

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 557

Introduced by Lindstrom, 18; Howard, 9.

Read first time January 22, 2019

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to controlled substances; to amend sections
2 28-473, 28-474, and 38-101, Revised Statutes Cumulative Supplement,
3 2018; to change duties for practitioners related to certain
4 prescriptions; to exempt certain prescriptions from requirements; to
5 transfer provisions to the Uniform Credentialing Act; to harmonize
6 provisions; and to repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-101, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 38-101 Sections 38-101 to 38-1,142 and sections 2 and 3 of this act
4 and the following practice acts shall be known and may be cited as the
5 Uniform Credentialing Act:

- 6 (1) The Advanced Practice Registered Nurse Practice Act;
- 7 (2) The Alcohol and Drug Counseling Practice Act;
- 8 (3) The Athletic Training Practice Act;
- 9 (4) The Audiology and Speech-Language Pathology Practice Act;
- 10 (5) The Certified Nurse Midwifery Practice Act;
- 11 (6) The Certified Registered Nurse Anesthetist Practice Act;
- 12 (7) The Chiropractic Practice Act;
- 13 (8) The Clinical Nurse Specialist Practice Act;
- 14 (9) The Cosmetology, Electrology, Esthetics, Nail Technology, and
15 Body Art Practice Act;
- 16 (10) The Dentistry Practice Act;
- 17 (11) The Dialysis Patient Care Technician Registration Act;
- 18 (12) The Emergency Medical Services Practice Act;
- 19 (13) The Environmental Health Specialists Practice Act;
- 20 (14) The Funeral Directing and Embalming Practice Act;
- 21 (15) The Genetic Counseling Practice Act;
- 22 (16) The Hearing Instrument Specialists Practice Act;
- 23 (17) The Licensed Practical Nurse-Certified Practice Act until
24 November 1, 2017;
- 25 (18) The Massage Therapy Practice Act;
- 26 (19) The Medical Nutrition Therapy Practice Act;
- 27 (20) The Medical Radiography Practice Act;
- 28 (21) The Medicine and Surgery Practice Act;
- 29 (22) The Mental Health Practice Act;
- 30 (23) The Nurse Practice Act;
- 31 (24) The Nurse Practitioner Practice Act;

- 1 (25) The Nursing Home Administrator Practice Act;
- 2 (26) The Occupational Therapy Practice Act;
- 3 (27) The Optometry Practice Act;
- 4 (28) The Perfusion Practice Act;
- 5 (29) The Pharmacy Practice Act;
- 6 (30) The Physical Therapy Practice Act;
- 7 (31) The Podiatry Practice Act;
- 8 (32) The Psychology Practice Act;
- 9 (33) The Respiratory Care Practice Act;
- 10 (34) The Surgical First Assistant Practice Act;
- 11 (35) The Veterinary Medicine and Surgery Practice Act; and
- 12 (36) The Water Well Standards and Contractors' Practice Act.

13 If there is any conflict between any provision of sections 38-101 to
14 38-1,142 and sections 2 and 3 of this act and any provision of a practice
15 act, the provision of the practice act shall prevail.

16 The Revisor of Statutes shall assign the Uniform Credentialing Act,
17 including the practice acts enumerated in subdivisions (1) through (35)
18 of this section, to articles within Chapter 38.

19 Sec. 2. Section 28-473, Revised Statutes Cumulative Supplement,
20 2018, is amended to read:

21 28-473 (1) For purposes of this section, practitioner means a
22 physician, a physician assistant, a dentist, a veterinarian, a
23 pharmacist, a podiatrist, an optometrist, a certified nurse midwife, a
24 certified registered nurse anesthetist, a nurse practitioner, a
25 scientific investigator, a pharmacy, a hospital, or any other person
26 licensed, registered, or otherwise permitted to distribute, dispense,
27 prescribe, conduct research with respect to, or administer a controlled
28 substance in the course of practice or research in this state, including
29 an emergency medical service as defined in section 38-1207.

30 (2) ~~(1)~~ When prescribing a controlled substance listed in Schedule
31 II of section 28-405 or any other opiate as defined in section 28-401 not

1 listed in Schedule II, prior to issuing the practitioner's initial
2 prescription for a course of treatment for acute or chronic pain—and
3 ~~again prior to the practitioner's third prescription for such course of~~
4 ~~treatment,~~ a practitioner involved in the course of treatment as the
5 primary prescribing practitioner or as a member of the patient's care
6 team who is under the direct supervision or in consultation with the
7 primary prescribing practitioner shall discuss with the patient, or the
8 patient's parent or guardian if the patient is younger than eighteen
9 years of age and is not emancipated, unless the discussion has already
10 occurred with another member of the patient's care team within the
11 previous sixty days:

12 (a) The risks of addiction and overdose associated with the
13 controlled substance or opiate being prescribed, including, but not
14 limited to:

15 (i) Controlled substances and opiates are highly addictive even when
16 taken as prescribed;

17 (ii) There is a risk of developing a physical or psychological
18 dependence on the controlled substance or opiate; and

19 (iii) Taking more controlled substances or opiates than prescribed,
20 or mixing sedatives, benzodiazepines, or alcohol with controlled
21 substances or opiates, can result in fatal respiratory depression;

22 (b) The reasons why the prescription is necessary; and

23 (c) Alternative treatments that may be available.

24 (3) This section does not apply to a prescription for a hospice
25 patient or for a course of treatment for cancer or palliative care.

26 (4) (2) This section terminates on January 1, 2029.

27 Sec. 3. Section 28-474, Revised Statutes Cumulative Supplement,
28 2018, is amended to read:

29 28-474 (1) For purposes of this section, practitioner means a
30 physician, a physician assistant, a dentist, a veterinarian, a
31 pharmacist, a podiatrist, an optometrist, a certified nurse midwife, a

1 certified registered nurse anesthetist, a nurse practitioner, a
2 scientific investigator, a pharmacy, a hospital, or any other person
3 licensed, registered, or otherwise permitted to distribute, dispense,
4 prescribe, conduct research with respect to, or administer a controlled
5 substance in the course of practice or research in this state, including
6 an emergency medical service as defined in section 38-1207.

7 (2) ~~(1)~~ The Legislature finds that:

8 (a) In most cases, acute pain can be treated effectively with
9 nonopiate or nonpharmacological options;

10 (b) With a more severe or acute injury, short-term use of opiates
11 may be appropriate;

12 (c) Initial opiate prescriptions for children should not exceed
13 seven days for most situations, and two or three days of opiates will
14 often be sufficient;

15 (d) If a patient needs medication beyond three days, the prescriber
16 should reevaluate the patient prior to issuing another prescription for
17 opiates; and

18 (e) Physical dependence on opiates can occur within only a few weeks
19 of continuous use, so great caution needs to be exercised during this
20 critical recovery period.

21 ~~(3)~~ ~~(2)~~ A practitioner who is prescribing an opiate as defined in
22 section 28-401 for a patient younger than eighteen years of age for
23 outpatient use for an acute condition shall not prescribe more than a
24 seven-day supply except as otherwise provided in subsection ~~(4)~~ ~~(3)~~ of
25 this section and, if the practitioner has not previously prescribed an
26 opiate for such patient, shall discuss with a parent or guardian of such
27 patient, or with the patient if the patient is an emancipated minor, the
28 risks associated with use of opiates and the reasons why the prescription
29 is necessary.

30 ~~(4)~~ ~~(3)~~ If, in the professional medical judgment of the
31 practitioner, more than a seven-day supply of an opiate is required to

1 treat such patient's medical condition or is necessary for the treatment
2 of pain associated with a cancer diagnosis or for palliative care, the
3 practitioner may issue a prescription for the quantity needed to treat
4 such patient's medical condition or pain. The practitioner shall document
5 the medical condition triggering the prescription of more than a seven-
6 day supply of an opiate in the patient's medical record and shall
7 indicate that a nonopiate alternative was not appropriate to address the
8 medical condition.

9 (5) ~~(4)~~ This section does not apply to controlled substances
10 prescribed pursuant to section 28-412.

11 (6) ~~(5)~~ This section terminates on January 1, 2029.

12 Sec. 4. Original sections 28-473, 28-474, and 38-101, Revised
13 Statutes Cumulative Supplement, 2018, are repealed.