

# NEBRASKA

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DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

January 29, 2019

Senator Sara Howard  
District #9 State Capitol  
P.O. Box 94604  
Lincoln, NE 68509-4604

RE: LB 37

Chairman Howard and Members of the Health and Human Services Committee:

The Department is submitting this letter in a neutral capacity on LB 37 and we request that the letter be included in your formal records of the hearing. First, the Department would like to inform the committee that the Nebraska Academy of Physician Assistants has submitted a letter of intent requesting that a credentialing review be conducted to address a variety of points. It seems likely the 407 review may impact the subject matter of the bill.

The Nebraska Academy of Physician Assistants is seeking the following:

- 1) Removal of physician mandates related to Physician Assistant (PA) employment and practice, instead allowing these decisions to be made at the practice or facility level. These mandates include:
  - the requirement that a physician be on-site when PAs practice in certain cases;
  - the requirement that a PA have an agreement with a specific physician in order to practice; and
  - updating the current PA to physician ratio from 4:1 to 8:1.
- 2) Update language related to "supervision" and "delegation" to more accurately reflect the physician-PA relationship in which PAs engage in "intentional collaboration" and practice on a "healthcare team".
- 3) Updating PA scope of practice provisions to reflect legal medical services for which a PA has been prepared by their education, training, and experience and is competent to perform.
- 4) Updating PA prescribing provisions to include non-pharmacological interventions and clarify that provisions allowing healthcare providers to furnish medications to patients in certain cases applies to PAs.
- 5) Modifying membership of the Board of Health to include one PA member.

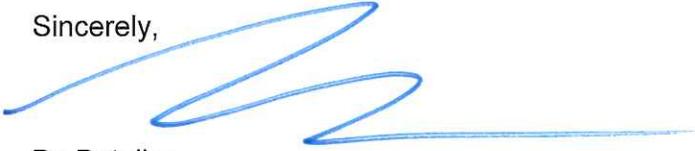
- 6) Updating membership of the PA Committee to be majority-PA, with three PA members, one physician who practices with PAs and is a member of the Board of Medicine and Surgery, and one public member.

Next, the following technical and drafting issues with LB 37:

- 1) Provisions being added to the Podiatry Practice Act mirror some of the physician assistant supervision requirements found in the Medicine and Surgery Practice Act (Neb. Rev. Stat. 38-2047 and 38-2050); however, the following additional sections of the Medicine and Surgery Practice Act pertaining to physician assistants should also be considered for inclusion in these changes:
  - a. Neb. Rev. Stat. 38-2014 is the definition of physician assistant, which refers to the performance of medical services under the supervision of a physician. The new language proposed in LB 37 references supervision by a podiatrist, so it would be appropriate to revise this section to include "under the supervision of a physician or podiatrist".
  - b. Neb. Rev. Stat. 38-2018 is the definition of supervision, which refers to the ready availability of the supervising physician and contact with the supervising physician by telecommunication. Again, since the new language proposed in LB 37 references supervision by a podiatrist, it would be appropriate to revise this section to include podiatrists. If podiatrists want their physician assistants to provide services in settings geographically remote from the podiatrist, these revisions are recommended.
  - c. Neb. Rev. Stat. 38-2048 allows physician assistant students (trainees) to perform medical services within an approved educational program. It may be appropriate to revise this section to allow both medical services and podiatry services to be performed by trainees.
  - d. Neb. Rev. Stat. 38-2049 provides for issuance of a temporary license to a physician assistant, and there are several references in this section to the board, which in this instance is the Board of Medicine and Surgery. If the intent is for the Board of Podiatry to have similar authority in recommending temporary licensure for physician assistants, this section may require revision.
  - e. Neb. Rev. Stat. 38-2055 authorizes physician assistants to prescribe drugs and devices as delegated by a supervising physician. If podiatrists intend for physician assistants to be able to prescribe under the supervision of a podiatrist, it would be appropriate to revise this section.
  - f. Neb. Rev. Stat. 38-2056 in the Medicine and Surgery Practice Act includes powers and duties of the Physician Assistant Committee, including making recommendations to the Board of Medicine and Surgery regarding applications for licensure, physician assistant education, scope of practice, disciplinary proceedings, physician assistant licensure and supervising physician requirements, and continuing competency. There is no language proposed in LB 37 that distinguishes that similar matters would be handled by the Board of Podiatry. This section also includes the membership of the Physician Assistant Committee which currently does not include a podiatrist. If the intent is to provide authority to the Board of Podiatry under this section, it would be appropriate to include revisions.
- 2) On page 3, line 24, it is recommended to insert "podiatry" to read "A physician assistant may perform podiatry services" for consistency with page 4, lines 9 and 14 where that language is included.

- 3) Language is included in the Medicine and Surgery Practice Act (Neb. Rev. Stat. 38-2050) regarding regulations pertaining to agreements between a supervising physician and a physician assistant, but this language about regulations was not included in the language being added to the Podiatry Practice Act. The bill, as written, may be self-executing and not need regulations for implementation.

Sincerely,



Bo Botelho  
Interim Public Health Director  
Department of Health and Human Services

cc: Senator Hilkemann  
Members of the Health and Human Services Committee