

§ 106-145.2. Definitions.

The following definitions apply in this Article:

- (1) Blood. – Whole blood collected from a single donor and processed either for transfusion or further manufacturing.
- (2) Blood component. – That part of blood separated by physical or mechanical means.
- (3) Commissioner. – The Commissioner of Agriculture.
- (4) Common control. – The power to direct or cause the direction of the management and policies of a person, whether by ownership of stock, by voting rights, by contract, or otherwise.
- (5) Department. – The Department of Agriculture and Consumer Services.
- (6) Drug sample. – A unit of a prescription drug that is not intended to be sold and is intended to promote the sale of the drug.
- (7) Manufacturer. – A person who is engaged in manufacturing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling a prescription drug.
- (8) Person. – An individual, a corporation, a partnership, or any other entity.
- (9) Prescription drug. – A human drug required by federal law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients subject to 21 U.S.C. § 353(b). Only for the purposes of the provisions of this Article, the term "prescription drug" shall include pseudoephedrine products as defined in G.S. 90-113.51 that may be dispensed without a prescription.
- (10) Wholesale distribution. – Distribution of a prescription drug to a person who is not a consumer or patient, other than any of the following types of distributions:
 - a. Intracompany sales. An intracompany sale is a transaction or transfer between any divisions, subsidiary and parent companies, or affiliated companies under common control of the same corporate entity.
 - b. The purchase or other acquisition of a prescription drug by a hospital or other health care entity that is a member of a group purchasing organization for its own use from the group purchasing organization or from other hospitals or other health care entities that are members of these organizations.
 - c. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug by a charitable organization described in section 501(c)(3) of the Internal Revenue Code to a nonprofit affiliate of the organization to the extent otherwise permitted by law.
 - d. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug among hospitals or other health care entities that are under common control.
 - e. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug for emergency medical reasons. Emergency medical reasons include transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage when the gross dollar value of the transfers does not exceed five percent (5%) of the total prescription drug sales

- revenue of either the transferor or transferee pharmacy during any 12-consecutive-month period.
- f. The sale, purchase, or trade of a prescription drug; an offer to sell, purchase, or trade a prescription drug; or the dispensing of a prescription drug pursuant to a prescription.
 - g. The distribution of drug samples by a representative of a manufacturer or a wholesale distributor.
 - h. The sale, purchase, or trade of blood and blood components intended for transfusion.
- (11) Wholesale distributor. – A person who is engaged in the wholesale distribution of prescription drugs. The term includes manufacturers, repackers, own-label distributors, private-label distributors, jobbers, brokers, warehouses, independent wholesale drug traders, and retail pharmacies that conduct wholesale distributions. The term does not include a person who acquires prescription drugs commingled with other goods as part of a recovery operation and who disposes of such drugs under the supervision of the Department. A warehouse includes a warehouse of a manufacturer or wholesale distributor, a chain drug warehouse, and a wholesale drug warehouse. (1991, c. 699, s. 2; 1997-261, s. 35; 2005-434, s. 2.)