

# The Nebraska 106th Legislature—first session adjourned May 31, 2019.

## During this session:

739 bills were introduced

229 bills were passed into law

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

2 bills were killed by the Legislature

5 bills were vetoed by the Governor, 2 of which the Legislature voted to override the veto

The NMA advocated and tracked over **60** bills during the 2019 session.

Bills that passed this year's session become law three calendar months (September 1) 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 first year in the legislative biennium, bills that did not pass this year will carry over into next year's legislative session. In addition to the carryover bills from 2019, new bills will be introduced in January 2020.

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

Dallin Andersen, MD	Denise Hug, MD, OD	Ryan Sewell, MD
Matt Appenzeller, MD	Sam Hutchinson, DO	Marcus Snow, MD
Andrew Baldwin, MD	David Ingvaldstad, MD	Jamie Snyder, MD
Beth Ann Brooks, MD	Katherine Jones, NCPS Board President	Olivia Sonderman, M3
Nick Bruggeman, MD	Anthony Kusek, MD	Travis Teetor, MD
David Buntain, JD	John Massey, MD	Patricia Terp, MD
Sarah Cada, MD	Ann Polich, MD	Britt Thedinger, MD
Alex Dworak, MD	Robert "Rocky" Rentfro, MD	Poonam Velagapudi, MD
Josue Gutierrez, MD	Daniel Rosenquist, MD	Jordan Warchol, MD
Maria Heusinkvelt		David Watts, MD

A number of physicians also assisted by reviewing legislation. Technical feedback from the members of the NMA who are engaged in the legislative process is critical to ensuring the statutory changes made ensure patient safety, protecting the practice of medicine, and the health of all Nebraskans. Thank you for your engagement and advocacy this year!

*LB 556 was signed into law on May 1, 2019 and became effective May 2, 2019.*

### **LB 557\***—Change provisions relating to prescriptions for controlled substances (Supported) \*NMA Sponsored

Last year, the Legislature passed an opioid package of bills, one of which required a prescriber 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 were required to notify the patient when the substance is initially prescribed and again prior to the third prescription. LB 557 amends the definition of a practitioner to include a member of the provider's health care team, includes an exemption for hospice and palliative care or a cancer diagnosis, and changes the first and third prescription to a 60-day lookback. It also moves this section as well as the seven-day opioid cap for minors from last year's opioid package out of the Uniform Controlled Substances Act and into the Uniform Credentialing Act. As a reminder, these requirements sunset on January 1, 2029.

*LB 557 was amended into LB 556, which was signed into law on May 1, 2019. This became effective May 2, 2019.*

### **LB 569**—Adopt the Out-of-Network Consumer Protection, Transparency, and Accountability Act (Neutral)

Requires disclosures from health care facilities regarding in-network or out-of-network status prior to scheduling appointments for nonemergency care. Requires postings on health care facility websites. Requires health care providers to have an in or out-of-network discussion with the patient prior to scheduling the patient. Physicians must provide, to the extent available, the name, practice name, and telephone number of any provider scheduled to perform anesthesiology, laboratory, pathology, radiology, or assistant surgeon services in connection with care to be provided. Additionally for a person's scheduled facility admission or scheduled

outpatient facility services, the physician must provide to the extent available the name, practice name, and telephone number of any other physician whose services will be arranged by the physician and are scheduled at the time of the preadmission, testing, registration, or admission at the time the nonemergency services are scheduled to the covered person and the facility. Provides for billing requirements for facilities that generally restrict billing for inadvertent out of network charges to the amount of in network charges. Provides for negotiation between out-of-network providers and health carriers. (Committee)

### **LB 710**—Change provisions relating to tobacco including sales, crimes, a tax increase, and distribution of funds (Supported)

Increases certain taxes on tobacco products and would provide that the revenue collected be disbursed for a number of specific reasons, including traumatic brain injury research, the State Children's Health Insurance Program, the Behavioral Health Provider Rate Stabilization fund, children's behavioral research, cancer research, and Medicaid expansion, among other things. (Committee)

### **LB 730**—Change, transfer, and eliminate provisions relating to advanced practice registered nurses (Opposed)

Eliminates the requirement that nurse midwives have a practice agreement. Eliminates the separate Nurse Practitioner, Nurse Midwifery, Nurse Anesthetist, Clinical Nurse Specialist, and Practical Nurse practice acts and consolidates them into the Advance Practice Registered Nurse Act. Provides that an APRN means an individual who is licensed as a registered nurse under the Nurse Practice Act or has authority based on the Nurse Licensure Compact to practice as a registered nurse in Nebraska and who is licensed in one or more of the following roles of an APRN: certified nurse midwife, certified nurse practitioner, certified registered nurse anesthetist, or clinical nurse specialist. (Committee)



Nebraska Medical Association

Advocating for Physicians and the Health of all Nebraskans

# A recap of 2019 Nebraska Medical Association advocacy efforts.

The 2020 session convenes on January 8, 2020

## SAVE THE DATE

2020 NMA Legislative Advocacy Breakfast  
January 28, 2020  
7:45-9:00 am  
Nebraska State Bar,  
Hruska Building  
635 S 14th St., Suite 130  
(west side of Capitol)  
Lincoln

**LB 15 – Adopt the Children of Nebraska Hearing Aid Act** (Supported)

Requires health insurance plans offered in Nebraska after January 1, 2020, to provide coverage for products and services related to a child’s hearing impairment, including such things as the purchase, evaluation, fitting, repairs, and more of hearing aids.

*LB 15 was signed into law on May 29, 2019 and becomes effective September 1, 2019.*

**LB 25\* – Provide for additional fees under the Uniform Credentialing Act and create the Patient Safety Cash Fund** (Supported)  
\*NMA Sponsored

Increases annual licensing fees for physicians by \$25 and physician assistants by \$10 in order to expand the educational efforts, public outreach, and training efforts of the Nebraska Coalition for Patient Safety. The fee will sunset on January 1, 2026.

*LB 25 was signed into law on March 12, 2019 and becomes effective January 1, 2020.*

**LB 37 – Change the Podiatry Practice Act to authorize a physician assistant to assist a podiatrist** (Neutral)

Allows a physician assistant (PA) to perform services that (1) are delegated by and provided under the supervision of a licensed podiatrist, (2) are appropriate to the level of competence of the PA, (3) form a component of the supervising podiatrist’s scope of practice, and (4) are not otherwise prohibited by law. Requires written agreement and prohibits supervision of more than four. (Committee)

**LB 60 – Change terminology relating to shaken baby syndrome** (Supported)

Replaces term shaken baby with abusive head trauma. Includes crying plans as a subject matter in the video to be watched by new parents before discharge from a hospital.

*LB 60 was signed into law on March 12, 2019 and becomes effective September 1, 2019.*

**LB 62 – Provide for education regarding and treatment of trichomoniasis** (Supported)

When an individual has been diagnosed with trichomoniasis, the bill allows for a prescription to be written to the individual’s sexual partner without examination. This expedited partner therapy is currently allowed for a diagnosis of chlamydia or gonorrhea.

*LB 62 was signed into law on May 29, 2019 and becomes effective September 1, 2019.*

**LB 110 – Adopt the Medical Cannabis Act** (Neutral)

Allows for the use of cannabis in treating or alleviating symptoms associated with a variety of medical conditions. It would have created a Medical Cannabis Board and a regulatory framework to establish access to cannabis for medical purposes. (General File)

**LB 118\*—Provide a procedure to withhold residential address of physicians in county records** (Supported)  
\*NMA Sponsored

Allows physicians to have their address withheld from the public, absent a specific written request from a member of the public. The request would have been required to be renewed after five years. (Committee)

**LB 119\*—Provide for immunity from liability, confidentiality of information, and a burden of proof under the Health Care Quality Improvement Act** (Supported)  
\*NMA Sponsored

Extends the peer review protections of the Health Care Quality Improvement Act to professional health care service entities organized under Nebraska Professional Corporation Act, the Nebraska Uniform LLC Act, or the Uniform Partnership Act of 1988. It also requires a professional health care service entity to have written policies and procedures governing their peer review committee if they are going to conduct a peer review process. Anyone seeking the confidentiality protections under the peer review process bears the burden of proof that the communications and documents are protected.

*LB 119 was signed into law on March 12, 2019 and becomes effective September 1, 2019.*

**LB 140—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. (Committee)

**LB 149—Change provisions relating to sale and use of tobacco products, electronic nicotine delivery systems, and alternative nicotine products** (Supported)

Raises the legal age to buy or use electronic nicotine delivery systems, alternative nicotine products, or tobacco to 19 years of age in all statutory provisions. Requires a license to sell electronic nicotine delivery systems in the same manner as similar products such as cigarettes, tobacco and alternative nicotine products.

*LB 149 was signed into law on May 30, 2019 and becomes effective January 1, 2020.*

**LB 205—Adopt the Surgical Technologist Registration Act** (Supported our language included)

Creates a registry for surgical technologists to register by July 1, 2020 or within 180 days after their employment, whichever is later. It lists a number of tasks and functions they may perform. As introduced, but amended out of the bill by the committee amendment, the bill would have created an exception to the unauthorized practice of medicine statute for the following class of persons: Skilled professionals or nonprofessional assistants who are licensed, certified, or registered under relevant areas of practice to whom are assigned tasks by a qualified physician in a manner consistent with accepted medical standards and appropriate to the skill in the practice area in which the professionals or assistants are licensed, certified, or registered. The NMA supported this component of the legislation, and since it was removed from the bill, have adopted a Neutral position. (General File)

**LB 245—Eliminate an exception to the Medicaid preferred drug list** (Opposed)

Would include antidepressant, antipsychotic, and anticonvulsant prescription drugs

for consideration on the preferred drug list. Currently, they are prohibited from consideration. (Committee)

**LB 316—Provide protections for pharmacies to disclose information regarding drug prices and prohibit insurers from charging covered individuals in excess of certain amounts** (Supported)

Provides that a contracted pharmacy shall not be prohibited from or subject to penalties or removal from a network or plan for sharing information regarding the cost, price, or copayment of a prescription with a covered individual. A PBM shall not prohibit or inhibit a contracted pharmacy from discussing any such information or selling a more affordable alternative to a covered individual. Also, an insurer shall not require a covered individual to pay for a prescription at the point of sale in an amount that exceeds the lesser of a) the individual’s copayment, deductible, or coinsurance for the drug, or b) the amount the individual would pay for such a drug if the individual paid cash.

*LB 316 was signed into law on April 24, 2019 and became effective April 25, 2019.*

**LB 327—State intent to appropriate funds for an increase in rates paid to behavioral health services providers** (Supported)

Provides for an increase in funding to behavioral health providers who provide services through Probation and DHHS’s Medical Assistance program in an amount of 5% for each year of the biennium. The money would be applicable to rates paid for psychiatric services for individuals age 21 and older, mental health and substance abuse treatment services for children and adolescents, and rehabilitative psychiatric services.

*Provisions of LB 327 have been amended into LB 294, the budget bill, which was signed into law on May 27, 2019.*

**LB 364—Change provisions relating to a limit on fees under the Nebraska Workers’ Compensation Act** (Opposed)

Prohibits providers from collecting any excess of the fee established by the Nebraska

Workers’ Compensation Court for any opinion or report addressing the medical condition, causation, or disability in a workers’ compensation case. It would require the Nebraska Workers’ Compensation Court to establish a fee schedule related to such reports. (Committee)

**LB 378—Change helmet provisions for autocycles, motorcycles, and mopeds** (Opposed)

Repeals 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. (General File)

**LB 449\*—Prohibit scleral tattooing** (Supported)  
\*NAEPS Sponsored

Prohibits the practice of using needles, scalpels, or other equipment to produce a permanent mark in the human eye, otherwise known as scleral tattooing, except when performed by a healthcare professional in the scope of that provider’s practice.

*LB 449 was signed into law on April 17, 2019 and becomes effective September 1, 2019.*

**LB 487—Require the Nebraska Workers’ Compensation Court to adopt an evidence-based drug formulary** (Opposed)

Requires the Workers’ Compensation Court to adopt a drug formulary for schedule II-V drugs that are prescribed and dispensed for outpatient use in connection with any workers’ compensation claim with a date of injury after January 1, 2020. It would require the court to meet with stakeholders when adopting the formulary and allows an appeal after a denial to an independent medical examiner. (Committee)

**LB 489—Require registration for the prescription drug monitoring system** (Supported)

Requires all Uniform Credentialing Act credential holders who have dispensing or

prescription authority to register with the PDMP. An amendment was presented during the Committee hearing, which the NMA supported, that excepted certain credential holders from the mandatory registration: those who are on active duty in the armed forces and do not practice in the state, credential holders who are retired and do not treat patients, credential holders who are researchers and do not treat patients, faculty member credential holders who do not treat patients, and any other credential holder who does not treat patients. (Committee)

**LB 528—Change provisions relating to use of pharmaceutical agents and use of certain treatments and procedures by optometrists** (Opposed)

Allows the Board of Optometry the sole discretion to expand the scope of optometrists’ practice by allowing surgery, laser treatment, and injection on the patient’s eye. (Committee)

**LB 554—Change provisions relating to prescription drugs not on the preferred drug list under the Medical Assistance Act** (Supported)

Allows a provider to prescribe an antidepressant, antipsychotic, or anticonvulsant prescription drug to a Medicaid recipient if the prescription is medically necessary. It prohibits a Medicaid Managed Care Organization from substituting a generic equivalent for such medications. Currently, it requires certification from the health care provider of therapeutic success or that the recipient has experienced a prior failure with a medication. (Committee)

**LB 556—Change provisions relating to prescriptions for controlled substances and the prescription drug monitoring program** (Supported)

Makes several changes to the PDMP including allowing for sharing with electronic health record systems and with other states’ PDMPs. Expands information required to be included in the PDMP when a prescription is dispensed to include the number of refills authorized and a patient identifier, which can be one of several types of numbers as described in the bill.

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