

AMENDMENTS TO LB 341

Introduced by Cook, 13.

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

3 Section 1. Section 38-2315, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 38-2315 (1) A nurse practitioner may provide health
6 care services within specialty areas. A nurse practitioner shall
7 function by establishing collaborative, consultative, and referral
8 networks as appropriate with other health care professionals.
9 Patients who require care beyond the scope of practice of a
10 nurse practitioner shall be referred to an appropriate health care
11 provider.

12 (2) Nurse practitioner practice means health promotion,
13 health supervision, illness prevention and diagnosis, treatment,
14 and management of common health problems and chronic conditions,
15 including:

16 (a) Assessing patients, ordering diagnostic tests and
17 therapeutic treatments, synthesizing and analyzing data, and
18 applying advanced nursing principles;

19 (b) Dispensing, incident to practice only, sample
20 medications which are provided by the manufacturer and are
21 provided at no charge to the patient and drugs for the treatment
22 and prevention of tuberculosis which are provided through the
23 department and are dispensed at no charge to the patient; and

1 (c) Prescribing therapeutic measures and medications
2 relating to health conditions within the scope of practice. Any
3 limitation on the prescribing authority of the nurse practitioner
4 for controlled substances listed in Schedule II of section 28-405
5 shall be recorded in the integrated practice agreement established
6 pursuant to section 38-2310.

7 (3) A nurse practitioner who has proof of a current
8 certification from an approved certification program in a
9 psychiatric or mental health specialty may manage the care of
10 patients committed under the Nebraska Mental Health Commitment
11 Act. Patients who require care beyond the scope of practice of a
12 nurse practitioner who has proof of a current certification from an
13 approved certification program in a psychiatric or mental health
14 specialty shall be referred to an appropriate health care provider.

15 Sec. 2. Section 38-2850, Revised Statutes Supplement,
16 2009, is amended to read:

17 38-2850 As authorized by the Uniform Credentialing Act,
18 the practice of pharmacy may be engaged in by a pharmacist, a
19 pharmacist intern, or a practitioner with a pharmacy license. The
20 practice of pharmacy shall not be construed to include:

21 (1) Persons who sell, offer, or expose for sale
22 completely denatured alcohol or concentrated lye, insecticides, and
23 fungicides in original packages;

24 (2) Practitioners, other than veterinarians, certified
25 nurse midwives, certified registered nurse anesthetists, and nurse
26 practitioners, who dispense drugs or devices as an incident to
27 the practice of their profession, except that if such practitioner

1 regularly engages in dispensing such drugs or devices to his or
2 her patients for which such patients are charged, such practitioner
3 shall obtain a pharmacy license;

4 (3) Persons who sell, offer, or expose for sale
5 nonprescription drugs or proprietary medicines, the sale of which
6 is not in itself a violation of the Nebraska Liquor Control Act;

7 (4) Medical representatives, detail persons, or persons
8 known by some name of like import, but only to the extent of
9 permitting the relating of pharmaceutical information to health
10 care professionals;

11 (5) Licensed veterinarians practicing within the scope of
12 their profession;

13 (6) Certified nurse midwives, certified registered
14 nurse anesthetists, and nurse practitioners who dispense sample
15 medications which are provided by the manufacturer and are
16 dispensed at no charge to the patient;

17 (7) Nurse practitioners who dispense drugs for the
18 treatment and prevention of tuberculosis which are provided through
19 the department and are dispensed at no charge to the patient with
20 proper labeling and patient counseling;

21 ~~(7)~~ (8) Hospitals engaged in the compounding and
22 dispensing of drugs and devices pursuant to chart orders for
23 persons registered as patients and within the confines of the
24 hospital, except that if a hospital engages in such compounding and
25 dispensing for persons not registered as patients and within the
26 confines of the hospital, such hospital shall obtain a pharmacy
27 license or delegated dispensing permit;

1 ~~(8)~~ (9) Optometrists who prescribe or dispense eyeglasses
2 or contact lenses to their own patients;

3 ~~(9)~~ (10) Registered nurses employed by a hospital who
4 administer pursuant to a chart order, or procure for such
5 purpose, single doses of drugs or devices from original drug
6 or device containers or properly labeled prepackaged drug or
7 device containers to persons registered as patients and within the
8 confines of the hospital;

9 ~~(10)~~ (11) Persons employed by a facility where dispensed
10 drugs and devices are delivered from a pharmacy for pickup by
11 a patient or caregiver and no dispensing or storage of drugs or
12 devices occurs;

13 ~~(11)~~ (12) Persons who sell or purchase medical products,
14 compounds, vaccines, or serums used in the prevention or cure of
15 animal diseases and maintenance of animal health if such medical
16 products, compounds, vaccines, or serums are not sold or purchased
17 under a direct, specific, written medical order of a licensed
18 veterinarian; and

19 ~~(12)~~ (13) A pharmacy or a person accredited by an
20 accrediting body which or who, pursuant to a medical order, (a)
21 administers, dispenses, or distributes medical gas or medical gas
22 devices to patients or ultimate users or (b) purchases or receives
23 medical gas or medical gas devices for administration, dispensing,
24 or distribution to patients or ultimate users.

25 Sec. 3. Section 38-2867, Revised Statutes Supplement,
26 2009, is amended to read:

27 38-2867 (1) Except as provided for pharmacy technicians

1 in sections 38-2890 to 38-2897, for persons described in
2 subdivision ~~(12)~~ (13) of section 38-2850, and for individuals
3 authorized to dispense under a delegated dispensing permit, no
4 person other than a licensed pharmacist, a pharmacist intern, or a
5 practitioner with a pharmacy license shall provide pharmaceutical
6 care, compound and dispense drugs or devices, or dispense pursuant
7 to a medical order. Notwithstanding any other provision of law
8 to the contrary, a pharmacist or pharmacist intern may dispense
9 drugs or devices pursuant to a medical order of a practitioner
10 authorized to prescribe in another state if such practitioner could
11 be authorized to prescribe such drugs or devices in this state.

12 (2) Except as provided for pharmacy technicians in
13 sections 38-2890 to 38-2897, for persons described in subdivision
14 ~~(12)~~ (13) of section 38-2850, and for individuals authorized to
15 dispense under a delegated dispensing permit, it shall be unlawful
16 for any person to permit or direct a person who is not a pharmacist
17 intern, a licensed pharmacist, or a practitioner with a pharmacy
18 license to provide pharmaceutical care, compound and dispense drugs
19 or devices, or dispense pursuant to a medical order.

20 (3) It shall be unlawful for any person to coerce
21 or attempt to coerce a pharmacist to enter into a delegated
22 dispensing agreement or to supervise any pharmacy technician for
23 any purpose or in any manner contrary to the professional judgment
24 of the pharmacist. Violation of this subsection by a health care
25 professional regulated pursuant to the Uniform Credentialing Act
26 shall be considered an act of unprofessional conduct. A violation
27 of this subsection by a facility shall be prima facie evidence

1 in an action against the license of the facility pursuant to the
2 Health Care Facility Licensure Act. Any pharmacist subjected to
3 coercion or attempted coercion pursuant to this subsection has a
4 cause of action against the person and may recover his or her
5 damages and reasonable attorney's fees.

6 (4) Violation of this section by an unlicensed person
7 shall be a Class III misdemeanor.

8 Sec. 4. Section 38-2869, Revised Statutes Supplement,
9 2009, is amended to read:

10 38-2869 (1)(a) Prior to the dispensing or the delivery
11 of a drug or device pursuant to a medical order to a patient
12 or caregiver, a pharmacist shall in all care settings conduct
13 a prospective drug utilization review. Such prospective drug
14 utilization review shall involve monitoring the patient-specific
15 medical history described in subdivision (b) of this subsection and
16 available to the pharmacist at the practice site for:

- 17 (i) Therapeutic duplication;
18 (ii) Drug-disease contraindications;
19 (iii) Drug-drug interactions;
20 (iv) Incorrect drug dosage or duration of drug treatment;
21 (v) Drug-allergy interactions; and
22 (vi) Clinical abuse or misuse.

23 (b) A pharmacist conducting a prospective drug
24 utilization review shall ensure that a reasonable effort is made
25 to obtain from the patient, his or her caregiver, or his or her
26 practitioner and to record and maintain records of the following
27 information to facilitate such review:

1 (i) The name, address, telephone number, date of birth,
2 and gender of the patient;

3 (ii) The patient's history of significant disease, known
4 allergies, and drug reactions and a comprehensive list of relevant
5 drugs and devices used by the patient; and

6 (iii) Any comments of the pharmacist relevant to the
7 patient's drug therapy.

8 (c) The assessment of data on drug use in any prospective
9 drug utilization review shall be based on predetermined standards,
10 approved by the board.

11 (2) (a) Prior to the dispensing or delivery of a drug or
12 device pursuant to a prescription, the pharmacist shall ensure that
13 a verbal offer to counsel the patient or caregiver is made. The
14 counseling of the patient or caregiver by the pharmacist shall be
15 on elements which, in the exercise of the pharmacist's professional
16 judgment, the pharmacist deems significant for the patient. Such
17 elements may include, but need not be limited to, the following:

18 (i) The name and description of the prescribed drug or
19 device;

20 (ii) The route of administration, dosage form, dose, and
21 duration of therapy;

22 (iii) Special directions and precautions for preparation,
23 administration, and use by the patient or caregiver;

24 (iv) Common side effects, adverse effects or
25 interactions, and therapeutic contraindications that may be
26 encountered, including avoidance, and the action required if such
27 effects, interactions, or contraindications occur;

1 (v) Techniques for self-monitoring drug therapy;

2 (vi) Proper storage;

3 (vii) Prescription refill information; and

4 (viii) Action to be taken in the event of a missed dose.

5 (b) The patient counseling provided for in this
6 subsection shall be provided in person whenever practical or by the
7 utilization of telephone service which is available at no cost to
8 the patient or caregiver.

9 (c) Patient counseling shall be appropriate to the
10 individual patient and shall be provided to the patient or
11 caregiver.

12 (d) Written information may be provided to the patient or
13 caregiver to supplement the patient counseling provided for in this
14 subsection but shall not be used as a substitute for such patient
15 counseling.

16 (e) This subsection shall not be construed to require a
17 pharmacist to provide patient counseling when:

18 (i) The patient or caregiver refuses patient counseling;

19 (ii) The pharmacist, in his or her professional judgment,
20 determines that patient counseling may be detrimental to the
21 patient's care or to the relationship between the patient and his
22 or her practitioner;

23 (iii) The patient is a patient or resident of a health
24 care facility or health care service licensed under the Health Care
25 Facility Licensure Act to whom prescription drugs or devices are
26 administered by a licensed or certified staff member or consultant
27 or a certified physician's assistant;

1 (iv) The practitioner authorized to prescribe drugs or
2 devices specifies that there shall be no patient counseling unless
3 he or she is contacted prior to such patient counseling. The
4 prescribing practitioner shall specify such prohibition in an oral
5 prescription or in writing on the face of a written prescription,
6 including any prescription which is received by facsimile or
7 electronic transmission. The pharmacist shall note "Contact Before
8 Counseling" on the face of the prescription if such is communicated
9 orally by the prescribing practitioner; or

10 (v) A medical gas or a medical gas device is
11 administered, dispensed, or distributed by a person described in
12 subdivision ~~(12)~~ (13) of section 38-2850.

13 Sec. 5. Original section 38-2315, Reissue Revised
14 Statutes of Nebraska, and sections 38-2850, 38-2867, and 38-2869,
15 Revised Statutes Supplement, 2009, are repealed.