

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 456

Introduced by Health and Human Services Committee: Campbell, 25,
Chairperson; Gloor, 35; Krist, 10; Wallman, 30.

Read first time January 14, 2011

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to public health and welfare; to amend sections
2 71-457, 71-503.01, 71-6037, 71-6052, 77-2704.54, 81-2204,
3 81-2213, and 81-2226, Reissue Revised Statutes of
4 Nebraska, and section 68-906, Revised Statutes Cumulative
5 Supplement, 2010; to change a date in a reference to
6 federal law within the Medical Assistance Act; to change
7 provisions relating to communicable and other reportable
8 diseases; to change a reference to the Supplemental
9 Nutrition Assistance Program; to eliminate the Division
10 of Medicaid and Long-Term Care Advisory Committee on
11 Aging and the Nursing Home Advisory Council; to harmonize
12 provisions; to repeal the original sections; and to
13 outright repeal sections 68-1101, 68-1103, 68-1104,
14 68-1105, 68-1106, 71-6043, 71-6044, 71-6045, 71-6046,
15 71-6047, 71-6048, 71-6049, 71-6050, 71-6051, 81-2205, and
16 81-2212, Reissue Revised Statutes of Nebraska.

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

1 Section 1. Section 68-906, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 68-906 For purposes of paying medical assistance under
4 the Medical Assistance Act and sections 68-1002 and 68-1006, the
5 State of Nebraska ~~accepts and assents to all~~ authorizes the
6 Department of Health and Human Services to adopt and promulgate rules
7 and regulations and take such other actions as are necessary to
8 secure federal matching funds under the applicable provisions of
9 Title XIX and Title XXI of the federal Social Security Act. Any
10 reference in the Medical Assistance Act to the federal Social
11 Security Act or other acts or sections of federal law shall be to
12 such federal acts or sections as they existed on January 1, ~~2010-~~
13 2011.

14 Sec. 2. Section 71-457, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-457 (1) To protect the health, safety, and welfare of
17 the public and to insure to the greatest extent possible the
18 efficient, adequate, and safe practice of health care in any health
19 care facility or health care service licensed under the Health Care
20 Facility Licensure Act, the department shall adopt, promulgate, and
21 enforce rules, regulations, and standards with respect to the
22 different types of health care facilities and health care services,
23 except nursing facilities and skilled nursing facilities, designed to
24 further the accomplishment of the purposes of the act. Such rules,
25 regulations, and standards shall be modified, amended, or rescinded

1 from time to time in the public interest by the department.

2 (2) The department, ~~with the advice of the Nursing Home~~
3 ~~Advisory Council,~~ shall adopt, promulgate, and enforce rules,
4 regulations, and standards with respect to nursing facilities and
5 skilled nursing facilities. Such rules, regulations, and standards
6 shall be in compliance with the Nebraska Nursing Home Act. Such
7 rules, regulations, and standards shall be modified, amended, or
8 rescinded from time to time in the public interest by the department.
9 ~~with the advice of the Nursing Home Advisory Council.~~

10 Sec. 3. Section 71-503.01, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-503.01 Whenever any statute of the state, any
13 ordinance or resolution of a municipal corporation or political
14 subdivision enacted pursuant to statute, or any rule or regulation of
15 an administrative agency adopted and promulgated pursuant to statute
16 requires medical practitioners or other persons to report cases of
17 communicable diseases, including sexually transmitted diseases and
18 other reportable diseases, illnesses, or poisonings or to give
19 notification of positive laboratory findings to the Department of
20 Health and Human Services or any county or city board of health,
21 local health department established pursuant to sections 71-1626 to
22 71-1636, city health department, local health agency, or state or
23 local public official exercising the duties and responsibilities of
24 any board of health or health department, such reports or
25 notifications and the resulting investigations shall be confidential

1 except as provided in this section, shall not be subject to subpoena,
2 and shall be privileged and inadmissible in evidence in any legal
3 proceeding of any kind or character and shall not be disclosed to any
4 other department or agency of the State of Nebraska.

5 In order to further the protection of public health, such
6 reports and notifications may be disclosed by the Department of
7 Health and Human Services, the official local health department, and
8 the person making such reports or notifications to the Centers for
9 Disease Control and Prevention of the Public Health Service of the
10 United States Department of Health and Human Services or its
11 successor in such a manner as to ensure that the identity of any
12 individual cannot be ascertained. To further protect the public
13 health, the Department of Health and Human Services, the official
14 local health department, and the person making the report or
15 notification may disclose to the official state and local health
16 departments of other states, territories, tribes, and the District of
17 Columbia such reports and notifications, including sufficient
18 identification and information so as to ensure that such
19 investigations as deemed necessary are made. Upon the determination
20 of the chief medical officer, the Department of Health and Human
21 Services may release communicable disease, illness, or poisoning
22 information to the extent necessary to locate or identify a case,
23 carrier, or suspected case, to alert persons who may be threatened by
24 communicable disease, illness, or poisoning as evidenced by
25 epidemiologic data, to control or prevent the spread of serious

1 disease, or to diminish an imminent threat to the public health.

2 The appropriate board, health department, agency, or
3 official may: (1) Publish analyses of such reports and information
4 for scientific and public health purposes in such a manner as to
5 ensure that the identity of any individual concerned cannot be
6 ascertained; (2) discuss the report or notification with the
7 attending physician; and (3) make such investigation as deemed
8 necessary.

9 Any medical practitioner, any official health department,
10 the Department of Health and Human Services, or any other person
11 making such reports or notifications shall be immune from suit for
12 slander or libel or breach of privileged communication based on any
13 statements contained in such reports and notifications.

14 Sec. 4. Section 71-6052, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~71-6052~~ It is the purpose and intent of the Nebraska
17 Nursing Home Act ~~and sections 71-6043 to 71-6052~~ that licensing and
18 regulation of nursing homes in this state shall be governed by the
19 Health Care Facility Licensure Act, and the Nebraska Nursing Home
20 Act, ~~and sections 71-6043 to 71-6052.~~

21 Sec. 5. Section 71-6037, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-6037 Sections 71-6008 to 71-6037 and section 4 of this
24 act shall be known and may be cited as the Nebraska Nursing Home Act.

25 Sec. 6. Section 77-2704.54, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 77-2704.54 Sales and use taxes shall not be imposed on
3 the gross receipts from the sale, lease, or rental of and the
4 storage, use, or other consumption in this state from the sale or
5 rental of food or food ingredients which are actually purchased by
6 ~~electronic benefits transfer or with food coupons under regulations~~
7 ~~issued by the United States Department of Agriculture.~~ benefits under
8 the Supplemental Nutrition Assistance Program administered by the
9 State of Nebraska pursuant to the federal Food and Nutrition Act of
10 2008, 7 U.S.C. 2011 et seq., as such sections existed on January 1,
11 2011.

12 Sec. 7. Section 81-2204, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 81-2204 For purposes of the Nebraska Community Aging
15 Services Act, unless the context otherwise requires, the definitions
16 found in sections ~~81-2205~~ 81-2206 to 81-2211.03 shall be used.

17 Sec. 8. Section 81-2213, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-2213 The department shall have the following powers
20 and duties:

21 (1) To develop, approve, and submit to the Governor a
22 two-year, three-year, or four-year state plan on aging, as determined
23 by the department, for purposes of administering grant funds
24 allocated to the state under the federal Older Americans Act, as now
25 or hereafter amended, or administering state funds allocated to the

1 Nebraska Community Aging Services Act;

2 (2) To cooperate with similar departments, commissions,
3 or councils in the federal government and in other states;

4 (3) To adopt and promulgate rules, regulations, and
5 bylaws governing its procedure and activities and as necessary to
6 carry out the policies of the department and the policies prescribed
7 by the Administration on Aging pursuant to the federal Older
8 Americans Act, as now or hereafter amended;

9 (4) To create committees to aid in the discharge of its
10 powers and duties;

11 (5) To cooperate with and assist other state and local
12 governmental agencies and officials on matters relating to services
13 for older individuals;

14 (6) To divide the state into planning-and-service areas
15 as provided in section 71-807 for behavioral health regions, except
16 that Regions 3 and 5 may each be divided into two planning-and-
17 service areas with boundaries as established by the department for
18 planning-and-service areas in existence in those regions on July 1,
19 1982;

20 (7) To establish minimum standards for program operations
21 and to adopt and promulgate rules and regulations for the performance
22 of area agencies on aging and for any services provided by such area
23 agencies on aging which are funded in whole or in part under the
24 Nebraska Community Aging Services Act or the federal Older Americans
25 Act, as now or hereafter amended;

1 (8) To require the submission of a one-year and a five-
2 year area plan and budget by each area agency on aging or agency
3 seeking designation as an area agency on aging. Such plans and
4 budgets shall be submitted sixty days prior to the start of each
5 fiscal year in accordance with the uniform area plan format and other
6 instructions issued by the department;

7 (9) To review and approve a one-year and a five-year area
8 plan and budget for the support of each area agency on aging and the
9 provision of eligible activities and services as defined in section
10 81-2222;

11 (10) To adopt and submit to the Legislature a community
12 aging services budget;

13 (11) To review the performance of each area agency on
14 aging and, based on the department-approved area plan and budget, to
15 determine the continued designation or the withdrawal of the
16 designation of an area agency on aging receiving or requesting
17 resources through the state or under the Nebraska Community Aging
18 Services Act or the federal Older Americans Act, as now or hereafter
19 amended. After consultation with the director of the area agency on
20 aging and the governing unit of the area agency on aging, the
21 department may withdraw a designation when it can be shown that
22 federal or state laws, rules, or regulations have not been complied
23 with, state or federal funds are not being expended for the purposes
24 for which they were intended, or older individuals are not receiving
25 appropriate services within available resources. Withdrawal of a

1 designation may be appealed to the department. Upon withdrawal of a
2 designation, the department may temporarily perform all or part of
3 the functions and responsibilities of the area agency on aging, may
4 designate another agency to perform such functions and
5 responsibilities identified by the department until the designation
6 of a new area agency on aging, and, when deemed necessary, may
7 temporarily deliver services to assure continuity;

8 (12) To conduct continuing studies and analyses of the
9 problems faced by older individuals within the state and develop such
10 recommendations for administrative or legislative action as appear
11 necessary;

12 (13) To develop grants and plans, enter into contracts,
13 accept gifts, grants, and federal funds, and do all things necessary
14 and proper to discharge these powers and duties;

15 (14) To accept and administer any other programs or
16 resources delegated, designated, assigned, or awarded to the
17 department from public or private sources;

18 (15) To report and make recommendations to the Governor
19 and the Legislature on the activities of the department ~~and the~~
20 ~~committee~~ and improvements or additional resources needed to promote
21 the general welfare of older individuals in Nebraska. Each member of
22 the Legislature shall receive a copy of the report; and

23 (16) Such other powers and duties necessary to
24 effectively implement the Nebraska Community Aging Services Act.

25 Sec. 9. Section 81-2226, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 81-2226 In the event of a documented malfeasance on the
3 part of any area agency on aging in the administration of its area
4 plan, and the failure of the governing unit of the area agency to
5 take corrective action within a reasonable time, the department
6 shall, ~~with the advice of the committee,~~ terminate funding to the
7 area agency governing unit by disapproving the area plan for that
8 area agency on aging.

9 Sec. 10. Original sections 71-457, 71-503.01, 71-6037,
10 71-6052, 77-2704.54, 81-2204, 81-2213, and 81-2226, Reissue Revised
11 Statutes of Nebraska, and section 68-906, Revised Statutes Cumulative
12 Supplement, 2010, are repealed.

13 Sec. 11. The following sections are outright repealed:
14 Sections 68-1101, 68-1103, 68-1104, 68-1105, 68-1106, 71-6043,
15 71-6044, 71-6045, 71-6046, 71-6047, 71-6048, 71-6049, 71-6050,
16 71-6051, 81-2205, and 81-2212, Reissue Revised Statutes of Nebraska.