

(2) THE MAILING OF A RULE OR REGULATION UNDER THIS SUBSECTION IS CONCLUSIVE EVIDENCE OF NOTICE.

REVISOR'S NOTE: This section is new language derived without substantive change from the last clause of the first sentence and the entire second sentence of former Article 43, § 278 and § 280(a) and the first clause of (b).

Subsection (a)(1) of this section is new language added to state expressly what is implied from the reference to orders by the Department in the second paragraph of former Article 43, § 280.

In subsection (a) of this section, the former phrases "whenever in its opinion," and "whenever in the opinion of the said State Department of Health," are deleted as unnecessary.

In subsection (a)(2)(i) of this section, the defined term "authorized prescriber" is substituted for "a lawfully authorized practitioner of medicine or of veterinary medicine or of dentistry". See the revisor's note to § 5-101(b) of this subtitle.

In subsection (a)(2)(ii) of this section, the former phrase "which said rules and regulations must be applicable to all persons alike" is deleted as unnecessary.

Also in subsection (a)(2)(ii) of this section, the former requirement that the rules or regulations adopted to further restrict or prohibit the sale of poisons should not be inconsistent with the provisions of this subtitle is deleted as unnecessary.

Also as to subsection (a) of this section, former Article 43, § 280 contained an ambiguity as to the authority of the Department to adopt rules and regulations that prohibit the sale of poisons. The former section gave the Department authority to regulate the sale of any poison "subject to the provisions of this subtitle" unless the sale was by prescription. This authority was tied to the standard of "protection of the public". The former section also provided that, using the standard of the "interest of the public health", the Department could further restrict or prohibit the "retail sale of any poison, which said rules and regulations must be applicable to all persons alike". The Department has interpreted this to be a grant of authority to regulate poisons not specifically enumerated