

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 489

Introduced by Howard, 9.

Read first time January 22, 2019

Committee:

1 A BILL FOR AN ACT relating to public health and welfare; to amend section
2 71-2454, Reissue Revised Statutes of Nebraska, and section 38-101,
3 Revised Statutes Cumulative Supplement, 2018; to require certain
4 credential holders to register for the prescription drug monitoring
5 system; to harmonize provisions; and to repeal the original
6 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 section 2 of this act and the
4 following practice acts shall be known and may be cited as the Uniform
5 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 section 2 of this act and any provision of a practice act,
15 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. (1) Each credential holder under the Uniform Credentialing
20 Act and each applicant for a credential under the act shall register with
21 the department for the prescription drug monitoring system established
22 pursuant to section 71-2454 if the credential holder is a dispenser or
23 prescriber as defined in section 71-2454.

24 (2) The department shall establish a system of registration for each
25 such credential holder. The registration shall be valid for the term of
26 the credential, and renewal of the registration shall be a condition of
27 renewal of the credential. The registration is required within one month
28 after issuance of the original or renewal credential or within one year
29 after the effective date of this act, whichever is later. There shall be
30 no fee charged for registration.

31 Sec. 3. Section 71-2454, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 71-2454 (1) An entity described in section 71-2455 shall establish a
3 system of prescription drug monitoring for the purposes of (a) preventing
4 the misuse of controlled substances that are prescribed and (b) allowing
5 prescribers and dispensers to monitor the care and treatment of patients
6 for whom such a prescription drug is prescribed to ensure that such
7 prescription drugs are used for medically appropriate purposes and that
8 the State of Nebraska remains on the cutting edge of medical information
9 technology.

10 (2) Such system of prescription drug monitoring shall be implemented
11 as follows: Except as provided in subsection (4) of this section,
12 beginning January 1, 2017, all dispensed prescriptions of controlled
13 substances shall be reported; and beginning January 1, 2018, all
14 prescription information shall be reported to the prescription drug
15 monitoring system. The prescription drug monitoring system shall include,
16 but not be limited to, provisions that:

17 (a) Prohibit any patient from opting out of the prescription drug
18 monitoring system;

19 (b) Require all prescriptions dispensed in this state or to an
20 address in this state to be entered into the system by the dispenser or
21 his or her designee daily after such prescription is dispensed, including
22 those for patients paying cash for such prescription drug or otherwise
23 not relying on a third-party payor for payment for the prescription drug;

24 (c) Allow all prescribers or dispensers of prescription drugs to
25 access the system at no cost to such prescriber or dispenser;

26 (d) Ensure that such system includes information relating to all
27 payors, including, but not limited to, the medical assistance program
28 established pursuant to the Medical Assistance Act; and

29 (e) Make the prescription information available to the statewide
30 health information exchange described in section 71-2455 for access by
31 its participants if such access is in compliance with the privacy and

1 security protections set forth in the provisions of the federal Health
2 Insurance Portability and Accountability Act of 1996, Public Law 104-191,
3 and regulations promulgated thereunder, except that if a patient opts out
4 of the statewide health information exchange, the prescription
5 information regarding that patient shall not be accessible by the
6 participants in the statewide health information exchange.

7 Dispensers may begin on February 25, 2016, to report dispensing of
8 prescriptions to the entity described in section 71-2455 which is
9 responsible for establishing the system of prescription drug monitoring.

10 (3) Except as provided in subsection (4) of this section,
11 prescription information that shall be submitted electronically to the
12 prescription drug monitoring system shall be determined by the entity
13 described in section 71-2455 and shall include, but not be limited to:

14 (a) The patient's name, address, and date of birth;

15 (b) The name and address of the pharmacy dispensing the
16 prescription;

17 (c) The date the prescription is issued;

18 (d) The date the prescription is filled;

19 (e) The name of the drug dispensed or the National Drug Code number
20 as published by the federal Food and Drug Administration of the drug
21 dispensed;

22 (f) The strength of the drug prescribed;

23 (g) The quantity of the drug prescribed and the number of days'
24 supply; and

25 (h) The prescriber's name and National Provider Identifier number or
26 Drug Enforcement Administration number when reporting a controlled
27 substance.

28 (4) Beginning July 1, 2018, a veterinarian licensed under the
29 Veterinary Medicine and Surgery Practice Act shall be required to report
30 a dispensed prescription of controlled substances listed on Schedule II,
31 Schedule III, or Schedule IV pursuant to section 28-405. Each such

1 veterinarian shall indicate that the prescription is an animal
2 prescription and shall include the following information in such report:

3 (a) The first and last name and address, including city, state, and
4 zip code, of the individual to whom the drug is dispensed in accordance
5 with a valid veterinarian-client-patient relationship;

6 (b) Reporting status;

7 (c) The first and last name of the prescribing veterinarian and his
8 or her federal Drug Enforcement Administration number;

9 (d) The name of the drug dispensed and the prescription number;

10 (e) The date the prescription is written and the date the
11 prescription is filled;

12 (f) The number of refills authorized, if any; and

13 (g) The quantity of the drug dispensed and the number of days'
14 supply.

15 (5)(a) All prescription drug information submitted pursuant to this
16 section, all data contained in the prescription drug monitoring system,
17 and any report obtained from data contained in the prescription drug
18 monitoring system are confidential, are privileged, are not public
19 records, and may be withheld pursuant to section 84-712.05.

20 (b) No patient-identifying data as defined in section 81-664,
21 including the data collected under subsection (3) of this section, shall
22 be disclosed, made public, or released to any public or private person or
23 entity except to the statewide health information exchange described in
24 section 71-2455 and its participants and to prescribers and dispensers as
25 provided in subsection (2) of this section.

26 (c) All other data is for the confidential use of the department and
27 the statewide health information exchange described in section 71-2455
28 and its participants. The department may release such information as
29 Class I, Class II, or Class IV data in accordance with section 81-667 to
30 the private or public persons or entities that the department determines
31 may view such records as provided in sections 81-663 to 81-675.

1 (6) Before accessing the prescription drug monitoring system, any
2 user shall undergo training on the purpose of the system, access to and
3 proper usage of the system, and the law relating to the system, including
4 confidentiality and security of the prescription drug monitoring system.
5 Such training shall be administered by the statewide health information
6 exchange described in section 71-2455 which shall have access to the
7 prescription drug monitoring system for training and administrative
8 purposes. Users who have been trained prior to May 10, 2017, are deemed
9 to be in compliance with the training requirement of this subsection.

10 (7) Each dispenser and each prescriber shall register with the
11 department for the prescription drug monitoring system as provided in
12 section 2 of this act.

13 (8) ~~(7)~~ For purposes of this section:

14 (a) Designee means any licensed or registered health care
15 professional credentialed under the Uniform Credentialing Act designated
16 by a prescriber or dispenser to act as an agent of the prescriber or
17 dispenser for purposes of submitting or accessing data in the
18 prescription drug monitoring system and who is supervised by such
19 prescriber or dispenser;

20 (b) Dispensed prescription means a prescription drug delivered to
21 the ultimate user by or pursuant to the lawful order of a prescriber but
22 does not include (i) the delivery of such prescription drug for immediate
23 use for purposes of inpatient hospital care or emergency department care,
24 (ii) the administration of a prescription drug by an authorized person
25 upon the lawful order of a prescriber, (iii) a wholesale distributor of a
26 prescription drug monitored by the prescription drug monitoring system,
27 or (iv) the dispensing to a nonhuman patient of a prescription drug which
28 is not a controlled substance listed in Schedule II, Schedule III,
29 Schedule IV, or Schedule V of section 28-405;

30 (c) Dispenser means a person authorized in the jurisdiction in which
31 he or she is practicing to deliver a prescription to the ultimate user by

1 or pursuant to the lawful order of a prescriber;

2 (d) Participant means an individual or entity that has entered into
3 a participation agreement with the statewide health information exchange
4 described in section 71-2455 which requires the individual or entity to
5 comply with the privacy and security protections set forth in the
6 provisions of the federal Health Insurance Portability and Accountability
7 Act of 1996, Public Law 104-191, and regulations promulgated thereunder;
8 and

9 (e) Prescriber means a health care professional authorized to
10 prescribe in the profession which he or she practices.

11 Sec. 4. Original section 71-2454, Reissue Revised Statutes of
12 Nebraska, and section 38-101, Revised Statutes Cumulative Supplement,
13 2018, are repealed.