

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 606

Introduced by Riepe, 12.

Read first time January 18, 2017

Committee: Judiciary

1 A BILL FOR AN ACT relating to health care services; to adopt the

2 Volunteer Care Act.

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

1 Section 1. Sections 1 to 11 of this act shall be known and may be
2 cited as the Volunteer Care Act.

3 Sec. 2. For purposes of the Volunteer Care Act:

4 (1) Contract means an agreement executed in compliance with the act
5 between a health care provider or a medical professional and a
6 governmental contractor;

7 (2) Department means the Department of Health and Human Services;

8 (3) Governmental contractor means the department, a local public
9 health department as defined in section 71-1626, a hospital owned and
10 operated by a governmental entity, or any other health care entity
11 designated by the department;

12 (4) Health care provider means:

13 (a) A health care facility licensed or exempt from licensure under
14 the Health Care Facility Licensure Act;

15 (b) A health care practitioner facility as defined in section
16 71-414; and

17 (c) A free or charitable clinic qualified as exempt from federal
18 income taxation under section 501(a) of the Internal Revenue Code as
19 defined in section 49-801.01, and described in section 501(c) of the
20 Internal Revenue Code as defined in section 49-801.01, which delivers
21 medical services free of charge to low-income patients, any state or
22 federally funded community health center, or any volunteer corporation or
23 volunteer health care provider that delivers health care services to low-
24 income patients;

25 (5) Medical professional means a person credentialed under the
26 Uniform Credentialing Act; and

27 (6) Low-income patient means:

28 (a) A patient eligible for assistance under the medical assistance
29 program established pursuant to the Medical Assistance Act; or

30 (b) A patient who is not covered by health insurance and whose
31 annual household income does not exceed two hundred percent of the

1 poverty guidelines in the Federal Register as of January 1, 2017, as
2 updated by the United States Department of Health and Human Services
3 under the authority of 42 U.S.C. 9902(2).

4 Sec. 3. (1) A health care provider or medical professional that
5 executes a contract with a governmental contractor to deliver volunteer
6 health care services that are within the scope of licensure of the
7 provider or the scope of practice of the professional to low-income
8 patients shall be considered an agent of the state while acting within
9 the scope of the duties under the contract if the contract complies with
10 this section regardless of whether a patient who receives services
11 pursuant to the contract is found not to qualify as a low-income patient
12 after receiving the services. As an agent of the state, the health care
13 provider or medical professional may not be named as a defendant in any
14 action arising out of health care services provided within the scope of
15 the duties under the contract entered into under this section.

16 (2) A contract entered into under this section shall state that all
17 employees of a health care provider who is a party to the contract are
18 covered under the contract. An employee of such a health care provider
19 shall not be required to enter into a contract under this section with
20 respect to the health care services delivered in connection with such
21 employment.

22 Sec. 4. A licensed medical professional may receive credit for one
23 hour of continuing education for the performance of one hour of volunteer
24 health care services to low-income patients provided pursuant to a
25 contract under section 3 of this act, up to a maximum of eight credits
26 per licensure period.

27 Sec. 5. A contract under section 3 of this act shall provide that:

28 (1) The contract applies only to volunteer health care services
29 delivered by the health care provider or medical professional to low-
30 income patients;

31 (2) The health care provider or medical professional may not be

1 named as a defendant in any action arising out of health care services
2 provided within the scope of the contract;

3 (3) If a patient treated by the health care provider or medical
4 professional under the contract is later found not to qualify as a low-
5 income patient, the health care provider or medical professional shall
6 still enjoy immunity from liability in any action arising out of the
7 health care services provided to the patient prior to such determination;

8 (4) The right of dismissal or termination of any health care
9 provider or medical professional under the contract is retained by the
10 department or the governmental contractor;

11 (5) The department or governmental contractor shall have the right
12 to terminate the contract with the health care provider or medical
13 professional with appropriate cause;

14 (6) The department or governmental contractor shall provide the
15 health care provider or medical professional with written notice of its
16 intent to terminate the contract and the reasons for such decision at
17 least five business days in advance of the contract termination date;

18 (7) The department or governmental contractor has access to the
19 records of any patient served by the health care provider or medical
20 professional under the contract;

21 (8) Adverse incidents and information on treatment outcomes
22 regarding adverse incidents must be reported by any health care provider
23 or medical professional to the department and governmental contractor if
24 the incidents and information pertain to a patient treated under the
25 contract. If the incident involves a health care facility licensed under
26 the Health Care Facility Licensure Act or a medical professional, the
27 department shall review the incident to determine whether it involves
28 conduct that is subject to disciplinary action. All patient medical
29 records and any identifying information contained in adverse incident
30 reports and treatment outcomes which are obtained by governmental
31 entities under this subdivision are confidential;

1 (9) Patient selection and initial referral may be made by the
2 department, governmental contractor, health care provider, or medical
3 professional;

4 (10) If emergency care is required, the patient need not be referred
5 before receiving treatment, but must be referred within forty-eight hours
6 after treatment is commenced or within forty-eight hours after the
7 patient has the mental capacity to consent to treatment, whichever occurs
8 later; and

9 (11) The health care provider or medical professional is subject to
10 supervision and regular inspection by the department or governmental
11 contractor.

12 Sec. 6. A governmental contractor that is also a health care
13 provider is not required to enter into a contract under section 3 of this
14 act with respect to the health care services delivered by its employees.

15 Sec. 7. A health care provider or medical professional shall
16 provide written notice to each patient served under a contract under
17 section 3 of this act or to the patient's legal representative. The
18 patient or legal representative must acknowledge, in writing, receipt of
19 the notice. The notice shall state that the health care provider, the
20 medical professional, or any employee or agent of the health care
21 provider or medical professional is an agent of the state with respect to
22 the health care services provided and that the exclusive remedy for
23 injury or damage suffered as the result of any act or omission of the
24 health care provider, medical professional, or employee or agent of the
25 health care provider or medical professional acting within the scope of
26 duties pursuant to the contract is by commencement of an action pursuant
27 to the State Contract Claims Act, the State Miscellaneous Claims Act, and
28 the State Tort Claims Act. The health care provider or medical
29 professional may comply with this section by posting the notice in a
30 place conspicuous to all persons visiting the place of business of the
31 health care provider or medical professional.

1 Sec. 8. The department shall establish a quality assurance program
2 to monitor health care services delivered under any contract entered into
3 pursuant to section 3 of this act.

4 Sec. 9. The department shall annually report electronically to the
5 Legislature summarizing the efficacy of access and treatment outcomes
6 with respect to providing health care services for low-income patients
7 pursuant to a contract under section 3 of this act. The report shall also
8 include statistics for claims pending and paid and defense and handling
9 costs associated with claims brought against health care providers and
10 medical professionals providing health care services pursuant to a
11 contract under section 3 of this act. The department shall provide an
12 online listing of health care providers and medical professionals
13 volunteering pursuant to a contract under section 3 of this act,
14 including hours, number of patient visits, and value of health-care-
15 related goods and services provided.

16 Sec. 10. A governmental contractor other than the department, a
17 health care provider, and a medical professional entering into a contract
18 under section 3 of this act is responsible for the costs and attorney's
19 fees for malpractice litigation arising out of health care services
20 delivered under the contract.

21 Sec. 11. The department shall adopt and promulgate rules and
22 regulations as necessary to administer the Volunteer Care Act in a manner
23 consistent with the purpose of the act to provide and facilitate access
24 to appropriate, safe, and cost-effective health care services and to
25 maintain health care quality.