

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1181

Introduced by Ballard, 21.

Read first time January 12, 2024

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to drugs; to amend sections 38-2854, 38-2890,
2 and 38-28,104, Reissue Revised Statutes of Nebraska, sections
3 28-410, 28-414, 71-2454, and 71-2478, Revised Statutes Cumulative
4 Supplement, 2022, and sections 38-2801 and 71-2479, Revised Statutes
5 Supplement, 2023; to change inventory requirements for registrants
6 manufacturing, distributing, storing, or dispensing controlled
7 substances; to allow a pharmacist to make certain changes to a
8 prescription for a Schedule II controlled substance after
9 consultation with the prescriber; to provide requirements for self-
10 inspection of pharmacies and hospital pharmacies; to change
11 qualifications for pharmacist interns; to change a registration
12 requirement for pharmacy technicians; to change prescription drug
13 labeling requirements; to eliminate obsolete provisions; to
14 harmonize provisions; and to repeal the original sections.

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

1 Section 1. Section 28-410, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

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

8 (2) Each registrant manufacturing, distributing, storing, or
9 dispensing such controlled substances shall prepare a biennial ~~an annual~~
10 inventory of each controlled substance in the registrant's ~~his or her~~
11 possession in accordance with 21 C.F.R. 1304.11, as such regulation
12 existed on January 1, 2024. Such inventory shall (a) be taken within two
13 years ~~one year~~ after the previous ~~annual~~ inventory date, ~~(b) contain such~~
14 ~~information as shall be required by the Board of Pharmacy,~~ ~~(c) be copied~~
15 ~~and such copy forwarded to the department within thirty days after~~
16 ~~completion,~~ ~~(d) be maintained at the location listed on the registration~~
17 ~~for a period of five years,~~ ~~(e) contain the name, address, and Drug~~
18 ~~Enforcement Administration number of the registrant, the date and time of~~
19 ~~day the inventory was completed, and the signature of the person~~
20 ~~responsible for taking the inventory,~~ ~~(f) list the exact count or measure~~
21 ~~of all controlled substances listed in Schedules I, II, III, IV, and V of~~
22 ~~section 28-405, and (g) be maintained in permanent, read-only format~~
23 ~~separating the inventory for controlled substances listed in Schedules I~~
24 ~~and II of section 28-405 from the inventory for controlled substances~~
25 ~~listed in Schedules III, IV, and V of section 28-405. A registrant whose~~
26 inventory fails to comply with this subsection shall be guilty of a Class
27 IV misdemeanor.

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

1 patients.

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

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

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

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

16 Sec. 2. Section 28-414, Revised Statutes Cumulative Supplement,
17 2022, is amended to read:

18 28-414 (1) Except as otherwise provided in this section or section
19 28-412 or when administered directly by a practitioner to an ultimate
20 user, a controlled substance listed in Schedule II of section 28-405
21 shall not be dispensed without a prescription from a practitioner
22 authorized to prescribe. ~~All Beginning January 1, 2022, all such~~
23 ~~prescriptions shall be subject to section 38-1,146, except that all such~~
24 ~~prescriptions issued by a practitioner who is a dentist shall be subject~~
25 ~~to section 38-1,146 beginning January 1, 2024.~~ No prescription for a
26 controlled substance listed in Schedule II of section 28-405 shall be
27 filled more than six months from the date of issuance. A prescription for
28 a controlled substance listed in Schedule II of section 28-405 shall not
29 be refilled.

30 (2)(a) Except as provided in subdivision (2)(b) of this section, a
31 ~~(2)~~ A prescription for controlled substances listed in Schedule II of

1 section 28-405 must contain the following information prior to being
2 filled by a pharmacist or dispensing practitioner: (i) ~~(a)~~ Patient's name
3 and address, (ii) ~~(b)~~ name of the drug, device, or biological, (iii) ~~(c)~~
4 strength of the drug or biological, if applicable, (iv) ~~(d)~~ dosage form
5 of the drug or biological, (v) ~~(e)~~ quantity of the drug, device, or
6 biological prescribed, (vi) ~~(f)~~ directions for use, (vii) ~~(g)~~ date of
7 issuance, (viii) ~~(h)~~ prescribing practitioner's name and address, and
8 (ix) ~~(i)~~ Drug Enforcement Administration number of the prescribing
9 practitioner.

10 (b) After consultation with the prescribing practitioner, a
11 pharmacist may add or change the dosage form, drug strength, drug
12 quantity, directions for use, and issue date for a prescription for a
13 controlled substance listed in Schedule II of section 28-405.

14 (c) If the prescription is a written paper prescription, the paper
15 prescription must contain the prescribing practitioner's manual
16 signature. If the prescription is an electronic prescription, the
17 electronic prescription must contain all of the elements in subdivision
18 (2)(a) of this section subdivisions (a) through (i) of this subsection,
19 must be digitally signed, and must be transmitted to and received by the
20 pharmacy electronically to meet all of the requirements of the Controlled
21 Substances Act, 21 U.S.C. 801 et seq., as it existed on January 1, 2014,
22 pertaining to electronic prescribing of controlled substances.

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

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

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

6 (4)(a) In nonemergency situations:

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

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

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

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

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

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

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

28 Sec. 3. Section 38-2801, Revised Statutes Supplement, 2023, is
29 amended to read:

30 38-2801 Sections 38-2801 to 38-28,107 and section 4 of this act and
31 the Nebraska Drug Product Selection Act shall be known and may be cited

1 as the Pharmacy Practice Act.

2 Sec. 4. Effective January 1, 2025, any self-inspection of a
3 pharmacy or a hospital pharmacy shall be made using a form authorized by
4 the board. The board shall authorize the form for use beginning January
5 1, 2025, on or before November 1, 2024, and such form shall remain in
6 effect for a period of at least one year. Any updates to the form for
7 subsequent years shall be authorized on or before November 1 of that
8 year. If the board fails to authorize the form on or before November 1 of
9 any year, any inspection of a pharmacy or hospital pharmacy for the
10 following calendar year shall be conducted by the board or department, as
11 applicable.

12 Sec. 5. Section 38-2854, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 38-2854 (1) A pharmacist intern shall be (a) at least seventeen
15 years of age and (b)(i) ~~(a)~~ a student currently enrolled in an accredited
16 pharmacy program, (ii) ~~(b)~~ a graduate of an accredited pharmacy program
17 serving his or her internship, or (iii) ~~(c)~~ a graduate of a pharmacy
18 program located outside the United States which is not accredited and who
19 has successfully passed equivalency examinations approved by the board.
20 Intern registration based on enrollment in or graduation from an
21 accredited pharmacy program shall expire not later than fifteen months
22 after the date of graduation or at the time of professional licensure,
23 whichever comes first. Intern registration based on graduation from a
24 pharmacy program located outside of the United States which is not
25 accredited shall expire not later than fifteen months after the date of
26 issuance of the registration or at the time of professional licensure,
27 whichever comes first.

28 (2) A pharmacist intern may compound and dispense drugs or devices
29 and fill prescriptions only in the presence of and under the immediate
30 personal supervision of a licensed pharmacist. Such licensed pharmacist
31 shall either be (a) the person to whom the pharmacy license is issued or

1 a person in the actual employ of the pharmacy licensee or (b) the
2 delegating pharmacist designated in a delegated dispensing agreement by a
3 hospital with a delegated dispensing permit.

4 (3) Performance as a pharmacist intern under the supervision of a
5 licensed pharmacist shall be predominantly related to the practice of
6 pharmacy and shall include the keeping of records and the making of
7 reports required under state and federal statutes. The department, with
8 the recommendation of the board, shall adopt and promulgate rules and
9 regulations as may be required to establish standards for internship.

10 Sec. 6. Section 38-2890, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 38-2890 (1) All pharmacy technicians employed by a health care
13 facility licensed under the Health Care Facility Licensure Act shall be
14 registered with the Pharmacy Technician Registry created in section
15 38-2893. In order to be employed as a pharmacy technician in such a
16 health care facility, a pharmacy technician (a) shall be certified by a
17 state or national certifying body which is approved by the board (i) by
18 January 1, 2017, if the pharmacy technician ~~he or she~~ was registered with
19 the Pharmacy Technician Registry on January 1, 2016, or (ii) within one
20 year after being registered with the Pharmacy Technician Registry, if the
21 pharmacy technician ~~he or she~~ was so registered after January 1, 2016,
22 and (b) upon being so certified, shall maintain current certification
23 during the time the pharmacy technician ~~he or she~~ is so registered.

24 (2) To register as a pharmacy technician, an individual shall (a) be
25 at least eighteen years of age, (b) be a high school graduate or be
26 officially recognized by the State Department of Education as possessing
27 the equivalent degree of education, (c) not have ~~never~~ been convicted of
28 any nonalcohol, drug-related ~~misdemeanor or~~ felony, (d) not have been
29 convicted of any nonalcohol, drug-related misdemeanor within five years
30 prior to application, (e) ~~(d)~~ file an application with the Division of
31 Public Health of the Department of Health and Human Services, and (f) ~~(e)~~

1 pay the applicable fee.

2 Sec. 7. Section 38-28,104, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 38-28,104 A prescription for a legend drug which is not a controlled
5 substance must contain the following information prior to being filled by
6 a pharmacist or a practitioner who holds a pharmacy license under
7 subdivision (1) of section 38-2850: Patient's name, or if not issued for
8 a specific patient, the words "for emergency use" or "for use in
9 immunizations"; name of the drug, device, or biological; strength of the
10 drug or biological, if applicable; dosage form of the drug or biological;
11 quantity of drug, device, or biological prescribed; number of authorized
12 refills; directions for use; date of issuance; prescribing practitioner's
13 name; and if the prescription is written, prescribing practitioner's
14 signature. Prescriptions for controlled substances must meet the
15 requirements of sections 28-414 and 28-414.01.

16 Sec. 8. Section 71-2454, Revised Statutes Cumulative Supplement,
17 2022, is amended to read:

18 71-2454 (1) An entity described in section 71-2455 shall establish a
19 system of prescription drug monitoring for the purposes of (a) preventing
20 the misuse of controlled substances that are prescribed, (b) allowing
21 prescribers and dispensers to monitor the care and treatment of patients
22 for whom such a prescription drug is prescribed to ensure that such
23 prescription drugs are used for medically appropriate purposes, (c)
24 providing information to improve the health and safety of patients, and
25 (d) ensuring that the State of Nebraska remains on the cutting edge of
26 medical information technology.

27 (2) Such system of prescription drug monitoring shall be implemented
28 as follows: Except as provided in subsection (4) of this section, all
29 prescription drug information shall be reported to the prescription drug
30 monitoring system. The prescription drug monitoring system shall include,
31 but not be limited to, provisions that:

1 (a) Prohibit any patient from opting out of the prescription drug
2 monitoring system;

3 (b) Require any prescription drug that is dispensed in this state or
4 to an address in this state to be entered into the system by the
5 dispenser or his or her delegate no less frequently than daily after such
6 prescription drug is sold, including prescription drugs for patients
7 paying cash or otherwise not relying on a third-party payor for payment,
8 except that prescriptions labeled "for emergency use" or "for use in
9 immunizations" are not required to be reported;

10 (c) Allow all prescribers or dispensers of prescription drugs to
11 access the system at no cost to such prescriber or dispenser;

12 (d) Ensure that such system includes information relating to all
13 payors, including, but not limited to, the medical assistance program
14 established pursuant to the Medical Assistance Act; and

15 (e) Make the prescription drug information available to the
16 statewide health information exchange described in section 71-2455 for
17 access by its participants if such access is in compliance with the
18 privacy and security protections set forth in the provisions of the
19 federal Health Insurance Portability and Accountability Act of 1996,
20 Public Law 104-191, and regulations promulgated thereunder, except that
21 if a patient opts out of the statewide health information exchange, the
22 prescription drug information regarding that patient shall not be
23 accessible by the participants in the statewide health information
24 exchange.

25 (3) Except as provided in subsection (4) of this section,
26 prescription drug information that shall be submitted electronically to
27 the prescription drug monitoring system shall be determined by the entity
28 described in section 71-2455 and shall include, but not be limited to:

29 (a) The patient's name, address, telephone number, if a telephone
30 number is available, gender, and date of birth;

31 (b) A patient identifier such as a military identification number,

1 driver's license number, state identification card number, or other valid
2 government-issued identification number, insurance identification number,
3 pharmacy software-generated patient-specific identifier, or other
4 identifier associated specifically with the patient;

5 (c) The name and address of the pharmacy dispensing the prescription
6 drug;

7 (d) The date the prescription is issued;

8 (e) The date the prescription is filled;

9 (f) The date the prescription is sold to the patient;

10 (g) The number of refills authorized;

11 (h) The prescription number of the prescription drug;

12 (i) The National Drug Code number as published by the federal Food
13 and Drug Administration of the prescription drug;

14 (j) The strength of the prescription drug prescribed;

15 (k) The quantity of the prescription drug prescribed and the number
16 of days' supply;

17 (l) The prescriber's name and National Provider Identifier number or
18 Drug Enforcement Administration number when reporting a controlled
19 substance; and

20 (m) Additional information as determined by the Health Information
21 Technology Board and as published in the submitter guide for the
22 prescription drug monitoring system.

23 (4) Beginning July 1, 2018, a veterinarian licensed under the
24 Veterinary Medicine and Surgery Practice Act shall be required to report
25 the dispensing of prescription drugs which are controlled substances
26 listed on Schedule II, Schedule III, Schedule IV, or Schedule V pursuant
27 to section 28-405. Each such veterinarian shall indicate that the
28 prescription is an animal prescription and shall include the following
29 information in such report:

30 (a) The first and last name and address, including city, state, and
31 zip code, of the individual to whom the prescription drug is dispensed in

1 accordance with a valid veterinarian-client-patient relationship;

2 (b) Reporting status;

3 (c) The first and last name of the prescribing veterinarian and his
4 or her federal Drug Enforcement Administration number;

5 (d) The National Drug Code number as published by the federal Food
6 and Drug Administration of the prescription drug and the prescription
7 number;

8 (e) The date the prescription is written and the date the
9 prescription is filled;

10 (f) The number of refills authorized, if any; and

11 (g) The quantity of the prescription drug and the number of days'
12 supply.

13 (5)(a) All prescription drug information submitted pursuant to this
14 section, all data contained in the prescription drug monitoring system,
15 and any report obtained from data contained in the prescription drug
16 monitoring system are confidential, are privileged, are not public
17 records, and may be withheld pursuant to section 84-712.05 except for
18 information released as provided in subsection (9) or (10) of this
19 section.

20 (b) No patient-identifying data as defined in section 81-664,
21 including the data collected under subsection (3) of this section, shall
22 be disclosed, made public, or released to any public or private person or
23 entity except to the statewide health information exchange described in
24 section 71-2455 and its participants, to prescribers and dispensers as
25 provided in subsection (2) of this section, or as provided in subsection
26 (7), (9), or (10) of this section.

27 (c) All other data is for the confidential use of the department and
28 the statewide health information exchange described in section 71-2455
29 and its participants. The department, or the statewide health information
30 exchange in accordance with policies adopted by the Health Information
31 Technology Board and in collaboration with the department, may release

1 such information in accordance with the privacy and security provisions
2 set forth in the federal Health Insurance Portability and Accountability
3 Act of 1996, Public Law 104-191, and regulations promulgated thereunder,
4 as Class I, Class II, or Class IV data in accordance with section 81-667,
5 except for purposes in accordance with subsection (9) or (10) of this
6 section, to the private or public persons or entities that the department
7 or the statewide health information exchange, in accordance with policies
8 adopted by the Health Information Technology Board, determines may view
9 such records as provided in sections 81-663 to 81-675. In addition, the
10 department, or the statewide health information exchange in accordance
11 with policies adopted by the Health Information Technology Board and in
12 collaboration with the department, may release such information as
13 provided in subsection (9) or (10) of this section.

14 (6) The statewide health information exchange described in section
15 71-2455, in accordance with policies adopted by the Health Information
16 Technology Board and in collaboration with the department, shall
17 establish the minimum administrative, physical, and technical safeguards
18 necessary to protect the confidentiality, integrity, and availability of
19 prescription drug information.

20 (7) If the entity receiving the prescription drug information has
21 privacy protections at least as restrictive as those set forth in this
22 section and has implemented and maintains the minimum safeguards required
23 by subsection (6) of this section, the statewide health information
24 exchange described in section 71-2455, in accordance with policies
25 adopted by the Health Information Technology Board and in collaboration
26 with the department, may release the prescription drug information and
27 any other data collected pursuant to this section to:

28 (a) Other state prescription drug monitoring programs;

29 (b) State and regional health information exchanges;

30 (c) The medical director and pharmacy director of the Division of
31 Medicaid and Long-Term Care of the department, or their designees;

1 (d) The medical directors and pharmacy directors of medicaid-managed
2 care entities, the state's medicaid drug utilization review board, and
3 any other state-administered health insurance program or its designee if
4 any such entities have a current data-sharing agreement with the
5 statewide health information exchange described in section 71-2455, and
6 if such release is in accordance with the privacy and security provisions
7 of the federal Health Insurance Portability and Accountability Act of
8 1996, Public Law 104-191, and all regulations promulgated thereunder;

9 (e) Organizations which facilitate the interoperability and mutual
10 exchange of information among state prescription drug monitoring programs
11 or state or regional health information exchanges; or

12 (f) Electronic health record systems or pharmacy-dispensing software
13 systems for the purpose of integrating prescription drug information into
14 a patient's medical record.

15 (8) The department, or the statewide health information exchange
16 described in section 71-2455, in accordance with policies adopted by the
17 Health Information Technology Board and in collaboration with the
18 department, may release to patients their prescription drug information
19 collected pursuant to this section. Upon request of the patient, such
20 information may be released directly to the patient or a personal health
21 record system designated by the patient which has privacy protections at
22 least as restrictive as those set forth in this section and that has
23 implemented and maintains the minimum safeguards required by subsection
24 (6) of this section.

25 (9) In accordance with the privacy and security provisions set forth
26 in the federal Health Insurance Portability and Accountability Act of
27 1996, Public Law 104-191, and regulations promulgated thereunder, the
28 department, or the statewide health information exchange described in
29 section 71-2455 under policies adopted by the Health Information
30 Technology Board, may release data collected pursuant to this section for
31 statistical, public policy, or educational purposes after removing

1 information which identifies or could reasonably be used to identify the
2 patient, prescriber, dispenser, or other person who is the subject of the
3 information, except as otherwise provided in subsection (10) of this
4 section.

5 (10) In accordance with the privacy and security provisions set
6 forth in the federal Health Insurance Portability and Accountability Act
7 of 1996, Public Law 104-191, and regulations promulgated thereunder, the
8 department, or statewide health information exchange described in section
9 71-2455 under policies adopted by the Health Information Technology
10 Board, may release data collected pursuant to this section for quality
11 measures as approved or regulated by state or federal agencies or for
12 patient quality improvement or research initiatives approved by the
13 Health Information Technology Board.

14 (11) The statewide health information exchange described in section
15 71-2455, entities described in subsection (7) of this section, or the
16 department may request and receive program information from other
17 prescription drug monitoring programs for use in the prescription drug
18 monitoring system in this state in accordance with the privacy and
19 security provisions set forth in the federal Health Insurance Portability
20 and Accountability Act of 1996, Public Law 104-191, and regulations
21 promulgated thereunder.

22 (12) The statewide health information exchange described in section
23 71-2455, in collaboration with the department, shall implement
24 technological improvements to facilitate the secure collection of, and
25 access to, prescription drug information in accordance with this section.

26 (13) Before accessing the prescription drug monitoring system, any
27 user shall undergo training on the purpose of the system, access to and
28 proper usage of the system, and the law relating to the system, including
29 confidentiality and security of the prescription drug monitoring system.
30 Such training shall be administered by the statewide health information
31 exchange described in section 71-2455 or the department. The statewide

1 health information exchange described in section 71-2455 shall have
2 access to the prescription drug monitoring system for training
3 operations, maintenance, and administrative purposes. Users who have been
4 trained prior to May 10, 2017, or who are granted access by an entity
5 receiving prescription drug information pursuant to subsection (7) of
6 this section, are deemed to be in compliance with the training
7 requirement of this subsection.

8 (14) For purposes of this section:

9 (a) Deliver or delivery means to actually, constructively, or
10 attempt to transfer a drug or device from one person to another, whether
11 or not for consideration;

12 (b) Department means the Department of Health and Human Services;

13 (c) Delegate means any licensed or registered health care
14 professional credentialed under the Uniform Credentialing Act designated
15 by a prescriber or dispenser to act as an agent of the prescriber or
16 dispenser for purposes of submitting or accessing data in the
17 prescription drug monitoring system and who is supervised by such
18 prescriber or dispenser;

19 (d) Prescription drug or drugs means a prescription drug or drugs
20 dispensed by delivery to the ultimate user or caregiver by or pursuant to
21 the lawful order of a prescriber but does not include (i) the delivery of
22 such prescription drug for immediate use for purposes of inpatient
23 hospital care or emergency department care, (ii) the administration of a
24 prescription drug by an authorized person upon the lawful order of a
25 prescriber, (iii) a wholesale distributor of a prescription drug
26 monitored by the prescription drug monitoring system, or (iv) the
27 dispensing to a nonhuman patient of a prescription drug which is not a
28 controlled substance listed in Schedule II, Schedule III, Schedule IV, or
29 Schedule V of section 28-405;

30 (e) Dispenser means a person authorized in the jurisdiction in which
31 he or she is practicing to deliver a prescription drug to the ultimate

1 user or caregiver by or pursuant to the lawful order of a prescriber;

2 (f) Participant means an individual or entity that has entered into
3 a participation agreement with the statewide health information exchange
4 described in section 71-2455 which requires the individual or entity to
5 comply with the privacy and security protections set forth in the
6 provisions of the federal Health Insurance Portability and Accountability
7 Act of 1996, Public Law 104-191, and regulations promulgated thereunder;
8 and

9 (g) Prescriber means a health care professional authorized to
10 prescribe in the profession which he or she practices.

11 Sec. 9. Section 71-2478, Revised Statutes Cumulative Supplement,
12 2022, is amended to read:

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

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

1 (3)(a) A pharmacist who is exercising reasonable care and who has
2 obtained patient consent may do the following:

3 (i) Change the quantity of a drug prescribed if:

4 (A) The prescribed quantity or package size is not commercially
5 available; or

6 (B) The change in quantity is related to a change in dosage form;

7 (ii) Change the dosage form of the prescription if it is in the best
8 interest of the patient and if the directions for use are also modified
9 to equate to an equivalent amount of drug dispensed as prescribed;

10 (iii) Dispense multiple months' supply of a drug if a prescription
11 is written with sufficient refills; and

12 (iv) Substitute any chemically equivalent drug product for a
13 prescribed drug to comply with a drug formulary which is covered by the
14 patient's health insurance plan unless the prescribing practitioner
15 specifies "no substitution", "dispense as written", or "D.A.W." to
16 indicate that substitution is not permitted. If a pharmacist substitutes
17 any chemically equivalent drug product as permitted under this
18 subdivision, the pharmacist shall provide notice to the prescribing
19 practitioner or the prescribing practitioner's designee. If drug product
20 selection occurs involving a generic substitution, the drug product
21 selection shall comply with section 38-28,111.

22 (b) A pharmacist who adapts a prescription in accordance with this
23 subsection shall document the adaptation in the patient's pharmacy
24 record.

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

30 (5) It shall be unlawful for any person knowingly or intentionally
31 to possess or to acquire or obtain or to attempt to acquire or obtain, by

1 means of misrepresentation, fraud, forgery, deception, or subterfuge,
2 possession of any drug substance not classified as a controlled substance
3 under the Uniform Controlled Substances Act which can only be lawfully
4 dispensed, under federal statutes in effect on January 1, 2015, upon the
5 written or oral prescription of a practitioner authorized to prescribe
6 such substances.

7 Sec. 10. Section 71-2479, Revised Statutes Supplement, 2023, is
8 amended to read:

9 71-2479 (1) Any prescription for a legend drug which is not a
10 controlled substance shall be kept by the pharmacy or the practitioner
11 who holds a pharmacy license in a readily retrievable format and shall be
12 maintained for a minimum of five years. The pharmacy or practitioner
13 shall make all such files readily available to the department and law
14 enforcement for inspection without a search warrant.

15 (2) Before dispensing a legend drug which is not a controlled
16 substance pursuant to a written, oral, or electronic prescription, a
17 label shall be affixed to the container in which the drug is dispensed.
18 Such label shall bear (a) the name, address, and telephone number of the
19 pharmacy or practitioner and the name and address of the central fill
20 pharmacy if central fill is used, (b) the name of the patient, or if not
21 issued for a specific patient, the words "for emergency use" or "for use
22 in immunizations", (c) the date of filling, (d) the serial number of the
23 prescription under which it is recorded in the practitioner's
24 prescription records, (e) the name of the prescribing practitioner, (f)
25 the directions for use, (g) the name of the drug, device, or biological
26 unless instructed to omit by the prescribing practitioner, (h) the
27 strength of the drug or biological, if applicable, (i) the quantity of
28 the drug, device, or biological in the container, except unit-dose
29 containers, (j) the dosage form of the drug or biological, and (k) any
30 cautionary statements contained in the prescription.

31 (3) For multidrug containers, more than one drug, device, or

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

7 Sec. 11. Original sections 38-2854, 38-2890, and 38-28,104, Reissue
8 Revised Statutes of Nebraska, sections 28-410, 28-414, 71-2454, and
9 71-2478, Revised Statutes Cumulative Supplement, 2022, and sections
10 38-2801 and 71-2479, Revised Statutes Supplement, 2023, are repealed.