

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 838

Introduced by Arch, 14.

Read first time January 08, 2020

Committee:

- 1 A BILL FOR AN ACT relating to the practice of medicine; to amend section
- 2 38-2025, Revised Statutes Cumulative Supplement, 2018; to provide an
- 3 exemption from licensure as prescribed; and to repeal the original
- 4 section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-2025, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 38-2025 The following classes of persons shall not be construed to
4 be engaged in the unauthorized practice of medicine:

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

6 (2) Persons administering ordinary household remedies;

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

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

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

19 (6) Physicians who are licensed in good standing to practice
20 medicine under the laws of another state when incidentally called into
21 this state or contacted via electronic or other medium for consultation
22 with a physician licensed in this state. For purposes of this
23 subdivision, consultation means evaluating the medical data of the
24 patient as provided by the treating physician and rendering a
25 recommendation to such treating physician as to the method of treatment
26 or analysis of the data. The interpretation of a radiological image by a
27 physician who specializes in radiology is not a consultation;

28 (7) Physicians who are licensed in good standing to practice
29 medicine in another state but who, from such other state, order
30 diagnostic or therapeutic services on an irregular or occasional basis,
31 to be provided to an individual in this state, if such physicians do not

1 maintain and are not furnished for regular use within this state any
2 office or other place for the rendering of professional services or the
3 receipt of calls;

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

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

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

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

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

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

20 (14) Podiatrists practicing their profession when licensed to
21 practice in this state and practicing under and in accordance with the
22 Podiatry Practice Act;

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

26 (16) Advanced practice registered nurses practicing in their
27 clinical specialty areas when licensed under the Advanced Practice
28 Registered Nurse Practice Act and practicing under and in accordance with
29 their respective practice acts;

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

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

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

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

19 (21) Persons who are not licensed, certified, or registered under
20 the Uniform Credentialing Act, to whom are assigned tasks by a physician
21 or osteopathic physician licensed under the Medicine and Surgery Practice
22 Act, if such assignment of tasks is in a manner consistent with accepted
23 medical standards and appropriate to the skill and training, on the job
24 or otherwise, of the persons to whom the tasks are assigned; and

25 (22) ~~(21)~~ Other trained persons employed by a licensed health care
26 facility or health care service defined in the Health Care Facility
27 Licensure Act or clinical laboratory certified pursuant to the federal
28 Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII
29 or XIX of the federal Social Security Act to withdraw human blood for
30 scientific or medical purposes.

31 Any person who has held or applied for a license to practice

1 medicine and surgery in this state, and such license or application has
2 been denied or such license has been refused renewal or disciplined by
3 order of limitation, suspension, or revocation, shall be ineligible for
4 the exceptions described in subdivisions (5) through (8) of this section
5 until such license or application is granted or such license is renewed
6 or reinstated. Every act or practice falling within the practice of
7 medicine and surgery as defined in section 38-2024 and not specially
8 excepted in this section shall constitute the practice of medicine and
9 surgery and may be performed in this state only by those licensed by law
10 to practice medicine in Nebraska.

11 Sec. 2. Original section 38-2025, Revised Statutes Cumulative
12 Supplement, 2018, is repealed.