(2) THE SECRETARY, BY RULE OR REGULATION, MAY EXEMPT ANY DRUG FROM THE REQUIREMENTS OF THIS SECTION IF THE SECRETARY FINDS THAT, AS TO THE DRUG, THE REQUIREMENTS OF THIS SECTION ARE NOT NECESSARY FOR THE PROTECTION OF THE PUBLIC HEALTH.

(3) THE SECRETARY, BY RULE AND REGULATION, MAY EXEMPT FROM THE REQUIREMENTS OF THIS SECTION ANY DRUG THAT IS REMOVED FROM THE PRESCRIPTION REQUIREMENTS OF THE FEDERAL ACT BY A RULE OR REGULATION ADOPTED UNDER THAT ACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Article 43, § 189C(a), (c), and (d).

In the introductory language of subsection (a) of this section, the reference to a health practitioner who is authorized by law to "prescribe" a drug is substituted for the reference to a health practitioner licensed to "administer" a drug. In the context of the introductory language of subsection (a) of this section, the relevant authority is the authority to "prescribe" a drug.

As to subsection (c) of this section, the language of former Article 43, § 189C(a) was ambiguous as to whether the requirement for the pharmacist to write out a refill order promptly applied both when the refill was authorized in the original prescription and when the refill was authorized by an oral order of the health practitioner or if the requirement applied only if the refill was authorized by an oral order. The Commission to Revise the Annotated Code concluded that the correct interpretation was that the pharmacist was required to write out a refill order only if an oral order was used, and the provision is revised accordingly.

Read literally, former Article 43, § 189C(c) would permit the Secretary to exempt from the requirements of this section any new drug and any other drug "in package form". In the view of the Commission to Revise the Annotated Code, there is no evidence of legislative purpose to differentiate between drugs in package form from other drugs with respect to prescription requirements. Therefore, in subsection (f)(2) of this section, "any drug" is substituted for "drugs subject to § 189B(2) and § 189D". This revision is called to the attention of the General Assembly.