

# The Nebraska Legislature's 105th session adjourned April 18, 2018.

During this session:

469 bills were introduced

152 of those bills were passed into law

66 bills were amended into other bills and then passed into law

12 bills were killed by the Legislature

4 bills were vetoed by the Governor

The NMA advocated and tracked over 60 bills during the 2018 session.

Bills that passed this year's session become law three calendar months (July 19) after the Legislature adjourned, unless the bill otherwise specified an effective date or the bill contained an emergency clause. Any bill with an emergency clause became law the day after it was signed by the Governor.

Because it is the second year in the legislative biennium, bills that did not pass will not carry over into next year's legislative session. Bills will need to be reintroduced in January 2019.

## We would like to extend our thanks to the following who testified on our behalf:

Joel Bessmer, MD  
Laura Ellson, Resident  
Katherine Jones,  
President of NCPS Board of Directors  
Steve Lazoritz, MD  
John Massey, MD  
Evelyn McKnight, HONORreform  
Robert Rhodes, MD  
Daniel Rosenquist, MD

Monica Seeland,  
Nebraska Hospital Association  
Kurt Schmeckpepper,  
Nebraska Academy of Physician Assistants  
Doug States, MD  
Travis Teetor, MD  
Edward Truemper, MD  
David Watts, MD  
Robert Wergin, MD

settlement list the medical, surgical, or hospital expenses that will remain unpaid as part of the settlement which are disputed and for which the employer has denied compensability. Any exclusion from coverage in any health, accident, or other insurance policy that provides that coverage does not apply if the employee is entitled to workers' compensation is void since the Court must order the employer is not liable for outstanding medical expenses incurred for treatment of an injury in the settlement.

*LB 953 was signed into law on April 19 and becomes effective July 19, 2018.*

### **LB 1035 – Change provisions relating to the Stroke System of Care Act** (Neutral)

Amends the Stroke System of Care Act to add "thrombectomy-capable stroke centers" to designations allowed by the Department of Health and Human Services (DHHS). DHHS will list those centers on their website in addition to the other systems outlined previously in statute.

*LB 1035 was amended into LB 1034, which was signed into law on April 23. This becomes effective July 19, 2018.*

### **LB 1052 – Require instruction and teacher education related to dyslexia** (Supported)

Provides that the State Department of Education must develop and distribute a technical assistance document to provide guidance for school districts and teachers on how to understand and provide evidence-based interventions for dyslexia. This bill also prevents school districts from requiring that students exhibiting characteristics of dyslexia obtain a medical diagnosis in order to receive interventions for dyslexia. And finally, it provides that each teacher education program must include instruction in dyslexia as part of its initial program requirements.

*LB 1052 was signed into law on April 17 and becomes effective July 19, 2018.*

### **LB 1119 – Adopt the Direct Primary Care Pilot Program Act** (Supported)

Creates a pilot program within the Nebraska State Insurance Program. The pilot program would begin in fiscal year 2019-20 and continue through fiscal year 2021-22. This program would require the Department of Administrative Services to provide enrollees with at least two different direct primary care health plans.

*LB 1119 was signed into law on April 13 and becomes effective July 19, 2018.*

### **LB 1127\* – Provide additional fees for certain credentials under the Uniform Credentialing Act and create the Patient Safety Cash Fund** (Supported) \*NMA Sponsored

Provides for a \$10 annual patient safety fee for persons licensed as a physician, osteopathic physician, physician assistant, nurse, occupational therapist, pharmacist, or physical therapist. The revenue would be used to support the educational and patient safety activities of a patient safety organization described in sections 71-8701 through 71-8721 (which created the Nebraska Coalition for Patient Safety). The fee would have sunset on January 1, 2025. (General File)

### **LR 281 CA – Constitutional amendment to state that affordable health care is a right and to expand eligibility under the medical assistance program** (Neutral)

Proposed amendment to the Nebraska Constitution that would put Medicaid expansion on the general ballot in November 2018 for electors to approve or reject. (Committee)

### **LR 293 CA – Constitutional amendment providing a right to use or consume medical cannabis subject to laws, rules, and regulations** (Opposed)

Proposed to put the question of legalized medical marijuana on the ballot for Nebraska voters. (General File)

**NMA**  
Nebraska Medical Association

Advocating for Physicians and the Health of all Nebraskans

# A recap of 2018 Nebraska Medical Association advocacy efforts

The 2019 session convenes on January 9, 2019

## SAVE THE DATE

2019 NMA Legislative Advocacy Breakfast  
February 12, 2019  
7:45-9:00 am  
Lincoln

**LB 42 – Change motor vehicle provisions relating to child passenger restraint requirements** (Supported)

Current law requires any child up to six years of age be secured in a car seat. LB 42 amends the law to change the age from six to eight years of age. It also requires all children up to two years of age to use a rear-facing car seat until the child outgrows the manufacturer’s maximum allowable height or weight.

*LB 42 was signed into law on April 4 and becomes effective January 1, 2019.*

**LB 117 – Adopt the Investigational Drug Use Act** (Supported)

Allows for a patient with advanced illness to participate in an investigational, biological product or device that has successfully completed Phase I of the clinical trial, but has yet to be approved by the FDA and remains under investigation in a clinical trial approved by the FDA.

*LB 117 was signed into law on April 19 and becomes effective July 19, 2018.*

**LB 285\* – Require human immunodeficiency virus testing and eliminate consent requirements for such testing** (Supported) \*NMA Sponsored

Repeals the statutory section (71-531) that requires a specific exclusion and written informed consent for HIV testing. The bill also requires obstetricians to test pregnant women for HIV, however it allows the pregnant woman to opt out if she chooses not to be tested.

*LB 285 was signed into law on February 28 and becomes effective July 19, 2018.*

**LB 299 – Adopt the Occupational Board Reform Act and change procedures for rules and regulations** (Neutral)

Requires the Legislature and its committees to review occupational and professional regulations to ensure that any regulations regarding occupational licensing, credentialing, or registration are the least restrictive regulations necessary to still protect consumers. The bill maintains Nebraska’s current 407

review standard for health care professions. The bill also provides a process for persons with criminal histories to submit a preliminary application for a license or credential in order to assist in seeking employment.

*LB 299 was signed into law on April 23 and becomes effective July 19, 2018.*

**LB 368 – Change helmet provisions, change passenger age limits, and require eye protection for operators of motorcycles and mopeds** (Opposed)

Would have repealed the motorcycle helmet law for persons 21 years of age and older. The bill would have required all operators of motorcycles or mopeds being operated on the highways of Nebraska to wear eye protection (defined as glasses that cover the eyes, a protective face shield attached to a helmet, goggles, or a windshield). LB 368 would have prohibited any person under six years of age from riding as a passenger on a moped or motorcycle. (General File)

**LB 391 – Provide requirements for use of injections and surgical procedures by optometrists** (Opposed)

Would have expanded the practice of optometry to include the performance of minor surgical procedures required for the treatment of cysts or infected or inflamed glands of the eyelid and the injection of pharmaceutical agents for the purposes allowed pursuant to section 38-2604. Provides for how optometrists can receive approval from the board to administer injections or perform minor surgical procedures. (Committee)

**LB 604 – Adopt the Nebraska Right to Shop Act and place duties on insurance carriers** (Neutral)

Enacts the Nebraska Right to Shop Act to provide that an insurance carrier may develop and implement a program that provides incentives for enrollees in a health plan who elect to receive shoppable health care services covered by the plan from

health care providers that charge less than the average price paid by that carrier for that shoppable health care service.

*LB 604 was amended into LB 1119, which was signed into law on April 13. This becomes effective July 19, 2018.*

**LB 687 – Adopt the Advanced Practice Registered Nurse Compact** (Opposed)

Allows Nebraska to enter the Interstate Advanced Practice Registered Nurse (APRN) Compact, which means any APRN with a multistate license could travel to a member state of the compact and practice without obtaining a separate license. It allowed APRNs to assume responsibility and accountability for patient care independent of a supervisory or collaborative relationship with a physician. APRNs would also be granted prescriptive authority for non-controlled prescription drugs. (Committee)

**LB 701 – Provide for telehealth practice by physicians and physician assistants** (Supported)

Amends the Uniform Credentialing Act to add definitions of “telehealth” and “telemonitoring.” Allows a physician or physician assistant to establish a provider-patient relationship through telehealth as well as permits those providers to prescribe drugs through telehealth if within the scope of practice.

*LB 701 was signed into law on April 11 and becomes effective July 19, 2018.*

**LB 703\* – Provides a licensure exemption for visiting athletic team physicians as prescribed** (Supported) \*NMA Sponsored

Provides an exemption from Nebraska’s unlawful practice of medicine statute for physicians of another state who accompany an athletic team or organization into Nebraska for an event. The exemption is limited to treatment provided to such athletic team or organization while present in Nebraska.

*LB 703 was amended into LB 1034, which was signed into law on April 23. This becomes effective July 19, 2018.*

**LB 704\* – Change provisions relating to foreign medical graduates** (Supported) \*NMA Sponsored

Reduces the requirement for licensure of physician graduates of foreign medical schools from three years to two years.

*LB 704 was amended into LB 1034, which was signed into law on April 23. This becomes effective July 19, 2018.*

**LB 788 – Require continuing education for health care professionals regarding opiate prescriptions** (Supported)

Requires physicians, physician assistants, nurse practitioners, nurse midwives, dentists, podiatrists, and veterinarians who prescribe controlled substances to earn at least three hours of continuing education biennially regarding prescribing opiates. The continuing education may include, but is not limited to: education regarding prescribing and administering opiates, the risks and indicators regarding development of addiction to opiates, and emergency opiate situations. One-half hour of the three hours of continuing education must cover the Prescription Drug Monitoring Program. This law sunsets on January 1, 2029.

*LB 788 was amended into LB 731, which was signed into law on April 19. This becomes effective July 19, 2018.*

**LB 838 – Change provisions relating to the Indoor Tanning Facility Act** (Supported)

Prohibits an operator, an owner of a tanning facility, or a lessee of a tanning facility from allowing any person less than 18 years of age to use tanning equipment at a tanning facility. (General File)

**LB 897 – Change medical providers’ duties under offense of failure to report injury or violence** (Supported)

Modifies the duty of medical providers to report wounds or injuries of violence which appear to have been received as the result of commission of a criminal offense. If the patient appears to have been the victim of a sexual assault or attempted sexual

assault, written consent must be given before the medical provider may contact law enforcement. A victim may report anonymously via an anonymous reporting system developed by the Nebraska Attorney General. Mandatory reporting is still required if the patient is suffering from a serious bodily injury or a bodily injury where a deadly weapon was used to inflict such injury.

*LB 897 was amended into LB 1132, which was signed into law on April 17. This becomes effective July 19, 2018.*

**LB 913 – Change provisions relating to assault with a bodily fluid against a public safety officer to include a health care professional** (Supported)

This bill adds health care professionals to the definition of “public safety officer” for purposes of the criminal prohibition on assault with a bodily fluid against a public safety officer. Under current law, assault with a bodily fluid against a public safety officer is a Class I misdemeanor but is aggravated to a Class IIIA felony 1) if the bodily fluid strikes the victim’s eyes, mouth, or skin, and 2) the attacker knew that the source of the fluid was infected with HIV, Hep B, or Hep C.

*LB 913 was signed into law on April 4 and becomes effective July 19, 2018.*

**LB 931 – Provide requirements for opiate and controlled substance prescriptions** (Neutral)

Prohibits medical practitioners from prescribing more than a seven-day supply for patients younger than 18 years of age. Exceptions to the seven-day cap exist for patients with a cancer diagnosis or for palliative care. A practitioner may exceed the seven-day cap so long as the practitioner documents the patient’s condition and records his/her professional finding that a non-opiate alternative was inappropriate to address the medical condition. This bill sunsets on January 1, 2029.

*LB 931 was signed into law on April 4 and becomes effective July 19, 2018.*

**LB 933 – Provide prescription requirements for certain controlled substances** (Neutral)

Requires practitioners to notify patients of the risks of addiction and overdose when prescribing opioids or other controlled substances listed in Schedule II of the Uniform Controlled Substances Act. Practitioners are required to notify the patient when the substance is initially prescribed and again prior to the third prescription; notation in the medical record is not required. This bill sunsets on January 1, 2029.

*LB 933 was amended into LB 931, which was signed into law on April 4. This becomes effective July 19, 2018.*

**LB 934 – Require identification prior to receipt of dispensed opiates** (Neutral)

Requires that individuals show photo ID when receiving dispensed opiates currently under Scheduled II, III, IV, or V of the Uniform Controlled Substances Act. Exceptions exist if the pharmacist or dispensing practitioner personally know the patient as well as an exception for patients, residents, and employees of licensed health care facilities so long as there are related ID procedures in place at such facility.

*LB 934 was amended into LB 931, which was signed into law on April 4. This becomes effective July 19, 2018.*

**LB 953 – Change provisions under the Nebraska Workers’ Compensation Act and Employee Classification Act** (Neutral)

Requires the Workers’ Compensation Court to approve lump-sum settlements in cases where a) an employee is eligible for Medicare, a Medicare beneficiary, or is expected to be Medicare-eligible within 30 months at the time of settlement or b) if medical, surgical, or hospital expenses incurred for treatment of the injury will not be fully paid as part of the settlement if the employee’s attorney affirms that the settlement is in conformity with the compensation schedule and for the best interests of the employee or his/her dependents. It requires the

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