A BILL FOR AN ACT relating to controlled substances; to amend sections 28-410, 28-411, 28-414.01, 28-414.03, 28-442, 38-1,124, 38-1,125, 38-2801, 38-2802, 38-2866.01, 38-2870, 38-2892, 38-2897, 71-2412, and 71-2413, Reissue Revised Statutes of Nebraska, and sections 71-401, 71-2445, 71-2478, and 71-2479, Revised Statutes Cumulative Supplement, 2016; to change provisions of the Uniform Controlled Substances Act and the Pharmacy Practice Act; to change provisions relating to manufacturing, distributing, storing, prescribing, administering, dispensing, and recordkeeping for controlled substances, legend drugs, and devices as prescribed; to change drug paraphernalia provisions; to define and redefine terms; to change and eliminate provisions relating to pharmacy technicians, pharmacist interns, and reporting of impaired practitioners; to provide for practice agreements; to eliminate provisions relating to temporary pharmacist licenses and obsolete provisions; to harmonize provisions; to repeal the original sections; to outright repeal section 38-2853, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

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

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

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

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

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

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

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

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

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

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

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

(4)(a) The record of controlled substances received shall in every case show: (i) the date of receipt, (ii) the name, address, and Drug Enforcement Administration number of the person or firm which sold, delivered, or otherwise disposed of the controlled substances, (iii) the name, address, and Drug Enforcement Administration number of the person from whom received, (iv) the kind and quantity of controlled substances received, (v) the kind and quantity of controlled substances produced or removed from process of manufacture, and (vi) the date of such production or removal from process of manufacture. (b) The record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced. The record of all controlled substances sold, administered, dispensed, or otherwise disposed of shall show the date of selling, administering, or dispensing, the name and address of the person to whom or for whose use or the owner and species of animal for which the controlled substances were sold, administered, or otherwise disposed of, and the kind and quantity of controlled substances. For any lost, destroyed, or stolen controlled substances, the record shall list the kind and quantity of such controlled substances and the discovery date of such loss, destruction, or theft.

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

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

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

"(1) Except as otherwise provided in this section or section 28-412 or when administered directly by a practitioner to an ultimate user, a controlled substance listed in Schedule II of section 28-405 shall not be dispensed without a prescription from a practitioner authorized to prescribe. No prescription for a controlled substance listed in Schedule II of section 28-405 shall be filled more than six months from the date of issuance. A prescription for a controlled substance listed in Schedule II of section 28-405 shall not be refilled.

(2) A prescription for controlled substances listed in Schedule II of section 28-405 must contain the following information prior to being filled by a pharmacist or dispensing practitioner: (a) Patient's name and address, (b) name of the drug, device, or biological, if applicable, (c) strength of the drug or biological, if applicable, (d) dosage form of the drug or biological, if applicable, (e) quantity of the drug, device, or biological prescribed, (f) directions for use, (g) date of issuance, (h) prescribing practitioner's name and address, and (i) Drug Enforcement Administration number of the prescribing practitioner. If the prescription is a written prescription, the paper prescription must contain all of the elements in subdivisions (a) through (i) of this subsection; subdivisions (a)(ii) and (iii) of this subsection; (ii) no appropriate alternative treatment is available, including administration of a drug which is not a controlled substance listed in Schedule II of section 28-405, and (iii) it is not reasonably possible for the prescribing practitioner to provide a signed, written or electronic prescription to be presented to the pharmacist or dispensing practitioner for review before the controlled substance is dispensed, except as provided in subdivision (a)(ii) or (iii) of this subsection;

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

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

(b) For purposes of this section, emergency situation means a situation in which a prescribing practitioner determines that (i) immediate administration of the controlled substance is necessary for proper treatment of the patient, (ii) no appropriate alternative treatment is available, including administration of a drug which is not a controlled substance listed in Schedule II of section 28-405, and (iii) it is not reasonably possible for the prescribing practitioner to provide a signed, written or electronic prescription to be presented to the person dispensing the controlled substance prior to dispensing.
written prescription and shall be maintained in accordance with subsection (1) of section 28-414.01.

(a) A prescription for a controlled substance listed in Schedule II of section 28-405 may be partially filled if the pharmacist does not supply the full quantity prescribed and he or she makes a notation of the quantity supplied on the face of the prescription or in the electronic record. The remaining portion of the prescription may be filled no later than thirty days after the date on which the prescription is written unless the practitioner has按规定 the first partial filling. The pharmacist shall notify the prescribing practitioner if the remaining portion of the prescription is not or cannot be filled within such period. No further quantity may be supplied after such period without a new written, signed paper prescription or electronic prescription.

(b) A prescription for a controlled substance listed in Schedule II of section 28-405 written for a patient in a long-term care facility or for a patient with a medical diagnosis documenting a terminal illness may be partially filled. Such prescription shall bear the words "terminally ill" or "long-term care facility patient" on its face or in the electronic record. If the patient is terminally ill, the pharmacist shall contact the prescribing practitioner prior to partially filling the prescription. Both the pharmacist and the prescribing practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. For each partial filling, the dispensing pharmacist shall record on the back of the prescription or on another appropriate record, uniformly maintained and readily retrievable, the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. The total quantity of controlled substances listed in Schedule II which is dispensed in a six-month period shall not exceed the quantity prescribed. A prescription for a Schedule II controlled substance for a patient in a long-term care facility or a patient with a medical diagnosis documenting a terminal illness is valid for sixty days from the date of issuance or until discontinuance of the prescription, whichever occurs first.

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

28-414.01 (1) Except as otherwise provided in this section or when administered directly by a practitioner to an ultimate user, a controlled substance listed in Schedule III, IV, or V of section 28-405 shall not be dispensed without a written, oral, or electronic medical order. Such medical order may be received by the pharmacist for six months after the date of issuance. Original prescription or an electronic prescription for a controlled substance listed in Schedule III, IV, or V of section 28-405 may be transferred between pharmacies for purposes of refill dispensing pursuant to section 38-2871.

(2) A prescription for controlled substances listed in Schedule III, IV, or V of section 28-405 must contain the following information prior to being filled by a pharmacist or dispensing practitioner: (a) Patient's name and address, (b) name of the drug, device, or biological, (c) strength of the drug or biological, if applicable, (d) dosage form of the drug or biological, if applicable, (e) quantity of the drug, device, or biological prescribed, (f) directions for use, (g) date of issuance, (h) number of refills, (i) prescribing practitioner's name and address, and (j) Drug Enforcement Administration number of the prescribing practitioner. If the prescription is a written paper prescription, the paper prescription must contain the practitioner's manual signature. If the prescription is an electronic prescription, the electronic prescription must contain all of the elements in subdivisions (a) through (j) of this subsection, must be digitally signed, and must be transmitted to and received by the pharmacy electronically to meet all of the requirements of 21 C.F.R. 1311, as the regulation existed on January 1, 2014, pertaining to electronic prescribing of controlled substances.

(3) A controlled substance listed in Schedule III, IV, or V of section 28-405 may be dispensed pursuant to a facsimile of a written, signed paper prescription. The facsimile of a written, signed paper prescription shall serve as the original written prescription for purposes of this subsection and shall be made a part of section (2) of this subsection.

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

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

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

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

Sec. 28-442 (4) The department, in an investigation conducted in accordance with this section, may request the cooperation of any professional association, board, or association of the same type, and any other law enforcement agency.

Sec. 28-442 (5) If a pharmacy fills prescriptions for controlled substances on behalf of another pharmacy under contractual agreement or common ownership, the prescription label shall contain the Drug Enforcement Administration number of the pharmacy at which the prescriptions are filled.

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

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

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

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

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

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

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

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

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

38-1,125 (1) Except as otherwise provided in section 38-2897, every Every credential holder, except pharmacist interns and pharmacy technicians, shall within thirty days of an occurrence described in this subsection, report to the department in such manner and form as the department may require whenever he or she:

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

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

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

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

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

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

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

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

(ii) Has been practicing while his or her ability to practice is impaired...
by alcohol, controlled substances, mind-altering substances, or physical, mental, or emotional disability; or
(c) Has been the subject of any of the following actions:
   (i) Loss of privileges in a hospital or other health care facility due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment or the voluntary limitation of privileges or resignation from the staff of any health care facility when that occurred while the credential holder was under formal or informal investigation or evaluation by the facility or a committee of the facility for issues of clinical competence, unprofessional conduct, or physical, mental, or chemical impairment;
   (ii) Loss of employment due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment;
   (iii) Disciplinary action against any credential or other form of permit by, or she holds taken by any jurisdiction, the settlement of such action, or any voluntary surrender of or limitation on any such credential or other form of permit;
   (iv) Loss of membership in, or discipline of a credential related to the applicable profession by, a professional organization due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment; or
   (v) Conviction of any misdemeanor or felony in this or any other jurisdiction.

(2) The requirement to file a report under subdivision (1)(a) or (b) of this section shall not apply:
   (a) To the spouse of the credential holder;
   (b) To a practitioner who is providing treatment to such credential holder in a practitioner-consumer relationship concerning information obtained or discovered in course of treatment unless the treating practitioner determines that the condition of the credential holder may be of a nature which constitutes a danger to the public health and safety by the credential holder's continued practice; or
   (c) When a credential holder who is chemically impaired enters the Licensee Assistance Program authorized by section 38-175 except as otherwise provided in such section.

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

Sec. 9. Section 38-2801, Reissue Revised Statutes of Nebraska, is amended to read:
38-2801 Sections 38-2801 to 38-2810 and sections 11 to 13 and 15 of this act and the Nebraska Drug Product Selection Act shall be known and may be cited as the Pharmacy Practice Act.

Sec. 10. Section 38-2802, Reissue Revised Statutes of Nebraska, is amended to read:
38-2802 For purposes of the Pharmacy Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-2803 to 38-2847 and sections 11 to 13 of this act apply.

Sec. 11. Practice agreement means a document signed by a pharmacist and a practitioner with independent prescribing authority, in which the pharmacist agrees to design, implement, and monitor a therapeutic plan based on a written protocol.

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

Sec. 13. Written protocol means a written template, agreed to by pharmacists and practitioners with independent prescribing authority, working in concert, which directs how the pharmacists will implement and monitor a therapeutic plan.

Sec. 14. Section 38-2866.01, Reissue Revised Statutes of Nebraska, is amended to read:
38-2866.01 A pharmacist may supervise any combination of pharmacy technicians and pharmacist interns at any time up to a total of three people. A pharmacist intern shall be supervised at all times while performing the functions of a pharmacist intern which may include all aspects of the practice of pharmacy unless otherwise restricted. This section does not apply to a pharmacist intern who is receiving experiential training directed by the
Sec. 15. (1) A pharmacist may enter into a practice agreement as provided in this section with a licensed health care practitioner authorized to prescribe independently to provide pharmaceutical care according to written protocols. The pharmacist shall notify the board of any practice agreement at the initiation of the agreement and at the time of any change in parties to the agreement or written protocols. The notice shall be given to both the Board of Pharmacy and the board which licensed the health care practitioner. The notice shall contain the name of each pharmacist participating in the agreement and each licensed health care practitioner authorized to prescribe independently in the agreement and a description of the therapy being monitored or initiated.

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

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

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

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

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

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

(2) Prescription drugs or devices may only be dispensed by a pharmacist or pharmacist intern pursuant to a medical order, by an individual dispensing pursuant to a delegated dispensing permit, or as otherwise provided in section 38-2850. Notwithstanding any other provision of law to the contrary, a pharmacist or a pharmacist intern may dispense drugs or devices pursuant to a medical order transmitted by facsimile or electronic transmission to a delegated dispensing permit or to a dispensing pursuant to a delegated dispensing permit may dispense drugs or devices pursuant to a medical order. The Pharmacy Practice Act shall not be construed to require any pharmacist or pharmacist intern to dispense, compound, administer, or prepare for administration any drug or device pursuant to any medical order transmitted by facsimile or electronic transmission to a pharmacy intended to receive the transmission, and other information as required by law; and

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

(b) Medical orders transmitted by electronic transmission shall be signed by the practitioner either with an electronic signature for legend drugs which are not controlled substances or a digital signature for legend drugs which are controlled substances.
(5) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of any medical order transmitted by facsimile or electronic transmission.

(6) The identity of any person making such report or providing information leading to the making of such report shall be confidential.

(17) Section 38-2892, Reissue Revised Statutes of Nebraska, is amended to read:

38-2892 (1) The pharmacist in charge of a pharmacy or hospital pharmacy employing pharmacy technicians shall be responsible for the supervision and performance of the pharmacy technicians.

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

38-2897, Reissue Revised Statutes of Nebraska, is amended to read:

(1) The requirement to file a report under subsection (1) of section 38-1,125 shall not apply to pharmacist interns or pharmacy technicians, except that a pharmacist technician shall, within thirty days after having first-hand knowledge of facts giving him or her reason to believe that any person in his or her profession, or any person in another profession under the regulatory provisions of the department, may be practicing while his or her ability to practice is impaired by alcohol, controlled substances, or narcotic drugs, report to the department in such manner and form as the department may require. A report made to the department under this section shall be confidential. The identity of any person making such report or providing information leading to the making of such report shall be confidential.

(2) A pharmacy technician any person making a report to the department under this section, except for those self-reporting, shall be completely immune from criminal or civil liability of any nature, whether direct or derivative, for filing a report or for disclosure of documents, records, or other information to the department under this section. The immunity granted under this section shall not apply to any person causing damage or injury by his or her willful, wanton, or grossly negligent act of commission or omission.

(3) A report submitted by a professional liability insurance company on behalf of a credential holder within the thirty-day period prescribed in this section shall be sufficient to satisfy the credential holder's reporting requirement under this section.

(4) Persons who are members of committees established under the Health Care Quality Improvement Act, the Patient Safety Improvement Act, or section 38-1,125 or witnesses before such committees shall not be required to report under this section. Any person who is a witness before such a committee shall not be excused from reporting matters of first-hand knowledge that would otherwise be reportable under this section only because he or she attended or testified before such committee.

(5) Documents from original sources shall not be construed as immune from discovery or use in actions under this section.

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

71-401 Sections 71-401 to 71-474 and section 28 of this act shall be known and may be cited as the Health Care Facility Licensure Act.

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

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

(ii) The drug is:

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

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

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

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

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

(3) If a drug is provided to a patient in accordance with this section;
(a) The drug shall be kept in a locked cabinet or automated medication system with access only by a licensed health care practitioner authorized to prescribe controlled substances; and

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

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

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

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

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

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

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

Sec. 21. Section 71-2412, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

(3) The exterior of each emergency box shall be labeled so as to clearly indicate that it is an emergency box for use in emergencies only. The label shall contain a listing of the drugs contained in the box, including the name, strength, route of administration, quantity, and expiration date of each drug, and to ensure a proper environment for preservation of the emergency box drugs;

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

(5) All emergency box drugs shall be in the original manufacturer’s or distributor’s containers or shall be repackaged by the supplying pharmacy and shall contain the manufacturer’s or distributor’s lot number, drug name, strength, dosage form, NDC number, route of administration, and expiration date on a typewritten label. Any drug which is repackaged shall contain on the label the calculated expiration date.

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

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

71-2413 (1) The supplying pharmacy and the medical director and quality assurance committee of the long-term care facility shall jointly determine the drugs by identity and quantity, to be included in the emergency boxes. The supplying pharmacy shall maintain a list of emergency box drugs which is identical to the list on the exterior of the emergency box and shall make such list available to the department upon request. The supplying pharmacy shall obtain a receipt upon delivery of the emergency box to the long-term care facility or the nursing home. The director of the long-term care facility shall be identified on the sign which acknowledges that the drugs initially placed in the emergency box are identical to the initial list on the exterior of the emergency box. The receipt shall be retained by the supplying pharmacy for a period of five years. (2) Except for the removal of expired drugs as provided in subsection (4) of this section, drugs shall be removed from emergency boxes only pursuant to a prescription. Whenever access to the emergency box occurs, the prescription and proof of use shall be provided to the supplying pharmacy and shall be recorded on the resident’s medical record by authorized personnel of the long-term care facility. Removal of any drug from an emergency box by authorized personnel of the facility shall be recorded on a form showing the name of the resident who received the drug, his or her room number, the name of the drug, the strength of the drug, the quantity used, the dose administered, the route of administration, the date the drug was used, the time of usage, the disposal of waste, if any, and the signature or signatures of authorized personnel. The form shall be maintained at the long-term care facility for a period of five years from the date of removal with a copy of the form to be provided to the supplying pharmacy.
Whenever an emergency box is opened, the supplying pharmacy shall be notified by the charge nurse or the director of nursing of the long-term care facility and a pharmacist designated by the supplying pharmacy shall restock and refill the box, reseal the box, and update the drug listing on the exterior of the box.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) A written, signed paper prescription may be transmitted to the pharmacy via facsimile which shall serve as the original written prescription. An electronic prescription may be electronically or digitally signed and transmitted to the pharmacy and may serve as the original prescription.

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

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

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

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

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


Sec. 27. The following section is outright repealed: Section 38-2853, Reissue Revised Statutes of Nebraska.

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