

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1065

Introduced by Halloran, 33.

Read first time January 21, 2020

Committee:

1 A BILL FOR AN ACT relating to prescription drugs; to amend sections
2 38-2871 and 71-2483, Reissue Revised Statutes of Nebraska, sections
3 38-2866.01, 38-2891, and 38-28,106, Revised Statutes Cumulative
4 Supplement, 2018, and section 38-2891.01, Revised Statutes
5 Supplement, 2019; to change provisions regarding supervision of
6 pharmacy technicians and pharmacy interns and transfer of
7 prescriptions between pharmacies; to provide and change powers of
8 pharmacy technicians; to authorize communication of prescriptions
9 for prescribing practitioners; and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-2866.01, Revised Statutes Cumulative
2 Supplement, 2018, is amended to read:

3 38-2866.01 A pharmacist may supervise any combination of pharmacy
4 technicians and pharmacist interns at any time ~~up to a total of three~~
5 ~~people~~. A pharmacist intern shall be supervised at all times while
6 performing the functions of a pharmacist intern which may include all
7 aspects of the practice of pharmacy unless otherwise restricted. This
8 section does not apply to a pharmacist intern who is receiving
9 experiential training directed by the accredited pharmacy program in
10 which he or she is enrolled.

11 Sec. 2. Section 38-2871, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 38-2871 (1) Original prescription information for any controlled
14 substances listed in Schedule III, IV, or V of section 28-405 and other
15 prescription drugs or devices not listed in section 28-405 may be
16 transferred between pharmacies for the purpose of refill dispensing on a
17 one-time basis, except that pharmacies electronically sharing a real-
18 time, online data base may transfer up to the maximum refills permitted
19 by law and as authorized by the prescribing practitioner on the
20 prescription. Transfers are subject to the following:

21 (a) The transfer is communicated directly between two pharmacists,
22 ~~or~~ pharmacist interns, or pharmacy technicians, except when the
23 pharmacies can use a real-time, online data base;

24 (b) The transferring pharmacist, ~~or~~ pharmacist intern, or pharmacy
25 technician indicates void on the record of the prescription;

26 (c) The transferring pharmacist, ~~or~~ pharmacist intern, or pharmacy
27 technician indicates on the record of the prescription the name and ~~the~~
28 address, ~~and, if a controlled substance, the Drug Enforcement~~
29 ~~Administration number~~ of the pharmacy to which the information was
30 transferred, the name of the pharmacist, ~~or~~ pharmacist intern, or
31 pharmacy technician receiving the information, the date of transfer, and

1 the name of the transferring pharmacist, ~~or~~ pharmacist intern, or
2 pharmacy technician, and, if a controlled substance, the Drug Enforcement
3 Administration number of the pharmacy to which the information was
4 transferred by the direct communication between two pharmacists;

5 (d) The receiving pharmacist, ~~or~~ pharmacist intern, or pharmacy
6 technician indicates on the record of the transferred prescription that
7 the prescription is transferred;

8 (e) The transferred prescription includes the following information:

9 (i) The date of issuance of the original prescription;

10 (ii) The original number of refills authorized;

11 (iii) The date of original dispensing;

12 (iv) The number of valid refills remaining;

13 (v) The date and location of last refill; and

14 (vi) The name and ~~the~~ address, ~~and, if a controlled substance, the~~
15 ~~Drug Enforcement Administration number~~ of the pharmacy from which the
16 transfer was made, the name of the pharmacist, ~~or~~ pharmacist intern, or
17 pharmacy technician transferring the information, the original
18 prescription number, ~~and~~ the date of transfer, and, if a controlled
19 substance, the Drug Enforcement Administration number of the pharmacy
20 from which the transfer was made by the direct communication between the
21 two pharmacists; and

22 (f) Both the original and transferred prescriptions must be
23 maintained by the transferring and receiving pharmacy for a period of
24 five years from the date of transfer.

25 (2) Nothing in this section shall prevent a pharmacist from
26 forwarding an original prescription for a noncontrolled substance to
27 another pharmacy at the request of the patient or the patient's
28 caregiver. An original prescription for a controlled substance shall not
29 be forwarded to another pharmacy unless permitted under 21 C.F.R.
30 1306.25.

31 Sec. 3. Section 38-2891, Revised Statutes Cumulative Supplement,

1 2018, is amended to read:

2 38-2891 (1) A pharmacy technician shall only perform tasks which do
3 not require the professional judgment of a pharmacist and which are
4 subject to verification to assist a pharmacist in the practice of
5 pharmacy.

6 (2) The functions and tasks which shall not be performed by pharmacy
7 technicians include, but are not limited to:

8 (a) Receiving oral medical orders from a practitioner or his or her
9 agent except as otherwise provided in subsection (3) of section 38-2870;

10 (b) Providing patient counseling;

11 (c) Performing any evaluation or necessary clarification of a
12 medical order requiring the clinical judgment of a pharmacist or
13 performing any functions other than strictly clerical functions involving
14 a medical order;

15 (d) Supervising or verifying the tasks and functions of pharmacy
16 technicians;

17 (e) Interpreting or evaluating the data contained in a patient's
18 record maintained pursuant to section 38-2869;

19 (f) Releasing any confidential information maintained by the
20 pharmacy;

21 (g) Performing any professional consultations; and

22 (h) Drug product selection, with regard to an individual medical
23 order, in accordance with the Nebraska Drug Product Selection Act.

24 (3) The director shall, with the recommendation of the board, waive
25 any of the limitations in subsection (2) of this section for purposes of
26 a scientific study of the role of pharmacy technicians approved by the
27 board. Such study shall be based upon providing improved patient care or
28 enhanced pharmaceutical care. Any such waiver shall state the length of
29 the study and shall require that all study data and results be made
30 available to the board upon the completion of the study. Nothing in this
31 subsection requires the board to approve any study proposed under this

1 subsection.

2 Sec. 4. Section 38-2891.01, Revised Statutes Supplement, 2019, is
3 amended to read:

4 38-2891.01 (1) A pharmacy technician may validate the acts, tasks,
5 and functions of another pharmacy technician only if:

6 (a) Both pharmacy technicians are certified by a state or national
7 certifying body which is approved by the board;

8 (b) Both certified pharmacy technicians are working within the
9 confines of a hospital preparing medications for administration in the
10 hospital or are working within a pharmacy licensed by the department
11 under the supervision of a pharmacist;

12 (c) Using bar code technology, radio frequency identification
13 technology, or similar technology to validate the accuracy of medication;

14 (d) Validating medication that is prepackaged by the manufacturer,
15 ~~or~~ prepackaged and verified by a pharmacist, or verified using technology
16 pursuant to subdivision (c) of this subsection; and

17 (e) Acting in accordance with policies and procedures applicable in
18 the hospital or pharmacy established by the pharmacist in charge.

19 (2) The pharmacist in charge in a hospital or a pharmacy licensed by
20 the department shall establish policies and procedures for validation of
21 medication by two or more certified pharmacy technicians before such
22 validation process is implemented in the hospital or pharmacy.

23 Sec. 5. Section 38-28,106, Revised Statutes Cumulative Supplement,
24 2018, is amended to read:

25 38-28,106 An employee or agent of a prescribing practitioner may
26 communicate a prescription, chart order, or refill authorization issued
27 by the prescribing practitioner to a pharmacist or a pharmacist intern
28 except for an emergency oral authorization for a controlled substance
29 listed in Schedule II of section 28-405. An employee or agent of a
30 prescribing practitioner may communicate a prescription or a refill
31 authorization issued by the prescribing practitioner to a pharmacy

1 technician.

2 Sec. 6. Section 71-2483, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 71-2483 An employee or agent of a prescribing practitioner may
5 communicate a prescription, chart order, or refill authorization issued
6 by the prescribing practitioner to a pharmacist or a pharmacist intern
7 except for an emergency oral authorization for a controlled substance
8 listed in Schedule II of section 28-405. An employee or agent of a
9 prescribing practitioner may communicate a prescription or a refill
10 authorization issued by the prescribing practitioner to a pharmacy
11 technician.

12 Sec. 7. Original sections 38-2871 and 71-2483, Reissue Revised
13 Statutes of Nebraska, sections 38-2866.01, 38-2891, and 38-28,106,
14 Revised Statutes Cumulative Supplement, 2018, and section 38-2891.01,
15 Revised Statutes Supplement, 2019, are repealed.