amended to read:

27 28-405. The following are the schedules of controlled

1 substances referred to in the Uniform Controlled Substances Act:

2 Schedule I

3 (a) Any of the following opiates, including their
4 isomers, esters, ethers, salts, and salts of isomers, esters, and
5 ethers, unless specifically excepted, whenever the existence of
6 such isomers, esters, ethers, and salts is possible within the
7 specific chemical designation:

8 (1) Acetylmethadol;

9 (2) Allylprodine;

10 (3) Alphacetylmethadol, except levo-alphacetylmethadol
11 which is also known as levo-alpha-acetylmethadol, levomethadyl
12 acetate, and LAAM;

13 (4) Alphameprodine;

14 (5) Alphamethadol;

15 (6) Benzethidine;

16 (7) Betacetylmethadol;

17 (8) Betameprodine;

18 (9) Betamethadol;

19 (10) Betaprodine;

20 (11) Clonitazene;

21 (12) Dextromoramide;

22 (13) Difenoquin;

23 (14) Diampromide;

24 (15) Diethylthiambutene;

25 (16) Dimenoxadol;

26 (17) Dimepheptanol;

27 (18) Dimethylthiambutene;

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- 1 (19) Dioxaphetyl butyrate;
- 2 (20) Dipipanone;
- 3 (21) Ethylmethylthiambutene;
- 4 (22) Etonitazene;
- 5 (23) Etoperidone;
- 6 (24) Furethidine;
- 7 (25) Hydroxypethidine;
- 8 (26) Ketobemidone;
- 9 (27) Levomoramide;
- 10 (28) Levophenacetylmorphan;
- 11 (29) Morpheridine;
- 12 (30) Noracymethadol;
- 13 (31) Norlevorphanol;
- 14 (32) Normethadone;
- 15 (33) Norpipanone;
- 16 (34) Phenadoxone;
- 17 (35) Phenampromide;
- 18 (36) Phenomorphan;
- 19 (37) Phenoperidine;
- 20 (38) Piritramide;
- 21 (39) Proheptazine;
- 22 (40) Properidine;
- 23 (41) Propiram;
- 24 (42) Racemoramide;
- 25 (43) Trimeperidine;
- 26 (44) Alpha-methylfentanyl,
- 27 N-(1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl) propionanilide,

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1 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine;
2 (45) Tilidine;
3 (46) 3-Methylfentanyl,
4 N-(3-methyl-1-(2-phenylethyl)-4-piperidyl)-N-phenylpropanamide, its
5 optical and geometric isomers, salts, and salts of isomers;
6 (47) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP), its
7 optical isomers, salts, and salts of isomers;
8 (48) PEPAP
9 (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine), its optical
10 isomers, salts, and salts of isomers;
11 (49) Acetyl-alpha-methylfentanyl
12 (N-(1-(1-methyl-2-phenethyl)-4-piperidinyl)-N-phenylacetamide), its
13 optical isomers, salts, and salts of isomers;
14 (50) Alpha-methylthiofentanyl
15 (N-(1-methyl-2-(2-thienyl)ethyl-4-piperidinyl)-N-phenylpropanamide),
16 its optical isomers, salts, and salts of isomers;
17 (51) Benzylfentanyl
18 (N-(1-benzyl-4-piperidyl)-N-phenylpropanamide), its optical
19 isomers, salts, and salts of isomers;
20 (52) Beta-hydroxyfentanyl (N-(1-(2-hydroxy-2-
21 phenethyl)-4-piperidinyl)-N-phenylpropanamide), its optical
22 isomers, salts, and salts of isomers;
23 (53) Beta-hydroxy-3-methylfentanyl (other name:
24 N-(1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl)-N-
25 phenylpropanamide), its optical and geometric isomers, salts, and
26 salts of isomers;
27 (54) 3-methylthiofentanyl

1 (N-(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl)-N-phenylpropanamide),
2 its optical and geometric isomers, salts, and salts of isomers;

3 (55)

4 N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide
5 (thenylfentanyl), its optical isomers, salts, and salts of isomers;

6 (56) Thiofentanyl

7 (N-phenyl-N-(1-(2-thienyl)ethyl-4-piperidinyl)-propanamide), its
8 optical isomers, salts, and salts of isomers; and

9 (57) Para-fluorofentanyl

10 (N-(4-fluorophenyl)-N-(1-(2-phenethyl)-4-piperidinyl)propanamide),
11 its optical isomers, salts, and salts of isomers.

12 (b) Any of the following opium derivatives, their salts,
13 isomers, and salts of isomers, unless specifically excepted,
14 whenever the existence of such salts, isomers, and salts of isomers
15 is possible within the specific chemical designation:

16 (1) Acetorphine;

17 (2) Acetyldihydrocodeine;

18 (3) Benzylmorphine;

19 (4) Codeine methylbromide;

20 (5) Codeine-N-Oxide;

21 (6) Cyprenorphine;

22 (7) Desomorphine;

23 (8) Dihydromorphine;

24 (9) Drotebanol;

25 (10) Etorphine, except hydrochloride salt;

26 (11) Heroin;

27 (12) Hydromorphanol;

- 1 (13) Methyldesorphine;
- 2 (14) Methyldihydromorphine;
- 3 (15) Morphine methylbromide;
- 4 (16) Morphine methylsulfonate;
- 5 (17) Morphine-N-Oxide;
- 6 (18) Myrophine;
- 7 (19) Nicocodeine;
- 8 (20) Nicomorphine;
- 9 (21) Normorphine;
- 10 (22) Pholcodine; and
- 11 (23) Thebacon.
- 12 (c) Any material, compound, mixture, or preparation which
- 13 contains any quantity of the following hallucinogenic substances,
- 14 their salts, isomers, and salts of isomers, unless specifically
- 15 excepted, whenever the existence of such salts, isomers, and salts
- 16 of isomers is possible within the specific chemical designation,
- 17 and, for purposes of this subdivision only, isomer shall include
- 18 the optical, position, and geometric isomers:
- 19 (1) Bufotenine. Trade and other names shall include, but
- 20 are not limited to: 3-(B-Dimethylaminoethyl)-5-hydroxyindole;
- 21 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin;
- 22 5-hydroxy-N,N-dimethyltryptamine; and mappine;
- 23 (2) Diethyltryptamine. Trade and other names shall
- 24 include, but are not limited to: N,N-diethyltryptamine; and DET;
- 25 (3) Dimethyltryptamine. Trade and other names shall
- 26 include, but are not limited to: DMT;
- 27 (4) 4-bromo-2,5-dimethoxyamphetamine. Trade and other

1 names shall include, but are not limited to: 4-bromo-2,
2 5-dimethoxy-a-methylphenethylamine; and 4-bromo-2,5-DMA;

3 (5) 4-methoxyamphetamine. Trade and other names shall
4 include, but are not limited to: 4-methoxy-a-methyl-phenethylamine;
5 and paramethoxyamphetamine, PMA;

6 (6) 4-methyl-2, 5-dimethoxyamphetamine. Trade and other
7 names shall include, but are not limited to:
8 4-methyl-2,5-dimethoxy-a-methylphenethylamine; DOM; and STP;

9 (7) 5-methoxy-N-N, dimethyltryptamine;

10 (8) Ibogaine. Trade and other names shall include, but
11 are not limited to:

12 7-ethyl-6,6B,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-
13 pyrido (1',2':1,2) azepino (5,4-b) indole; and tabernanthe iboga;

14 (9) Lysergic acid diethylamide;

15 (10) Marijuana;

16 (11) Mescaline;

17 (12) Peyote. Peyote shall mean all parts of the plant
18 presently classified botanically as *Lophophora williamsii* Lemaire,
19 whether growing or not, the seeds thereof, any extract from any
20 part of such plant, and every compound, manufacture, salts,
21 derivative, mixture, or preparation of such plant or its seeds or
22 extracts;

23 (13) Psilocybin;

24 (14) Psilocyn;

25 (15) Tetrahydrocannabinols, including, but not limited
26 to, synthetic equivalents of the substances contained in the plant
27 or in the resinous extractives of cannabis, sp. or synthetic

1 substances, derivatives, and their isomers with similar chemical
2 structure and pharmacological activity such as the following: Delta
3 1 cis or trans tetrahydrocannabinol and their optical isomers,
4 excluding dronabinol in sesame oil and encapsulated in a soft
5 gelatin capsule in a drug product approved by the federal Food and
6 Drug Administration; Delta 6 cis or trans tetrahydrocannabinol and
7 their optical isomers; and Delta 3,4 cis or trans
8 tetrahydrocannabinol and its optical isomers. Since nomenclature
9 of these substances is not internationally standardized, compounds
10 of these structures shall be included regardless of the numerical
11 designation of atomic positions covered;

12 (16) 3,4-methylenedioxy amphetamine;

13 (17) 5-methoxy-3,4-methylenedioxy amphetamine;

14 (18) 3,4,5-trimethoxy amphetamine;

15 (19) N-ethyl-3-piperidyl benzilate;

16 (20) N-methyl-3-piperidyl benzilate;

17 (21) Thiophene analog of phencyclidine. Trade and other

18 names shall include, but are not limited to:

19 1-(1-(2-thienyl)-cyclohexyl)-piperidine; 2-thienyl analog of
20 phencyclidine; TCP; and TCP;

21 (22) 2,5-dimethoxyamphetamine. Trade and other names

22 shall include, but are not limited to:

23 2,5-dimethoxy-a-methylphenethylamine; and 2,5-DMA;

24 (23) Hashish or concentrated cannabis;

25 (24) Parahexyl. Trade and other names shall include, but

26 are not limited to: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,

27 9-trimethyl-6H-dibenzo(b,d)pyran; and synhexyl;

1 (25) Ethylamine analog of phencyclidine. Trade and other
2 names shall include, but are not limited to:
3 N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)ethylamine;
4 N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; and PCE;

5 (26) Pyrrolidine analog of phencyclidine. Trade and
6 other names shall include, but are not limited to:
7 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy; and PHP;

8 (27) 3,4-methylenedioxymethamphetamine (MDMA), its
9 optical, positional, and geometric isomers, salts, and salts of
10 isomers;

11 (28) 4-bromo-2,5-dimethoxyphenethylamine. Some trade or
12 other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane;
13 alpha-desmethyl DOB; 2C-B; and Nexus;

14 (29) Alpha-ethyltryptamine. Some trade or other names:
15 etryptamine; Monase; alpha-ethyl-LH-indole-3-ethanamine;
16 3-(2-aminobutyl) indole; alpha-ET; and AET;

17 (30) 2,5-dimethoxy-4-ethylamphet-amine; and DOET; ~~and~~

18 (31) 1-(1-(2-thienyl)cyclohexyl)pyrrolidine; and TCPy;

19 (32) Alpha-methyltryptamine, which is also known as AMT;

20 and

21 (33) 5-Methoxy-N, N-diisopropyltryptamine, which is also
22 known as 5-MeO-DIPT.

23 (d) Unless specifically excepted or unless listed in
24 another schedule, any material, compound, mixture, or preparation
25 which contains any quantity of the following substances having a
26 depressant effect on the central nervous system, including its
27 salts, isomers, and salts of isomers whenever the existence of such

1 salts, isomers, and salts of isomers is possible within the
2 specific chemical designation:

- 3 (1) Mecloqualone;
4 (2) Methaqualone; and
5 (3) Gamma-hydroxybutyric acid. Some other names include:
6 GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic
7 acid; sodium oxybate; and sodium oxybutyrate.

8 (e) Unless specifically excepted or unless listed in
9 another schedule, any material, compound, mixture, or preparation
10 which contains any quantity of the following substances having a
11 stimulant effect on the central nervous system, including its
12 salts, isomers, and salts of isomers:

- 13 (1) Fenethylamine;
14 (2) N-ethylamphetamine;
15 (3) Aminorex; aminoxaphen; 2-amino-5-phenyl-2-oxazoline;
16 and 4,5-dihydro-5-phenyl-2-oxazolamine;
17 (4) Cathinone; 2-amino-1-phenyl-1-propanone;
18 alpha-aminopropiophenone; 2-aminopropiophenone; and norephedrone;
19 (5) Methcathinone, its salts, optical isomers, and salts
20 of optical isomers. Some other names:
21 2-(methylamino)-propiofenone; alpha-(methylamino)propiofenone;
22 2-(methylamino)-1-phenylpropan-1-one;
23 alpha-N-methylaminopropiophenone; methylcathinone;
24 monomethylpropion; ephedrone; N-methylcathinone; AL-464; AL-422;
25 AL-463; and UR1432;

- 26 (6) (+/-)cis-4-methylaminorex; and
27 (+/-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine; and

1 (xii) Metopon;

2 (xiii) Morphine;

3 (xiv) Oxycodone;

4 (xv) Oxymorphone;

5 (xvi) Thebaine; and

6 (xvii) Dihydroetorphine;

7 (2) Any salt, compound, derivative, or preparation
8 thereof which is chemically equivalent to or identical with any of
9 the substances referred to in subdivision (1) of this subdivision,
10 except that these substances shall not include the isoquinoline
11 alkaloids of opium;

12 (3) Opium poppy and poppy straw;

13 (4) Coca leaves and any salt, compound, derivative, or
14 preparation of coca leaves, and any salt, compound, derivative, or
15 preparation thereof which is chemically equivalent to or identical
16 with any of these substances, including cocaine and its salts,
17 optical isomers, and salts of optical isomers, except that the
18 substances shall not include decocainized coca leaves or
19 extractions which do not contain cocaine or ecgonine; and

20 (5) Concentrate of poppy straw, the crude extract of
21 poppy straw in either liquid, solid, or powder form which contains
22 the phenanthrene alkaloids of the opium poppy.

23 (b) Unless specifically excepted or unless in another
24 schedule any of the following opiates, including their isomers,
25 esters, ethers, salts, and salts of their isomers, esters, and
26 ethers whenever the existence of such isomers, esters, ethers, and
27 salts is possible within the specific chemical designation,

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- 1 dextrorphan excepted:
- 2 (1) Alphaprodine;
- 3 (2) Anileridine;
- 4 (3) Bezitramide;
- 5 (4) Diphenoxylate;
- 6 (5) Fentanyl;
- 7 (6) Isomethadone;
- 8 (7) Levomethorphan;
- 9 (8) Levorphanol;
- 10 (9) Metazocine;
- 11 (10) Methadone;
- 12 (11) Methadone-Intermediate,
- 13 4-cyano-2-dimethylamino-4,4-diphenyl butane;
- 14 (12) Moramide-intermediate,
- 15 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;
- 16 (13) Pethidine or meperidine;
- 17 (14) Pethidine-Intermediate-A,
- 18 4-cyano-1-methyl-4-phenylpiperidine;
- 19 (15) Pethidine-Intermediate-B,
- 20 ethyl-4-phenylpiperidine-4-carboxylate;
- 21 (16) Pethidine-Intermediate-C,
- 22 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- 23 (17) Phenazocine;
- 24 (18) Piminodine;
- 25 (19) Racemethorphan;
- 26 (20) Racemorphan;
- 27 (21) Dihydrocodeine;

- 1 (22) Bulk propoxyphene in nondosage forms;
- 2 (23) Sufentanil;
- 3 (24) Alfentanil;
- 4 (25) Levo-alpha-acetylmethadol which is also known as
5 levo-alpha-acetylmethadol, levomethadyl acetate, and LAAM;
- 6 (26) Carfentanil; and
- 7 (27) Remifentanil.
- 8 (c) Any material, compound, mixture, or preparation which
9 contains any quantity of the following substances having a
10 potential for abuse associated with a stimulant effect on the
11 central nervous system:
- 12 (1) Amphetamine, its salts, optical isomers, and salts of
13 its optical isomers;
- 14 (2) Phenmetrazine and its salts;
- 15 (3) Methamphetamine, its salts, isomers, and salts of its
16 isomers; and
- 17 (4) Methylphenidate.
- 18 (d) Any material, compound, mixture, or preparation which
19 contains any quantity of the following substances having a
20 potential for abuse associated with a depressant effect on the
21 central nervous system, including their salts, isomers, and salts
22 of isomers whenever the existence of such salts, isomers, and salts
23 of isomers is possible within the specific chemical designations:
- 24 (1) Amobarbital;
- 25 (2) Secobarbital;
- 26 (3) Pentobarbital;
- 27 (4) Phencyclidine; and

1 (5) Glutethimide.

2 (e) Hallucinogenic substances known as:

3 (1) Nabilone. Another name for nabilone:

4 (+/-)-trans-3-(1,1-dimethylheptyl)-

5 6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-

6 dibenzo(b,d)pyran-9-one.

7 (f) Unless specifically excepted or unless listed in
8 another schedule, any material, compound, mixture, or preparation
9 which contains any quantity of the following substances:

10 (1) Immediate precursor to amphetamine and
11 methamphetamine: Phenylacetone. Trade and other names shall
12 include, but are not limited to: Phenyl-2-propanone; P2P; benzyl
13 methyl ketone; and methyl benzyl ketone; or

14 (2) Immediate precursors to phencyclidine, PCP:

15 (i) 1-phenylcyclohexylamine; or

16 (ii) 1-piperidinocyclohexanecarbonitrile, PCC.

17 Schedule III

18 (a) Any material, compound, mixture, or preparation which
19 contains any quantity of the following substances having a
20 potential for abuse associated with a stimulant effect on the
21 central nervous system, including their salts, isomers, whether
22 optical, position, or geometric, and salts of such isomers whenever
23 the existence of such salts, isomers, and salts of isomers is
24 possible within the specific chemical designation:

25 (1) Benzphetamine;

26 (2) Chlorphentermine;

27 (3) Clortermine; and

1 (4) Phendimetrazine.

2 (b) Any material, compound, mixture, or preparation which
3 contains any quantity of the following substances having a
4 potential for abuse associated with a depressant effect on the
5 central nervous system:

6 (1) Any substance which contains any quantity of a
7 derivative of barbituric acid or any salt of a derivative of
8 barbituric acid, except those substances which are specifically
9 listed in other schedules of this section;

10 (2) Chlorhexadol;

11 (3) Lysergic acid;

12 (4) Lysergic acid amide;

13 (5) Methyprylon;

14 (6) Sulfondiethylmethane;

15 (7) Sulfonethylmethane;

16 (8) Sulfonmethane;

17 (9) Nalorphine;

18 (10) Any compound, mixture, or preparation containing
19 amobarbital, secobarbital, pentobarbital, or any salt thereof and
20 one or more other active medicinal ingredients which are not listed
21 in any schedule;

22 (11) Any suppository dosage form containing amobarbital,
23 secobarbital, pentobarbital, or any salt of any of these drugs and
24 approved by the Food and Drug Administration for marketing only as
25 a suppository;

26 (12) Any drug product containing gamma-hydroxybutyric
27 acid, including its salts, isomers, and salts of isomers, for which

1 an application is approved under section 505 of the Federal Food,
2 Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on
3 July 20, 2002;

4 (13) Ketamine, its salts, isomers, and salts of isomers.
5 Some other names for ketamine:
6 (+/-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone; and

7 (14) Tiletamine and zolazepam or any salt thereof. Trade
8 or other names for a tiletamine-zolazepam combination product shall
9 include, but are not limited to: telazol. Trade or other names for
10 tiletamine shall include, but are not limited to:
11 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Trade or other names
12 for zolazepam shall include, but are not limited to:
13 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-(3,4-e)
14 (1,4)-diazepin-7(1H)-one, and flupyrzapon.

15 (c) Unless specifically excepted or unless listed in
16 another schedule:

17 (1) Any material, compound, mixture, or preparation
18 containing limited quantities of any of the following narcotic
19 drugs, or any salts calculated as the free anhydrous base or
20 alkaloid, in limited quantities as set forth below:

21 (i) Not more than one and eight-tenths grams of codeine
22 per one hundred milliliters or not more than ninety milligrams per
23 dosage unit, with an equal or greater quantity of an isoquinoline
24 alkaloid of opium;

25 (ii) Not more than one and eight-tenths grams of codeine
26 per one hundred milliliters or not more than ninety milligrams per
27 dosage unit, with one or more active, nonnarcotic ingredients in

1 recognized therapeutic amounts;

2 (iii) Not more than three hundred milligrams of
3 dihydrocodeinone which is also known as hydrocodone per one hundred
4 milliliters or not more than fifteen milligrams per dosage unit,
5 with a fourfold or greater quantity of an isoquinoline alkaloid of
6 opium;

7 (iv) Not more than three hundred milligrams of
8 dihydrocodeinone which is also known as hydrocodone per one hundred
9 milliliters or not more than fifteen milligrams per dosage unit,
10 with one or more active, nonnarcotic ingredients in recognized
11 therapeutic amounts;

12 (v) Not more than one and eight-tenths grams of
13 dihydrocodeine per one hundred milliliters or not more than ninety
14 milligrams per dosage unit, with one or more active, nonnarcotic
15 ingredients in recognized therapeutic amounts;

16 (vi) Not more than three hundred milligrams of
17 ethylmorphine per one hundred milliliters or not more than fifteen
18 milligrams per dosage unit, with one or more active, nonnarcotic
19 ingredients in recognized therapeutic amounts;

20 (vii) Not more than five hundred milligrams of opium per
21 one hundred milliliters or per one hundred grams, or not more than
22 twenty-five milligrams per dosage unit, with one or more active,
23 nonnarcotic ingredients in recognized therapeutic amounts; and

24 (viii) Not more than fifty milligrams of morphine per one
25 hundred milliliters or per one hundred grams with one or more
26 active, nonnarcotic ingredients in recognized therapeutic amounts;
27 and

1 (2) Any material, compound, mixture, or preparation
2 containing any of the following narcotic drug or its salts, as set
3 forth below:

4 (i) Buprenorphine.

5 (d) Any anabolic steroid, which shall include any
6 material, compound, mixture, or preparation containing any quantity
7 of the following substances, including its salts, isomers, and
8 salts of isomers whenever the existence of such salts of isomers is
9 possible within the specific chemical designation:

10 (1) Boldenone;

11 (2) Chlorotestosterone (4-chlorotestosterone);

12 (3) Clostebol;

13 (4) Dehydrochlormethyltestosterone;

14 (5) Dihydrotestosterone (4-dihydrotestosterone);

15 (6) Drostanolone;

16 (7) Ethylestrenol;

17 (8) Fluoxymesterone;

18 (9) Formebolone (formebolone);

19 (10) Mesterolone;

20 (11) Methandienone;

21 (12) Methandranone;

22 (13) Methandriol;

23 (14) Methandrostenolone;

24 (15) Methenolone;

25 (16) Methyltestosterone;

26 (17) Mibolerone;

27 (18) Nandrolone;

- 1 (19) Norethandrolone;
2 (20) Oxandrolone;
3 (21) Oxymesterone;
4 (22) Oxymetholone;
5 (23) Stanolone;
6 (24) Stanozolol;
7 (25) Testolactone;
8 (26) Testosterone;
9 (27) Trenbolone; and
10 (28) Any salt, ester, or isomer of a drug or substance
11 described or listed in this subdivision if the salt, ester, or
12 isomer promotes muscle growth.

13 (e) Hallucinogenic substances known as:

- 14 (1) Dronabinol, synthetic, in sesame oil and encapsulated
15 in a soft gelatin capsule in a Food and Drug Administration
16 approved drug product. Some other names for dronabinol are
17 (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo
18 (b,d)pyran-1-ol or (-)-delta-9-(trans)-tetrahydrocannabinol.

19 Schedule IV

20 (a) Any material, compound, mixture, or preparation which
21 contains any quantity of the following substances, including their
22 salts, isomers, and salts of isomers whenever the existence of such
23 salts, isomers, and salts of isomers is possible within the
24 specific chemical designation:

- 25 (1) Barbital;
26 (2) Chloral betaine;
27 (3) Chloral hydrate;

- 1 (4) Chlordiazepoxide, but not including librax
2 (chlordiazepoxide hydrochloride and clindinium bromide) or menrium
3 (chlordiazepoxide and water soluble esterified estrogens);
- 4 (5) Clonazepam;
- 5 (6) Clorazepate;
- 6 (7) Diazepam;
- 7 (8) Ethchlorvynol;
- 8 (9) Ethinamate;
- 9 (10) Flurazepam;
- 10 (11) Mebutamate;
- 11 (12) Meprobamate;
- 12 (13) Methohexital;
- 13 (14) Methylphenobarbital;
- 14 (15) Oxazepam;
- 15 (16) Paraldehyde;
- 16 (17) Petrichloral;
- 17 (18) Phenobarbital;
- 18 (19) Prazepam;
- 19 (20) Alprazolam;
- 20 (21) Bromazepam;
- 21 (22) Camazepam;
- 22 (23) Clobazam;
- 23 (24) Clotiazepam;
- 24 (25) Cloxazolam;
- 25 (26) Delorazepam;
- 26 (27) Estazolam;
- 27 (28) Ethyl loflazepate;

- 1 (29) Fludiazepam;
- 2 (30) Flunitrazepam;
- 3 (31) Halazepam;
- 4 (32) Haloxazolam;
- 5 (33) Ketazolam;
- 6 (34) Loprazolam;
- 7 (35) Lorazepam;
- 8 (36) Lormetazepam;
- 9 (37) Medazepam;
- 10 (38) Nimetazepam;
- 11 (39) Nitrazepam;
- 12 (40) Nordiazepam;
- 13 (41) Oxazolam;
- 14 (42) Pinazepam;
- 15 (43) Temazepam;
- 16 (44) Tetrazepam;
- 17 (45) Triazolam;
- 18 (46) Midazolam;
- 19 (47) Quazepam;
- 20 (48) Zolpidem;
- 21 (49) Dichloralphenazone; and
- 22 (50) Zaleplon.
- 23 (b) Any material, compound, mixture, or preparation which
- 24 contains any quantity of the following substance, including its
- 25 salts, isomers, whether optical, position, or geometric, and salts
- 26 of such isomers, whenever the existence of such salts, isomers, and
- 27 salts of isomers is possible: Fenfluramine.

1 (c) Unless specifically excepted or unless listed in
2 another schedule, any material, compound, mixture, or preparation
3 which contains any quantity of the following substances having a
4 stimulant effect on the central nervous system, including their
5 salts, isomers, whether optical, position, or geometric, and salts
6 of such isomers whenever the existence of such salts, isomers, and
7 salts of isomers is possible within the specific chemical
8 designation:

9 (1) Diethylpropion;

10 (2) Phentermine;

11 (3) Pemoline, including organometallic complexes and
12 chelates thereof;

13 (4) Mazindol;

14 (5) Pipradrol;

15 (6) SPA, ((-)-1-dimethylamino- 1,2-diphenylethane);

16 (7) Cathine. Another name for cathine is
17 ((+)-norpseudoephedrine);

18 (8) Fencamfamin;

19 (9) Fenproporex;

20 (10) Mefenorex;

21 (11) Modafinil; and

22 (12) Sibutramine.

23 (d) Unless specifically excepted or unless listed in
24 another schedule, any material, compound, mixture, or preparation
25 which contains any quantity of the following narcotic drugs, or
26 their salts or isomers calculated as the free anhydrous base or
27 alkaloid, in limited quantities as set forth below:

- 1 (1) Propoxyphene in manufactured dosage forms; and
- 2 (2) Not more than one milligram of difenoxin and not less
- 3 than twenty-five micrograms of atropine sulfate per dosage unit.
- 4 (e) Unless specifically excepted or unless listed in
- 5 another schedule, any material, compound, mixture, or preparation
- 6 which contains any quantity of the following substance, including
- 7 its salts: Pentazocine.
- 8 (f) Unless specifically excepted or unless listed in
- 9 another schedule, any material, compound, mixture, or preparation
- 10 which contains any quantity of the following substance, including
- 11 its salts, isomers, and salts of such isomers: Butorphanol.
- 12 (g) (1) Unless specifically excepted or unless listed in
- 13 another schedule, any material, compound, mixture, or preparation
- 14 which contains any quantity of the following substance, including
- 15 its salts, optical isomers, and salts of such optical isomers:
- 16 Ephedrine.
- 17 (2) The following drug products containing ephedrine, its
- 18 salts, optical isomers, and salts of such optical isomers are
- 19 excepted from subdivision (g) (1) of Schedule IV if they may
- 20 lawfully be sold over the counter without a prescription under the
- 21 Federal Food, Drug, and Cosmetic Act, as the act existed on
- 22 September 1, 2001; are labeled and marketed in a manner consistent
- 23 with the pertinent OTC Tentative Final or Final Monograph; are
- 24 manufactured and distributed for legitimate medicinal use in a
- 25 manner that reduces or eliminates the likelihood of abuse; and are
- 26 not marketed, advertised, or represented in any manner for the
- 27 indication of stimulation, mental alertness, euphoria, ecstasy, a

1 buzz or high, heightened sexual performance, or increased muscle
2 mass:

3 (A) Primatene Tablets;

4 (B) Bronkaid Dual Action Caplets; and

5 (C) Pazo Hemorrhoidal Ointment.

6 (3) Food and dietary supplements described in 21 U.S.C.
7 321, as such section existed on September 1, 2001, containing
8 ephedrine, including its salts, optical isomers, and salts of such
9 optical isomers, are excepted from subdivision (g) (1) of Schedule
10 IV if:

11 (A) They are labeled in a manner consistent with section
12 28-448 and bear the statements: "This statement has not been
13 evaluated by the Food and Drug Administration. This product is not
14 intended to diagnose, treat, cure, or prevent any disease.";

15 (B) Any dosage form of the food or dietary supplements
16 (i) does not contain any hydrochloride or sulfate salts of
17 ephedrine alkaloids, (ii) does not contain more than twenty-five
18 milligrams of ephedrine alkaloids, and (iii) does not contain
19 ephedrine alkaloids in excess of five percent of the total capsule
20 weight;

21 (C) They are not marketed, advertised, or represented in
22 any manner for the indication of stimulation, mental alertness,
23 euphoria, ecstasy, a buzz or high, heightened sexual performance,
24 or increased muscle mass; and

25 (D) Analysis of the product is provided to the department
26 to ensure that the product meets the requirements of subdivision
27 (g) (3) (B) of Schedule IV.

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Schedule V

(a) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts calculated as the free anhydrous base or alkaloid, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

(2) Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

(3) Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(4) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(5) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams; and

(6) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

(b) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including

1 its salts, isomers, and salts of isomers: Pyrovalerone.

2 Sec. 3. Section 28-414, Revised Statutes Supplement,
3 2004, is amended to read:

4 28-414. (1) (a) Except as otherwise provided in this
5 subsection or section 28-412 or when administered directly by a
6 practitioner to an ultimate user, a controlled substance listed in
7 Schedule II of section 28-405 shall not be dispensed without the
8 written prescription bearing the signature of a practitioner
9 authorized to prescribe. No medical order for a controlled
10 substance listed in Schedule II of section 28-405 shall be filled
11 more than six months from the date of issuance. A prescription for
12 a controlled substance listed in Schedule II of section 28-405
13 shall not be refilled.

14 (b) In emergency situations as defined by rule and
15 regulation of the department, a controlled substance listed in
16 Schedule II of section 28-405 may be dispensed pursuant to ~~an~~
17 ~~authorized transmitted copy~~ a facsimile of a written, signed
18 prescription bearing the word "emergency" or pursuant to an oral
19 prescription reduced to writing in accordance with subdivision
20 (3) (b) of this section, except for the prescribing practitioner's
21 signature, and bearing the word "emergency". ~~and filed by a~~
22 ~~pharmacist.~~

23 (c) In nonemergency situations:

24 (i) A controlled substance listed in Schedule II of
25 section 28-405 may be dispensed pursuant to ~~an authorized~~
26 ~~transmitted copy~~ a facsimile of a written, signed prescription if
27 the original written, signed prescription is presented to the

1 pharmacist for review before the controlled substance is dispensed,
2 except as provided in subdivision (1)(c)(ii) or (1)(c)(iii) of this
3 section;

4 (ii) A narcotic drug listed in Schedule II of section
5 28-405 may be dispensed pursuant to ~~an authorized transmitted copy~~
6 a facsimile of a written, signed prescription (A) to be compounded
7 for direct parenteral administration to a patient for the purpose
8 of home infusion therapy or (B) for administration to a patient in
9 a hospice licensed under the Health Care Facility Licensure Act or
10 certified under Title XVIII of the federal Social Security Act, as
11 such title existed on May 1, 2001, and bearing the words "hospice
12 patient";

13 (iii) A controlled substance listed in Schedule II of
14 section 28-405 may be dispensed pursuant to ~~an authorized~~
15 ~~transmitted copy~~ a facsimile of a written, signed prescription for
16 administration to a resident of a long-term care facility; and

17 (iv) For purposes of subdivisions (1)(c)(ii) and
18 (1)(c)(iii) of this section, ~~an authorized transmitted copy~~ a
19 facsimile of a written, signed prescription shall serve as the
20 original written prescription and shall be maintained in accordance
21 with subdivision (3)(a) of this section.

22 (d)(i) A prescription for a controlled substance listed
23 in Schedule II of section 28-405 may be partially filled if the
24 pharmacist does not supply the full quantity prescribed and he or
25 she makes a notation of the quantity supplied on the face of the
26 prescription. The remaining portion of the prescription may be
27 filled within seventy-two hours of the first partial filling. The

1 pharmacist shall notify the prescribing practitioner if the
2 remaining portion of the prescription is not or cannot be filled
3 within such period. No further quantity may be supplied after such
4 period without a new written, signed prescription.

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

1 (2) (a) Except as otherwise provided in this subsection or
2 when administered directly by a practitioner to an ultimate user, a
3 controlled substance listed in Schedule III, IV, or V of section
4 28-405 shall not be dispensed without a written or oral medical
5 order. Such medical order is valid for six months after the date
6 of issuance. Authorization from a practitioner authorized to
7 prescribe is required to refill a prescription for a controlled
8 substance listed in Schedule III, IV, or V of section 28-405. Such
9 prescriptions shall not be refilled more than five times within six
10 months after the date of issuance. Original prescription
11 information for any controlled substance listed in Schedule III,
12 IV, or V of section 28-405 may be transferred between pharmacies
13 for purposes of refill dispensing pursuant to section 71-1,146.02.

14 (b) A controlled substance listed in Schedule III, IV, or
15 V of section 28-405 may be dispensed pursuant to ~~an authorized~~
16 ~~transmitted copy~~ a facsimile of a written, signed prescription.
17 The ~~authorized transmitted copy~~ facsimile of a written, signed
18 prescription shall serve as the original written prescription for
19 purposes of this subsection and shall be maintained in accordance
20 with the provisions of subdivision (3) (c) of this section.

21 (c) A prescription for a controlled substance listed in
22 Schedule III, IV, or V of section 28-405 may be partially filled if
23 (i) each partial filling is recorded in the same manner as a
24 refilling, (ii) the total quantity dispensed in all partial
25 fillings does not exceed the total quantity prescribed, and (iii)
26 each partial filling is dispensed within six months after the
27 prescription was issued.

1 (3) (a) Prescriptions for all controlled substances listed
2 in Schedule II of section 28-405 shall be kept in a separate file
3 by the dispensing practitioner and shall be maintained for a
4 minimum of five years. The practitioner shall make all such files
5 readily available to the department and law enforcement for
6 inspection without a search warrant.

7 (b) All prescriptions for controlled substances listed in
8 Schedule II of section 28-405 shall contain the name and address of
9 the patient, the name and address of the prescribing practitioner,
10 the Drug Enforcement Administration number of the prescribing
11 practitioner, the date of issuance, and the prescribing
12 practitioner's signature. The practitioner filling such
13 prescription shall write the date of filling and his or her own
14 signature on the face of the prescription. If the prescription is
15 for an animal, it shall also state the name and address of the
16 owner of the animal and the species of the animal.

17 (c) Prescriptions for all controlled substances listed in
18 Schedule III, IV, or V of section 28-405 shall be filed separately
19 from other prescriptions in a single file by the dispensing
20 practitioner and shall be maintained for a minimum of five years.
21 The practitioner shall make all such files readily available to the
22 department and law enforcement for inspection without a search
23 warrant.

24 (d) All prescriptions for controlled substances listed in
25 Schedule III, IV, or V of section 28-405 shall contain the name and
26 address of the patient, the name and address of the prescribing
27 practitioner, the Drug Enforcement Administration number of the

1 prescribing practitioner, the date of issuance, and for written
2 prescriptions, the prescribing practitioner's signature. If the
3 prescription is for an animal, it shall also state the owner's name
4 and address and species of the animal.

5 (e) A registrant who is the owner of a controlled
6 substance may transfer:

7 (i) Any controlled substance listed in Schedule I or II
8 of section 28-405 to another registrant as provided by law or by
9 rule and regulation of the department; and

10 (ii) Any controlled substance listed in Schedule III, IV,
11 or V of section 28-405 to another registrant if such owner complies
12 with subsection (4) of section 28-411.

13 (f) (i) The owner of any stock of controlled substances
14 may cause such controlled substances to be destroyed pursuant to
15 this subdivision when the need for such substances ceases.
16 Complete records of controlled substances destruction pursuant to
17 this subdivision shall be maintained by the registrant for five
18 years from the date of destruction.

19 (ii) When the owner is a registrant:

20 (A) Controlled substances listed in Schedule II, III, IV,
21 or V of section 28-405 may be destroyed by a pharmacy inspector, by
22 a reverse distributor, or by the federal Drug Enforcement
23 Administration. Upon destruction, any forms required by the
24 administration to document such destruction shall be completed; ~~or~~

25 (B) Liquid controlled substances in opened containers
26 which originally contained fifty milliliters or less or compounded
27 liquid controlled substances within the facility where they were

1 compounded may be destroyed if witnessed by two members of the
2 healing arts and recorded in accordance with subsection (4) of
3 section 28-411; or

4 (C) Solid controlled substances in opened unit-dose
5 containers or which have been adulterated within a hospital where
6 they were to be administered to patients at such hospital may be
7 destroyed if witnessed by two members of the healing arts and
8 recorded in accordance with subsection (4) of section 28-411.

9 (iii) When the owner is a patient, such owner may
10 transfer the controlled substances to a pharmacy for immediate
11 destruction by two responsible parties acting on behalf of the
12 pharmacy, one of whom must be a member of the healing arts.

13 (iv) When the owner is a resident of a long-term care
14 facility or hospital, the long-term care facility or hospital shall
15 assure that controlled substances are destroyed as follows:

16 (A) If the controlled substance is listed in Schedule II
17 or III of section 28-405, the destruction shall be witnessed by an
18 employee pharmacist or a consultant pharmacist and a member of the
19 healing arts; or

20 (B) If the controlled substance is listed in Schedule IV
21 or V of section 28-405, the destruction shall be witnessed by an
22 employee pharmacist or a consultant pharmacist and another
23 responsible adult.

24 (g) Before dispensing any controlled substance listed in
25 Schedule II, III, IV, or V of section 28-405, the dispensing
26 practitioner shall affix a label to the container in which the
27 controlled substance is dispensed. Such label shall bear the name

1 and address of the pharmacy or dispensing practitioner, the name of
2 the patient, the date of filling, the consecutive number of the
3 prescription under which it is recorded in the practitioner's
4 prescription files, the name of the prescribing practitioner, and
5 the directions for use of the controlled substance. Unless the
6 prescribing practitioner writes "do not label" or words of similar
7 import on the original written prescription or so designates in an
8 oral prescription, such label shall also bear the name of the
9 controlled substance.

10 (4) For purposes of this section, long-term +

11 ~~(a) Authorized transmitted copy means a paper copy of a~~
12 ~~written, signed medical order issued by a practitioner authorized~~
13 ~~to prescribe which is produced by an electronic or electromagnetic~~
14 ~~transmission or other means as authorized by rule and regulation of~~
15 ~~the department upon recommendation of the Board of Pharmacy; and~~

16 ~~(b) Long-term care facility has the same meaning as~~
17 ~~long-term care hospital in section 71-422 and includes an~~
18 ~~intermediate care facility for the mentally retarded as defined in~~
19 ~~section 71-421.~~

20 Sec. 4. Section 28-1437, Revised Statutes Supplement,
21 2004, is amended to read:

22 28-1437. (1) It shall be unlawful for any person
23 knowingly or intentionally to possess or to acquire or obtain or to
24 attempt to acquire or obtain by means of misrepresentation, fraud,
25 forgery, deception, or subterfuge possession of any drug substance
26 not classified as a controlled substance under the Uniform
27 Controlled Substances Act, but which can only be lawfully

1 distributed, under federal statutes in effect on April 16, 1996,
2 upon the written or oral order of a practitioner authorized to
3 prescribe such substances.

4 (2) Such substances as referred to in subsection (1) of
5 this section shall be known as legend drug substances, which shall
6 be defined as including all drug substances not classified as
7 controlled substances under the Uniform Controlled Substances Act,
8 but which require a written or oral prescription from a
9 practitioner authorized to prescribe such substances and which may
10 only be lawfully dispensed by a duly licensed pharmacist, in
11 accordance with the provisions of the Federal Food, Drug and
12 Cosmetic Act, 21 U.S.C. 301 to 392, in effect on April 16, 1996.

13 (3) A prescription for a legend drug may be transmitted
14 by the practitioner or the practitioner's agent to a pharmacy by
15 ~~facsimile equipment.~~ The facsimile or electronic transmission.
16 Except as otherwise provided in section 28-414 for prescriptions
17 for Schedule I, II, III, IV, or V controlled substances, the
18 facsimile or electronic transmission shall serve as the original
19 ~~written~~ prescription for purposes of this subsection.

20 Sec. 5. Section 71-168, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-168. (1) The department shall enforce the Uniform
23 Licensing Law and for that purpose shall make necessary
24 investigations. Every credentialed person listed under subsection
25 (4) of this section and every member of a professional board shall
26 furnish the department such evidence as he or she may have relative
27 to any alleged violation which is being investigated.

1 (2) Every credentialed person listed under subsection (4)
2 of this section shall report to the department the name of every
3 person without a credential that he or she has reason to believe is
4 engaged in practicing any profession for which a credential is
5 required by the Uniform Licensing Law. The department may, along
6 with the Attorney General and other law enforcement agencies,
7 investigate such reports or other complaints of unauthorized
8 practice. The professional board may issue an order to cease and
9 desist the unauthorized practice of such profession as a measure to
10 obtain compliance with the applicable credentialing requirements by
11 the person prior to referral of the matter to the Attorney General
12 for action. Practice of such profession without a credential after
13 receiving a cease and desist order is a Class III felony.

14 (3) Any credentialed person listed under subsection (4)
15 of this section who is required to file a report of loss or theft
16 of a controlled substance to the federal Drug Enforcement
17 Administration shall provide a copy of such report to the
18 department.

19 (4) Every credentialed person regulated under the
20 Advanced Practice Registered Nurse Act, the Emergency Medical
21 Services Act, the Licensed Practical Nurse-Certified Act, the
22 Nebraska Certified Nurse Midwifery Practice Act, the Nebraska
23 Cosmetology Act, the Nurse Practice Act, the Occupational Therapy
24 Practice Act, the Uniform Controlled Substances Act, the Uniform
25 Licensing Law except pharmacist interns, the Wholesale Drug
26 Distributor Licensing Act, or sections 71-3702 to 71-3715, 71-4701
27 to 71-4719, or 71-6053 to 71-6068 shall, within thirty days of an

1 occurrence described in this subsection, report to the department
2 in such manner and form as the department may require by rule and
3 regulation whenever he or she:

4 (a) Has first-hand knowledge of facts giving him or her
5 reason to believe that any person in his or her profession has
6 committed acts indicative of gross incompetence, a pattern of
7 negligent conduct as defined in subdivision (5)(e) of section
8 71-147, or unprofessional conduct, may be practicing while his or
9 her ability to practice is impaired by alcohol, controlled
10 substances, narcotic drugs, or physical, mental, or emotional
11 disability, or has otherwise violated such regulatory provisions
12 governing the practice of the profession;

13 (b) Has first-hand knowledge of facts giving him or her
14 reason to believe that any person in another profession regulated
15 under such regulatory provisions has committed acts indicative of
16 gross incompetence or may be practicing while his or her ability to
17 practice is impaired by alcohol, controlled substances, narcotic
18 drugs, or physical, mental, or emotional disability. The
19 requirement to file a report under subdivision (a) or (b) of this
20 subsection shall not apply (i) to the spouse of the person, (ii) to
21 a practitioner who is providing treatment to such person in a
22 practitioner-patient relationship concerning information obtained
23 or discovered in the course of treatment unless the treating
24 practitioner determines that the condition of the person may be of
25 a nature which constitutes a danger to the public health and safety
26 by the person's continued practice, or (iii) when a credentialed
27 person who is chemically impaired enters the Licensee Assistance

1 Program authorized by section 71-172.01 except as provided in such
2 section; or

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

4 (i) Loss of privileges in a hospital or other health care
5 facility due to alleged incompetence, negligence, unethical or
6 unprofessional conduct, or physical, mental, or chemical impairment
7 or the voluntary limitation of privileges or resignation from staff
8 of any health care facility when that occurred while under formal
9 or informal investigation or evaluation by the facility or a
10 committee of the facility for issues of clinical competence,
11 unprofessional conduct, or physical, mental, or chemical
12 impairment;

13 (ii) Loss of employment due to alleged incompetence,
14 negligence, unethical or unprofessional conduct, or physical,
15 mental, or chemical impairment;

16 (iii) Adverse judgments, settlements, or awards arising
17 out of professional liability claims, including settlements made
18 prior to suit, or adverse action by an insurance company affecting
19 professional liability coverage. The department may define by rule
20 and regulation what constitutes a settlement that would be
21 reportable when a credentialed person refunds or reduces a fee or
22 makes no charge for reasons related to a patient or client
23 complaint other than costs;

24 (iv) Denial of a credential or other form of
25 authorization to practice by any state, territory, or jurisdiction,
26 including any military or federal jurisdiction, due to alleged
27 incompetence, negligence, unethical or unprofessional conduct, or

1 physical, mental, or chemical impairment;

2 (v) Disciplinary action against any credential or other
3 form of permit he or she holds taken by another state, territory,
4 or jurisdiction, including any federal or military jurisdiction,
5 the settlement of such action, or any voluntary surrender of or
6 limitation on any such credential or other form of permit;

7 (vi) Loss of membership in a professional organization
8 due to alleged incompetence, negligence, unethical or
9 unprofessional conduct, or physical, mental, or chemical
10 impairment; or

11 (vii) Conviction of any misdemeanor or felony in this or
12 any other state, territory, or jurisdiction, including any federal
13 or military jurisdiction.

14 (5) A report made to the department under this section
15 shall be confidential and treated in the same manner as complaints
16 and investigative files under subsection (7) of section 71-168.01.
17 Any person making a report to the department under this section
18 except those self-reporting shall be completely immune from
19 criminal or civil liability of any nature, whether direct or
20 derivative, for filing a report or for disclosure of documents,
21 records, or other information to the department under this section.
22 Persons who are members of committees established under sections
23 25-12,123, 71-2046 to 71-2048, and 71-7901 to 71-7903 or witnesses
24 before such committees shall not be required to report such
25 activities. Any person who is a witness before a committee
26 established under such sections shall not be excused from reporting
27 matters of first-hand knowledge that would otherwise be reportable

1 under this section only because he or she attended or testified
2 before such committee. Documents from original sources shall not
3 be construed as immune from discovery or use in actions under
4 subsection (4) of this section.

5 Sec. 6. Section 71-1,142, Revised Statutes Supplement,
6 2004, is amended to read:

7 71-1,142. For purposes of sections 71-1,142 to 71-1,151
8 and elsewhere in the Uniform Licensing Law, unless the context
9 otherwise requires:

10 (1) Practice of pharmacy means (a) the interpretation,
11 evaluation, and implementation of a medical order, (b) the
12 dispensing of drugs and devices, (c) drug product selection, (d)
13 the administration of drugs or devices, (e) drug utilization
14 review, (f) patient counseling, (g) the provision of pharmaceutical
15 care, and (h) the responsibility for compounding and labeling of
16 dispensed or repackaged drugs and devices, proper and safe storage
17 of drugs and devices, and maintenance of proper records. The
18 active practice of pharmacy means the performance of the functions
19 set out in this subdivision by a pharmacist as his or her principal
20 or ordinary occupation;

21 (2) Administer means to directly apply a drug or device
22 by injection, inhalation, ingestion, or other means to the body of
23 a patient or research subject;

24 (3) Administration means the act of (a) administering,
25 (b) keeping a record of such activity, and (c) observing,
26 monitoring, reporting, and otherwise taking appropriate action
27 regarding desired effect, side effect, interaction, and

1 contraindication associated with administering the drug or device;

2 (4) Board means the Board of Pharmacy;

3 (5) Caregiver means any person acting as an agent on
4 behalf of a patient or any person aiding and assisting a patient;

5 (6) Chart order means an order for a drug or device
6 issued by a practitioner for a patient who is in the hospital where
7 the chart is stored or for a patient receiving detoxification
8 treatment or maintenance treatment pursuant to section 28-412.
9 Chart order does not include a prescription;

10 (7) Compounding means ~~preparing, mixing, or assembling a~~
11 ~~drug or device~~ the preparation of components into a drug product

12 (a) as the result of a practitioner's medical order or initiative
13 occurring in the course of practice based upon the relationship
14 between the practitioner, patient, and pharmacist or (b) for the
15 purpose of, or as an incident to, research, teaching, or chemical
16 analysis and not for sale or dispensing. Compounding includes
17 ~~preparing~~ the preparation of drugs or devices in anticipation of
18 receiving medical orders based upon routine, regularly observed
19 prescribing patterns;

20 (8) Delegated dispensing means the practice of pharmacy
21 by which one or more pharmacists have jointly agreed, on a
22 voluntary basis, to work in conjunction with one or more persons
23 pursuant to sections 71-1,147.42 to 71-1,147.64 under a protocol
24 which provides that such person may perform certain dispensing
25 functions authorized by the pharmacist or pharmacists under certain
26 specified conditions and limitations;

27 (9) Deliver or delivery means to actually,

1 constructively, or attempt to transfer a drug or device from one
2 person to another, whether or not for consideration;

3 (10) Department means the Department of Health and Human
4 Services Regulation and Licensure;

5 (11) Device means an instrument, apparatus, implement,
6 machine, contrivance, implant, in vitro reagent, or other similar
7 or related article, including any component, part, or accessory,
8 which is prescribed by a practitioner and dispensed by a pharmacist
9 or other person authorized by law to do so;

10 (12) Dialysis drug or device distributor means a
11 manufacturer or wholesaler who provides dialysis drugs, solutions,
12 supplies, or devices, to persons with chronic kidney failure for
13 self-administration at the person's home or specified address,
14 pursuant to a prescription;

15 (13) Dialysis drug or device distributor worker means a
16 person working for a dialysis drug or device distributor with a
17 delegated dispensing permit who has completed the approved training
18 and has demonstrated proficiency to perform the task or tasks of
19 assembling, labeling, or delivering drugs or devices pursuant to a
20 prescription;

21 (14) Dispense or dispensing means interpreting,
22 evaluating, and implementing a medical order, including preparing
23 and delivering a drug or device to a patient or caregiver in a
24 suitable container appropriately labeled for subsequent
25 administration to, or use by, a patient. Dispensing includes (a)
26 dispensing incident to practice, (b) dispensing pursuant to a
27 delegated dispensing permit, (c) dispensing pursuant to a medical

1 order, and (d) any transfer of a prescription drug or device to a
2 patient or caregiver other than by administering;

3 (15) Distribute means to deliver a drug or device, other
4 than by administering or dispensing;

5 (16) Facility means a health care facility as defined in
6 section 71-413;

7 (17) Hospital has the same meaning as in section 71-419;

8 (18) Person means an individual, corporation,
9 partnership, limited liability company, association, or other legal
10 entity;

11 (19) Labeling means the process of preparing and affixing
12 a label to any drug container or device container, exclusive of the
13 labeling by a manufacturer, packer, or distributor of a
14 nonprescription drug or commercially packaged legend drug or
15 device. Any such label shall include all information required by
16 federal and state law or regulation;

17 (20) Medical order means a prescription, a chart order,
18 or an order for pharmaceutical care issued by a practitioner;

19 (21) Pharmaceutical care means the provision of drug
20 therapy for the purpose of achieving therapeutic outcomes that
21 improve a patient's quality of life. Such outcomes include (a) the
22 cure of disease, (b) the elimination or reduction of a patient's
23 symptomatology, (c) the arrest or slowing of a disease process, or
24 (d) the prevention of a disease or symptomatology. Pharmaceutical
25 care includes the process through which the pharmacist works in
26 concert with the patient and his or her caregiver, physician, or
27 other professionals in designing, implementing, and monitoring a

1 therapeutic plan that will produce specific therapeutic outcomes
2 for the patient;

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

5 (23) Pharmacy has the same meaning as in section 71-425;

6 (24) Drugs, medicines, and medicinal substances means (a)
7 articles recognized in the official United States Pharmacopoeia,
8 the Homeopathic Pharmacopoeia of the United States, the official
9 National Formulary, or any supplement to any of them, (b) articles
10 intended for use in the diagnosis, cure, mitigation, treatment, or
11 prevention of diseases in humans or animals, (c) articles, except
12 food, intended to affect the structure or any function of the body
13 of a human or an animal, (d) articles intended for use as a
14 component of any articles specified in subdivision (a), (b), or (c)
15 of this subdivision, except any device or its components, parts, or
16 accessories, and (e) prescription drugs or devices as defined in
17 subdivision (31) of this section;

18 (25) Patient counseling means the verbal communication by
19 a pharmacist, pharmacist intern, or practitioner, in a manner
20 reflecting dignity and the right of the patient to a reasonable
21 degree of privacy, of information to the patient or caregiver in
22 order to improve therapeutic outcomes by maximizing proper use of
23 prescription drugs and devices and also includes the duties set out
24 in section 71-1,147.35;

25 (26) Pharmacist in charge means a pharmacist who is
26 designated on a pharmacy license or designated by a hospital as
27 being responsible for the practice of pharmacy in the pharmacy for

1 which a pharmacy license is issued and who works within the
2 physical confines of such pharmacy for a majority of the hours per
3 week that the pharmacy is open for business averaged over a
4 twelve-month period or thirty hours per week, whichever is less;

5 (27) Pharmacist intern means a person who meets the
6 requirements of section 71-1,144;

7 (28) Pharmacy technician means an individual at least
8 eighteen years of age who is a high school graduate or officially
9 recognized by the State Department of Education as possessing the
10 equivalent degree of education, who has never been convicted of any
11 drug-related misdemeanor or felony, and who, under the written
12 control procedures and guidelines of an employing pharmacy, may
13 perform those functions which do not require professional judgment
14 and which are subject to verification to assist a pharmacist in the
15 practice of pharmacy;

16 (29) Practitioner means an advanced practice registered
17 nurse, certified registered nurse anesthetist, certified nurse
18 midwife, dentist, optometrist, physician assistant, physician,
19 podiatrist, or veterinarian;

20 (30) Prescribe means to issue a medical order;

21 (31) Prescription drug or device or legend drug or device
22 means (a) a drug or device which is required under federal law to
23 be labeled with one of the following statements prior to being
24 dispensed or delivered: (i) Caution: Federal law prohibits
25 dispensing without prescription; (ii) Caution: Federal law
26 restricts this drug to use by or on the order of a licensed
27 veterinarian; or (iii) "Rx Only" or (b) a drug or device which is

1 required by any applicable federal or state law to be dispensed
2 pursuant only to a prescription or chart order or which is
3 restricted to use by practitioners only;

4 (32) Prescription means an order for a drug or device
5 issued by a practitioner for a specific patient, for emergency use,
6 or for use in immunizations. Prescription does not include a chart
7 order;

8 (33) Nonprescription drugs means nonnarcotic medicines or
9 drugs which may be sold without a medical order and which are
10 prepackaged for use by the consumer and labeled in accordance with
11 the requirements of the laws and regulations of this state and the
12 federal government;

13 (34) Public health clinic worker means a person in a
14 public health clinic with a delegated dispensing permit who has
15 completed the approved training and has demonstrated proficiency to
16 perform the task of dispensing authorized refills of oral
17 contraceptives pursuant to a written prescription;

18 (35) Public health clinic means the department, any
19 county, city-county, or multicounty health department, or any
20 private not-for-profit family planning clinic licensed as a health
21 clinic as defined in section 71-416;

22 (36) Signature means the name, word, or mark of a person
23 written in his or her own hand with the intent to authenticate a
24 writing or other form of communication or a digital signature which
25 complies with section 86-611 or an electronic signature;

26 (37) Supervision means the immediate personal guidance
27 and direction by the licensed pharmacist on duty in the facility of

1 the performance by a pharmacy technician of authorized activities
2 or functions subject to verification by such pharmacist, except
3 that when a pharmacy technician performs authorized activities or
4 functions to assist a pharmacist on duty in the facility when the
5 prescribed drugs or devices will be administered by a licensed
6 staff member or consultant or by a licensed physician assistant to
7 persons who are patients or residents of a facility, the activities
8 or functions of such pharmacy technician shall only be subject to
9 verification by a pharmacist on duty in the facility;

10 (38) Verification means the confirmation by a supervising
11 pharmacist of the accuracy and completeness of the acts, tasks, or
12 functions undertaken by a pharmacy technician to assist the
13 pharmacist in the practice of pharmacy;

14 (39) Written control procedures and guidelines means the
15 document prepared and signed by the pharmacist in charge and
16 approved by the board which specifies the manner in which basic
17 levels of competency of pharmacy technicians employed by the
18 pharmacy are determined, the manner in which supervision is
19 provided, the manner in which the functions of pharmacy technicians
20 are verified, the maximum ratio of pharmacy technicians to one
21 pharmacist used in the pharmacy, and guidelines governing the use
22 of pharmacy technicians and the functions which they may perform;
23 ~~and~~

24 (40) Medical gas distributor means a person who dispenses
25 medical gases to a patient or ultimate user but does not include a
26 person who manufactures medical gases or a person who distributes,
27 transfers, delivers, dispenses, or sells medical gases to a person

1 other than a patient or ultimate user;

2 (41) Facsimile means a copy generated by a system that
3 encodes a document or photograph into electrical signals, transmits
4 those signals over telecommunications lines, and reconstructs the
5 signals to create an exact duplicate of the original document at
6 the receiving end;

7 (42) Electronic signature has the same definition found
8 in section 86-621; and

9 (43) Electronic transmission means transmission of
10 information in electronic form. Electronic transmission may
11 include computer-to-computer transmission or computer-to-facsimile
12 transmission.

13 Sec. 7. Section 71-1,146.01, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-1,146.01. (1) All medical orders shall be valid for
16 the period stated in the medical order, except that (a) if the
17 medical order is for a controlled substance listed in section
18 28-405, such period shall not exceed six months from the date of
19 issuance at which time the medical order shall expire and (b) if
20 the medical order is for a drug or device which is not a controlled
21 substance listed in section 28-405 or is an order issued by a
22 practitioner for pharmaceutical care, such period shall not exceed
23 twelve months from the date of issuance at which time the medical
24 order shall expire.

25 (2) Prescription drugs or devices may only be dispensed
26 by a pharmacist or pharmacist intern pursuant to a medical order,
27 by an individual dispensing pursuant to a delegated dispensing

1 permit, or as otherwise provided in section 71-1,143.
2 Notwithstanding any other provision of law to the contrary, a
3 pharmacist or a pharmacist intern may dispense drugs or devices
4 pursuant to a medical order or an individual dispensing pursuant to
5 a delegated dispensing permit may dispense drugs or devices
6 pursuant to a medical order. Sections 71-1,142 to 71-1,151 shall
7 not be construed to require any pharmacist or pharmacist intern to
8 dispense any drug or device pursuant to any medical order. A
9 pharmacist or pharmacist intern shall retain the professional right
10 to refuse to dispense.

11 (3) Except as otherwise provided in section 28-414, a
12 practitioner or ~~his or her~~ the practitioner's agent may transmit a
13 medical order to a pharmacist or pharmacist intern by the following
14 means: (a) In writing, (b) orally, ~~or (c) any means which produces~~
15 ~~an authorized transmitted copy. For purposes of this subsection,~~
16 ~~authorized transmitted copy means a paper copy of a written, signed~~
17 ~~medical order produced by electronic or electromagnetic~~
18 ~~transmission or other means authorized by rule and regulation of~~
19 ~~the department upon recommendation of the board~~ (c) by facsimile or
20 electronic transmission of a medical order signed by the
21 practitioner, or (d) by facsimile or electronic transmission of a
22 medical order which is not signed by the practitioner. Such order
23 shall be treated the same as an oral medical order.

24 (4) Except as otherwise provided in section 28-414, any
25 medical order transmitted by facsimile or electronic transmission
26 shall (a) be transmitted by the practitioner or the practitioner's
27 agent directly to a pharmacist or pharmacist intern in a licensed

1 pharmacy of the patient's choice. No intervening person shall be
2 permitted access to the medical order to alter such order or the
3 licensed pharmacy chosen by the patient. Such medical order may be
4 transmitted through a third-party intermediary who shall facilitate
5 the transmission of the order from the practitioner or
6 practitioner's agent to the pharmacy, (b) identify the
7 transmitter's telephone number or other suitable information
8 necessary to contact the transmitter for written or oral
9 confirmation, the time and date of the transmission, the identity
10 of the pharmacy intended to receive the transmission, and other
11 information as required by law, and (c) serve as the original
12 medical order if all other requirements of this subsection are
13 satisfied. Medical orders transmitted by electronic transmission
14 shall be signed by the practitioner either with an electronic or a
15 digital signature.

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

19 Sec. 8. Section 71-1,147.35, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-1,147.35. (1)(a) Prior to the dispensing or the
22 delivery of a drug or device pursuant to a medical order to a
23 patient or caregiver, a pharmacist shall in all care settings
24 conduct a prospective drug utilization review. Such prospective
25 drug utilization review shall involve monitoring the
26 patient-specific medical history described in subdivision (b) of
27 this subsection and available to the pharmacist at the practice

1 site for:

- 2 (i) Therapeutic duplication;
3 (ii) Drug-disease contraindications;
4 (iii) Drug-drug interactions;
5 (iv) Incorrect drug dosage or duration of drug treatment;
6 (v) Drug-allergy interactions; and
7 (vi) Clinical abuse or misuse.

8 (b) A pharmacist conducting a prospective drug
9 utilization review shall ensure that a reasonable effort is made to
10 obtain from the patient, his or her caregiver, or his or her
11 practitioner and to record and maintain records of the following
12 information to facilitate such review:

13 (i) The name, address, telephone number, date of birth,
14 and gender of the patient;

15 (ii) The patient's history of significant disease, known
16 allergies, and drug reactions and a comprehensive list of relevant
17 drugs and devices used by the patient; and

18 (iii) Any comments of the pharmacist relevant to the
19 patient's drug therapy.

20 (c) The assessment of data on drug use in any prospective
21 drug utilization review shall be based on predetermined standards,
22 approved by the department upon the recommendation of the board.

23 (2) (a) Prior to the dispensing or delivery of a drug or
24 device pursuant to a prescription, the pharmacist shall ensure that
25 a verbal offer to counsel the patient or caregiver is made. The
26 counseling of the patient or caregiver by the pharmacist shall be
27 on elements which, in the exercise of the pharmacist's professional

1 judgment, the pharmacist deems significant for the patient. Such
2 elements may include, but need not be limited to, the following:

3 (i) The name and description of the prescribed drug or
4 device;

5 (ii) The route of administration, dosage form, dose, and
6 duration of therapy;

7 (iii) Special directions and precautions for preparation,
8 administration, and use by the patient or caregiver;

9 (iv) Common side effects, adverse effects or
10 interactions, and therapeutic contraindications that may be
11 encountered, including avoidance, and the action required if such
12 effects, interactions, or contraindications occur;

13 (v) Techniques for self-monitoring drug therapy;

14 (vi) Proper storage;

15 (vii) Prescription refill information; and

16 (viii) Action to be taken in the event of a missed dose.

17 (b) The patient counseling provided for in this
18 subsection shall be provided in person whenever practical or by the
19 utilization of telephone service which is available at no cost to
20 the patient or caregiver.

21 (c) Patient counseling shall be appropriate to the
22 individual patient and shall be provided to the patient or
23 caregiver.

24 (d) Written information may be provided to the patient or
25 caregiver to supplement the patient counseling provided for in this
26 subsection but shall not be used as a substitute for such patient
27 counseling. If written information is provided, it shall also

1 include all information found on the prescription label.

2 (e) This subsection shall not be construed to require a
3 pharmacist to provide patient counseling when:

4 (i) The patient or caregiver refuses patient counseling;

5 (ii) The pharmacist, in his or her professional judgment,
6 determines that patient counseling may be detrimental to the
7 patient's care or to the relationship between the patient and his
8 or her practitioner;

9 (iii) The patient is a patient or resident of a health
10 care facility or health care service licensed under the Health Care
11 Facility Licensure Act to whom prescription drugs or devices are
12 administered by a licensed or certified staff member or consultant
13 or a certified physician's assistant; or

14 (iv) The practitioner authorized to prescribe drugs or
15 devices specifies that there shall be no patient counseling unless
16 he or she is contacted prior to such patient counseling. The
17 prescribing practitioner shall specify such prohibition in an oral
18 ~~medical order~~ prescription or in writing on the face of a written
19 ~~medical order~~ prescription, including any ~~medical order~~
20 prescription which ~~results in an authorized transmitted copy is~~
21 received by facsimile or electronic transmission. The pharmacist
22 shall note "Contact Before Counseling" on the face of the
23 prescription if such is communicated orally by the prescribing
24 practitioner. ~~For purposes of this subdivision, authorized~~
25 ~~transmitted copy means a paper copy of a written, signed medical~~
26 ~~order produced by electronic or electromagnetic transmission or~~
27 ~~other means authorized by rule and regulation of the department~~

1 ~~upon recommendation of the board.~~

2 Sec. 9. Section 71-5402, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-5402. For purposes of the Nebraska Drug Product
5 Selection Act, unless the context otherwise requires:

6 (1) ~~Authorized transmitted copy means a paper copy of a~~
7 ~~written, signed medical order issued by a practitioner authorized~~
8 ~~to prescribe which is produced by an electronic or electromagnetic~~
9 ~~transmission or other means as authorized by rule and regulation of~~
10 ~~the department upon recommendation of the board,~~

11 ~~(2)~~ Bioequivalent means drug products: (a) That are
12 legally marketed under regulations promulgated by the federal Food
13 and Drug Administration; (b) that are the same dosage form of the
14 identical active ingredients in the identical amounts as the drug
15 product prescribed; (c) that comply with compendial standards and
16 are consistent from lot to lot with respect to (i) purity of
17 ingredients, (ii) weight variation, (iii) uniformity of content,
18 and (iv) stability; and (d) for which the federal Food and Drug
19 Administration has established bioequivalent standards or has
20 determined that no bioequivalence problems exist;

21 ~~(3)~~ (2) Board means the Board of Pharmacy;

22 ~~(4)~~ (3) Brand name means the proprietary or trade name
23 selected by the manufacturer, distributor, or packager for a drug
24 product and placed upon the labeling of such product at the time of
25 packaging;

26 ~~(5)~~ (4) Chemically equivalent means drug products that
27 contain amounts of the identical therapeutically active ingredients

1 in the identical strength, quantity, and dosage form and that meet
2 present compendial standards;

3 ~~(6)~~ (5) Department means the Department of Health and
4 Human Services Regulation and Licensure;

5 ~~(7)~~ (6) Drug product means any drug or device as defined
6 in section 71-1,142;

7 ~~(8)~~ (7) Drug product select means to dispense, without
8 the practitioner's express authorization, an equivalent drug
9 product in place of the brand-name drug product contained in a
10 medical order of such practitioner;

11 ~~(9)~~ (8) Equivalent means drug products that are both
12 chemically equivalent and bioequivalent;

13 ~~(10)~~ (9) Generic name means the official title of a drug
14 or drug combination as determined by the United States Adopted
15 Names Council and accepted by the federal Food and Drug
16 Administration of those drug products having the same active
17 chemical ingredients in the same strength and quantity;

18 ~~(11)~~ (10) Medical order has the definition found in
19 section 71-1,142;

20 ~~(12)~~ (11) Pharmacist means a pharmacist licensed under
21 the Uniform Licensing Law; and

22 ~~(13)~~ (12) Practitioner has the definition found in
23 section 71-1,142.

24 Sec. 10. Section 71-5403, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-5403. (1) A pharmacist may drug product select except
27 when:

1 (a) A practitioner designates that drug product selection
2 is not permitted by specifying ~~in his or her own handwriting~~ on the
3 face of the prescription or by telephonic, facsimile, or electronic
4 ~~communication~~ transmission that there shall be no drug product
5 selection. For written prescriptions, the practitioner shall
6 specify in his or her own handwriting on the prescription the
7 phrase "no drug product selection", "dispense as written", "brand
8 medically necessary", or "no generic substitution" or the notation
9 "N.D.P.S.", "D.A.W.", or "B.M.N." or words or notations of similar
10 import to indicate that drug product selection is not permitted.
11 The pharmacist shall note "N.D.P.S." or "No Drug Product Selection"
12 on the face of the prescription to indicate that drug product
13 selection is not permitted if such is communicated orally by the
14 prescribing practitioner; or

15 (b) A patient or designated representative or caregiver
16 of such patient instructs otherwise.

17 (2) A pharmacist shall not drug product select a drug
18 product unless:

19 (a) The drug product, if it is in solid dosage form, has
20 been marked with an identification code or monogram directly on the
21 dosage unit;

22 (b) The drug product has been labeled with an expiration
23 date;

24 (c) The manufacturer, distributor, or packager of the
25 drug product provides reasonable services, as determined by the
26 board, to accept the return of drug products that have reached
27 their expiration date; and

1 (d) The manufacturer, distributor, or packager maintains
2 procedures for the recall of unsafe or defective drug products.

3 Sec. 11. Section 71-5404, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-5404. (1) Whenever a drug product has been prescribed
6 with the notation that no drug product selection is permitted for a
7 patient who has a contract whereunder he or she is reimbursed for
8 the cost of health care, directly or indirectly, the party that has
9 contracted to reimburse the patient, directly or indirectly, shall
10 make reimbursements on the basis of the price of the brand-name
11 drug product and not on the basis of the equivalent drug product,
12 unless the contract specifically requires generic reimbursement
13 under the Code of Federal Regulations.

14 (2) A prescription drug or device when dispensed shall
15 bear upon the label the name of the drug or device in the container
16 unless the practitioner writes do not label or words of similar
17 import on the prescription or so designates orally or ~~by authorized~~
18 ~~transmitted copy~~ in writing which may be transmitted by facsimile
19 or electronic transmission.

20 (3) Nothing in this section shall (a) require a pharmacy
21 to charge less than its established minimum price for the filling
22 of any prescription or (b) prohibit any hospital from developing,
23 using, and enforcing a formulary.

24 Sec. 12. (1) Prescription drugs or devices which have
25 been delivered to a community health center for dispensing to a
26 patient of such health center pursuant to a valid prescription, but
27 which are not dispensed or administered to such patient, may be

1 delivered to a pharmacist or pharmacy under contract with the
2 community health center for relabeling and redispensing to another
3 patient of such health center pursuant to a valid prescription,
4 except that:

5 (a) The decision to accept delivery of the drug or device
6 for relabeling and redispensing shall rest solely with the
7 contracting pharmacist or pharmacy;

8 (b) The drug or device shall have been in the control of
9 the community health center at all times;

10 (c) The drug or device shall be in the original and
11 unopened labeled container with a tamper-evident seal intact. Such
12 container shall bear the expiration date or calculated expiration
13 date and lot number; and

14 (d) The relabeling and redispensing is not otherwise
15 prohibited by law.

16 (2) For purposes of this section:

17 (a) Administer has the definition found in section
18 71-1,142;

19 (b) Calculated expiration date has the definition found
20 in section 71-1,147.53;

21 (c) Community health center means a community health
22 center established pursuant to the Health Center Consolidation Act
23 of 1996, 42 U.S.C. 201 et seq., as such act existed on the
24 effective date of this act;

25 (d) Deliver or delivery has the definition found in
26 section 71-1,142;

27 (e) Dispense or dispensing has the definition found in

1 section 71-1,142;

2 (f) Prescription has the definition found in section
3 71-1,142; and

4 (g) Prescription drug or device has the definition found
5 in section 71-1,142.

6 (3) The Department of Health and Human Services
7 Regulation and Licensure, in consultation with the Board of
8 Pharmacy, may adopt and promulgate rules and regulations to carry
9 out this section.

10 Sec. 13. Original sections 71-168, 71-1,146.01,
11 71-1,147.35, 71-5402, 71-5403, and 71-5404, Reissue Revised
12 Statutes of Nebraska, and sections 28-401, 28-405, 28-414, 28-1437,
13 and 71-1,142, Revised Statutes Supplement, 2004, are repealed.".