LEGISLATIVE BILL 326

Approved by the Governor May 26, 1971

Introduced by John W. DeCamp, 40th District; Robert L. Clark, 47th District

AN ACT relating to drugs and controlled substances; to define terms; to provide for regulations and offenses; to provide penalties; to provide procedure for forfeiture of certain property; to provide duties of the Department of Health, Bureau of Examining Boards, and Division of Drug Control; to provide how this act may be cited; to amend section 28-459, Reissue Revised Statutes of Nebraska, 1943; to repeal the original section, and also sections 28-438, 28-439, 28-456, 28-456.01, 28-461, 28-462, 28-463, 28-464, 28-465, 28-466, 28-467, 28-468, 28-469, 28-471, 28-472, 28-473, 28-474, 28-475, and 28-476, Reissue Revised Statutes of Nebraska, 1943, and sections 28-451, 28-452, 28-458, 28-470, 28-472.01, 28-472.02, 28-472.03, 28-472.04, 28-472.05, 28-472.06, 28-485, 28-486, 28-487, 28-488, 28-489, 28-490, 28-491, 28-492, 28-493, 28-494, 28-495, 28-496, 28-497, 28-498, 28-499, 28-4,100, 28-4,101, 28-4,102, 28-4,103, 28-4,104, 28-4,105, 28-4,106, 28-4,107, and 28-4,108, Revised Statutes Supplement, 1969; and to declare an emergency.

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

Section 1. As used in this act, unless the context otherwise requires:

(1) Administer shall mean the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by: (a) A practitioner or, in his presence, by his authorized agent, or (b) the patient or research subject at the direction and in the presence of the practitioner;

(2) Agent shall mean an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman;

(3) Bureau shall mean the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice;

(4) Controlled substance shall mean a drug, substance, or immediate precursor in Schedules I to V of section 3 of this act. The term shall not include distilled spirits, wine, malt beverages, tobacco, or any nonnarcotic substance if such substance may, under the Federal Food, Drug, and Cosmetic Act and the law of this state, be lawfully sold over the counter without a prescription;

(5) Counterfeit substance shall mean a controlled substance which, or the container or labeling of which, without authorization, bears the trade-mark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser;

(6) Department shall mean the Department of Health of this state;

(7) Division of Drug Control shall mean the personnel of the Nebraska State Patrol who are assigned to enforce the provisions of this act;

(8) Bureau of Examining Boards shall mean personnel of the department responsible for the enforcement of the provisions of this act in the areas assigned to it by the provisions of this act;

(9) Dispense shall mean to deliver a controlled substance to an ultimate user or a research subject by, or pursuant to the lawful order or prescription of a physician, dentist, veterinarian, or other medical practitioner licensed under the laws of this state to prescribe drugs, including the packaging, labeling, or compounding necessary to prepare the substance for such delivery. Dispenser shall mean the apothecary, pharmacist, or other practitioner, duly licensed and who dispenses a controlled substance to an ultimate user or a research subject;

(10) Distribute shall mean to deliver other than by administering or dispensing a controlled substance. Distributor shall mean a person who so distributes a

controlled substance;

(11) Prescribe shall mean the act of a physician, surgeon, dentist, veterinarian, or other medical practitioner licensed under the laws of this state, in issuing an order, prescription, or direction to a pharmacist or pharmacy to dispense a drug as required by the laws of this state;

(12) Drug shall mean (a) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (c) substances, other than food, intended to affect the structure or any function of the body of man or animals; and (d) substances intended for use as a component of any article specified in subdivision (a), (b), or (c) of this subdivision; but does not include devices or their components, parts, or accessories;

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

(14) Marijuana shall mean all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination; and, where the weight of marijuana is referred to in this act it shall mean its weight at or about the time it is seized or otherwise comes into the possession of law enforcement authorities, whether cured or uncured at that time;

(15) Manufacture shall mean the production, preparation, propagation, compounding, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and

includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance: (a) By a practitioner as an incident to his prescribing, administering or dispensing of a controlled substance in the course of his professional practice, or (b) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale;

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

(17) Opiate shall mean any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include the dextrorotatory isomer of 3-methoxy-n methylmorphinan and its salts. It does include its racemic and levorotatory forms;

(18) Opium poppy shall mean the plant of the species Papaver somniferum L., except the seeds thereof;

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

(20) Person shall mean any corporation, association, partnership or one or more individuals;

(21) Practitioner shall mean a physician, dentist, veterinarian, pharmacist, scientific

investigator, pharmacy or hospital, licensed, registered, or otherwise permitted to distribute, dispense, prescribe, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state;

(22) Production shall include the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;

(23) Immediate precursor shall mean a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit such manufacture;

(24) State shall mean the State of Nebraska;

(25) Ultimate user shall mean a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administration to an animal owned by him or by a member of his household;

(26) Physician shall mean a person authorized by law to practice medicine in this state and any other person authorized by law to treat sick and injured human beings in this state;

(27) Dentist shall mean a person authorized by law to practice dentistry in this state;

(28) Veterinarian shall mean a person authorized by law to practice veterinary medicine in this state;

(29) Hospital shall mean an institution for the care and treatment of sick and injured human beings and approved by the department;

(30) Podiatrist shall mean a person authorized by law to practice podiatry and who has graduated from an accredited school of podiatry in or since 1935;

(31) Apothecary shall mean a licensed pharmacist as defined by the laws of this state and, where the

context so requires, the owner of the store or other place of business where drugs are compounded or dispensed by a licensed pharmacist, but nothing in this subdivision shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this state;

(32) Peace officer shall mean the officers and persons set forth in subdivision (17) of section 49-801; and

(33) Nothing contained in this act shall be construed as authority for a practitioner to perform an act for which he is not authorized by the laws of this state.

Sec. 2. All drugs and substances or immediate precursors listed in section 3 of this act are hereby declared to be controlled substances, whether listed by official name, generic, common or usual name, chemical name, brand or trade name.

Sec. 3. The following are the schedules of controlled substances referred to in this act:

Schedule I

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation: (1) Acetylmethadol; (2) allylprodine; (3) alphacetylmethadol; (4) alphameprodine; (5) alphamethadol; (6) benzethidine; (7) betacetylmethadol; (8) betameprodine; (9) betamethadol; (10) betaprodine; (11) clonitazene; (12) dextromoramide; (13) dextrorphan; (14) diampromide; (15) diethylthiambutene; (16) dimenoxadol; (17) dimepheptanol; (18) dimethylthiambutene; (19) diozaphetyl butyrate; (20) dipipanone; (21) ethylmethylthiambutene; (22) etonitazene; (23) etoxeridine; (24) furethidine; (25) hydroxypethidine; (26) ketobemidone; (27) levomoramide; (28) levophenacylmorphan; (29) morpheridine; (30) noracymethadol; (31) norlevorphanol; (32) normethadone; (33) norpipanone; (34) phenadoxone; (35) phenampromide; (36) phenomorphan; (37) phenoperidine; (38) piritramide; (39) proheptazine; (40) properidine; (41) racemoramide; and (42) trimeperidine.

(b) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation: (1) Acetorphine; (2) acetyldihydrocodeine; (3) benzylmorphine; (4) codeine methylbromide; (5) codeine-N-Oxide; (6) cyprenorphine; (7) desomorphine; (8) dihydromorphine; (9) etorphine; (10) heroin; (11) hydromorphinol; (12) methyldesorphine; (13) methylhydromorphine; (14) morphine methylbromide; (15) morphine methylsulfonate; (16) morphine-N-Oxide; (17) myrophine; (18) nicocodeine; (19) nicomorphine; (20) normorphine; (21) phoclodine; and (22) thebacon.

(c) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: (1) Bufotenine; (2) diethyltryptamine; (3) dimethyltryptamine; (4) 4-methyl-2, 5-dimethoxyamphetamine; (5) ibogaine; (6) lysergic acid diethylamide; (7) marijuana; (8) mescaline; (9) peyote; (10) psilocybin; (11) psilocyn; (12) tetrahydrocannabinols; (13) 3,4-methylenedioxy amphetamine; (14) 5-methoxy-3, 4-methylenedioxy amphetamine; (15) 3,4,5-trimethoxy amphetamine; (16) N-ethyl-3-piperidyl benzilate; and (17) N-methyl-3-piperidyl benzilate.

Schedule II

(a) Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

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

(3) Opium poppy and poppy straw; and

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation: (1) Alphaprodine; (2) anileridine; (3) bezitramide; (4) diphenoxylate; (5) fentanyl; (6) isomethadone; (7) levomethorphan; (8) levorphanol; (9) metazocine; (10) methadone; (11) methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane; (12) moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid; (13) pethidine; (14) pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine; (15) pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate; (16) pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid; (17) phenazocine; (18) piminodine; (19) racemethorphan; (20) racemorphan; and (21) dihydrocodeine.

(c) Unless specifically excepted or unless listed in another schedule, any injectable liquid which contains any quantity of methamphetamine, including its salts, isomers and salts of isomers.

Schedule III

(a) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system: (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers; (2) phenmetrazine and its salts; (3) any substance, except an injectable liquid, which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers; and (4) methylphenidate.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system: (1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules of this

section; (2) chlorhexadol; (3) glutethimide; (4) lysergic acid; (5) lysergic acid amide; (6) methyprylon; (7) phencyclidine; (8) sulfondiethylmethane; (9) sulfonethylmethane; (10) sulfonmethane; and (11) nalorphine.

(c) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

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

(2) Not more than one and eight-tenths grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than three hundred milligrams of dihydrocodeinone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than three hundred milligrams of dihydrocodeinone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

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

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

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

(8) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

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

Schedule IV

(1) Barbital; (2) chloral betaine; (3) chloral hydrate; (4) ethchlorvynol; (5) ethinamate; (6) methahexital; (7) meprobamate; (8) methylphenobarbital; (9) paraldehyde; (10) petrichloral; and (11) phenobarbital.

Schedule V

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

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

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

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

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

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

(b) Any compound, mixture, or preparation, intended for use as an inhalant or inhaler which contains any quantity of mephentermine.

Sec. 4. The department is authorized to promulgate rules and regulations and to charge

reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state. The registration shall be the responsibility of the Bureau of Examining Boards.

Sec. 5. (1) Every person who manufactures, prescribes, distributes, administers, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, prescribing, administering, distribution, or dispensing of any controlled substance within this state, shall obtain annually a registration issued by the Bureau of Examining Boards in accordance with the rules and regulations promulgated by the department.

(2) The following persons shall not be required to register and may lawfully possess controlled substances under the provisions of this act:

(a) An agent, or an employee thereof, of any practitioner, registered manufacturer, distributor, or dispenser of any controlled substance if such agent is acting in the usual course of his business or employment;

(b) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of his business or employment; and

(c) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner.

(3) A separate registration shall be required at each principal place of business of professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(4) The Bureau of Examining Boards is authorized to inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by the department.

Sec. 6. (1) The Bureau of Examining Boards shall register an applicant to manufacture or distribute controlled substances included in Schedules I to V of section 3 of this act unless it determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest the department shall consider the following factors:

(a) Maintenance of effective controls against diversion of particular controlled substances and any Schedule I or II substance compounded therefrom into other than legitimate medical, scientific, or industrial channels;

(b) Compliance with applicable state and local law;

(c) Whether the applicant has been convicted of a felony under any law of the United States, or of any state, or has been convicted of a violation relating to any substances defined in this act as a controlled substance under any law of the United States or any state;

(d) Past experience in the manufacture of controlled substances, and the existence in the establishment of effective controls against diversion; and

(e) Such other factors as may be relevant to and consistent with the public health and safety.

(2) Registration granted under subsection (1) of this section shall not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II of section 3 of this act other than those specified in the registration.

(3) Practitioners shall be registered to prescribe, administer or dispense substances in Schedules II to V of section 3 of this act if they are authorized to prescribe, administer or dispense under the laws of this state. A registration application by a practitioner who wishes to conduct research with Schedule I substances shall be referred to the department for approval or disapproval. Registration for the purpose of bona fide research with Schedule I substances by a practitioner may be denied only on a ground specified in subsection (1) of section 7 of this act or if there are reasonable grounds to believe that the applicant will abuse or unlawfully transfer such substances or fail to safeguard adequately his supply of such substances against diversion from legitimate medical or scientific use.

(4) The department shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution or dispensing of any controlled substances for sixty days following the effective date of this act and who are registered or

licensed by the state.

(5) Compliance by manufacturers and distributors with the provisions of the Federal Controlled Dangerous Substances Act respecting registration, excluding fees, shall be deemed compliance with this section.

Sec. 7. (1) A registration pursuant to section 6 of this act to prescribe, administer, manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the department upon a finding that the registrant:

(a) Has falsified any application filed pursuant to this act or required by this act;

(b) Has been convicted of a felony under any law of the United States, or of any state, or has been convicted of a violation relating to any substances defined in this act as a controlled substance under any law of the United States or any state; or

(c) Has had his federal registration suspended or revoked by competent federal authority and is no longer authorized by federal law to engage in the manufacturing, distribution, or dispensing of controlled substances.

(2) The department may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(3) Before taking action pursuant to this section or pursuant to a denial of registration or refusing a renewal of registration under section 6 of this act, the department shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended or why the renewal should not be refused. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the department at a time and place stated in the order, but in no event less than thirty days after the date of service of the order, but in the case of a denial of registration or renewal the show cause order shall be served not later than thirty days before the expiration of the registration. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this section in accordance with the Administrative Procedures Act. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under the

provisions of this act or any law of the state. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(4) The department may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under this section or where renewal of registration is refused in cases where the department finds that there is an imminent danger to the public health or safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the department or dissolved by a court of competent jurisdiction.

(5) In the event the department suspends or revokes a registration granted under section 6 of this act, all controlled substances owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may in the discretion of the department be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances may be forfeited to the state.

(6) The bureau shall promptly be notified of all orders suspending or revoking registration.

Sec. 8. Upon the effective date of this act, each registrant manufacturing, distributing or dispensing controlled substances in Schedule I, II, III, IV or V of section 3 of this act shall make a complete and accurate record of all stocks of such controlled substances on hand. Thereafter, complete and accurate records of all such controlled substances shall be maintained for two years. Each two-year period after the effective date of this act, at a time provided for by rule and regulation to be promulgated by the department, each registrant manufacturing, distributing, or dispensing controlled substances shall prepare an inventory of each controlled substance in his possession. Records and inventories shall contain such information as shall be provided by rules and regulations promulgated by the department. All registration fees established by the department shall be

remitted to the Bureau of Examining Boards and credited to the Pharmacy Fund for the express purpose of the enforcement responsibilities of the department in accordance with the provisions of this act. This section shall not apply to practitioners who lawfully prescribe, administer, or occasionally dispense as a part of their professional practice, controlled substances listed in Schedule II, III, IV, or V of section 3 of this act, unless such practitioner regularly engages in dispensing any such drug or drugs to his patients for which they are charged either separately or together with charges for other professional services. Compliance with the provisions of the Federal Controlled Dangerous Substances Act respecting records and reports, with the exception of provisions as to fees, shall be deemed compliance with this section.

Sec. 9. Controlled substances in Schedules I and II of section 3 of this act shall be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of the Federal Controlled Dangerous Substances Act respecting order forms shall be deemed compliance with this section.

Sec. 10. (1) Except when dispensed or administered directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance included in Schedule II of section 3 of this act may be dispensed without the written prescription of a practitioner; Provided, that in emergency situations, as prescribed by the department by regulation, such substance may be dispensed upon oral prescription reduced promptly to writing in conformity with subdivision (4) (b) of this section and filed by the pharmacist. No prescription for a Schedule II substance may be refilled.

(2) Except when dispensed or administered directly by a practitioner, other than a pharmacist, to an ultimate user, no other controlled substance included in Schedule III or IV of section 3 of this act which is a prescription drug as determined under the laws of this state or the laws of the United States, may be dispensed without a written or oral prescription. Such prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times after the date of the prescription, unless renewed by the practitioner.

(3) Except when dispensed or administered directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance included in Schedule V of section 3 of this act may be dispensed without a written or oral prescription.

(4) (a) Prescriptions for all Schedule II controlled substances shall be kept in a separate file by the pharmacist and shall be maintained for a minimum of two years and shall be available to authorized agents of the Bureau of Examining Boards and the Division of Drug Control for inspection without any requirement for obtaining a search warrant.

(b) All prescriptions for controlled substances in Schedule II of section 3 of this act shall contain the name and address of the patient and the name and address of the prescribing practitioner, including the registry number under the federal narcotic laws of the prescribing practitioner. The pharmacist or practitioner filling the prescription shall write the date of filling and his own signature on the face of the prescription. If the prescription is for an animal, it shall state the name and address of the owner of the animal and the species of the animal.

(c) Prescriptions for all Schedule III and IV controlled substances, unless otherwise required by federal or state laws, may be filed separately by the pharmacist and shall be maintained for a minimum of two years. If filed with other prescriptions for substances classified as noncontrolled substances, the pharmacist shall be required to make all prescription files readily available and shall maintain these prescriptions for a period of two years. All such files shall be available to authorized agents of the Bureau of Examining Boards and the Division of Drug Control for inspection without any requirement for obtaining a search warrant.

(d) All prescriptions for controlled substances in Schedules III and IV of section 3 of this act shall contain the name and address of the patient and the name and address of the prescribing practitioner. If the prescription is for an animal, it shall state the owner's name and address and species of the animal.

(e) All prescriptions for controlled substances listed in Schedule V of section 3 of this act may be filed by the pharmacist together with other prescriptions for noncontrolled substances, unless required by other federal or state laws to be filed separately, and must be maintained for a period of two

years. These prescriptions shall contain the name and address of the prescribing practitioner and the name and address of the patient and shall be made readily available for inspection by an authorized agent of the Bureau of Examining Boards or Division of Drug Control, without any requirement for obtaining a search warrant.

(f) The owner of any stock of controlled substances in Schedules I and II of section 3 of this act, upon discontinuance of the dealing in such substances, may sell such substances to a manufacturer, wholesaler or apothecary, but only on an official order form as required by section 9 of this act.

(g) An apothecary, only upon an official written order, may sell to a physician, dentist, podiatrist, or veterinarian, in quantities not exceeding one ounce at any time, aqueous or oleaginous solutions of which the content of controlled substances in Schedules I, II, and III of section 3 of this act does not exceed a proportion greater than twenty per cent of the complete solution to be used for medical purposes.

(h) No pharmacist or dispensing practitioner shall dispense any controlled substance contained in Schedule II of section 3 of this act without affixing to the container in which the substance is dispensed, a label bearing the name and address of the pharmacy or dispensing practitioner, the name and address of the patient, date compounded, the consecutive number of the prescription under which it is recorded in the pharmacist's prescription files, together with the name and address of the physician, dentist, veterinarian or other prescribing practitioner, who prescribes it, his federal registry number and the directions for the use of the drug. If indicated by the prescribing practitioner, the label shall bear the name of the substance.

(i) No pharmacist or dispensing practitioner shall dispense any controlled substance contained in Schedules III, IV and V of section 3 of this act without affixing to the container in which the substance is dispensed, a label bearing the name and address of the pharmacy or dispensing practitioner, the name of the patient, date compounded, the consecutive number of the prescription under which it is recorded in the pharmacist's prescription files, together with the name of the physician, dentist, veterinarian or other prescribing practitioner, who prescribes it, and the directions for the use of the drug. If indicated by the prescribing practitioner, the label shall bear the name

of the substance.

Sec. 11. (1) Except as authorized by this act, it shall be unlawful for any person knowingly or intentionally: (a) To manufacture, distribute, deliver, dispense, or possess with intent to manufacture, distribute, deliver, or dispense, a controlled substance; or (b) to create, distribute, or possess with intent to distribute, a counterfeit controlled substance.

(2) Any person who violates subsection (1) of this section with respect to: (a) A controlled substance classified in Schedule I or II of section 3 of this act which is a narcotic drug shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in the Nebraska Penal and Correctional Complex for not less than five years nor more than twenty years and shall not be eligible for probation; (b) any other controlled substance classified in Schedule I, II, or III of section 3 of this act, shall, upon conviction thereof, be sentenced to a term of imprisonment for not less than one year nor more than five years in the Nebraska Penal and Correctional Complex, or a fine of not more than two thousand dollars, or to a term of imprisonment in the county jail of not more than six months, or be both so fined and imprisoned; or (c) a controlled substance classified in Schedule IV or V of section 3 of this act shall, upon conviction thereof, be sentenced to a term of imprisonment for not less than one year nor more than two years in the Nebraska Penal and Correctional Complex, or a fine of not more than one thousand dollars, or to a term of imprisonment in the county jail of not more than six months, or be both so fined and imprisoned.

(3) A person knowingly or intentionally possessing a controlled substance, except marijuana, unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this act, shall, upon conviction thereof, be sentenced to a term of imprisonment not less than one year nor more than two years in the Nebraska Penal and Correctional Complex, or a fine of not more than five hundred dollars, or to a term of imprisonment in the county jail of not more than six months, or be both so fined and imprisoned.

(4) Any person knowingly and unlawfully possessing marijuana weighing one pound or less shall,

upon conviction thereof, be fined not more than five hundred dollars or shall be sentenced to a term of imprisonment in the county jail of not more than seven days, and shall be held separate and apart from other prisoners, or be both so fined and imprisoned.

(5) Any person knowingly and unlawfully possessing marijuana weighing more than one pound shall, upon conviction thereof, be sentenced to a term of imprisonment of one year in the Nebraska Penal and Correctional Complex, or shall be fined not more than five hundred dollars, or shall be sentenced to a term of imprisonment in the county jail of not more than six months, or be both so fined and imprisoned.

(6) If a person is convicted of a violation under this section, as a part of the sentence he shall be required during the period of confinement to attend a course of instruction conducted by the department on the effects, medically, psychologically and socially, of the misuse of controlled substances. He shall also be required to receive medical treatment, while so confined, for the effect upon him of controlled substances. If a person is placed on probation, as a condition of probation he shall attend and complete an identical course of instruction conducted by the department and pay a fee of five dollars for the course. As a further condition the person shall be required to receive medical treatment for the effects of controlled substances abuses.

Sec. 12. Premises where persons resort for the purpose of violating the provisions of this act are hereby declared to be common nuisances. The county attorney may maintain an action in the name of the State of Nebraska to temporarily restrain or temporarily or permanently enjoin any such nuisance or any violations of this act irrespective of whether there exists an adequate remedy at law. The plaintiff shall not be required to give bond in such action.

Sec. 13. (1) It shall be unlawful for any person:

(a) Who is subject to the requirements of sections 4 to 10 of this act to distribute or dispense a controlled substance in violation of section 10 of this act;

(b) Who is a registrant to manufacture a controlled substance not authorized by his registration, or to distribute or dispense a controlled substance not

authorized by his registration to another registrant or other authorized person;

(c) To omit, remove, alter, or obliterate a symbol required by the Federal Controlled Dangerous Substance Act or required by the laws of this state;

(d) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this act;

(e) To refuse any entry into any premises or inspection authorized by the provisions of this act;

(f) To keep or maintain any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by persons using controlled substances in violation of the provisions of this act for the purpose of using such substances, or which is used for the keeping or selling of the same in violation of the provisions of this act;

(g) To visit or to be in any room, dwelling house, vehicle, or place where any controlled substance is being used contrary to the provisions of this act, if the person has knowledge that such activity is occurring;

(h) To whom or for whose use any controlled substance has been prescribed, sold or dispensed by a practitioner or the owner of any animal for which any such substance has been prescribed, sold or dispensed by a veterinarian to possess it in a container other than which it was delivered to him by the practitioner; or

(i) To be under the influence of any controlled substance for a purpose other than the treatment of a sickness or injury as prescribed or administered by a person duly authorized by law to treat sick and injured human beings. In a prosecution under this subdivision, it shall not be necessary for the state to prove that the accused was under the influence of any specific controlled substance, but it shall be sufficient for a conviction under this subdivision for the state to prove that the accused was under the influence of some controlled substance by proving that the accused did manifest physical and physiological symptoms or reactions caused by the use of any controlled substance.

(2) Any person who violates the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be imprisoned in the county

jail for not more than thirty days or be fined not more than five hundred dollars, or be both so fined and imprisoned.

Sec. 14. (1) It shall be unlawful for any person knowingly or intentionally:

(a) Who is a registrant to distribute a controlled substance classified in Schedule I or II of section 3 of this act, in the course of his legitimate business, except pursuant to an order form as required by section 9 of this act;

(b) To use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended or issued to another person;

(c) To acquire or obtain or to attempt to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;

(d) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under the provisions of this act, or any record required to be kept by the provisions of this act; or

(e) To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trade-mark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit controlled substance.

(2) Any person who violates the provisions of this section shall, upon conviction thereof, be sentenced to a term of imprisonment for not less than one year nor more than two years in the Nebraska Penal and Correctional Complex or a fine of not more than five hundred dollars, or to a term of imprisonment in the county jail for not more than six months, or be both so fined and imprisoned.

Sec. 15. Any person who attempts or conspires to commit any offense defined in this act shall, upon conviction thereof, be punished by imprisonment or fine, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was

the object of the attempt or conspiracy.

Sec. 16. Any penalty imposed for violation of this act shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law. A conviction or acquittal under federal law or the law of another state having a substantially similar law shall be a bar to prosecution in this state for the same act.

Sec. 17. Any person convicted of a second or subsequent offense under the provisions of this act, or who has been convicted of a crime relating to narcotic drugs, marijuana, or depressant or stimulant substances under the laws of the United States or under the laws of any of the other states shall, upon conviction thereof, be punished by a term of imprisonment twice that otherwise authorized and by twice the fine otherwise authorized, or by both. The procedure for determining the prior convictions shall be the same as set forth in sections 29-2221 and 29-2222.

Sec. 18. (1) Administrative inspections of controlled premises are authorized in accordance with the following provisions:

(a) For purposes of this act only, controlled premises shall mean: (i) Places where persons registered or exempted from registration requirements under the provisions of this act are required to keep records; and (ii) places including factories, warehouses, establishments, and conveyances where persons registered or exempted from registration requirements under the provisions of this act are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance;

(b) When so authorized by an administrative inspection, an officer of the Division of Drug Control or an authorized agent of the Bureau of Examining Boards, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, shall have the right to enter controlled premises for the purpose of conducting an administrative inspection;

(c) When so authorized by an administrative inspection warrant, an officer of the Division of Drug Control or an authorized agent of the Bureau of Examining Boards shall have the right: (i) To inspect and copy records required by this act to be kept; (ii) to inspect, within reasonable limits and in a reasonable

manner, controlled premises and all pertinent equipment, finished and unfinished material, containers, and labeling found therein, and, except as otherwise provided in subdivision (1) (e) (ii) of this section, all other things therein, including records, files, papers, processes, controls, and facilities, bearing on any violation of the provisions of this act; and (iii) to inventory any stock of any controlled substance therein and obtain samples of any such substance;

(d) This section shall not be construed to prevent entries and administrative inspections including seizures of property without a warrant: (i) With the consent of the owner, operator, or agent in charge of the controlled premises; (ii) in situations presenting imminent danger to health or safety; (iii) in situations involving inspection of any conveyance where there is reasonable cause to believe that such conveyance contains substances possessed or carried in violation of the provisions of this act; (iv) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; and (v) in all other situations where a warrant is not constitutionally required; and

(e) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to (i) financial data; (ii) sales data other than shipment data; or (iii) pricing data.

(2) For the purpose of the execution of administrative inspection warrants, an authorized agent of the Bureau of Examining Boards shall be deemed to be a peace officer.

(3) Issuance and execution of administrative inspection warrants for controlled premises shall be in accordance with the provisions of sections 29-830 to 29-835; Provided, that inspection warrants for the purpose of this act shall be issued not only upon a showing that consent to entry for inspection purposes has been refused, but also in all cases where the judge of a court of record has been given reason to believe that consent would be refused if requested.

Sec. 19. (1) There is hereby established in the Nebraska State Patrol a Division of Drug Control. The division shall consist of such personnel as may be designated by the superintendent of the Nebraska State Patrol. It shall be the duty of the division to enforce all of the provisions of this act and any other

provisions of the law dealing with controlled substances. The Division of Drug Control shall cooperate with federal agencies, the department, and other state agencies in discharging their responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end the division is authorized to: (a) Arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances; (b) coordinate and cooperate in training programs on controlled substance law enforcement at the local and state levels; (c) establish a centralized unit which will accept, catalogue, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the state, and make such information available for federal, state, and local law enforcement purposes on request; and (d) cooperate in locating, eradicating, and destroying wild or illicit growth of plant species from which controlled substances may be extracted, and for these purposes a peace officer is hereby authorized to enter onto property upon which there are no buildings or upon which there are only uninhabited buildings without first obtaining a search warrant or consent.

Sec. 20. The department shall enforce the provisions of this act and shall cooperate with federal agencies, the Division of Drug Control and other state agencies in discharging their responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, it is authorized to: (a) Arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances; (b) cooperate with the Federal Bureau of Narcotics and Dangerous Drugs; (c) do drug accountability audits of all registered practitioners in accordance with the provisions of this act; (d) provide laboratory analysis upon request from the Division of Drug Control and the Bureau of Examining Boards and other peace officers of this state in accordance with the provisions of this act; (e) provide drug abuse education to persons confined as a result of violation of the provisions of this act in accordance with the provisions of this act; and (f) rely on results, information, and evidence received from the Bureau of Narcotics and Dangerous Drugs relating to the regulatory functions of this act, including results of inspections conducted by that agency, which may be acted upon by the department and the Division of Drug Control in the performance of their regulatory functions under the provisions of this act.

Sec. 21. (1) The following shall be seized without warrant by an officer of the Division of Drug Control or by any peace officer, and the same shall be subject to forfeiture: (a) All controlled substances which have been manufactured, distributed, dispensed, acquired or possessed in violation of the provisions of this act; (b) all raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, administering, delivering, importing or exporting any controlled substance in violation of the provisions of this act; (c) all property which is used, or is intended for use, as a container for property described in subdivisions (a) and (b) of this subsection; (d) all conveyances including aircraft, vehicles, or vessels which are used, or intended for use, to transport any property described in subdivisions (a) and (b) of this subsection; Provided, any conveyance seized including aircraft, vehicles or vessels shall be released by the proper court upon a showing by the owner of record of such conveyance that the owner had no knowledge that such conveyance was being used in violation of any provision of this act; and (e) books, records and research, including formulas, microfilm, tapes, and data which are used, or intended for use in violation of the provisions of this act.

(2) Any conveyance, including aircraft, vehicles, or vessels, which is used, or intended for use to transport any property described in subdivisions (a) and (b) of subsection (1) of this section is hereby declared to be a common nuisance, and any peace officer having probable cause to believe that such conveyance is so used or intended for such use shall make a search thereof with or without a warrant.

(3) All property seized without a search warrant shall not be subject to a replevin action and: (a) Shall be kept by the officer seizing such property for so long as it is needed as evidence in any trial; and (b) when no longer required as evidence, all property described in subdivision (1) (e) of this section shall be disposed of on order of a court of record of this state in such manner as the court in its sound discretion shall direct, and all property described in subdivisions (a), (b), and (c) of subsection (1) of this section, that has been used or is intended to be used in violation of the provisions of this act, when no longer needed as evidence shall be destroyed by the law enforcement agency holding the same or the Bureau of Examining Boards or turned over to the custody of the department; Provided, that a law enforcement agency may

keep a small quantity of the property described in subdivisions (a), (b), and (c) of subsection (1) of this section for training purposes or use in investigations.

(4) When any conveyance, including aircraft, vehicles, or vessels, is seized under subdivision (1)(d) of this section, the person seizing the same shall within five days thereafter cause to be filed in the district court of the county in which seizure was made a complaint for condemnation of the conveyance seized. The proceedings shall be brought in the name of the state by the county attorney of the county in which the conveyance was seized. The complaint shall describe the conveyance, state the name of the owner if known, allege the essential elements of the violation which is claimed to exist, and shall conclude with a prayer of due process to enforce the forfeiture. Upon the filing of such a complaint, the court shall promptly cause process to issue to the sheriff, commanding him to take possession of the conveyance described in the complaint and to hold the same for further order of the court. The sheriff shall at the time of taking possession serve a copy of the process upon the owner of the conveyance in person or by registered or certified mail at his last-known address; Provided, any conveyance seized including aircraft, vehicles or vessels shall be released by the proper court upon a showing by the owner of record of such conveyance that such owner had no knowledge that such conveyance was being used in violation of any provision of this act. At the expiration of twenty days after such seizure by the sheriff, if no claimant has appeared to defend such complaint, the court shall order the sheriff to dispose of the seized conveyance.

Any person having an interest in the conveyance proceeded against, or any person against whom a civil or criminal liability would exist if such conveyance is in violation of the provisions of this act may, within twenty days following the sheriff's taking of possession, appear and file answer or demurrer to the complaint. The answer or demurrer shall allege the interest or liability of the party filing it. In all other respects the issue shall be made up as in other civil actions.

When any conveyance is ordered sold by the court, the proceeds from the sale less the legal costs and charges shall be paid to the county treasurer for disposition in the manner provided for disposition of license money under the Constitution of this state. Whenever the condemnation of the conveyance is decreed,

the court shall allow the claim of any claimant to the extent of such claimant's interest, for remission or mitigation of such forfeiture if such claimant proves to the satisfaction of the court (1) that he has not committed or caused to be committed an offense in violation of the provisions of this act and has no interest in any controlled substance referred to in this act; (2) that he has an interest in such conveyance as owner or lienor or otherwise, acquired by him in good faith; and (3) that he at no time had any knowledge or reason to believe that such conveyance was being or would be used in, or to facilitate, the violation of the provisions of this act.

When a decree of condemnation is entered against any conveyance, court costs and fees and storage and other proper expenses shall be charged against the person, if any, intervening as claimant of the conveyance. When a conveyance is sold under court order, the officer holding the sale shall make a return to the court showing to whom the conveyance was sold and for what price. This return together with the court order shall authorize the county clerk to issue a title to the purchaser of the conveyance if such conveyance requires such title under the laws of this state.

Sec. 22. (1) It shall not be necessary for the state to negate any exemption or exception set forth in this act in any complaint, information, indictment or other pleading or in any trial, hearing, or other proceeding under the provisions of this act, and the burden of proof of any such exemption or exception shall be upon the person claiming its benefit.

(2) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under the provisions of this act, he shall be presumed not to be the holder of such registration or form, and the burden of proof shall be upon him to rebut such presumption.

(3) No liability shall be imposed by virtue of the provisions of this act upon any duly authorized state officer, engaged in the enforcement of the provisions of this act, who shall be engaged in the enforcement of any law or municipal ordinance relating to controlled substances.

Sec. 23. All final determinations, findings and conclusions of the department under this act shall be final and conclusive decisions of the matters involved, except that any person aggrieved by such

decision may obtain review of the decision under the provisions of sections 84-917 to 84-919.

Sec. 24. (1) The department and the Division of Drug Control shall carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with such programs they may: (a) Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations; (b) assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances; (c) consult with interested groups and organizations to aid them in solving administrative and organizational problems; (d) evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances; (e) disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them; and (f) assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

(2) The department may encourage research on misuse and abuse of controlled substances. In connection with such research and in furtherance of the enforcement of the provisions of this act, it may: (a) Establish methods to assess accurately the effects of controlled substances and to identify and characterize controlled substances with potential for abuse; (b) make studies and undertake programs of research to (i) develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of the provisions of this act, (ii) determine patterns of misuse and abuse of controlled substances and the social effects thereof, and (iii) improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances; and (c) enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.

(3) The department may enter into contracts for educational and research activities without performance bonds.

(4) The Bureau of Examining Boards shall cooperate with the Division of Drug Control providing technical advice and information, including all evidence of violations of the provisions of this act disclosed by drug accountability inspections. The department shall cooperate with the Division of Drug Control and peace officers by providing laboratory analysis when requested for the effective administration and enforcement of the provisions of this act.

(5) The department may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of persons who are subjects of such research. Persons who obtain such authorization may not be compelled in any state civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which such authorization was obtained.

(6) The department may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization shall be exempt from state prosecution for possession and distribution of controlled substances to the extent authorized by the department.

Sec. 25. (1) Prosecutions for any violation of law occurring prior to the effective date of this act shall not be affected or abated by reason of the passage of this act.

(2) Civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of this act shall not be affected or abated by reason of the passage of this act.

(3) All administrative proceedings pending before the department on the effective date of this act shall be continued and brought to final determination in accord with laws and regulations in effect prior to the effective date of this act. Such drugs as were placed under control prior to enactment of this act which are not listed within Schedules I to IV of section 3 of this act shall automatically be controlled and listed in the appropriate schedule.

(4) The provisions of this act shall be applicable to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings and investigations which occur following its effective date.

Sec. 26. Any orders and rules promulgated under law and affected by this act and in effect on the effective date of this act and not in conflict with it shall continue in effect until modified, superseded, or repealed.

Sec. 27. This act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this act among those states which enact it.

Sec. 28. Sections 1 to 28 of this act, may be cited as the Uniform Controlled Substances Act.

Sec. 29. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 30. That section 28-459, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-459. (1) Every physician, dentist, podiatrist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs, shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription. It shall, however, be deemed a sufficient compliance with this subsection if any such person using small quantities of solutions or other preparations of such drugs for local application, shall keep a record of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients; Provided, that no record need be kept of narcotic drugs administered, dispensed, or professionally used in the treatment of any one patient, when the amount administered, dispensed, or professionally used for that purpose does not exceed in any forty-eight consecutive hours (a) four grains of opium, (b) one half of a grain of morphine or of any of its salts, (c) two grains of codeine or of any of its salts, (d) one-fourth of a grain of heroin or of any of its salts, or (e) a quantity of any other narcotic drug or any combination of narcotic drugs that does not exceed in pharmacologic potency any one of the drugs

named above in the quantity stated; and provided further, that no record need be kept of narcotic drugs administered, dispensed, or professionally used in the treatment of any one patient, where the amount administered, dispensed, or professionally used for that purpose does not exceed in any thirty-day period twenty tablets of one-fourth grain each of morphine or any of its salts.

(2) Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection ~~(5)~~ (4) of this section.

(3) Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection ~~(5)~~ (4) of this section.

~~(4) Every person who purchases for resale, or who sells narcotic drug preparations exempted by section 28-456, shall keep a record showing the quantities and kinds thereof received and sold, or disposed of otherwise, in accordance with the provisions of subsection (5) of this section.~~

~~(5)~~ (4) The form of records shall be prescribed by the Department of Health of the State of Nebraska. The record of narcotic drugs received shall in every case show (a) the date of receipt, (b) the name and address of the person from whom received, (c) the kind and quantity of drugs received, (d) the kind and quantity of narcotic drugs produced or removed from process of manufacture, and (e) the date of such production or removal from process of manufacture. 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. ~~and the proportion of resin contained in or producible from the plant cannabis sativa L. received or produced.~~ The record of all narcotic drugs 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 drugs were sold, administered, or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the Federal Narcotic Laws, containing

substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction or theft.

Sec. 31. That original section 28-459, Reissue Revised Statutes of Nebraska, 1943, and also sections 28-438, 28-439, 28-456, 28-456.01, 28-461, 28-462, 28-463, 28-464, 28-465, 28-466, 28-467, 28-468, 28-469, 28-471, 28-472, 28-473, 28-474, 28-475, and 28-476, Reissue Revised Statutes of Nebraska, 1943, and sections 28-451, 28-452, 28-458, 28-470, 28-472.01, 28-472.02, 28-472.03, 28-472.04, 28-472.05, 28-472.06, 28-485, 28-486, 28-487, 28-488, 28-489, 28-490, 28-491, 28-492, 28-493, 28-494, 28-495, 28-496, 28-497, 28-498, 28-499, 28-4,100, 28-4,101, 28-4,102, 28-4,103, 28-4,104, 28-4,105, 28-4,106, 28-4,107, and 28-4,108, Revised Statutes Supplement, 1969, are repealed.

Sec. 32. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.