

# The Nebraska Legislature's 105th session adjourned May 23, 2017.

During this session:

667 bills were introduced

173 of those bills were passed into law

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

23 bills were killed by the Legislature

The NMA advocated and tracked over 100 bills during the 2017 session.

Bills that passed this year's session become law three calendar months (August 24) 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.

## Thank you to the following NMA physician members and other advocates for testifying before various legislative committee bill hearings:

Matt Appenzeller, MD  
Alëna Balasanova, MD  
Dennis Bozarth, MD  
Nick Bruggeman, MD  
Stephen Doran, MD  
David Durand, DO  
Jenna Fiala, MD  
Linda Ford, MD  
Kurt Gold, MD  
Keegan Harkins, MD  
Scott Jansen, Complete Children's Health  
Logan Jones, MD

Randy Kohl, MD  
Jack McCarthy, MD  
Shelley Nelson, MD  
Bob Rauner, MD  
Rob Rhodes, MD  
Les Spry, MD  
Leah Svingen (UNMC Medical Student)  
Travis Teetor, MD  
Jane Theobald, MD  
Jenna VanPelt, MD  
Eileen Vautravets, MD  
Dave Watts, MD

boards avoid liability under federal antitrust laws. It also creates a committee to review proposed legislation. (Committee)

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

Expands 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. Includes in the definition of pharmaceutical agent and agent injected into the eyelid for treatment of cysts or infected or inflamed glands of the eyelid. Provides for how an optometrist can receive approval from the board to administer injections or perform minor surgical procedures. (Committee)

### **LB 402 – Change provisions of the Nebraska Regulation of Health Professions Act** (Oppose)

Modifies the application process for a request of a scope change; allows HHS to decide to appoint a committee to review the scope of change and provides for the issues to be reviewed. Eliminates the technical committee's charge to make recommendations on the issue of approval for scope changes; allows recommendations on issue of approval for professions not currently regulated. Directs HHS to issue rules and regulations for procedures to be used for the technical committee. (Committee – a study resolution was introduced for the interim)

### **LB 408 – Provide for a drug formulary under the Nebraska Workers' Compensation Act** (Oppose)

Requires the Workers' Compensation Court to adopt an evidenced-based drug formulary consisting of drugs listed in schedules II, III and IV as they relate to treatment for workers' compensation patients. (Committee – a study resolution was introduced for the interim)

### **LB 442 – Create the Medical Assistance Managed Care Organization Oversight Committee** (Support)

Creates the Medical Assistance Managed Care Organization Oversight Committee. The committee shall gather information related to the delivery of care services under the medical assistance program and provide a briefing and report on the examination of quality of care and health outcomes, availability of information available to the public on services, integration

and coordination of health care procedures, community outreach efforts and comparison of actual costs in providing services, as well as caseload information. (Committee)

### **LB 438 – Increase cigarette and tobacco taxes as prescribed and provide for the distribution of funds** (Support)

Increases the tobacco tax on cigarettes and tobacco products from \$.64 to \$2.14 (\$1.50 increase). The increased tobacco tax revenues would be allocated to the General Fund and to the Health Care Cash Fund to help address budget shortfalls or other needs in addition to be used for a variety of health-related expenditures including tobacco cessation and prevention in youth. (Committee)

### **LB 450 – Adopt the Patient Choice at End of Life Act** (Oppose) (Committee)

### **LB 466 – Change credentialing and regulation of nurse-midwives\*** (Oppose)

Would eliminate the integrated practice agreement for nurse midwives in Nebraska (\*home birthing is not included within the proposed change). (Committee)

### **LB 474 – Require insurance coverage for synchronizing prescription medications** (Support)

Requires insurers to apply a prorated daily cost-sharing rate to prescriptions that are dispensed by a network pharmacy for a partial supply if the prescribing practitioner or pharmacist determines the fill or refill to be in the best interests of the patient and the patient requests or agrees to a partial supply for the purpose of synchronizing the patient's medications. (Committee)

### **LB 609 – Provide fee schedules under the Nebraska Workers' Compensation Act** (Oppose)

Provides for an outpatient hospital fee schedule and ambulatory surgical center fee schedule for workers' compensation patients. (Committee – a study resolution was introduced for the interim)

### **LB 622 – Adopt the Medical Cannabis Act** (Oppose)

Allow for the use of medical marijuana under defined conditions. (General File)



Nebraska Medical Association

Advocating for Physicians and the Health of all Nebraskans

# A summary of NMA advocacy efforts for the 2017 session

The 2018 session reconvenes on January 3, 2018.

## SAVE THE DATE

2018 NMA Legislative Advocacy Breakfast  
January 23, 2018  
7:30-9:00 am  
Nebraska State Capitol



**LB 88 – Adopt the Interstate Medical Licensure Compact and the Nurse Licensure Compact and change and eliminate other provisions relating to the regulation of health professionals** (Supported)

LB 88 allows wives and husbands of active military members to receive temporary medical licenses in Nebraska by showing they held a license from another state that requires as much or more education and experience. The temporary licenses would be valid for one year or until the person receives regular credentials. LB 61, the **Interstate Medical Licensure Compact (IMLC)**, was amended into the bill. The IMLC offers a voluntary expedited process to licensure for physicians who wish to practice in multiple states. Nineteen states are now part of the IMLC; the first license was issued in April 2017. The application process will be expedited by utilizing information previously submitted in the physician's state of principal license. The state of principal license will verify the information, conduct a new background check and then allow the qualified physician to select the compact states in which they wish to practice. For more information on the IMLC, visit: <http://www.imlcc.org/>.

Also amended into LB 88 was LB 342, an update to the **Nurse Licensure Compact** and changes to the **Licensed Practical Nurse-Certified Practice Act** (LB 283). LB 283 eliminates the LPN-C credential and allows LPNs to provide IV therapy if they graduated from an approved program of practical nursing after May 1, 2016, and/or completed an eight-hour didactic course in IV therapy and an approved employer-specific IV therapy skills course. For additional information, please visit: <http://dhhs.ne.gov/publichealth/pages/cr1NursingHome.aspx>.

*LB 88 was signed into law on April 25 with an emergency clause and is now in effect.*

**LB 92 – Require health carriers to provide coverage for telehealth services and change telehealth provisions relating to children's behavioral health** (Supported)

LB 92 enacts a new section in the insurance statutes to provide that individual and group health policies, certificates, contracts and plans shall not exclude a service from coverage solely because it is delivered through telehealth and is not provided through in-person consultation or contact between a provider and a patient. The bill also eliminates the Medicaid coverage restriction for telehealth services (LB 282) for children if a child has access to comparable services within 30 miles of his or her place of residence.

*LB 92 was signed into law on May 2 and becomes effective August 24, 2017.*

**LB 195 – Require notification following mammography as prescribed “Cheri’s Law”** (Supported)

LB 195 requires all health care facilities that perform mammography to provide notification to the patient following the mammogram (must be included in the summary of the mammography report) the patient's individual breast tissue classification based on the Breast Imaging Reporting and Data System established by the American College of Radiology as well as provide additional information if the patient has dense breast tissue. If the patient has heterogeneously dense or extremely dense breast tissue, additional notification is required.

*LB 195 was signed into law on April 26 and becomes effective August 24, 2017.*

**LB 223\* – Change Provisions Relating to Prescription Drug Monitoring Program (PDMP)** (Supported) \*NMA Sponsored

LB 223 was passed during the 2017 legislative session and will allow licensed or registered health care professionals credentialed under the Uniform Credentialing Act to be designated by a prescriber or dispenser to act as an agent for the purpose of submitting or accessing data from the PDMP when directly supervised by such prescriber or dispenser.

Access the Uniform Credentialing Act (<http://nebraskalegislature.gov/laws/browse-chapters.php?chapter=38>) to view a complete list of license types that would qualify as a designee.

As of January 2, 2017, all dispensed controlled substances are required to be submitted on a daily basis to the PDMP. Beginning January 1, 2018, all dispensed prescriptions must be reported to the PDMP.

For additional information about the Nebraska PDMP or to sign up, visit [www.dhhs.ne.gov/pdmp](http://www.dhhs.ne.gov/pdmp).

*LB 223 was signed into law on May 9 with an emergency clause and is now in effect.*

**LB 255 – Adopt the Dialysis Patient Care Technician Registration Act** (Supported)

LB 255 creates the Dialysis Patient Care Technician Registry in an effort to maintain an updated record of registered Dialysis Patient Care Technicians in the state. LB 255 also clarifies that dialysis patient care technicians may administer hemodialysis under the authority of a registered nurse licensed pursuant to the Nurse Practice Act.

The DHHS licensure department is in the process of implementing an application for the registry, which will be required to be completed by all DPCTs. Regulations will be promulgated in the coming months.

Additional information may be found in the near future on the DHHS licensure page: [http://dhhs.ne.gov/publichealth/Pages/cr1\\_profindex1.aspx](http://dhhs.ne.gov/publichealth/Pages/cr1_profindex1.aspx).

*LB 255 was signed into law on May 10 with an emergency clause and is now in effect.*

**LB 323 – Adopt the Palliative Care and Quality of Life Act** (Supported)

LB 323 creates the Palliative Care Consumer and Professional Information and Education Program and the Palliative Care and Quality of Life Advisory Council.

The purpose of this bill is to improve quality, patient-centered and family-focused care in Nebraska. The bill creates informational sharing about palliative care through the Department of Health and Human Services website, which would include continuing education opportunities for professionals around palliative care, delivery of palliative care in the home, information about best practices, educational and referral materials.

The Council is created to bring together health professionals that have palliative care experience and/or experience in palliative care delivery models in a variety of in-patient, out-patient, and community settings with various populations. The Council will consult with and advise the Department on matters relating to palliative care initiatives, especially the educational components.

*LB 323 was signed into law on May 3 and becomes effective August 24, 2017.*

**LB 327 – Appropriate funds for the expenses of Nebraska State Government for the biennium ending June 30, 2019** (Opposed)

LB 327 was the mainline appropriations bill for the biennium that began July 1, 2017, and ends on June 30, 2019. This measure includes the budget recommendations for all State operations and aid programs. The bill includes the appropriate transfers from cash funds to the General Fund, as well as between specified cash funds. LB327 included a 3% reimbursement rate reduction for physicians beginning July 1, 2017. As a result, the NE DHHS Medicaid Division proposed to implement changes to the payment methodology for dual eligible Medicare/Medicaid crossover claims, which Governor Ricketts approved to be effective July 1, 2017.

*LB 327 was passed with an emergency clause and became effective on July 1, 2017.*

**LB 487 – Provide and change immunity provisions relating to Naloxone and asthma and allergic reactions and change provisions of the Uniform Controlled Substances Act** (Support)

LB 487 changes penalty provisions relating to or committed by persons experiencing or witnessing a drug overdose if they request emergency medical assistance for themselves or another person as soon as the emergency situation is reasonably apparent. They must be the first person to make a request for medical assistance, remain on the scene until help arrives and must cooperate with medical assistance and law enforcement personnel. LB 487 allows them not to be charged with possession of a controlled substance under subsection (3) of 28-416 or of paraphernalia under section 28-441.

Additionally, any emergency responder or peace officer administering Naloxone to treat an apparent opioid overdose shall not be subject to administrative or criminal prosecution, nor will they be civilly liable for damages caused by the treatment or care for the individual experiencing the overdose unless the responder is willfully, wantonly or grossly negligent. **LB 296\* (NMA Sponsored), Change Immunity Provisions with Respect to Asthma and Allergic Reactions** was amended into LB 487, which extends some civil immunity to prescribers and dispensers of non-patient specific medication which schools are required to keep on hand for the emergency care for a person experiencing a potentially life threatening asthma or allergic reaction event on school grounds or at a school sponsored event by providing that such prescribers or pharmacists cannot be held liable for the negligent conduct of the person administering the emergency protocols.

*LB 487 was signed into law on May 2 and becomes effective August 24, 2017.*

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

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

*LB 368 failed to reach cloture and will carry over into next session.*

**LB 427 – Authorize schools and the State Department of Education to adopt policies relating to pregnant and parenting students, authorize training regarding such policies, and authorize breastfeeding accommodations for student-parents** (Supported)

LB 427 Requires K-12 schools to accommodate student mothers who want to breast-feed as well as provide an appropriate place for students to pump and store breast milk. The bill applies all public, private and parochial schools and requires all public school districts to adopt a policy for accommodating pregnant and parenting students.

The Nebraska State Department of Education is required to create a model policy that local districts could adapt. At a minimum policies (LB 428 amended into bill) would have to address student absences during pregnancy, provide for tutoring or other coursework alternatives for pregnant or parenting students, specify how districts would accommodate students who need to pump milk and identify quality local child care providers if the district does not have in-school child care.

*LB 427 was signed into law on May 8 and becomes effective August 24, 2017.*

**LB 506 – Adopt the Compassion and Care for Medically Challenging Pregnancies Act** (Supported)

LB 506 creates the Compassion and Care for Medically Challenging Pregnancies Act, that allows a physician or nurse practitioner diagnosing an unborn child with a lethal fetal anomaly to provide information about perinatal hospice services by offering services or referral. It also requires the Department of Health and Human Services to create and organize a list of perinatal hospice programs available in Nebraska and nationally and post that list and an informational sheet on their website. **LB 287\* (NMA Sponsored), Provide Duties for the State Child and Maternal Death Review Team** was amended into LB 506 and eliminates the need for duplication of storage of certain data collected by the Department of Health and Human Services. LB 287 eliminates the necessity for duplication of data storage by allowing the storage of data with identifiers in an offsite electronic database with appropriate safeguards and privacy protections.

*LB 506 was signed into law on April 26 and becomes effective August 24, 2017.*

**LB 645 – Add dyslexia for purposes of special education** (Supported)

LB 645 adds to Nebraska statute a definition of dyslexia as a specific learning disability.

*LB 645 was signed into law on May 10 with an emergency clause and is now in effect.*

## Carryover Bills

The following bills remain active at the end of the 2017 session and will carry over to the 2018 session in the position they were in at the time of adjournment:

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

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. (General File)

**LB 285\* – Change and eliminate provisions relating to human immunodeficiency virus (HIV) testing** (Support) \*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 (allows the pregnant woman to opt out if she chooses not to be tested). (General File)

**LB 299 – Adopt the Occupational Board Reform Act** (Neutral)

Creates the Office of Supervision of Occupational Boards to supervise occupational boards and ensure state policy (a) to use the least restrictive regulation to protect consumers from present, significant and substantiated harms that threaten public health and safety when it is necessary to displace competition, (b) to enforce an occupational regulation against an individual only to the extent that the individual sells goods and services that are included explicitly in the statute that governs the lawful occupation's scope of practice. The office has the power to disapprove of occupational board regulations and exercise control over occupational boards. The office shall handle petitions, as prescribed in the bill, to practice an occupation despite criminal conviction. The office shall also ensure that occupational boards and individual members of occupational

*(continued on back panel)*