

## COMMITTEE REPORT

TO: Patrick O'Donnell  
Clerk of the Legislature

FROM: Senator Sara Howard  
Chair, Health and Human Services Committee

DATE: 11.13.2020

RE: Health and Human Services Committee Report and Recommendations on  
Regulated Occupations within Committee Jurisdiction – Dialysis Patient Care  
Technician

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### **GENERAL INFORMATION**

- I. Occupation Regulated
  - A) Dialysis Patient Care Technician
  
- II. Name of Occupational Board Responsible for Enforcement
  - A) Department of Health and Human Services
  
- III. Public Purpose and Assumptions Underlying License Creation
  - A) From Nebraska Revised Statute Section [38-3702](#): “The purpose of the Dialysis Patient Care Technician Registration Act is to ensure the health, safety, and welfare of the public by providing for the accurate, cost-effective, efficient, and safe utilization of dialysis patient care technicians in the administration of hemodialysis.” A Dialysis Patient Care Technician may administer hemodialysis under the authority of a Registered Nurse, who may delegate tasks based on his or her judgment to a Dialysis Patient Care Technician based on the technician’s education, knowledge, training, and skill. The Dialysis Patient Care Technician is placed on the Dialysis Patient Care Technician Registry after completing the required training and examination prerequisites.
  
- IV. Number of Regulated Professionals in Nebraska
  - A) There are 275 registered Dialysis Patient Care Technicians in Nebraska.

### **BOARD MEMBERSHIPS AND MEETINGS**

- I. Number of Members

- A) There is no advisory board which oversees the Dialysis Patient Care Technician occupation. The Dialysis Patient Care Technician occupation is overseen by the Department of Health and Human Services.
- II. Who Appoints Members of the Board / Is Legislative Approval Required?
  - A) Not Applicable
- III. Term Length
  - A) Not Applicable
- IV. Qualifications for Membership of the Board
  - A) Not Applicable
- V. The Number of Meetings Required Per Year / Meetings Actually Held
  - A) Not Applicable
- VI. Annual Budget Information for the Previous Five Years
  - A) The Dialysis Patient Care Technician budget is included in the overall fee budget of the Licensure Unit of the Division of Public Health within the Department of Health and Human Services
- VII. Statement from Occupational Board on Effectiveness of Regulations
  - A) The Department of Health and Human Services stated “Regulations are required to ensure minimum education requirements are met, which then ensures the safety of Nebraskans receiving hemodialysis by this credentialed, unlicensed profession.”

**AUTHORIZATION**

- I. Statutory Authorization
  - A) Statutory authorization for the Dialysis Patient Care Technician may be found in the Nebraska Revised Statutes, Sections [38-3701](#) to [38-3707](#), which may be cited as the Dialysis Patient Care Technician Registration Act. For text of the Nebraska statutes relating to the Dialysis Patient Care Technician occupation, see Appendix A.
- II. Other Authorization
  - A) Federal Authority comes from the Code of Federal Regulations, [Title 42, Chapter IV, Subchapter G, Part 494, Subpart D, Section 494.140](#), which contains the personnel requirements for dialysis facility staff. Subsection (e) contains the requirements for Patient Care Dialysis Technicians, which is the same position as Nebraska’s Dialysis Patient Care Technicians.

## **CREDENTIALING**

- I. Number of Licenses, Certifications, or Registrations Issued In Past Five Years
  - A) There have been 282 Dialysis Patient Care Technicians placed on the registry in the past five years.
  
- II. Number of Licenses, Certifications, or Registrations Denied in Past Five Years
  - A) There have been two Dialysis Patient Care Technician registrations denied in the past five years.
  - B) Those denials were based upon not reporting convictions on the application to be placed on the registry.
  
- III. Number of Licenses, Certifications, or Registrations Revoked in Past Five Years
  - A) There have been no registrations revoked in the past five years.
  
- IV. Number of Licenses, Certifications, or Registrations Penalized in Past Five Years
  - A) There have been no registrations penalized in the past five years.
  
- V. Comparison of How Other States Regulate This Occupation
  - A) Dialysis Patient Care Technicians are regulated by the Federal End Stage Renal Dialysis Regulations and Code of Federal Regulations. Other states follow the same federal rules and regulations for Dialysis Patient Care Technicians.
  
- VI. What Is The Potential Harm if This Occupation Is No Longer Licensed, Certified, or Regulated?
  - A) The potential harm if the occupation is no longer regulated would be a lack of compliance with federal law, which could jeopardize funding received from the Federal Government. Furthermore, if the Dialysis Patient Care Technician occupation was unregulated, individuals without proper training or experience could administer hemodialysis incorrectly, thus endangering the safety, health, and welfare of Nebraskans.

## **COMMITTEE RECOMMENDATION ON CONTINUATION, MODIFICATION, OR TERMINATION OF OCCUPATIONAL REGULATIONS**

Regulated occupations under the purview of the Health and Human Services Committee are unique in that through the Nebraska Regulation of Health Professions Act (Neb. Rev. Stat. Sections 71-6201 to 71-6229), health professions which are not licensed or regulated, or health professions that wish to change their scope of practice, go through a three-stage credentialing process.

Credentialing review is a three-stage process conducted by the following review bodies in the following order:

- 1) The review of an ad hoc technical review committee appointed by the Director of the Division of Public Health;
- 2) The review of the State Board of Health;
- 3) The review of the Director of the Division of Public Health.

The three review bodies each create their own independent report on each proposal. All reports created by the review process are available to members of the Health and Human Services Committee to assist them during their review of any bills that might arise from credentialing review proposals. These reports include recommendations regarding the level of licensure of the health profession. These reports are advisory to the Legislature, and only the action of the Legislature may create changes in the regulatory status of a profession. These reports represent expert input into possible public health and safety aspects of credentialing review proposals, and the nine-month process is overseen by those with experience in the provision of health-related or medical services.

The Dialysis Patient Care Technician occupation was subject to the credentialing review process in 2017. The recommendation was that Dialysis Patient Care Technicians should be placed on a registry. The credentialing review reports may be found [here](#).

The licenses, certifications, and registrations overseen by the Department of Health and Human Services are intended to protect the health, safety, and welfare of Nebraskans. The current regulation of the Dialysis Patient Care Technician occupation by placing them on the Dialysis Patient Care Technician Registry is appropriate and balanced and does not need modification at this time.

## **APPENDIX A**

## **STATUTES PERTAINING TO THE DIALYSIS PATIENT CARE TECHNICIAN REGISTRATION ACT**

### **38-3701. Act, how cited.**

Sections 38-3701 to 38-3707 shall be known and may be cited as the Dialysis Patient Care Technician Registration Act.

Source: Laws 2017, LB255, § 1.

### **38-3702. Purpose of act.**

The purpose of the Dialysis Patient Care Technician Registration Act is to ensure the health, safety, and welfare of the public by providing for the accurate, cost-effective, efficient, and safe utilization of dialysis patient care technicians in the administration of hemodialysis. The act applies to dialysis facilities in which hemodialysis is provided.

Source: Laws 2017, LB255, § 2.

### **38-3703. Terms, defined.**

For purposes of the Dialysis Patient Care Technician Registration Act:

(1) Dialysis patient care technician means a person who meets the requirements of section 38-3705; and

(2) Facility means a health care facility as defined in section 71-413 providing hemodialysis services.

Source: Laws 2017, LB255, § 3.

### **38-3704. Dialysis patient care technician; powers.**

A dialysis patient care technician may administer hemodialysis under the authority of a registered nurse licensed pursuant to the Nurse Practice Act who may delegate tasks based on nursing judgment to a dialysis patient care technician based on the technician's education, knowledge, training, and skill.

Source: Laws 2017, LB255, § 4.

### **38-3705. Dialysis patient care technician; qualifications.**

The minimum requirements for a dialysis patient care technician are as follows: (1) Possession of a high school diploma or a general educational development certificate, (2) training which follows national recommendations for dialysis patient care technicians and is conducted primarily in the work setting, (3) obtaining national certification by successful passage of a certification examination within eighteen months after becoming employed as a dialysis patient care technician, and (4) recertification at intervals required by the organization providing the certification examination including no fewer than thirty and no more than forty patient contact hours since the previous certification or recertification.

Source: Laws 2017, LB255, § 5.

**38-3706. Dialysis patient care technician; registration; application; fee; duties; licensure as nurse; effect.**

(1) To register as a dialysis patient care technician, an individual shall (a) possess a high school diploma or a general educational development certificate, (b) demonstrate that he or she is (i) employed as a dialysis patient care technician or (ii) enrolled in a training course as described in subdivision (2) of section 38-3705, (c) file an application with the department, and (d) pay the applicable fee.

(2) An applicant or a dialysis patient care technician shall report to the department, in writing, any conviction for a felony or misdemeanor. A conviction is not a disqualification for placement on the registry unless it relates to the standards identified in section 38-3705 or it reflects on the moral character of the applicant or dialysis patient care technician.

(3) An applicant or a dialysis patient care technician may report any pardon or setting aside of a conviction to the department. If a pardon or setting aside has been obtained, the conviction for which it was obtained shall not be maintained on the Dialysis Patient Care Technician Registry.

(4) If a person registered as a dialysis patient care technician becomes licensed as a registered nurse or licensed practical nurse, his or her registration as a dialysis patient care technician becomes null and void as of the date of licensure as a registered nurse or a licensed practical nurse.

Source: Laws 2017, LB255, § 6.

**38-3707. Dialysis Patient Care Technician Registry; contents.**

(1) The department shall list each dialysis patient care technician registration on the Dialysis Patient Care Technician Registry. A listing in the registry shall be valid for the term of the registration and upon renewal unless such listing is refused renewal or is removed.

(2) The registry shall contain the following information on each registrant: (a) The individual's full name; (b) any conviction of a felony or misdemeanor reported to the department; (c) a certificate showing completion of a nationally recognized training program; and (d) a certificate of completion of a nationally commercially available dialysis patient care technician certification examination.

(3) Nothing in the Dialysis Patient Care Technician Registration Act shall be construed to require a dialysis patient care technician to register in the Medication Aide Registry.

Source: Laws 2017, LB255, § 7.