

NEBRASKA

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DEPT. OF HEALTH AND HUMAN SERVICES



Jim Pillen, Governor

May 22, 2023

To Active, Licensed Physicians and Osteopathic Physicians & Surgeons:

As of May 22, 2023, LB574 which creates the Preborn Child Protection Act and the Let Them Grow Act has been signed into law. The Preborn Child Protection Act takes effect immediately due to the inclusion of an emergency clause. LB574 is available for review at this link: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Final/LB574.pdf>

In Summary: The Preborn Child Protection Act becomes operative immediately and prohibits the performance or inducement of an abortion if (1) the physician did not first determine the gestational age of the preborn child and record the method used to determine the gestational age, as well as the date, time, and results of such determination in the woman's medical record, and (2) if the probable gestational age of the preborn child is 12 or more weeks. The Preborn Child Protection Act does NOT prohibit an abortion if it was performed or induced due to a medical emergency; or if the pregnancy resulted from First Degree Sexual Assault, First Degree Sexual Assault of a Child, or Incest (as defined in Neb. Rev. Stat. § 28-319, § 28-319.01, and § 28-703).

If the Director of Public Health (Director) or Chief Medical Officer* determines, upon completion of a hearing under the Uniform Credentialing Act, that a licensee has performed or induced an unlawful abortion in violation of the Preborn Child Protection Act, the Director or Chief Medical Officer* shall enter an order imposing a sanction of revocation in accordance with section 38-1,100 of the Uniform Credentialing Act.

The Let Them Grow Act (Act) becomes operative on October 1, 2023, and requires the Chief Medical Officer to adopt and promulgate rules and regulations, as necessary, to provide for nonsurgical, gender-altering procedures for individuals younger than nineteen years of age. The intentional and knowing performance of gender-altering procedures by a health care practitioner for an individual younger than nineteen years of age in violation of the Act shall be considered unprofessional conduct as defined in section 38-179(3). Should such a violation be determined, after a hearing held in accordance with the Administrative Procedures Act, the practitioner may be subject to discipline under the Uniform Credentialing Act.

The Act's prohibition does not apply to the continuation of treatment using puberty-blocking drugs, cross-sex hormones, or both when the course of treatment began before the operative date of the Act, October 1, 2023. Nor does the prohibition apply to nonsurgical gender-altering procedures when such procedures are provided in compliance with the rules and regulations adopted and promulgated by the Chief Medical Officer pursuant to this Act. More information will be made available as the rules and regulations drafting process begins.

The Department recommends that practitioners read the bill in its entirety to ensure that you are aware of your rights and responsibilities.

Sincerely,

Timothy A. Tesmer, MD
Chief Medical Officer
Division of Public Health
Department of Health and Human Services

*Per Neb. Rev. Statute § 38-1,101, if a Chief Medical Officer is appointed he or she shall perform the duties of the Director for decisions in contested cases under the Uniform Credentialing Act other than contested cases under §§ 38-1,119 to 38-1,123.