

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 703**

Introduced by Kolterman, 24.

Read first time January 03, 2018

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to the Medicine and Surgery Practice Act; to
- 2 amend section 38-2025, Reissue Revised Statutes of Nebraska; to
- 3 provide an exemption from licensure requirements as prescribed; and
- 4 to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-2025, Reissue Revised Statutes of Nebraska, is  
2 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 and  
21 practicing under and in accordance with the Podiatry Practice Act;

22 (15) Psychologists practicing their profession when licensed and  
23 practicing under and in accordance with the Psychology Practice Act;

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

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

30 (18) Persons licensed or certified under the laws of this state to  
31 practice a limited field of the healing art, not specifically named in

1 this section, when confining themselves strictly to the field for which  
2 they are licensed or certified, not assuming the title of physician,  
3 surgeon, or physician and surgeon, and not professing or holding  
4 themselves out as qualified to prescribe drugs in any form or to perform  
5 operative surgery;

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

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

17 (21) (20) Other trained persons employed by a licensed health care  
18 facility or health care service defined in the Health Care Facility  
19 Licensure Act or clinical laboratory certified pursuant to the federal  
20 Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII  
21 or XIX of the federal Social Security Act to withdraw human blood for  
22 scientific or medical purposes.

23 Any person who has held or applied for a license to practice  
24 medicine and surgery in this state, and such license or application has  
25 been denied or such license has been refused renewal or disciplined by  
26 order of limitation, suspension, or revocation, shall be ineligible for  
27 the exceptions described in subdivisions (5) through (8) of this section  
28 until such license or application is granted or such license is renewed  
29 or reinstated. Every act or practice falling within the practice of  
30 medicine and surgery as defined in section 38-2024 and not specially  
31 excepted in this section shall constitute the practice of medicine and

1 surgery and may be performed in this state only by those licensed by law  
2 to practice medicine in Nebraska.

3 Sec. 2. Original section 38-2025, Reissue Revised Statutes of  
4 Nebraska, is repealed.