

AMENDMENTS TO LB783

Introduced by Health and Human Services.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 38-2025, Revised Statutes Cumulative Supplement,
4 2018, is amended to read:

5 38-2025 The following classes of persons shall not be construed to
6 be engaged in the unauthorized practice of medicine:

7 (1) Persons rendering gratuitous services in cases of emergency;

8 (2) Persons administering ordinary household remedies;

9 (3) The members of any church practicing its religious tenets,
10 except that they shall not prescribe or administer drugs or medicines,
11 perform surgical or physical operations, nor assume the title of or hold
12 themselves out to be physicians, and such members shall not be exempt
13 from the quarantine laws of this state;

14 (4) Students of medicine who are studying in an accredited school or
15 college of medicine and who gratuitously prescribe for and treat disease
16 under the supervision of a licensed physician;

17 (5) Physicians who serve in the armed forces of the United States or
18 the United States Public Health Service or who are employed by the United
19 States Department of Veterans Affairs or other federal agencies, if their
20 practice is limited to that service or employment;

21 (6) Physicians who are licensed in good standing to practice
22 medicine under the laws of another state when incidentally called into
23 this state or contacted via electronic or other medium for consultation
24 with a physician licensed in this state. For purposes of this
25 subdivision, consultation means evaluating the medical data of the
26 patient as provided by the treating physician and rendering a
27 recommendation to such treating physician as to the method of treatment

1 or analysis of the data. The interpretation of a radiological image by a
2 physician who specializes in radiology is not a consultation;

3 (7) Physicians who are licensed in good standing to practice
4 medicine in another state but who, from such other state, order
5 diagnostic or therapeutic services on an irregular or occasional basis,
6 to be provided to an individual in this state, if such physicians do not
7 maintain and are not furnished for regular use within this state any
8 office or other place for the rendering of professional services or the
9 receipt of calls;

10 (8) Physicians who are licensed in good standing to practice
11 medicine in another state and who, on an irregular and occasional basis,
12 are granted temporary hospital privileges to practice medicine and
13 surgery at a hospital or other medical facility licensed in this state;

14 (9) Persons providing or instructing as to use of braces, prosthetic
15 appliances, crutches, contact lenses, and other lenses and devices
16 prescribed by a physician licensed to practice medicine while working
17 under the direction of such physician;

18 (10) Dentists practicing their profession when licensed and
19 practicing in accordance with the Dentistry Practice Act;

20 (11) Optometrists practicing their profession when licensed and
21 practicing under and in accordance with the Optometry Practice Act;

22 (12) Osteopathic physicians practicing their profession if licensed
23 and practicing under and in accordance with sections 38-2029 to 38-2033;

24 (13) Chiropractors practicing their profession if licensed and
25 practicing under the Chiropractic Practice Act;

26 (14) Podiatrists practicing their profession when licensed to
27 practice in this state and practicing under and in accordance with the
28 Podiatry Practice Act;

29 (15) Psychologists practicing their profession when licensed to
30 practice in this state and practicing under and in accordance with the
31 Psychology Interjurisdictional Compact or the Psychology Practice Act;

1 (16) Advanced practice registered nurses practicing in their
2 clinical specialty areas when licensed under the Advanced Practice
3 Registered Nurse Practice Act and practicing under and in accordance with
4 their respective practice acts;

5 (17) Surgical first assistants practicing in accordance with the
6 Surgical First Assistant Practice Act;

7 (18) Persons licensed or certified under the laws of this state to
8 practice a limited field of the healing art, not specifically named in
9 this section, when confining themselves strictly to the field for which
10 they are licensed or certified, not assuming the title of physician,
11 surgeon, or physician and surgeon, and not professing or holding
12 themselves out as qualified to prescribe drugs in any form or to perform
13 operative surgery;

14 (19) Persons obtaining blood specimens while working under an order
15 of or protocols and procedures approved by a physician, registered nurse,
16 or other independent health care practitioner licensed to practice by the
17 state if the scope of practice of that practitioner permits the
18 practitioner to obtain blood specimens;

19 (20) Physicians who are licensed in good standing to practice
20 medicine under the laws of another state or jurisdiction who accompany an
21 athletic team or organization into this state for an event from the state
22 or jurisdiction of licensure. This exemption is limited to treatment
23 provided to such athletic team or organization while present in Nebraska;
24 and

25 (21) Persons who are not licensed, certified, or registered under
26 the Uniform Credentialing Act, to whom are assigned tasks by a physician
27 or osteopathic physician licensed under the Medicine and Surgery Practice
28 Act, if such assignment of tasks is in a manner consistent with accepted
29 medical standards and appropriate to the skill and training, on the job
30 or otherwise, of the persons to whom the tasks are assigned. For purposes
31 of this subdivision, assignment of tasks means the routine care,

1 activities, and procedures that (a) are part of the routine functions of
2 such persons who are not so licensed, certified, or registered, (b)
3 reoccur frequently in the care of a patient or group of patients, (c) do
4 not require such persons who are not so licensed, certified, or
5 registered to exercise independent clinical judgment, (d) do not require
6 the performance of any complex task, (e) have results which are
7 predictable and have minimal potential risk, and (f) utilize a standard
8 and unchanging procedure; and

9 (22) ~~(21)~~ Other trained persons employed by a licensed health care
10 facility or health care service defined in the Health Care Facility
11 Licensure Act or clinical laboratory certified pursuant to the federal
12 Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII
13 or XIX of the federal Social Security Act to withdraw human blood for
14 scientific or medical purposes.

15 Any person who has held or applied for a license to practice
16 medicine and surgery in this state, and such license or application has
17 been denied or such license has been refused renewal or disciplined by
18 order of limitation, suspension, or revocation, shall be ineligible for
19 the exceptions described in subdivisions (5) through (8) of this section
20 until such license or application is granted or such license is renewed
21 or reinstated. Every act or practice falling within the practice of
22 medicine and surgery as defined in section 38-2024 and not specially
23 excepted in this section shall constitute the practice of medicine and
24 surgery and may be performed in this state only by those licensed by law
25 to practice medicine in Nebraska.

26 Sec. 2. Section 71-405, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 71-405 (1) Ambulatory surgical center means a facility (a) where
29 surgical services are provided to persons not requiring hospitalization
30 who are ~~admitted to and~~ discharged from such facility within twenty-three
31 hours and fifty-nine minutes from the time of admission the same working

1 ~~day and are not permitted to stay overnight at such facility,~~ (b) which
2 meets all applicable requirements for licensure as a health clinic under
3 the Health Care Facility Licensure Act, and (c) which has qualified for a
4 written agreement with the Health Care Financing Administration of the
5 United States Department of Health and Human Services or its successor to
6 participate in medicare as an ambulatory surgical center as defined in 42
7 C.F.R. 416 et seq. or which receives other third-party reimbursement for
8 such services.

9 (2) Ambulatory surgical center does not include an office or clinic
10 used solely by a practitioner or group of practitioners in the practice
11 of medicine, dentistry, or podiatry.

12 Sec. 3. Section 71-7910.01, Revised Statutes Supplement, 2019, is
13 amended to read:

14 71-7910.01 Professional health care service entity means an entity
15 which is organized under the Nebraska Nonprofit Corporation Act, ~~for~~
16 ~~purposes of rendering professional services pursuant to~~ the Nebraska
17 Professional Corporation Act, the Nebraska Uniform Limited Liability
18 Company Act, or the Uniform Partnership Act of 1998 and which renders
19 health care services through individuals credentialed under the Uniform
20 Credentialing Act.

21 Sec. 4. Original section 71-405, Reissue Revised Statutes of
22 Nebraska, section 38-2025, Revised Statutes Cumulative Supplement, 2018,
23 and section 71-7910.01, Revised Statutes Supplement, 2019, are repealed.