

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 855**

Introduced by Fischer, 43.

Read first time January 11, 2010

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to pharmacies; to amend section 38-2845,  
2 Reissue Revised Statutes of Nebraska, and section  
3 38-2801, Revised Statutes Supplement, 2009; to adopt  
4 the Remote Pharmacy Act; to define and redefine terms;  
5 to change provisions relating to the Pharmacy Practice  
6 Act; to harmonize provisions; and to repeal the original  
7 sections.

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

1           Section 1. Sections 1 to 6 of this act shall be known and  
2 may be cited as the Remote Pharmacy Act.

3           Sec. 2. For purposes of the Remote Pharmacy Act:

4           (1) Automated medication system has the definition found  
5 in section 71-2445;

6           (2) Certified pharmacy technician means a pharmacy  
7 technician as defined in section 38-2836 who is certified by the  
8 Pharmacy Technician Certification Board or another similar entity  
9 approved by the Board of Pharmacy;

10          (3) Coordinating pharmacy means a licensed pharmacy  
11 located in Nebraska which is electronically linked to one or more  
12 licensed remote pharmacies via a computer system with a real-time  
13 online data base and an auditory and a video communication system;

14          (4) Pharmacist in charge has the definition found in  
15 section 38-2833;

16          (5) Remote pharmacy means a pharmacy located in Nebraska  
17 staffed by a pharmacist or a certified pharmacy technician, which  
18 pharmacy is electronically linked to a coordinating pharmacy via a  
19 computer system with a real-time online data base and an auditory  
20 and a video communication system; and

21          (6) Telepharmacy has the definition found in section  
22 71-2445.

23          Sec. 3. (1) The pharmacist in charge of a coordinating  
24 pharmacy shall apply to the Department of Health and Human Services  
25 for a remote pharmacy license prior to engaging in the practice

1 of telepharmacy via a remote pharmacy. He or she may apply for a  
2 remote pharmacy license when there is no licensed pharmacy within  
3 fifteen miles of the proposed location.

4 (2) A coordinating pharmacy shall not be granted a  
5 license for and shall not operate more than two remote pharmacies  
6 which are open simultaneously. Such remote pharmacies shall have no  
7 more than one certified pharmacy technician at each site.

8 (3) A coordinating pharmacy shall comply with the Uniform  
9 Controlled Substances Act and all federal and state laws, rules,  
10 and regulations relating to controlled substance registration  
11 for each remote pharmacy if controlled substances are stored  
12 or maintained at each remote pharmacy.

13 (4) A coordinating pharmacy may utilize an automated  
14 medication system at the remote pharmacy.

15 (5) The pharmacist in charge of the coordinating pharmacy  
16 shall notify the department in writing within ten days after a  
17 change of location by, discontinuance of service by, or closure of  
18 a remote pharmacy operated by the coordinating pharmacy.

19 (6) If the computer link or other telecommunication  
20 link between the coordinating pharmacy and the remote pharmacy is  
21 disrupted, all dispensing activities at the remote pharmacy shall  
22 cease until the computer link or other telecommunication link is  
23 reestablished.

24 Sec. 4. (1) The pharmacist in charge of the coordinating  
25 pharmacy:

1           (a) Is responsible for the practice of telepharmacy  
2 performed at a remote pharmacy, including the supervision of any  
3 automated medication system;

4           (b) Shall prepare the written control procedures and  
5 guidelines as defined in section 38-2848 for each remote pharmacy;

6           (c) Shall ensure that the coordinating pharmacy has  
7 sufficient pharmacists on duty for the safe operation and  
8 supervision of all remote pharmacies;

9           (d) Shall ensure, through the use of an auditory and a  
10 video communication system, that a certified pharmacy technician at  
11 the remote pharmacy has accurately and correctly prepared any drug  
12 or device for dispensing according to the prescription; and

13           (e) Is responsible for the appropriate supervision by  
14 pharmacists of certified pharmacy technicians at remote pharmacies  
15 who shall be subject to all statutes and all rules and regulations  
16 of the department. A pharmacist may supervise any combination  
17 of pharmacy technicians, certified pharmacy technicians, and  
18 pharmacist interns at any time up to a total of three people.

19           (2) All patient counseling at the remote pharmacy must be  
20 performed by a pharmacist located at the coordinating pharmacy via  
21 an auditory and a video communication system or by a pharmacist at  
22 the remote pharmacy.

23           Sec. 5. A certified pharmacy technician at a remote  
24 pharmacy may not receive oral prescriptions from a practitioner  
25 or his or her agent. For written prescriptions or refill

1 authorization requests, the certified pharmacy technician shall  
2 either transmit the prescription or refill authorization request  
3 to the coordinating pharmacy or process the prescription or refill  
4 authorization request so that the pharmacist at the coordinating  
5 pharmacy may perform a prospective drug utilization review prior  
6 to dispensing.

7           Sec. 6. The Department of Health and Human Services shall  
8 adopt and promulgate rules and regulations to carry out the Remote  
9 Pharmacy Act.

10           Sec. 7. Section 38-2801, Revised Statutes Supplement,  
11 2009, is amended to read:

12           38-2801 Sections 38-2801 to 38-28,103 and sections 8 and  
13 10 of this act shall be known and may be cited as the Pharmacy  
14 Practice Act.

15           Sec. 8. Certified pharmacy technician has the definition  
16 found in section 2 of this act.

17           Sec. 9. Section 38-2845, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           38-2845 Supervision means the immediate personal guidance  
20 and direction by the licensed pharmacist on duty in the facility of  
21 the performance by a pharmacy technician of authorized activities  
22 or functions subject to verification by such pharmacist, except  
23 (1) that when a pharmacy technician performs authorized activities  
24 or functions to assist a pharmacist on duty in the facility when  
25 the prescribed drugs or devices will be administered by a licensed

1 staff member or consultant or by a licensed physician assistant to  
2 persons who are patients or residents of a facility, the activities  
3 or functions of such pharmacy technician shall only be subject to  
4 verification by a pharmacist on duty in the facility and (2) when  
5 a certified pharmacy technician performs authorized activities or  
6 functions at a remote pharmacy pursuant to the Remote Pharmacy Act.

7           Sec. 10. A pharmacist may supervise any combination  
8 of pharmacy technicians, certified pharmacy technicians, and  
9 pharmacist interns at any time up to a total of three people.

10           Sec. 11. Original section 38-2845, Reissue Revised  
11 Statutes of Nebraska, and section 38-2801, Revised Statutes  
12 Supplement, 2009, are repealed.