

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 146

Introduced by Howard, 9; Wightman, 36.

Read first time January 09, 2009

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to pharmacy; to amend sections 38-2801,
2 38-2802, and 38-2850, Reissue Revised Statutes of
3 Nebraska, and sections 71-401, 71-403, and 71-425,
4 Revised Statutes Cumulative Supplement, 2008; to provide
5 for simulated pharmacies; to define and redefine
6 terms; to provide for special licensure; to harmonize
7 provisions; and to repeal the original sections.

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

1 Section 1. Section 38-2801, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 38-2801 Sections 38-2801 to 38-28,103 and section 3 of
4 this act shall be known and may be cited as the Pharmacy Practice
5 Act.

6 Sec. 2. Section 38-2802, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 38-2802 For purposes of the Pharmacy Practice Act and
9 elsewhere in the Uniform Credentialing Act, unless the context
10 otherwise requires, the definitions found in sections 38-2803 to
11 38-2848 and section 3 of this act apply.

12 Sec. 3. Simulated pharmacy has the definition found in
13 section 8 of this act.

14 Sec. 4. Section 38-2850, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 38-2850 As authorized by the Uniform Credentialing Act,
17 the practice of pharmacy may be engaged in by a pharmacist, a
18 pharmacist intern, or a practitioner with a pharmacy license. The
19 practice of pharmacy shall not be construed to include:

20 (1) Persons who sell, offer, or expose for sale
21 completely denatured alcohol or concentrated lye, insecticides, and
22 fungicides in original packages;

23 (2) Practitioners, other than veterinarians, certified
24 nurse midwives, certified registered nurse anesthetists, and nurse
25 practitioners, who dispense drugs or devices as an incident to

1 the practice of their profession, except that if such practitioner
2 regularly engages in dispensing such drugs or devices to his or
3 her patients for which such patients are charged, such practitioner
4 shall obtain a pharmacy license;

5 (3) Persons who sell, offer, or expose for sale
6 nonprescription drugs or proprietary medicines, the sale of which
7 is not in itself a violation of the Nebraska Liquor Control Act;

8 (4) Medical representatives, detail persons, or persons
9 known by some name of like import, but only to the extent of
10 permitting the relating of pharmaceutical information to health
11 care professionals;

12 (5) Licensed veterinarians practicing within the scope of
13 their profession;

14 (6) Certified nurse midwives, certified registered
15 nurse anesthetists, and nurse practitioners who dispense sample
16 medications which are provided by the manufacturer and are
17 dispensed at no charge to the patient;

18 (7) Hospitals engaged in the compounding and dispensing
19 of drugs and devices pursuant to chart orders for persons
20 registered as patients and within the confines of the hospital,
21 except that if a hospital engages in such compounding and
22 dispensing for persons not registered as patients and within
23 the confines of the hospital, such hospital shall obtain a pharmacy
24 license or delegated dispensing permit;

25 (8) Optometrists who prescribe or dispense eyeglasses or

1 contact lenses to their own patients;

2 (9) Registered nurses employed by a hospital who
3 administer pursuant to a chart order, or procure for such
4 purpose, single doses of drugs or devices from original drug or
5 device containers or properly labeled prepackaged drug or device
6 containers to persons registered as patients and within the
7 confines of the hospital;

8 (10) Persons employed by a facility where dispensed drugs
9 and devices are delivered from a pharmacy for pickup by a patient
10 or caregiver and no dispensing or storage of drugs or devices
11 occurs; ~~and~~

12 (11) Persons who sell or purchase medical products,
13 compounds, vaccines, or serums used in the prevention or cure of
14 animal diseases and maintenance of animal health if such medical
15 products, compounds, vaccines, or serums are not sold or purchased
16 under a direct, specific, written medical order of a licensed
17 veterinarian; ~~and.~~

18 (12) Pharmacy students engaged in simulated pharmacy
19 practice exercises for educational purposes in a simulated
20 pharmacy.

21 Sec. 5. Section 71-401, Revised Statutes Cumulative
22 Supplement, 2008, is amended to read:

23 71-401 Sections 71-401 to 71-459 and sections 8 and 9
24 of this act shall be known and may be cited as the Health Care
25 Facility Licensure Act.

1 Sec. 6. Section 71-403, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 71-403 For purposes of the Health Care Facility Licensure
4 Act, unless the context otherwise requires, the definitions found
5 in sections 71-404 to 71-431 and section 8 of this act shall apply.

6 Sec. 7. Section 71-425, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 71-425 Pharmacy means a facility advertised as a
9 pharmacy, drug store, hospital pharmacy, dispensary, or any
10 combination of such titles where drugs or devices are dispensed
11 as defined in the Pharmacy Practice Act but does not include a
12 simulated pharmacy.

13 Sec. 8. Simulated pharmacy means a facility at an
14 accredited pharmacy program that is located within and owned
15 and operated by a school or college of pharmacy in this state
16 and in which students handle and compound drugs for educational or
17 research purposes only and do not dispense or sell drugs.

18 Sec. 9. (1) A school or college of pharmacy in this
19 state may apply to the department for a special simulated pharmacy
20 license which shall entitle the simulated pharmacy to purchase,
21 receive, possess, or dispose of drugs for educational or research
22 purposes. The application shall include the name of a pharmacist in
23 charge and all information required by section 71-433. A special
24 license issued under this section shall be renewed every XX years
25 upon request by the licensee and payment of the required fee

1 established under the Health Care Facility Licensure Act.

2 (2) The holder of a special license for a simulated
3 pharmacy under subsection (1) of this section shall not engage in
4 the sale or dispensing of drugs.

5 (3) Except as provided in this section, the holder of
6 a special license for a simulated pharmacy shall be exempt from
7 requirements otherwise applicable to pharmacies pursuant to the
8 Health Care Facility Licensure Act and the Pharmacy Practice Act.

9 (4) The pharmacist in charge of a simulated pharmacy
10 shall (a) be responsible for the security and proper storage of
11 all drugs, (b) exercise diligent care in protecting such drugs from
12 loss or theft, (c) be responsible for maintaining accurate records
13 regarding the purchase, receipt, possession, and disposal of drugs
14 utilized for educational or research purposes, (d) prepare a
15 policy and procedure manual with respect to the purchase, receipt,
16 possession, and disposal of drugs and their proper security, and
17 (e) make the manual records and any other records maintained
18 by the simulated pharmacy available for inspection, copying, or
19 examination by the department or its agents.

20 (5) The holder of a special simulated pharmacy license
21 shall comply with all applicable federal laws and regulations.

22 (6) A simulated pharmacy may be inspected at the
23 discretion of the department to ensure the continued compliance
24 with all applicable laws, rules, and regulations.

25 Sec. 10. Original sections 38-2801, 38-2802, and 38-2850,

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1 Reissue Revised Statutes of Nebraska, and sections 71-401, 71-403,
2 and 71-425, Revised Statutes Cumulative Supplement, 2008, are
3 repealed.