

**FIFTIETH DAY - MARCH 24, 2023****LEGISLATIVE JOURNAL****ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION****FIFTIETH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, March 24, 2023

**PRAYER**

The prayer was offered by Pastor Jim Haynes, Christ Lincoln, Lincoln.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was offered by Senator Lowe.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Dorn presiding.

The roll was called and all members were present except Senators Aguilar and Jacobson who were excused; and Senators Bostar, Hunt, Vargas, and Walz who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-ninth day was approved.

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of March 23, 2023, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Brandon Metzler  
Clerk of the Legislature

Head, Bill  
Pharmaceutical Care Management Association  
Peetz & Company  
Yahoo Inc. and var. subs/affiliates (Withdrawn 03/23/2023)

**REPORTS**

Agency reports electronically filed with the Legislature can be found on the [Nebraska Legislature's website](#).

**AMENDMENTS - Print in Journal**

Senator Kauth filed the following amendment to [LB574](#):  
[AM975](#)

(Amendments to AM872)

- 1 1. Strike amendment 1 and insert the following new amendment:
- 2 1. Strike the original sections and insert the following new
- 3 sections:
- 4 Section 1. Section 38-179, Revised Statutes Cumulative Supplement,
- 5 2022, is amended to read:
- 6 38-179 For purposes of section 38-178, unprofessional conduct means
- 7 any departure from or failure to conform to the standards of acceptable
- 8 and prevailing practice of a profession or the ethics of the profession,
- 9 regardless of whether a person, consumer, or entity is injured, or
- 10 conduct that is likely to deceive or defraud the public or is detrimental
- 11 to the public interest, including, but not limited to:
- 12 (1) Receipt of fees on the assurance that an incurable disease can
- 13 be permanently cured;
- 14 (2) Division of fees, or agreeing to split or divide the fees,
- 15 received for professional services with any person for bringing or
- 16 referring a consumer other than (a) with a partner or employee of the
- 17 applicant or credential holder or his or her office or clinic, (b) with a
- 18 landlord of the applicant or credential holder pursuant to a written
- 19 agreement that provides for payment of rent based on gross receipts, or
- 20 (c) with a former partner or employee of the applicant or credential
- 21 holder based on a retirement plan or separation agreement;
- 22 (3) Obtaining any fee for professional services by fraud, deceit, or
- 23 misrepresentation, including, but not limited to, falsification of third-
- 24 party claim documents;
- 25 (4) Cheating on or attempting to subvert the credentialing
- 26 examination;
- 1 (5) Assisting in the care or treatment of a consumer without the
- 2 consent of such consumer or his or her legal representative;
- 3 (6) Use of any letters, words, or terms, either as a prefix, affix,
- 4 or suffix, on stationery, in advertisements, or otherwise, indicating
- 5 that such person is entitled to practice a profession for which he or she
- 6 is not credentialed;
- 7 (7) Performing, procuring, or aiding and abetting in the performance
- 8 or procurement of a criminal abortion;
- 9 (8) Knowingly disclosing confidential information except as
- 10 otherwise permitted by law;
- 11 (9) Commission of any act of sexual abuse, misconduct, or
- 12 exploitation related to the practice of the profession of the applicant
- 13 or credential holder;
- 14 (10) Failure to keep and maintain adequate records of treatment or
- 15 service;
- 16 (11) Prescribing, administering, distributing, dispensing, giving,
- 17 or selling any controlled substance or other drug recognized as addictive
- 18 or dangerous for other than a medically accepted therapeutic purpose;
- 19 (12) Prescribing any controlled substance to (a) oneself or (b)
- 20 except in the case of a medical emergency (i) one's spouse, (ii) one's
- 21 child, (iii) one's parent, (iv) one's sibling, or (v) any other person
- 22 living in the same household as the prescriber;

23 (13) Failure to comply with any federal, state, or municipal law,  
 24 ordinance, rule, or regulation that pertains to the applicable  
 25 profession;  
 26 (14) Disruptive behavior, whether verbal or physical, which  
 27 interferes with consumer care or could reasonably be expected to  
 28 interfere with such care; ~~and~~  
 29 (15) Performing gender-reassignment surgery for an individual  
 30 younger than nineteen years of age in violation of section 2 of this act;  
 31 and  
 1 (16) (15) Such other acts as may be defined in rules and  
 2 regulations.  
 3 Nothing in this section shall be construed to exclude determination  
 4 of additional conduct that is unprofessional by adjudication in  
 5 individual contested cases.  
 6 Sec. 2. (1) For purposes of this section:  
 7 (a) Biological sex means the biological indication of male and  
 8 female in the context of reproductive potential or capacity, such as sex  
 9 chromosomes, naturally occurring sex hormones, gonads, and nonambiguous  
 10 internal and external genitalia present at birth, without regard to an  
 11 individual's psychological, chosen, or subjective experience of gender;  
 12 (b) Gender means the psychological, behavioral, social, and cultural  
 13 aspects of being male or female;  
 14 (c) Gender transition means the process in which a person goes from  
 15 identifying with and living as a gender that corresponds to the person's  
 16 biological sex to identifying with and living as a gender different from  
 17 the person's biological sex and may involve social, legal, or physical  
 18 changes;  
 19 (d) Irreversible gender-reassignment surgery means a medical  
 20 procedure performed for the purpose of assisting an individual with a  
 21 gender transition, including any of the following:  
 22 (i) Penectomy, orchiectomy, vaginoplasty, clitoroplasty, or  
 23 vulvoplasty for biologically male patients or hysterectomy or ovariectomy  
 24 for biologically female patients;  
 25 (ii) Metoidioplasty, phalloplasty, vaginectomy, scrotoplasty, or  
 26 implantation of erection or testicular prostheses for biologically female  
 27 patients; or  
 28 (iii) Augmentation mammoplasty for biologically male patients and  
 29 subcutaneous mastectomy for biologically female patients; and  
 30 (e) Physician means a person who is licensed as a physician pursuant  
 31 to the Medicine and Surgery Practice Act.  
 1 (2) A physician shall not provide irreversible gender-reassignment  
 2 surgery to any individual who is under nineteen years of age.  
 3 (3) A physician may provide any of the following to an individual  
 4 who is under nineteen years of age:  
 5 (a) Services to an individual born with a medically verifiable  
 6 disorder of sex development, including an individual with external  
 7 biological sex characteristics that are irresolvably ambiguous, such as  
 8 being born with forty-six XX chromosomes with virilization or forty-six  
 9 XY chromosomes with undervirilization or having both ovarian and  
 10 testicular tissue;  
 11 (b) Services provided when a physician has otherwise diagnosed a  
 12 disorder of sexual development and has determined through genetic or  
 13 biochemical testing that the individual does not have normal sex  
 14 chromosome structure, sex steroid hormone production, or sex steroid  
 15 hormone action;  
 16 (c) The treatment of any infection, injury, disease, or disorder  
 17 that has been caused by or exacerbated by the performance of gender  
 18 transition procedures, whether or not the gender transition procedure was  
 19 performed in accordance with state and federal law; or  
 20 (d) Any procedure undertaken because the individual suffers from a

21 physical disorder, physical injury, or physical illness that would, as  
 22 certified by a physician, place the individual in imminent danger of  
 23 death or impairment of major bodily function unless surgery is performed.  
 24 Sec. 3. Original section 38-179, Revised Statutes Cumulative  
 25 Supplement, 2022, is repealed.

Senator Kauth filed the following amendment to LB574:  
AM976

(Amendments to Final Reading copy)

1 1. Strike the original sections and all amendments thereto and  
 2 insert the following new sections:  
 3 Section 1. Section 38-179, Revised Statutes Cumulative Supplement,  
 4 2022, is amended to read:  
 5 38-179 For purposes of section 38-178, unprofessional conduct means  
 6 any departure from or failure to conform to the standards of acceptable  
 7 and prevailing practice of a profession or the ethics of the profession,  
 8 regardless of whether a person, consumer, or entity is injured, or  
 9 conduct that is likely to deceive or defraud the public or is detrimental  
 10 to the public interest, including, but not limited to:  
 11 (1) Receipt of fees on the assurance that an incurable disease can  
 12 be permanently cured;  
 13 (2) Division of fees, or agreeing to split or divide the fees,  
 14 received for professional services with any person for bringing or  
 15 referring a consumer other than (a) with a partner or employee of the  
 16 applicant or credential holder or his or her office or clinic, (b) with a  
 17 landlord of the applicant or credential holder pursuant to a written  
 18 agreement that provides for payment of rent based on gross receipts, or  
 19 (c) with a former partner or employee of the applicant or credential  
 20 holder based on a retirement plan or separation agreement;  
 21 (3) Obtaining any fee for professional services by fraud, deceit, or  
 22 misrepresentation, including, but not limited to, falsification of third-  
 23 party claim documents;  
 24 (4) Cheating on or attempting to subvert the credentialing  
 25 examination;  
 26 (5) Assisting in the care or treatment of a consumer without the  
 1 consent of such consumer or his or her legal representative;  
 2 (6) Use of any letters, words, or terms, either as a prefix, affix,  
 3 or suffix, on stationery, in advertisements, or otherwise, indicating  
 4 that such person is entitled to practice a profession for which he or she  
 5 is not credentialed;  
 6 (7) Performing, procuring, or aiding and abetting in the performance  
 7 or procurement of a criminal abortion;  
 8 (8) Knowingly disclosing confidential information except as  
 9 otherwise permitted by law;  
 10 (9) Commission of any act of sexual abuse, misconduct, or  
 11 exploitation related to the practice of the profession of the applicant  
 12 or credential holder;  
 13 (10) Failure to keep and maintain adequate records of treatment or  
 14 service;  
 15 (11) Prescribing, administering, distributing, dispensing, giving,  
 16 or selling any controlled substance or other drug recognized as addictive  
 17 or dangerous for other than a medically accepted therapeutic purpose;  
 18 (12) Prescribing any controlled substance to (a) oneself or (b)  
 19 except in the case of a medical emergency (i) one's spouse, (ii) one's  
 20 child, (iii) one's parent, (iv) one's sibling, or (v) any other person  
 21 living in the same household as the prescriber;  
 22 (13) Failure to comply with any federal, state, or municipal law,  
 23 ordinance, rule, or regulation that pertains to the applicable  
 24 profession;  
 25 (14) Disruptive behavior, whether verbal or physical, which

26 interferes with consumer care or could reasonably be expected to  
 27 interfere with such care; ~~and~~  
 28 (15) Performing gender-reassignment surgery for an individual  
 29 younger than nineteen years of age in violation of section 2 of this act;  
 30 and  
 31 (16) ~~(15)~~ Such other acts as may be defined in rules and  
 1 regulations.  
 2 Nothing in this section shall be construed to exclude determination  
 3 of additional conduct that is unprofessional by adjudication in  
 4 individual contested cases.  
 5 Sec. 2. (1) For purposes of this section:  
 6 (a) Biological sex means the biological indication of male and  
 7 female in the context of reproductive potential or capacity, such as sex  
 8 chromosomes, naturally occurring sex hormones, gonads, and nonambiguous  
 9 internal and external genitalia present at birth, without regard to an  
 10 individual's psychological, chosen, or subjective experience of gender;  
 11 (b) Gender means the psychological, behavioral, social, and cultural  
 12 aspects of being male or female;  
 13 (c) Gender transition means the process in which a person goes from  
 14 identifying with and living as a gender that corresponds to the person's  
 15 biological sex to identifying with and living as a gender different from  
 16 the person's biological sex and may involve social, legal, or physical  
 17 changes;  
 18 (d) Irreversible gender-reassignment surgery means a medical  
 19 procedure performed for the purpose of assisting an individual with a  
 20 gender transition, including any of the following:  
 21 (i) Penectomy, orchiectomy, vaginoplasty, clitoroplasty, or  
 22 vulvoplasty for biologically male patients or hysterectomy or ovariectomy  
 23 for biologically female patients;  
 24 (ii) Metoidioplasty, phalloplasty, vaginectomy, scrotoplasty, or  
 25 implantation of erection or testicular prostheses for biologically female  
 26 patients; or  
 27 (iii) Augmentation mammoplasty for biologically male patients and  
 28 subcutaneous mastectomy for biologically female patients; and  
 29 (e) Physician means a person who is licensed as a physician pursuant  
 30 to the Medicine and Surgery Practice Act.  
 31 (2) A physician shall not provide irreversible gender-reassignment  
 1 surgery to any individual who is under nineteen years of age.  
 2 (3) A physician may provide any of the following to an individual  
 3 who is under nineteen years of age:  
 4 (a) Services to an individual born with a medically verifiable  
 5 disorder of sex development, including an individual with external  
 6 biological sex characteristics that are irresolvably ambiguous, such as  
 7 being born with forty-six XX chromosomes with virilization or forty-six  
 8 XY chromosomes with undervirilization or having both ovarian and  
 9 testicular tissue;  
 10 (b) Services provided when a physician has otherwise diagnosed a  
 11 disorder of sexual development and has determined through genetic or  
 12 biochemical testing that the individual does not have normal sex  
 13 chromosome structure, sex steroid hormone production, or sex steroid  
 14 hormone action;  
 15 (c) The treatment of any infection, injury, disease, or disorder  
 16 that has been caused by or exacerbated by the performance of gender  
 17 transition procedures, whether or not the gender transition procedure was  
 18 performed in accordance with state and federal law; or  
 19 (d) Any procedure undertaken because the individual suffers from a  
 20 physical disorder, physical injury, or physical illness that would, as  
 21 certified by a physician, place the individual in imminent danger of  
 22 death or impairment of major bodily function unless surgery is performed.  
 23 Sec. 3. Original section 38-179, Revised Statutes Cumulative

24 Supplement, 2022, is repealed.

25 2. On page 1, strike beginning with "to" in line 2 through line 4  
26 and insert "to prohibit a physician from performing gender-reassignment  
27 surgery for an individual younger than nineteen years of age as  
28 prescribed; to harmonize provisions; and to repeal the original  
29 section."

### **MOTION - Print in Journal**

Senator Hunt filed the following motion to LB574:

MO102

Bracket until May 24, 2023.

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 455A.** Introduced by Wayne, 13.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 455, One Hundred Eighth Legislature, First Session, 2023.

### **GENERAL FILE**

**LEGISLATIVE BILL 276.** Title read. Considered.

Committee AM674, found on page 697, was offered.

Senator Linehan moved the previous question. The question is, "Shall the debate now close?"

Senator Linehan moved for a call of the house. The motion prevailed with 23 ayes, 1 nay, and 25 not voting.

Senator Linehan requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 44:

Albrecht	Briese	Erdman	Kauth	Riepe
Arch	Clements	Fredrickson	Linehan	Sanders
Armendariz	Conrad	Geist	Lippincott	Slama
Ballard	Day	Halloran	Lowe	Vargas
Blood	DeBoer	Hansen	McDonnell	von Gillern
Bostar	DeKay	Hardin	McKinney	Walz
Bostelman	Dorn	Holdcroft	Moser	Wayne
Brandt	Dover	Hughes	Murman	Wishart
Brewer	Dungan	Ibach	Raybould	

Voting in the negative, 1:

Cavanaugh, M.

Present and not voting, 1:

Cavanaugh, J.

Excused and not voting, 3:

Aguilar          Hunt          Jacobson

The motion to cease debate prevailed with 44 ayes, 1 nay, 1 present and not voting, and 3 excused and not voting.

Senator M. Cavanaugh requested a roll call vote on the committee amendment.

Voting in the affirmative, 45:

Albrecht	Briese	Dungan	Ibach	Raybould
Arch	Cavanaugh, J.	Erdman	Kauth	Riepe
Armendariz	Clements	Fredrickson	Linehan	Sanders
Ballard	Conrad	Geist	Lippincott	Slama
Blood	Day	Halloran	Lowe	Vargas
Bostar	DeBoer	Hansen	McDonnell	von Gillern
Bostelman	DeKay	Hardin	McKinney	Walz
Brandt	Dorn	Holdcroft	Moser	Wayne
Brewer	Dover	Hughes	Murman	Wishart

Voting in the negative, 0.

Present and not voting, 1:

Cavanaugh, M.

Excused and not voting, 3:

Aguilar          Hunt          Jacobson

The committee amendment was adopted with 45 ayes, 0 nays, 1 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator M. Cavanaugh offered the following motion:

[MO104](#)

Reconsider the vote taken on AM674.

Senator M. Cavanaugh withdrew her motion to reconsider.

Pending.

**COMMITTEE REPORTS**  
Urban Affairs

**LEGISLATIVE BILL 6.** Placed on General File.  
**LEGISLATIVE BILL 223.** Placed on General File.

(Signed) Terrell McKinney, Chairperson

Enrollment and Review

**LEGISLATIVE BILL 574.** Placed on Select File.

(Signed) Beau Ballard, Chairperson

**AMENDMENTS - Print in Journal**

Senator Slama filed the following amendment to LB92:

[FA31](#)

Strike Section 1.

Senator Slama filed the following amendment to LB214:

[FA32](#)

Strike Section 1.

Senator Conrad filed the following amendment to LB343:

[AM942](#)

1 1. On page 2, line 28, strike ", state universities,".

Senator Conrad filed the following amendment to LB535:

[AM934](#)

1 1. Strike original section 22.  
2 2. Renumber the remaining sections and correct the repealer and  
3 internal references accordingly.

Senator Conrad filed the following amendment to LB277:

[AM935](#)

1 1. Strike original section 5.  
2 2. Renumber the remaining sections and correct internal references  
3 accordingly.

Senator M. Cavanaugh filed the following amendment to LB78:

[AM965](#)

1 1. On page 2, line 5, strike "wellness" and insert "well-being".

Senator M. Cavanaugh filed the following amendment to LB78:

[AM962](#)

1 1. Strike the enacting clause.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 71.** Introduced by Wishart, 27; Dorn, 30; Hansen, B., 16; Riepe, 12; Walz, 15.

WHEREAS, almost one-fifth of the Nebraska population is over the age of sixty-five, the rate of growth of Nebraskans over the age of sixty-five is predicted to rise by approximately thirty-six percent by the year 2035, and aging Nebraskans deserve to have a variety of support options to choose as they age; and

WHEREAS, over 35,000 Nebraskans work in aging services in a variety of settings including: home care, home health, independent and assisted living, nursing facilities, adult day services, housing, government, universities, and nonprofit supports for those that are aging. These workers provide services through their careers as nurses, health care workers, housekeepers, dietary staff, social workers, maintenance professionals, administrators, and activity professionals; and

WHEREAS, aging services professionals have developed a passion for supporting and caring for aging Nebraskans in every aspect of their lives and advocate for aging Nebraskans to receive the best care possible through the systems and supports of their choice; and

WHEREAS, aging services professionals recognize that each person has a unique story to tell and wisdom to share, provide older adults with a friendly face and caring support, and help assure older adults are treated with dignity and respect throughout the rest of their lives; and

WHEREAS, a multitude of careers exist in aging services including direct services, health care, education, administration, and support positions, thousands of Nebraskans have found rewarding careers in aging services, and there is a need for more Nebraskans to find a career in aging services with a larger aging population.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes the week of March 26 through April 1, 2023, as Careers in Aging Week in Nebraska and thanks all who have chosen careers in aging services.

Laid over.

**MOTION - Suspend Rules**

Senator Erdman filed the following motion:

Suspend the rules, Rule 2, Section 2; Rule 3, Section 4(f); and Rule 7, Section 6, to provide that for the remainder of the 108th Legislature, First Session, only one motion to postpone to a time certain, to commit, or to postpone indefinitely shall be offered on the same day at the same stage of the bill or proposition.

**VISITORS**

Visitors to the Chamber were home visitation staff from Public Health Solutions; Becky Haynes, Lincoln; students from Syracuse Middle School, Syracuse; members of the Eastern Nebraska Community Action Partnership; students and teachers from Jackson Elementary, Omaha; members of Nebraska Farm Bureau Promotion and Education Committee; students and teachers from Cody Elementary, Omaha; students from Cather Elementary, Omaha.

**MOTION - Adjournment**

Senator Armendariz moved to adjourn until 9:00 a.m., Tuesday, March 28, 2023.

Senator M. Cavanaugh requested a roll call vote on the motion to adjourn.

The Armendariz motion to adjourn prevailed with 38 ayes, 2 nays, 5 present and not voting, and 4 excused and not voting, and at 12:02 p.m., the Legislature adjourned until 9:00 a.m., Tuesday, March 28, 2023.

Brandon Metzler  
Clerk of the Legislature