

E AND R AMENDMENTS TO LB 326

Introduced by Murante, 49, Chairman Enrollment and Review

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

3 Section 1. Section 38-2845, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 38-2845 Supervision means the ~~immediate~~ personal guidance
6 and direction by the licensed a pharmacist on duty in the
7 facility of the performance by a pharmacy technician of authorized
8 activities or functions subject to verification by such pharmacist.
9 Supervision of a pharmacy technician may occur by means of a
10 real-time audiovisual communication system. ~~7 except that when a~~
11 ~~pharmacy technician performs authorized activities or functions to~~
12 ~~assist a pharmacist on duty in the facility when the prescribed~~
13 ~~drugs or devices will be administered by a licensed staff member or~~
14 ~~consultant or by a licensed physician assistant to persons who are~~
15 ~~patients or residents of a facility, the activities or functions of~~
16 ~~such pharmacy technician shall only be subject to verification by a~~
17 ~~pharmacist on duty in the facility.~~

18 Sec. 2. Section 38-2847, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 38-2847 Verification means the confirmation by a
21 supervising pharmacist of the accuracy and completeness of the
22 acts, tasks, or functions undertaken by a pharmacy technician to
23 assist the pharmacist in the practice of pharmacy. Verification

1 shall occur by a pharmacist on duty in the facility, except that if
2 a pharmacy technician performs authorized activities or functions
3 to assist a pharmacist and the prescribed drugs or devices will
4 be administered to persons who are patients or residents of a
5 facility by a credentialed individual authorized to administer
6 medications, verification may occur by means of a real-time
7 audiovisual communication system.

8 Sec. 3. Section 71-2444, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-2444 Sections 71-2444 to 71-2452 and sections 9 and
11 10 of this act shall be known and may be cited as the Automated
12 Medication Systems Act.

13 Sec. 4. Section 71-2445, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-2445 For purposes of the Automated Medication Systems
16 Act:

17 (1) Automated medication distribution machine means a
18 type of automated medication system that stores medication to
19 be administered to a patient by a person credentialed under the
20 Uniform Credentialing Act;

21 (2) Automated medication system means a mechanical system
22 that performs operations or activities, other than compounding,
23 administration, or other technologies, relative to storage and
24 packaging for dispensing or distribution of medications and that
25 collects, controls, and maintains all transaction information
26 and includes, but is not limited to, a prescription medication
27 distribution machine or an automated medication distribution

1 machine. An automated medication system may only be used in
2 conjunction with the provision of pharmacist care;

3 (3) Chart order means an order for a drug or device
4 issued by a practitioner for a patient who is in the hospital where
5 the chart is stored, ~~or~~ for a patient receiving detoxification
6 treatment or maintenance treatment pursuant to section 28-412, or
7 for a resident in a long-term care facility in which a long-term
8 care automated pharmacy is located from which drugs will be
9 dispensed. Chart order does not include a prescription;

10 (4) Hospital has the definition found in section 71-419;

11 (5) Long-term care automated pharmacy means a designated
12 area in a long-term care facility where an automated medication
13 system is located, that stores medications for dispensing pursuant
14 to a medical order to residents in such long-term care facility,
15 that is installed and operated by a pharmacy licensed under the
16 Health Care Facility Licensure Act, and that is licensed under
17 section 9 of this act;

18 ~~(6)~~ (6) Long-term care facility means an intermediate
19 care facility, an intermediate care facility for the mentally
20 retarded, a long-term care hospital, a mental health center, a
21 nursing facility, or a skilled nursing facility, as such terms are
22 defined in the Health Care Facility Licensure Act;

23 ~~(7)~~ (7) Medical order means a prescription, a chart
24 order, or an order for pharmaceutical care issued by a
25 practitioner;

26 ~~(8)~~ (8) Pharmacist means any person who is licensed by
27 the State of Nebraska to practice pharmacy;

1 ~~(8)~~ (9) Pharmacist care means the provision by a
2 pharmacist of medication therapy management, with or without the
3 dispensing of drugs or devices, intended to achieve outcomes
4 related to the cure or prevention of a disease, elimination or
5 reduction of a patient's symptoms, or arresting or slowing of a
6 disease process;

7 ~~(9)~~ (10) Pharmacist remote order entry means entering
8 an order into a computer system or drug utilization review by a
9 pharmacist licensed to practice pharmacy in the State of Nebraska
10 and located within the United States, pursuant to medical orders in
11 a hospital, long-term care facility, or pharmacy licensed under the
12 Health Care Facility Licensure Act;

13 ~~(10)~~ (11) Practice of pharmacy means (a) the
14 interpretation, evaluation, and implementation of a medical
15 order, (b) the dispensing of drugs and devices, (c) drug product
16 selection, (d) the administration of drugs or devices, (e) drug
17 utilization review, (f) patient counseling, (g) the provision of
18 pharmaceutical care, and (h) the responsibility for compounding
19 and labeling of dispensed or repackaged drugs and devices, proper
20 and safe storage of drugs and devices, and maintenance of proper
21 records. The active practice of pharmacy means the performance of
22 the functions set out in this subdivision by a pharmacist as his or
23 her principal or ordinary occupation;

24 ~~(11)~~ (12) Practitioner means a certified registered nurse
25 anesthetist, a certified nurse midwife, a dentist, an optometrist,
26 a nurse practitioner, a physician assistant, a physician, a
27 podiatrist, or a veterinarian;

1 ~~(12)~~ (13) Prescription means an order for a drug or
2 device issued by a practitioner for a specific patient, for
3 emergency use, or for use in immunizations. Prescription does not
4 include a chart order;

5 ~~(13)~~ (14) Prescription medication distribution machine
6 means a type of automated medication system that packages, labels,
7 or counts medication in preparation for dispensing of medications
8 by a pharmacist pursuant to a prescription; and

9 ~~(14)~~ (15) Telepharmacy means the provision of pharmacist
10 care, by a pharmacist located within the United States, using
11 telecommunications, remote order entry, or other automations and
12 technologies to deliver care to patients or their agents who are
13 located at sites other than where the pharmacist is located.

14 Sec. 5. Section 71-2446, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-2446 Any automated machine that dispenses, delivers,
17 or makes available, other than by administration, prescription
18 medication directly to a patient or caregiver without the provision
19 of pharmacist care is prohibited.

20 Sec. 6. Section 71-2447, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-2447 Any hospital, long-term care facility, or
23 pharmacy that uses an automated medication system shall develop,
24 maintain, and comply with policies and procedures developed in
25 consultation with the pharmacist responsible for pharmacist care
26 for that hospital, long-term care facility, or pharmacy. At a
27 minimum, the policies and procedures shall address the following:

1 (1) The description and location within the hospital,
2 long-term care facility, or pharmacy of the automated medication
3 system or equipment being used;

4 (2) The name of the ~~individual or individuals~~ pharmacist
5 responsible for implementation of and compliance with the policies
6 and procedures;

7 (3) Medication access and information access procedures;

8 (4) Security of inventory and confidentiality of records
9 in compliance with state and federal laws, rules, and regulations;

10 (5) A description of the process used by a pharmacist or
11 pharmacy technician for filling an automated medication system;

12 ~~(5)~~ (6) A description of how and by whom the automated
13 medication system is being utilized, including processes for
14 ~~filling~~, verifying, dispensing, and distributing medications;

15 ~~(6)~~ (7) Staff education and training;

16 ~~(7)~~ (8) Quality assurance and quality improvement
17 programs and processes;

18 ~~(8)~~ (9) Inoperability or emergency downtime procedures;

19 ~~(9)~~ (10) Periodic system maintenance; and

20 ~~(10)~~ (11) Medication security and controls.

21 Sec. 7. Section 71-2448, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-2448 A prescription medication distribution machine:

24 (1) Is subject to the requirements of section 71-2447
25 and, if it is in a long-term care automated pharmacy, is subject to
26 section 9 of this act; and

27 (2) May be operated only (a) in a licensed pharmacy

1 where a pharmacist dispenses medications to patients for
2 self-administration pursuant to a prescription or (b) in a
3 long-term care automated pharmacy subject to section 9 of this act.

4 Sec. 8. Section 71-2449, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-2449 (1) An automated medication distribution machine:

7 (a) Is subject to the requirements of section 71-2447
8 and, if it is in a long-term care automated pharmacy, is subject to
9 section 9 of this act; and

10 (b) May be operated in a hospital or long-term care
11 facility for medication administration pursuant to a chart order or
12 prescription by a licensed health care professional.

13 (2) Drugs placed in an automated medication distribution
14 machine shall be in the manufacturer's original packaging or in
15 containers repackaged in compliance with state and federal laws,
16 rules, and regulations relating to repackaging, labeling, and
17 record keeping.

18 (3) The inventory which is transferred to an automated
19 medication distribution machine in a hospital ~~or long-term care~~
20 ~~facility~~ shall be excluded from the percent of total prescription
21 drug sales revenue described in section 71-7454.

22 Sec. 9. (1) In order for an automated medication system
23 to be operated in a long-term care facility, a pharmacist in charge
24 of a pharmacy licensed under the Health Care Facility Licensure
25 Act and located in Nebraska shall annually license the long-term
26 care automated pharmacy in which the automated medication system is
27 located.

1 (2) The pharmacist in charge of a licensed pharmacy shall
2 submit an application for licensure or renewal of licensure to the
3 Division of Public Health of the Department of Health and Human
4 Services with a fee in the amount of the fee the pharmacy pays for
5 licensure or renewal. The application shall include:

6 (a) The name and location of the licensed pharmacy;

7 (b) If controlled substances are stored in the automated
8 medication system, the federal Drug Enforcement Administration
9 registration number of the licensed pharmacy. After the long-term
10 care automated pharmacy is registered with the federal Drug
11 Enforcement Administration, the pharmacist in charge of the
12 licensed pharmacy shall provide the federal Drug Enforcement
13 Administration registration number of the long-term care automated
14 pharmacy to the division and any application for renewal shall
15 include such registration number;

16 (c) The location of the long-term care automated
17 pharmacy; and

18 (d) The name of the pharmacist in charge of the licensed
19 pharmacy.

20 (3) As part of the application process, the division
21 shall conduct an inspection by a pharmacy inspector as provided
22 in section 38-28,101 of the long-term care automated pharmacy. The
23 division shall also conduct inspections of the operation of the
24 long-term care automated pharmacy as necessary.

25 (4) The division shall license a long-term care automated
26 pharmacy which meets the licensure requirements of the Automated
27 Medication Systems Act.

1 (5) A pharmacist in charge of a licensed pharmacy shall
2 apply for a separate license for each location at which it operates
3 one or more long-term care automated pharmacies. The licensed
4 pharmacy shall be the provider pharmacy for the long-term care
5 automated pharmacy.

6 (6) The pharmacist in charge of the licensed pharmacy
7 operating a long-term care automated pharmacy shall:

8 (a) Identify a pharmacist responsible for the operation,
9 supervision, policies, and procedures of the long-term care
10 automated pharmacy;

11 (b) Implement the policies and procedures developed to
12 comply with section 71-2447;

13 (c) Assure compliance with the drug storage and
14 record-keeping requirements of the Pharmacy Practice Act;

15 (d) Assure compliance with the labeling requirements of
16 subsection (8) of this section;

17 (e) Develop and implement policies for the verification
18 of drugs by a pharmacist prior to being loaded into the automated
19 medication system and for the verification of drugs by a pharmacist
20 prior to being released for administration to a resident;

21 (f) Develop and implement policies for inventory,
22 security, and accountability for controlled substances; and

23 (g) Assure that each medical order is reviewed by a
24 pharmacist prior to the release of the drugs by the automated
25 medication system. Emergency doses may be taken from an automated
26 medication system prior to review by a pharmacist if the licensed
27 pharmacy develops and implements policies for emergency doses.

1 (7) Supervision by a pharmacist is sufficient for
2 compliance with the requirement of subdivision (6) (a) of this
3 section if the pharmacist in the licensed pharmacy monitors the
4 automated medication system electronically and keeps records of
5 compliance with such requirement for five years.

6 (8) Each drug dispensed from a long-term care automated
7 pharmacy shall be in a package with a label containing the
8 following information:

9 (a) The name and address of the long-term care automated
10 pharmacy;

11 (b) The prescription number;

12 (c) The name, strength, and dosage form of the drug;

13 (d) The name of the resident;

14 (e) The name of the practitioner who prescribed the drug;

15 (f) The date of filling; and

16 (g) Directions for use.

17 (9) A prescription is required for any controlled
18 substance dispensed from a long-term care automated pharmacy.

19 (10) The inventory which is transferred to a long-term
20 care automated pharmacy shall be excluded from the percent of total
21 prescription drug sales revenue described in section 71-7454.

22 Sec. 10. Unless otherwise allowed by state or federal
23 law or regulation, the management of a long-term care facility at
24 which an automated medication system is located shall not require a
25 resident of the facility to obtain medication through the automated
26 medication system and shall not restrict or impair the ability of
27 a resident of the facility to obtain medications from the pharmacy

1 of the resident's choice.

2 Sec. 11. Section 71-2452, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-2452 Any person who violates the Automated Medication
5 Systems Act may be subject to disciplinary action by the Division
6 of Public Health of the Department of Health and Human Services
7 under the Health Care Facility Licensure Act, ~~the Uniform Licensing~~
8 ~~Law~~, or the Uniform Credentialing Act.

9 Sec. 12. Original sections 38-2845, 38-2847, 71-2444,
10 71-2445, 71-2446, 71-2447, 71-2448, 71-2449, and 71-2452, Reissue
11 Revised Statutes of Nebraska, are repealed.

12 2. On page 1, line 6, strike "registration" and insert
13 "licensure"; and in line 7 after the semicolon insert "to provide
14 for a patient's choice of pharmacy;".