

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 556**

FINAL READING

Introduced by Howard, 9; Lindstrom, 18; Briese, 41.

Read first time January 22, 2019

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to prescription drugs; to amend section  
2 71-2454, Reissue Revised Statutes of Nebraska, and sections 28-473,  
3 28-474, and 38-101, Revised Statutes Cumulative Supplement, 2018; to  
4 transfer provisions to the Uniform Credentialing Act; to change  
5 duties for practitioners related to certain prescriptions; to exempt  
6 certain prescriptions from requirements; to change provisions  
7 relating to the prescription drug monitoring program; to define and  
8 redefine terms; to eliminate obsolete provisions; to harmonize  
9 provisions; to repeal the original sections; and to declare an  
10 emergency.  
11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-101, Revised Statutes Cumulative Supplement,  
2 2018, is amended to read:

3 38-101 Sections 38-101 to 38-1,142 and sections 2 and 3 of this act  
4 and the following practice acts shall be known and may be cited as the  
5 Uniform Credentialing Act:

- 6 (1) The Advanced Practice Registered Nurse Practice Act;
- 7 (2) The Alcohol and Drug Counseling Practice Act;
- 8 (3) The Athletic Training Practice Act;
- 9 (4) The Audiology and Speech-Language Pathology Practice Act;
- 10 (5) The Certified Nurse Midwifery Practice Act;
- 11 (6) The Certified Registered Nurse Anesthetist Practice Act;
- 12 (7) The Chiropractic Practice Act;
- 13 (8) The Clinical Nurse Specialist Practice Act;
- 14 (9) The Cosmetology, Electrology, Esthetics, Nail Technology, and  
15 Body Art Practice Act;
- 16 (10) The Dentistry Practice Act;
- 17 (11) The Dialysis Patient Care Technician Registration Act;
- 18 (12) The Emergency Medical Services Practice Act;
- 19 (13) The Environmental Health Specialists Practice Act;
- 20 (14) The Funeral Directing and Embalming Practice Act;
- 21 (15) The Genetic Counseling Practice Act;
- 22 (16) The Hearing Instrument Specialists Practice Act;
- 23 (17) The Licensed Practical Nurse-Certified Practice Act until  
24 November 1, 2017;
- 25 (18) The Massage Therapy Practice Act;
- 26 (19) The Medical Nutrition Therapy Practice Act;
- 27 (20) The Medical Radiography Practice Act;
- 28 (21) The Medicine and Surgery Practice Act;
- 29 (22) The Mental Health Practice Act;
- 30 (23) The Nurse Practice Act;
- 31 (24) The Nurse Practitioner Practice Act;

- 1 (25) The Nursing Home Administrator Practice Act;
- 2 (26) The Occupational Therapy Practice Act;
- 3 (27) The Optometry Practice Act;
- 4 (28) The Perfusion Practice Act;
- 5 (29) The Pharmacy Practice Act;
- 6 (30) The Physical Therapy Practice Act;
- 7 (31) The Podiatry Practice Act;
- 8 (32) The Psychology Practice Act;
- 9 (33) The Respiratory Care Practice Act;
- 10 (34) The Surgical First Assistant Practice Act;
- 11 (35) The Veterinary Medicine and Surgery Practice Act; and
- 12 (36) The Water Well Standards and Contractors' Practice Act.

13 If there is any conflict between any provision of sections 38-101 to  
14 38-1,142 and sections 2 and 3 of this act and any provision of a practice  
15 act, the provision of the practice act shall prevail.

16 The Revisor of Statutes shall assign the Uniform Credentialing Act,  
17 including the practice acts enumerated in subdivisions (1) through (35)  
18 of this section, to articles within Chapter 38.

19 Sec. 2. Section 28-473, Revised Statutes Cumulative Supplement,  
20 2018, is amended to read:

21 28-473 (1) For purposes of this section, practitioner means a  
22 physician, a physician assistant, a dentist, a pharmacist, a podiatrist,  
23 an optometrist, a certified nurse midwife, a certified registered nurse  
24 anesthetist, and a nurse practitioner.

25 (2) ~~(1)~~ When prescribing a controlled substance listed in Schedule  
26 II of section 28-405 or any other opiate as defined in section 28-401 not  
27 listed in Schedule II, prior to issuing the practitioner's initial  
28 prescription for a course of treatment for acute or chronic pain—and  
29 again prior to the practitioner's third prescription for such course of  
30 ~~treatment~~, a practitioner involved in the course of treatment as the  
31 primary prescribing practitioner or as a member of the patient's care

1 team who is under the direct supervision or in consultation with the  
2 primary prescribing practitioner shall discuss with the patient, or the  
3 patient's parent or guardian if the patient is younger than eighteen  
4 years of age and is not emancipated, unless the discussion has already  
5 occurred with another member of the patient's care team within the  
6 previous sixty days:

7 (a) The risks of addiction and overdose associated with the  
8 controlled substance or opiate being prescribed, including, but not  
9 limited to:

10 (i) Controlled substances and opiates are highly addictive even when  
11 taken as prescribed;

12 (ii) There is a risk of developing a physical or psychological  
13 dependence on the controlled substance or opiate; and

14 (iii) Taking more controlled substances or opiates than prescribed,  
15 or mixing sedatives, benzodiazepines, or alcohol with controlled  
16 substances or opiates, can result in fatal respiratory depression;

17 (b) The reasons why the prescription is necessary; and

18 (c) Alternative treatments that may be available.

19 (3) This section does not apply to a prescription for a hospice  
20 patient or for a course of treatment for cancer or palliative care.

21 (4) (2) This section terminates on January 1, 2029.

22 Sec. 3. Section 28-474, Revised Statutes Cumulative Supplement,  
23 2018, is amended to read:

24 28-474 (1) For purposes of this section, practitioner means a  
25 physician, a physician assistant, a dentist, a pharmacist, a podiatrist,  
26 an optometrist, a certified nurse midwife, a certified registered nurse  
27 anesthetist, and a nurse practitioner.

28 (2) (1) The Legislature finds that:

29 (a) In most cases, acute pain can be treated effectively with  
30 nonopiate or nonpharmacological options;

31 (b) With a more severe or acute injury, short-term use of opiates

1 may be appropriate;

2 (c) Initial opiate prescriptions for children should not exceed  
3 seven days for most situations, and two or three days of opiates will  
4 often be sufficient;

5 (d) If a patient needs medication beyond three days, the prescriber  
6 should reevaluate the patient prior to issuing another prescription for  
7 opiates; and

8 (e) Physical dependence on opiates can occur within only a few weeks  
9 of continuous use, so great caution needs to be exercised during this  
10 critical recovery period.

11 ~~(3)~~ (2) A practitioner who is prescribing an opiate as defined in  
12 section 28-401 for a patient younger than eighteen years of age for  
13 outpatient use for an acute condition shall not prescribe more than a  
14 seven-day supply except as otherwise provided in subsection ~~(4)~~ (3) of  
15 this section and, if the practitioner has not previously prescribed an  
16 opiate for such patient, shall discuss with a parent or guardian of such  
17 patient, or with the patient if the patient is an emancipated minor, the  
18 risks associated with use of opiates and the reasons why the prescription  
19 is necessary.

20 ~~(4)~~ (3) If, in the professional medical judgment of the  
21 practitioner, more than a seven-day supply of an opiate is required to  
22 treat such patient's medical condition or is necessary for the treatment  
23 of pain associated with a cancer diagnosis or for palliative care, the  
24 practitioner may issue a prescription for the quantity needed to treat  
25 such patient's medical condition or pain. The practitioner shall document  
26 the medical condition triggering the prescription of more than a seven-  
27 day supply of an opiate in the patient's medical record and shall  
28 indicate that a nonopiate alternative was not appropriate to address the  
29 medical condition.

30 ~~(5)~~ (4) This section does not apply to controlled substances  
31 prescribed pursuant to section 28-412.

1           ~~(6) (5)~~ This section terminates on January 1, 2029.

2           Sec. 4. Section 71-2454, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4           71-2454 (1) An entity described in section 71-2455 shall establish a  
5 system of prescription drug monitoring for the purposes of (a) preventing  
6 the misuse of controlled substances that are prescribed, ~~and~~ (b) allowing  
7 prescribers and dispensers to monitor the care and treatment of patients  
8 for whom such a prescription drug is prescribed to ensure that such  
9 prescription drugs are used for medically appropriate purposes, (c)  
10 providing information to improve the health and safety of patients, and  
11 (d) ensuring ~~and~~ that the State of Nebraska remains on the cutting edge  
12 of medical information technology.

13           (2) Such system of prescription drug monitoring shall be implemented  
14 as follows: Except as provided in subsection (4) of this section,  
15 ~~beginning January 1, 2017, all dispensed prescriptions of controlled~~  
16 ~~substances shall be reported; and beginning January 1, 2018, all~~  
17 ~~prescription drug information shall be reported to the prescription drug~~  
18 ~~monitoring system. The prescription drug monitoring system shall include,~~  
19 but not be limited to, provisions that:

20           (a) Prohibit any patient from opting out of the prescription drug  
21 monitoring system;

22           (b) Require any prescription drug that is all ~~prescriptions~~  
23 ~~dispensed in this state or to an address in this state to be entered into~~  
24 ~~the system by the dispenser or his or her designee daily after such~~  
25 ~~prescription drug is dispensed, including prescription drugs those for~~  
26 ~~patients paying cash for such prescription drug or otherwise not relying~~  
27 ~~on a third-party payor for payment for the prescription drug;~~

28           (c) Allow all prescribers or dispensers of prescription drugs to  
29 access the system at no cost to such prescriber or dispenser;

30           (d) Ensure that such system includes information relating to all  
31 payors, including, but not limited to, the medical assistance program

1 established pursuant to the Medical Assistance Act; and

2 (e) Make the prescription drug information available to the  
3 statewide health information exchange described in section 71-2455 for  
4 access by its participants if such access is in compliance with the  
5 privacy and security protections set forth in the provisions of the  
6 federal Health Insurance Portability and Accountability Act of 1996,  
7 Public Law 104-191, and regulations promulgated thereunder, except that  
8 if a patient opts out of the statewide health information exchange, the  
9 prescription drug information regarding that patient shall not be  
10 accessible by the participants in the statewide health information  
11 exchange.

12 ~~Dispensers may begin on February 25, 2016, to report dispensing of~~  
13 ~~prescriptions to the entity described in section 71-2455 which is~~  
14 ~~responsible for establishing the system of prescription drug monitoring.~~

15 (3) Except as provided in subsection (4) of this section,  
16 prescription drug information that shall be submitted electronically to  
17 the prescription drug monitoring system shall be determined by the entity  
18 described in section 71-2455 and shall include, but not be limited to:

19 (a) The patient's name, address, telephone number, if a telephone  
20 number is available, gender, and date of birth;

21 (b) A patient identifier such as a military identification number,  
22 driver's license number, state identification card number, or other valid  
23 government-issued identification number, insurance identification number,  
24 pharmacy software-generated patient-specific identifier, or other  
25 identifier associated specifically with the patient;

26 (c) ~~(b)~~ The name and address of the pharmacy dispensing the  
27 prescription drug;

28 (d) ~~(e)~~ The date the prescription is issued;

29 (e) ~~(d)~~ The date the prescription is filled;

30 (f) The number of refills authorized;

31 (g) ~~(e)~~ The prescription number ~~name~~ of the prescription drug;

1 ~~dispensed~~

2 ~~(h) The or the~~ National Drug Code number as published by the federal  
3 Food and Drug Administration of the prescription drug ~~dispensed~~;

4 ~~(i) (f)~~ The strength of the prescription drug prescribed;

5 ~~(j) (g)~~ The quantity of the prescription drug prescribed and the  
6 number of days' supply; and

7 ~~(k) (h)~~ The prescriber's name and National Provider Identifier  
8 number or Drug Enforcement Administration number when reporting a  
9 controlled substance.

10 (4) Beginning July 1, 2018, a veterinarian licensed under the  
11 Veterinary Medicine and Surgery Practice Act shall be required to report  
12 the dispensing of a dispensed prescription drugs which are ~~of~~ controlled  
13 substances listed on Schedule II, Schedule III, Schedule IV, or Schedule  
14 V ~~IV~~ pursuant to section 28-405. Each such veterinarian shall indicate  
15 that the prescription is an animal prescription and shall include the  
16 following information in such report:

17 (a) The first and last name and address, including city, state, and  
18 zip code, of the individual to whom the prescription drug is dispensed in  
19 accordance with a valid veterinarian-client-patient relationship;

20 (b) Reporting status;

21 (c) The first and last name of the prescribing veterinarian and his  
22 or her federal Drug Enforcement Administration number;

23 (d) The National Drug Code number as published by the federal Food  
24 and Drug Administration ~~name~~ of the prescription drug ~~dispensed~~ and the  
25 prescription number;

26 (e) The date the prescription is written and the date the  
27 prescription is filled;

28 (f) The number of refills authorized, if any; and

29 (g) The quantity of the prescription drug ~~dispensed~~ and the number  
30 of days' supply.

31 (5)(a) All prescription drug information submitted pursuant to this



1 section, all data contained in the prescription drug monitoring system,  
2 and any report obtained from data contained in the prescription drug  
3 monitoring system are confidential, are privileged, are not public  
4 records, and may be withheld pursuant to section 84-712.05 except for  
5 information released as provided in subsection (9) of this section.

6 (b) No patient-identifying data as defined in section 81-664,  
7 including the data collected under subsection (3) of this section, shall  
8 be disclosed, made public, or released to any public or private person or  
9 entity except to the statewide health information exchange described in  
10 section 71-2455 and its participants, ~~and~~ to prescribers and dispensers  
11 as provided in subsection (2) of this section, or as provided in  
12 subsection (7) of this section.

13 (c) All other data is for the confidential use of the department and  
14 the statewide health information exchange described in section 71-2455  
15 and its participants. The department, or the statewide health information  
16 exchange in collaboration with the department, may release such  
17 information as Class I, Class II, or Class IV data in accordance with  
18 section 81-667 to the private or public persons or entities that the  
19 department determines may view such records as provided in sections  
20 81-663 to 81-675. In addition, the department, or the statewide health  
21 information exchange in collaboration with the department, may release  
22 such information as provided in subsection (9) of this section.

23 (6) The statewide health information exchange described in section  
24 71-2455, in collaboration with the department, shall establish the  
25 minimum administrative, physical, and technical safeguards necessary to  
26 protect the confidentiality, integrity, and availability of prescription  
27 drug information.

28 (7) If the entity receiving the prescription drug information has  
29 privacy protections at least as restrictive as those set forth in this  
30 section and has implemented and maintains the minimum safeguards required  
31 by subsection (6) of this section, the statewide health information

1 exchange described in section 71-2455, in collaboration with the  
2 department, may release the prescription drug information and any other  
3 data collected pursuant to this section to:

4 (a) Other state prescription drug monitoring programs;

5 (b) State and regional health information exchanges;

6 (c) The medical director and pharmacy director of the Division of  
7 Medicaid and Long-Term Care of the department, or their designees;

8 (d) The medical directors and pharmacy directors of medicaid-managed  
9 care entities, the state's medicaid drug utilization review board, and  
10 any other state-administered health insurance program or its designee if  
11 any such entities have a current data-sharing agreement with the  
12 statewide health information exchange described in section 71-2455, and  
13 if such release is in accordance with the privacy and security provisions  
14 of the federal Health Insurance Portability and Accountability Act of  
15 1996, Public Law 104-191, and all regulations promulgated thereunder;

16 (e) Organizations which facilitate the interoperability and mutual  
17 exchange of information among state prescription drug monitoring programs  
18 or state or regional health information exchanges; or

19 (f) Electronic health record systems or pharmacy-dispensing software  
20 systems for the purpose of integrating prescription drug information into  
21 a patient's medical record.

22 (8) The statewide health information exchange described in section  
23 71-2455, in collaboration with the department, may release to patients  
24 their prescription drug information collected pursuant to this section.  
25 Upon request of the patient, such information may be released directly to  
26 the patient or a personal health record system designated by the patient  
27 which has privacy protections at least as restrictive as those set forth  
28 in this section and that has implemented and maintains the minimum  
29 safeguards required by subsection (6) of this section.

30 (9) The department, or the statewide health information exchange  
31 described in section 71-2455 in collaboration with the department, may

1 release data collected pursuant to this section for statistical, public  
2 research, public policy, or educational purposes after removing  
3 information which identifies or could reasonably be used to identify the  
4 patient, prescriber, dispenser, or other person who is the subject of the  
5 information.

6 (10) The statewide health information exchange described in section  
7 71-2455 or the department may request and receive program information  
8 from other prescription drug monitoring programs for use in the  
9 prescription drug monitoring system in this state.

10 (11) The statewide health information exchange described in section  
11 71-2455, in collaboration with the department, shall implement  
12 technological improvements to facilitate the secure collection of, and  
13 access to, prescription drug information in accordance with this section.

14 (12) (6) Before accessing the prescription drug monitoring system,  
15 any user shall undergo training on the purpose of the system, access to  
16 and proper usage of the system, and the law relating to the system,  
17 including confidentiality and security of the prescription drug  
18 monitoring system. Such training shall be administered by the statewide  
19 health information exchange described in section 71-2455 which shall have  
20 access to the prescription drug monitoring system for training and  
21 administrative purposes. Users who have been trained prior to May 10,  
22 2017, or who are granted access by an entity receiving prescription drug  
23 information pursuant to subsection (7) of this section, are deemed to be  
24 in compliance with the training requirement of this subsection.

25 (13) (7) For purposes of this section:

26 (a) Deliver or delivery means to actually, constructively, or  
27 attempt to transfer a drug or device from one person to another, whether  
28 or not for consideration;

29 (b) Department means the Department of Health and Human Services;

30 (c) (a) Designee means any licensed or registered health care  
31 professional credentialed under the Uniform Credentialing Act designated

1 by a prescriber or dispenser to act as an agent of the prescriber or  
2 dispenser for purposes of submitting or accessing data in the  
3 prescription drug monitoring system and who is supervised by such  
4 prescriber or dispenser;

5 (d) Prescription drug or drugs ~~(b) Dispensed prescription~~ means a  
6 prescription drug or drugs dispensed by delivery ~~delivered~~ to the  
7 ultimate user or caregiver by or pursuant to the lawful order of a  
8 prescriber but does not include (i) the delivery of such prescription  
9 drug for immediate use for purposes of inpatient hospital care or  
10 emergency department care, (ii) the administration of a prescription drug  
11 by an authorized person upon the lawful order of a prescriber, (iii) a  
12 wholesale distributor of a prescription drug monitored by the  
13 prescription drug monitoring system, or (iv) the dispensing to a nonhuman  
14 patient of a prescription drug which is not a controlled substance listed  
15 in Schedule II, Schedule III, Schedule IV, or Schedule V of section  
16 28-405;

17 (e) ~~(e)~~ Dispenser means a person authorized in the jurisdiction in  
18 which he or she is practicing to deliver a prescription drug to the  
19 ultimate user or caregiver by or pursuant to the lawful order of a  
20 prescriber;

21 (f) ~~(d)~~ Participant means an individual or entity that has entered  
22 into a participation agreement with the statewide health information  
23 exchange described in section 71-2455 which requires the individual or  
24 entity to comply with the privacy and security protections set forth in  
25 the provisions of the federal Health Insurance Portability and  
26 Accountability Act of 1996, Public Law 104-191, and regulations  
27 promulgated thereunder; and

28 (g) ~~(e)~~ Prescriber means a health care professional authorized to  
29 prescribe in the profession which he or she practices.

30 Sec. 5. Original section 71-2454, Reissue Revised Statutes of  
31 Nebraska, and sections 28-473, 28-474, and 38-101, Revised Statutes

1 Cumulative Supplement, 2018, are repealed.

2       Sec. 6. Since an emergency exists, this act takes effect when  
3 passed and approved according to law.