

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 304**

Introduced by McGill, 26.

Read first time January 12, 2011

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to public health; to amend section 71-503.01,  
2 Reissue Revised Statutes of Nebraska; to provide for  
3 treatment relating to sexually transmitted disease as  
4 prescribed; to provide for immunity; to provide for rules  
5 and regulations; to provide for confidentiality and  
6 exemptions as prescribed; to harmonize provisions; and to  
7 repeal the original section.  
8 Be it enacted by the people of the State of Nebraska,

1           Section 1. If a physician, a physician assistant, or an  
2 advanced practice registered nurse licensed under the Uniform  
3 Credentialing Act diagnoses a patient as having a sexually  
4 transmitted disease referred to in section 71-502.01, the physician  
5 may prescribe, provide, or dispense and the physician assistant or  
6 advanced practice registered nurse may prescribe prescription oral  
7 antibiotic drugs to that patient's sexual partner or partners without  
8 examination of that patient's partner or partners. General  
9 instructions for use or medication guides, where applicable, shall be  
10 provided along with additional prescription oral antibiotic drugs for  
11 any additional partner. Such prescription oral antibiotic drugs shall  
12 be labeled in accordance with section 38-2826. If the infected  
13 patient is unwilling or unable to deliver such prescription oral  
14 antibiotic drugs to his or her sexual partner or partners, such  
15 physician may prescribe, provide, or dispense and such physician  
16 assistant or advanced practice registered nurse may prescribe the  
17 prescription oral antibiotic drugs for delivery to such partner, if  
18 such practitioner has sufficient locating information, to the disease  
19 prevention and control staff of the Department of Health and Human  
20 Services or of a county or city board of health, local public health  
21 department established pursuant to sections 71-1626 to 71-1636, city  
22 health department, or local health agency or any state or local  
23 public official exercising the duties and responsibilities of any  
24 board of health or health department.

25           Sec. 2. A physician who prescribes, provides, or

1 dispenses, a physician assistant or an advanced practice registered  
2 nurse who prescribes, or a pharmacist who provides or dispenses  
3 prescription oral antibiotic drugs pursuant to section 1 of this act,  
4 in good faith and with or without compensation, or who chooses not to  
5 prescribe, provide, or dispense such prescription oral antibiotic  
6 drugs shall be immune from civil liability except in the case of  
7 willful or wanton misconduct.

8           Sec. 3. The Department of Health and Human Services may  
9 adopt and promulgate rules and regulations to carry out sections 1  
10 and 2 of this act.

11           Sec. 4. Section 71-503.01, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           71-503.01 (1) Whenever any statute of the state, any  
14 ordinance or resolution of a municipal corporation or political  
15 subdivision enacted pursuant to statute, or any rule or regulation of  
16 an administrative agency adopted and promulgated pursuant to statute  
17 requires medical practitioners or other persons to report cases of  
18 communicable diseases, including sexually transmitted diseases and  
19 other reportable diseases, illnesses, or poisonings or to give  
20 notification of positive laboratory findings or allows such  
21 practitioners or persons to prescribe, provide, or dispense  
22 prescription drugs pursuant to sections 1 to 3 of this act to the  
23 Department of Health and Human Services or any county or city board  
24 of health, local public health department established pursuant to  
25 sections 71-1626 to 71-1636, city health department, local health

1 agency, or state or local public official exercising the duties and  
2 responsibilities of any board of health or health department, such  
3 reports or notifications and the resulting investigations and such  
4 prescription, provision, or dispensing of prescription drugs and  
5 records pertaining thereto shall be confidential except as provided  
6 in this section, shall not be subject to subpoena, and shall be  
7 privileged and inadmissible in evidence in any legal proceeding of  
8 any kind or character and shall not be disclosed to any other  
9 department or agency of the State of Nebraska.

10 (2) In order to further the protection of public health,  
11 such reports, ~~and~~ notifications, and prescription, provision, or  
12 dispensing of prescription drugs may be disclosed by the Department  
13 of Health and Human Services, the official local health department,  
14 and the person making such reports or notifications to the Centers  
15 for Disease Control and Prevention of the Public Health Service of  
16 the United States Department of Health and Human Services or its  
17 successor in such a manner as to ensure that the identity of any  
18 individual cannot be ascertained except as required for delivery of  
19 such prescription drugs pursuant to sections 1 to 3 of this act. To  
20 further protect the public health, the Department of Health and Human  
21 Services, the official local health department, and the person making  
22 the report or notification may disclose to the official state and  
23 local health departments of other states, territories, and the  
24 District of Columbia such reports and notifications, including  
25 sufficient identification and information so as to ensure that such

1 investigations as deemed necessary are made.

2           (3) The appropriate board, health department, agency, or  
3 official may: ~~(1)~~—(a) Publish analyses of ~~such~~ reports, ~~and~~  
4 information, and the notifications described in subsection (1) of  
5 this section for scientific and public health purposes in such a  
6 manner as to ensure that the identity of any individual concerned  
7 cannot be ascertained; ~~(2)~~—(b) discuss the report or notification  
8 with the attending physician; and ~~(3)~~—(c) make such investigation as  
9 deemed necessary.

10           (4) Any medical practitioner, any official health  
11 department, the Department of Health and Human Services, or any other  
12 person making such reports or notifications or prescribing,  
13 providing, or dispensing such prescription drugs pursuant to sections  
14 1 to 3 of this act shall be immune from suit for slander or libel or  
15 breach of privileged communication based on any statements contained  
16 in such reports and notifications or pursuant to prescription,  
17 provision, or dispensing of such prescription drugs.

18           Sec. 5. Original section 71-503.01, Reissue Revised  
19 Statutes of Nebraska, is repealed.