

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 203
FINAL READING

Introduced by Gay, 14

Read first time January 9, 2007

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to health care facilities; to amend sections
2 71-403, 71-452, and 71-453, Reissue Revised Statutes
3 of Nebraska, and sections 71-401 and 71-434, Revised
4 Statutes Cumulative Supplement, 2006; to provide for
5 an informal conference process for disciplinary action;
6 to harmonize provisions; and to repeal the original
7 sections.

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

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

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

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

8 71-403 For purposes of the Health Care Facility Licensure
9 Act, unless the context otherwise requires, the definitions found
10 in sections 71-404 to 71-431 and section 3 of this act shall apply.

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

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

17 71-434 (1) Licensure activities under the Health Care
18 Facility Licensure Act shall be funded by license fees. An
19 applicant for an initial or renewal license under section 71-433
20 shall pay a license fee as provided in this section.

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

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

1 direct and indirect costs;

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

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

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

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

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

24 (4) The department shall also collect the fee provided in
25 subsection (1) of this section for reinstatement of a license that

1 has lapsed or has been suspended or revoked. The department shall
2 collect a fee of ten dollars for a duplicate original license.

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

7 ~~(5)~~ (6) The department shall adopt and promulgate rules
8 and regulations for the establishment of license fees under this
9 section.

10 ~~(6)~~ (7) The department shall remit all license fees
11 collected under this section to the State Treasurer for credit
12 to the Department of Health and Human Services Regulation and
13 Licensure Cash Fund. License fees collected under this section
14 shall only be used for activities related to the licensure of
15 health care facilities and health care services.

16 Sec. 5. Section 71-452, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-452 Within fifteen days after service of a notice
19 under section 71-451, an applicant or a licensee shall notify the
20 director in writing that the applicant or licensee (1) desires
21 to contest the notice and request an informal conference with a
22 representative of the department in person or by other means at
23 the request of the applicant or licensee, (2) desires to contest
24 the notice and request an informal conference with a representative
25 peer review organization with which the department has contracted,

1 (3) desires to contest the notice and request a hearing, or ~~(3)~~
 2 (4) does not contest the notice. If the director does not receive
 3 such notification within such fifteen-day period, the action of the
 4 department shall be final.

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

7 71-453 (1) The director shall assign a representative of
 8 the department, other than the individual who did the inspection
 9 upon which the notice is based, or a representative peer review
 10 organization to hold an informal conference with the applicant or
 11 licensee within thirty days after receipt of a request made under
 12 subdivision (1) or (2) of section 71-452. Within twenty working
 13 days after the conclusion of the conference, the representative or
 14 representative peer review organization shall report in writing to
 15 the department its conclusion regarding whether to affirm, modify,
 16 or dismiss the notice. The ~~representative shall state in writing~~
 17 and the specific reasons for affirming, modifying, or dismissing
 18 the notice the conclusion and shall ~~immediately transmit copies of~~
 19 ~~the statement~~ provide a copy of the report to the director and the
 20 applicant or licensee. ~~The applicant's or licensee's copy of such~~
 21 ~~statement shall be sent~~

22 (2) Within ten working days after receiving a report
 23 under subsection (1) of this section, the department shall
 24 consider such report and affirm, modify, or dismiss the notice
 25 and shall state the specific reasons for such decision, including,

1 if applicable, the specific reasons for not adopting the conclusion
2 of the representative or representative peer review organization
3 as contained in such report. The department shall provide the
4 applicant or licensee with a copy of such decision by certified
5 mail to the last address shown in the records of the department.
6 If the applicant or licensee desires to contest ~~the~~ an affirmed
7 or modified notice, the applicant or licensee shall notify the
8 director in writing within five working days after receiving
9 such ~~statement~~ decision that the applicant or licensee requests a
10 hearing.

11 ~~(2)~~ (3) If an applicant or a licensee successfully
12 demonstrates during an informal conference or a hearing that the
13 deficiencies should not have been cited in the notice, (a) the
14 deficiencies shall be removed from the notice and the deficiency
15 statement and (b) any sanction imposed solely as a result of those
16 cited deficiencies shall be rescinded.

17 Sec. 7. Original sections 71-403, 71-452, and 71-453,
18 Reissue Revised Statutes of Nebraska, and sections 71-401 and
19 71-434, Revised Statutes Cumulative Supplement, 2006, are repealed.