

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 513

Introduced by Fulton, 29

Read first time January 17, 2007

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to public health and welfare; to amend section
2 71-148, Reissue Revised Statutes of Nebraska; to provide
3 requirements for billing for anatomic pathology services;
4 to provide that violation of such requirement constitutes
5 unprofessional conduct under the Uniform Licensing Law;
6 and to repeal the original section.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) For purposes of this section, anatomic
2 pathology services means:

3 (a) Histopathology or surgical pathology meaning the
4 gross and microscopic examination and histologic processing of
5 organ tissue performed by a physician or under the supervision of
6 a physician;

7 (b) Cytopathology meaning the examination of cells from
8 the following: (i) fluids; (ii) aspirates; (iii) washings; (iv)
9 brushings; or (v) smears, including the Pap test examination
10 performed by a physician or under the supervision of a physician;

11 (c) Hematology meaning the microscopic evaluation of bone
12 marrow aspirates and biopsies performed by a physician, or under
13 the supervision of a physician, and peripheral blood smears when
14 the attending or treating physician or technologist requests that a
15 blood smear be reviewed by the pathologist;

16 (d) Sub-cellular pathology and molecular pathology; and

17 (e) Blood-banking services performed by pathologists.

18 (2) A clinical laboratory or physician located in this
19 state or in another state and providing anatomic pathology services
20 for patients in this state shall present or cause to be presented
21 a claim, bill, or demand for payment for the anatomic pathology
22 services only to the following:

23 (a) The patient directly;

24 (b) The responsible insurer or other third-party payor;

25 (c) The hospital, public health clinic, or nonprofit

1 health clinic ordering such services;

2 (d) The referring laboratory, other than a laboratory of
3 a physician's office or group practice that does not perform the
4 professional component of the anatomic pathology service for which
5 such claim, bill, or demand is presented; or

6 (e) Governmental agencies or their specified public or
7 private agent, agency, or organization on behalf of the recipient
8 of the services.

9 (3) Except as provided under subdivision (6) of this
10 section, no licensed practitioner in the state shall, directly or
11 indirectly, charge, bill, or otherwise solicit payment for anatomic
12 pathology services unless such services were rendered personally
13 by the licensed practitioner or under the licensed practitioner's
14 direct supervision in accordance with section 353 of the Public
15 Health Service Act, 42 U.S.C. 263a, as such section existed on the
16 effective date of this act.

17 (4) No patient, insurer, third-party payor, hospital,
18 public health clinic, or nonprofit health clinic shall be required
19 to reimburse any licensed practitioner for charges or claims
20 submitted in violation of this section.

21 (5) Nothing in this section shall be construed to mandate
22 the assignment of benefits for anatomic pathology services.

23 (6) This section does not prohibit billing of a referring
24 laboratory for anatomic pathology services in instances in which
25 a sample or samples must be sent to another specialist, except

1 that for purposes of this subsection, referring laboratory does
2 not include a laboratory of a physician's office or group practice
3 that does not perform the professional component of the anatomic
4 pathology service involved.

5 Sec. 2. Section 71-148, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-148 For purposes of section 71-147, unprofessional
8 conduct means any departure from or failure to conform to the
9 standards of acceptable and prevailing practice of a profession
10 or occupation or the ethics of the profession or occupation,
11 regardless of whether a person, patient, or entity is injured, or
12 conduct that is likely to deceive or defraud the public or is
13 detrimental to the public interest, including, but not limited to:

14 (1) Solicitation of professional patronage by agents or
15 persons, popularly known as cappers or steerers, or profiting by
16 the acts of those representing themselves to be agents of the
17 licensee, certificate holder, or registrant;

18 (2) Receipt of fees on the assurance that a manifestly
19 incurable disease can be permanently cured;

20 (3) Division of fees, or agreeing to split or divide
21 the fees, received for professional services with any person for
22 bringing or referring a patient;

23 (4) Obtaining any fee for professional services by
24 fraud, deceit, or misrepresentation, including, but not limited
25 to, falsification of third-party claim documents;

1 (5) Cheating on or attempting to subvert the licensing or
2 certification examination;

3 (6) Assisting in the care or treatment of a patient
4 without the consent of such patient or his or her legal
5 representative;

6 (7) Use of any letters, words, or terms, either as a
7 prefix, affix, or suffix, on stationery, in advertisements, or
8 otherwise, indicating that such person is entitled to practice a
9 system or mode of healing for which he or she is not licensed,
10 certified, or registered;

11 (8) Performing, procuring, or aiding and abetting in the
12 performance or procurement of a criminal abortion;

13 (9) Willful betrayal of a professional secret except as
14 otherwise provided by law;

15 (10) Making use of any advertising statements of a
16 character tending to deceive or mislead the public;

17 (11) Advertising professional superiority or the
18 performance of professional services in a superior manner;

19 (12) Advertising to guarantee any professional service or
20 to perform any operations painlessly;

21 (13) Performance by a physician of an abortion as defined
22 in subdivision (1) of section 28-326 under circumstances when he
23 or she will not be available for a period of at least forty-eight
24 hours for postoperative care unless such postoperative care is
25 delegated to and accepted by another physician;

1 (14) Performing an abortion upon a minor without having
2 satisfied the notice requirements of sections 71-6901 to 71-6908;

3 (15) The intentional and knowing performance of a
4 partial-birth abortion as defined in subdivision (9) of section
5 28-326, unless such procedure is necessary to save the life of the
6 mother whose life is endangered by a physical disorder, physical
7 illness, or physical injury, including a life-endangering physical
8 condition caused by or arising from the pregnancy itself;

9 (16) The providing by a massage therapist of sexual
10 stimulation as part of massage therapy;

11 (17) Violating an assurance of compliance entered into
12 under section 71-171.02;

13 (18) Commission of any act of sexual abuse, misconduct,
14 or exploitation related to the practice of the profession or
15 occupation of the applicant, licensee, certificate holder, or
16 registrant;

17 (19) Failure to keep and maintain adequate records of
18 treatment or service;

19 (20) Prescribing, administering, distributing,
20 dispensing, giving, or selling any controlled substance or other
21 drug recognized as addictive or dangerous for other than a
22 medically accepted therapeutic purpose;

23 (21) Prescribing any controlled substance to oneself or,
24 except in the case of a medical emergency, to one's spouse or
25 child; and

1 (22) Such other acts as may be defined in rules and
2 regulations adopted and promulgated by the board of examiners in
3 the profession of the applicant, licensee, certificate holder, or
4 registrant with the approval of the department; and -

5 (23) Violating section 1 of this act.

6 Nothing in this section shall be construed to exclude
7 determination of additional conduct that is unprofessional by
8 adjudication in individual contested cases.

9 Sec. 3. Original section 71-148, Reissue Revised Statutes
10 of Nebraska, is repealed.