

LEGISLATIVE BILL 816

Approved by the Governor April 06, 2016

Introduced by Scheer, 19.

A BILL FOR AN ACT relating to public health; to amend section 83-109, Reissue Revised Statutes of Nebraska, and section 50-424, Revised Statutes Supplement, 2015; to change provisions relating to release of patient and resident records; to eliminate certain reporting requirements; to harmonize provisions; to repeal the original sections; and to outright repeal section 71-825, Revised Statutes Cumulative Supplement, 2014. Be it enacted by the people of the State of Nebraska,

Section 1. Section 50-424, Revised Statutes Supplement, 2015, is amended to read:

50-424 On December 15 of 2012, 2013, and 2014, the Health and Human Services Committee of the Legislature shall provide a report to the Legislature, Governor, and Chief Justice of the Supreme Court with respect to the progress made by the Department of Health and Human Services implementing the recommendations of the committee contained in the final report of the study conducted by the committee pursuant to Legislative Resolution 37, One Hundred Second Legislature, First Session, 2011. The report submitted to the Legislature shall be submitted electronically. In order to facilitate such report, the department shall provide electronically to the committee by September 15 of 2012, 2013, and 2014 the reports required pursuant to sections 43-296, 43-534, 68-1207.01, ~~71-825~~, 71-1904, and 71-3407 and subdivision (6) of section 43-405.

Sec. 2. Section 83-109, Reissue Revised Statutes of Nebraska, is amended to read:

83-109 The Department of Health and Human Services shall have general control over the admission of patients and residents to all institutions over which it has jurisdiction. Each individual shall be assigned to the institution best adapted to care for him or her. A record of every patient or resident of every institution shall be kept complete from the date of his or her entrance to the date of his or her discharge or death, such records to be accessible only (1) to the department, a legislative committee, the Governor, any federal agency requiring medical records to adjudicate claims for federal benefits, and any public or private agency under contract to provide facilities, programs, and patient services, (2) upon order of a judge or court, (3) in accordance with sections 20-161 to 20-166, (4) to the Nebraska State Patrol pursuant to section 69-2409.01, ~~or~~ (5) to those portions of the record required to be released to a victim as defined in section 29-119 in order to comply with the victim notification requirements pursuant to subsections (4) and (5) of section 81-1850, (6) to law enforcement and county attorneys when a crime occurs on the premises of an institution, (7) upon request when a patient or resident has been deceased for fifty years or more, or (8) to current treatment providers. In addition, a patient or resident or his or her legally authorized representative may authorize the specific release of his or her records, or portions thereof, by filing with the department a signed written consent. Transfers of patients or residents from one institution to another shall be within the exclusive jurisdiction of the department and shall be recorded in the office of the department, with the reasons for such transfers. When the department is unable to assign a patient to a regional center or commit him or her to any other institution at the time of application, a record thereof shall be kept and the patient accepted at the earliest practicable date. The superintendents of the regional centers and Beatrice State Developmental Center shall notify the department immediately whenever there is any question regarding the propriety of the commitment, detention, transfer, or placement of any person admitted to a state institution. The department shall then investigate the matter and take such action as shall be proper. Any interested party who is not satisfied with such action may appeal such action, and the appeal shall be in accordance with the Administrative Procedure Act. The department shall have full authority on its own suggestion or upon the application of any interested person to investigate the physical and mental status of any patient or resident of any regional center or the Beatrice State Developmental Center. If upon such investigation the department considers such patient or resident fit to be released from the regional center or Beatrice State Developmental Center, it shall cause such patient or resident to be discharged or released on convalescent leave.

Sec. 3. Original section 83-109, Reissue Revised Statutes of Nebraska, and section 50-424, Revised Statutes Supplement, 2015, are repealed.

Sec. 4. The following section is outright repealed: Section 71-825, Revised Statutes Cumulative Supplement, 2014.