

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 246
FINAL READING

Introduced by Johnson, 37; Burling, 33

Read first time January 10, 2005

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to public health and welfare; to amend sections
2 71-434 and 71-6054, Reissue Revised Statutes of Nebraska;
3 to change health care facility license fee provisions; to
4 change provisions relating to nursing home administrators
5 performing duties in more than one facility; and to
6 repeal the original sections.

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

1 Section 1. Section 71-434, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-434. (1) Licensure activities under the Health Care
4 Facility Licensure Act shall be funded by license fees. An
5 applicant for an initial or renewal license under section 71-433
6 shall pay a license fee as provided in this section.

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

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

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

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

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

19 Such additional fee shall be no more than ~~one~~ two
20 thousand six hundred dollars for ~~an assisted-living facility~~, a
21 hospital or a health clinic operating as an ambulatory surgical
22 center, no more than two thousand dollars for an assisted-living
23 facility, a health clinic providing hemodialysis or labor and
24 delivery services, an intermediate care facility, an intermediate
25 care facility for the mentally retarded, a nursing facility, or a
26 skilled nursing facility, no more than one thousand dollars for
27 home health agencies, hospice services, and centers for the
28 developmentally disabled, and no more than ~~five~~ seven hundred

1 dollars for all other health care facilities and health care
2 services.

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

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

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

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

21 Sec. 2. Section 71-6054, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-6054. (1) (a) The board shall issue a license to an
24 applicant who submits (i) satisfactory evidence of completion of
25 (A) an associate degree which includes the core educational
26 requirements and an administrator-in-training program under a
27 certified preceptor, (B) a degree or an advanced degree and a
28 mentoring program under a certified preceptor, (C) a nursing

1 degree, previous work experience in health care administration, and
2 a mentoring program under a certified preceptor, (D) a degree or an
3 advanced degree in health care and previous work experience in
4 health care administration, or (E) an associate degree which
5 includes the core educational requirements, previous work
6 experience, and a mentoring program under a certified preceptor,
7 (ii) evidence of successful passage of the National Association of
8 Boards of Examiners for Nursing Home Administration written
9 examination, and (iii) his or her social security number. The
10 board shall license administrators in accordance with sections
11 71-6053 to 71-6068 and standards, rules, and regulations adopted
12 and promulgated by the board pursuant to such sections. The
13 license shall not be transferable or assignable. ~~Each~~
14 ~~administrator shall be full time and responsible for the operation~~
15 ~~of only one licensed facility or one integrated system, except that~~
16 ~~an administrator may oversee the operations of more than one~~
17 ~~licensed facility if such facilities are located within ten miles~~
18 ~~of each other and the combined number of licensed beds in such~~
19 ~~facilities does not exceed sixty-five~~ Each administrator shall be
20 responsible for and oversee the operation of only one licensed
21 facility or one integrated system, except that an administrator may
22 make application to the board for approval to be responsible for
23 and oversee the operations of a maximum of three licensed
24 facilities if such facilities are located within two hours' travel
25 time of each other or to act in the dual role of administrator and
26 department head but not in the dual role of administrator and
27 director of nursing. In reviewing the application, the board may
28 consider the proximity of the facilities and the number of licensed

1 beds in each facility. An administrator responsible for and
2 overseeing the operations of ~~an~~ any integrated system is subject to
3 disciplinary action against his or her license for any regulatory
4 violations within ~~such integrated~~ each system.

5 (b) Notwithstanding the provisions of sections 71-6053 to
6 71-6068, the board shall issue a license as a nursing home
7 administrator to an applicant who will function as the
8 administrator of a facility caring primarily for persons with head
9 injuries and associated disorders who submits satisfactory evidence
10 that he or she (i) has at least two years of experience working
11 with persons with head injuries or severe physical disabilities, at
12 least one of which was spent in an administrative capacity, (ii) is
13 (A) a psychologist with at least a master's degree in psychology
14 from an accredited college or university and has specialized
15 training or one year of experience working with persons with
16 traumatic head injury or severe physical disability, (B) a
17 physician licensed under the Uniform Licensing Law to practice
18 medicine and surgery or psychiatry and has specialized training or
19 one year of experience working with persons with traumatic head
20 injury or severe physical disability, (C) an educator with at least
21 a master's degree in education from an accredited college or
22 university and has specialized training or one year of experience
23 working with persons with traumatic head injury or severe physical
24 disability, or (D) a certified social worker, a certified master
25 social worker, or a licensed mental health practitioner certified
26 or licensed under the Uniform Licensing Law and has at least three
27 years of social work or mental health practice experience and
28 specialized training or one or more years of experience working

1 with persons who have experienced traumatic head injury or are
2 severely physically disabled, and (iii) is of good moral character.
3 The applicant shall also provide his or her social security number.

4 A license issued pursuant to this subdivision shall be
5 issued without examination and without the requirement of
6 completion of an administrator-in-training or mentoring program.
7 Such license may be renewed without the completion of any
8 continuing competency requirements.

9 (2) Licenses may be denied, suspended, limited, refused
10 renewal, or revoked by the department for due cause which shall
11 include: (a) Fraud in procuring a license; (b) immoral,
12 unprofessional, or dishonorable conduct; (c) habitual intoxication
13 or addiction to the use of drugs; (d) distribution of intoxicating
14 liquors or drugs for other than lawful purposes; (e) conviction of
15 a felony; (f) physical or mental incapacity to perform professional
16 duties; (g) violation of any provision of sections 71-6053 to
17 71-6068 or standards, rules, and regulations adopted and
18 promulgated thereunder or of any law or standards, rules, and
19 regulations adopted and promulgated by the department relating to
20 the proper administration and management of a home for the aged or
21 infirm or nursing home; (h) commission of any of the acts or
22 offenses set forth in sections 71-147 and 71-148; and (i) failure
23 to pay the required fees. Except in cases of failure to pay the
24 required fees, no license shall be denied, suspended, limited,
25 refused renewal, or revoked except after due notice and opportunity
26 for a hearing. Disciplinary actions and proceedings shall be
27 conducted as specified in the Uniform Licensing Law. Any denial,
28 suspension, limitation, refusal of renewal, or revocation of such

1 license may be appealed, and the appeal shall be in accordance with
2 the Administrative Procedure Act. A person whose license has been
3 revoked, suspended, or limited may petition the board for
4 reinstatement in the manner provided by sections 71-161.04 to
5 71-161.06.

6 Sec. 3. Original sections 71-434 and 71-6054, Reissue
7 Revised Statutes of Nebraska, are repealed.