

LEGISLATIVE BILL 203

Approved by the Governor April 4, 2007

Introduced by Gay, 14

FOR AN ACT relating to health care facilities; to amend sections 71-403, 71-452, and 71-453, Reissue Revised Statutes of Nebraska, and sections 71-401 and 71-434, Revised Statutes Cumulative Supplement, 2006; to provide for an informal conference process for disciplinary action; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-401, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-401 Sections 71-401 to 71-459 and section 3 of this act shall be known and may be cited as the Health Care Facility Licensure Act.

Sec. 2. Section 71-403, Reissue Revised Statutes of Nebraska, is amended to read:

71-403 For purposes of the Health Care Facility Licensure Act, unless the context otherwise requires, the definitions found in sections 71-404 to 71-431 and section 3 of this act shall apply.

Sec. 3. Representative peer review organization means a utilization and quality control peer review organization as defined in section 1152 of the Social Security Act, 42 U.S.C. 1320c-1, as such section existed on the effective date of this act.

Sec. 4. Section 71-434, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-434 (1) Licensure activities under the Health Care Facility Licensure Act shall be funded by license fees. An applicant for an initial or renewal license under section 71-433 shall pay a license fee as provided in this section.

(2) License fees shall include a base fee of fifty dollars and an additional fee based on:

(a) Variable costs to the department of inspections, architectural plan reviews, and receiving and investigating complaints, including staff salaries, travel, and other similar direct and indirect costs;

(b) The number of beds available to persons residing at the health care facility;

(c) The program capacity of the health care facility or health care service; or

(d) Other relevant factors as determined by the department.

Such additional fee shall be no more than two thousand six hundred dollars for a hospital or a health clinic operating as an ambulatory surgical center, no more than two thousand dollars for an assisted-living facility, a health clinic providing hemodialysis or labor and delivery services, an intermediate care facility, an intermediate care facility for the mentally retarded, a nursing facility, or a skilled nursing facility, no more than one thousand dollars for home health agencies, hospice services, and centers for the developmentally disabled, and no more than seven hundred dollars for all other health care facilities and health care services.

(3) If the licensure application is denied, the license fee shall be returned to the applicant, except that the department may retain up to twenty-five dollars as an administrative fee and may retain the entire license fee if an inspection has been completed prior to such denial.

(4) The department shall also collect the fee provided in subsection (1) of this section for reinstatement of a license that has lapsed or has been suspended or revoked. The department shall collect a fee of ten dollars for a duplicate original license.

(5) The department shall collect a fee from any applicant or licensee requesting an informal conference with a representative peer review organization under section 71-452 to cover all costs and expenses associated with such conference.

~~(5)~~ (6) The department shall adopt and promulgate rules and regulations for the establishment of license fees under this section.

~~(6)~~ (7) The department shall remit all license fees collected under this section to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund. License fees collected under this section shall only be used for activities related to the licensure of health care facilities and health care services.

Sec. 5. Section 71-452, Reissue Revised Statutes of Nebraska, is

amended to read:

71-452 Within fifteen days after service of a notice under section 71-451, an applicant or a licensee shall notify the director in writing that the applicant or licensee (1) desires to contest the notice and request an informal conference with a representative of the department in person or by other means at the request of the applicant or licensee, (2) desires to contest the notice and request an informal conference with a representative peer review organization with which the department has contracted, (3) desires to contest the notice and request a hearing, or ~~(3)~~ (4) does not contest the notice. If the director does not receive such notification within such fifteen-day period, the action of the department shall be final.

Sec. 6. Section 71-453, Reissue Revised Statutes of Nebraska, is amended to read:

71-453 (1) The director shall assign a representative of the department, other than the individual who did the inspection upon which the notice is based, or a representative peer review organization to hold an informal conference with the applicant or licensee within thirty days after receipt of a request made under subdivision (1) or (2) of section 71-452. Within twenty working days after the conclusion of the conference, the representative or representative peer review organization shall report in writing to the department its conclusion regarding whether to affirm, modify, or dismiss the notice. ~~The representative shall state in writing and the specific reasons for affirming, modifying, or dismissing the notice~~ the conclusion and shall immediately transmit copies of the statement provide a copy of the report to the director and the applicant or licensee. ~~The applicant's or licensee's copy of such statement shall be sent~~

(2) Within ten working days after receiving a report under subsection (1) of this section, the department shall consider such report and affirm, modify, or dismiss the notice and shall state the specific reasons for such decision, including, if applicable, the specific reasons for not adopting the conclusion of the representative or representative peer review organization as contained in such report. The department shall provide the applicant or licensee with a copy of such decision by certified mail to the last address shown in the records of the department. If the applicant or licensee desires to contest the an affirmed or modified notice, the applicant or licensee shall notify the director in writing within five working days after receiving such statement decision that the applicant or licensee requests a hearing.

~~(2)~~ (3) If an applicant or a licensee successfully demonstrates during an informal conference or a hearing that the deficiencies should not have been cited in the notice, (a) the deficiencies shall be removed from the notice and the deficiency statement and (b) any sanction imposed solely as a result of those cited deficiencies shall be rescinded.

Sec. 7. Original sections 71-403, 71-452, and 71-453, Reissue Revised Statutes of Nebraska, and sections 71-401 and 71-434, Revised Statutes Cumulative Supplement, 2006, are repealed.