

LEGISLATIVE BILL 417

Approved by the Governor April 27, 2017

Introduced by Riepe, 12.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 13-308, 28-372, 38-101, 38-123, 43-296, 43-4406, 68-949, 71-6038, 71-6039.06, 71-6603, 81-2210, 81-2273, 81-2274, 81-2275, 81-2279, 81-2281, and 81-2283, Reissue Revised Statutes of Nebraska, and sections 68-908, 68-909, 71-806, 71-810, 71-1904, and 71-6039, Revised Statutes Cumulative Supplement, 2016; to eliminate references to nursing assistants; to provide for nurse aides in certain health care facilities as prescribed; to change provisions relating to providing notice to credential holders under the Uniform Credentialing Act; to change and eliminate reporting requirements under the Medical Assistance Act; to change provisions relating to a child welfare services report; to provide for standards for peer services for and eliminate obsolete provisions of behavioral health services; to rename the Nebraska Senior Companion Volunteer Program Act; to change the purpose of the act; to eliminate the Nebraska Senior Companion Volunteer Program; to change and eliminate benefits for and restrictions on senior volunteers; to change and eliminate provisions relating to application for and use of grant funds and funding by municipal corporations; to eliminate certain reporting requirements and provisions relating to foster care licensing, regional center occupancy rates, and data systems; to harmonize provisions; to repeal the original sections; and to outright repeal sections 81-2233, 81-2276, 81-2277, 81-2278, and 81-2280, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 13-308, Reissue Revised Statutes of Nebraska, is amended to read:

13-308 Any municipal corporation may contract with any person and provide funds for home-delivered meals for the elderly and ~~retired~~ senior volunteer programs.

Sec. 2. Section 28-372, Reissue Revised Statutes of Nebraska, is amended to read:

28-372 (1) When any physician, psychologist, physician assistant, nurse, nurse aide ~~nursing assistant~~, other medical, developmental disability, or mental health professional, law enforcement personnel, caregiver or employee of a caregiver, operator or employee of a sheltered workshop, owner, operator, or employee of any facility licensed by the department, or human services professional or paraprofessional not including a member of the clergy has reasonable cause to believe that a vulnerable adult has been subjected to abuse, neglect, or exploitation or observes such adult being subjected to conditions or circumstances which reasonably would result in abuse, neglect, or exploitation, he or she shall report the incident or cause a report to be made to the appropriate law enforcement agency or to the department. Any other person may report abuse, neglect, or exploitation if such person has reasonable cause to believe that a vulnerable adult has been subjected to abuse, neglect, or exploitation or observes such adult being subjected to conditions or circumstances which reasonably would result in abuse, neglect, or exploitation.

(2) Such report may be made by telephone, with the caller giving his or her name and address, and, if requested by the department, shall be followed by a written report within forty-eight hours. To the extent available the report shall contain: (a) The name, address, and age of the vulnerable adult; (b) the address of the caregiver or caregivers of the vulnerable adult; (c) the nature and extent of the alleged abuse, neglect, or exploitation or the conditions and circumstances which would reasonably be expected to result in such abuse, neglect, or exploitation; (d) any evidence of previous abuse, neglect, or exploitation, including the nature and extent of the abuse, neglect, or exploitation; and (e) any other information which in the opinion of the person making the report may be helpful in establishing the cause of the alleged abuse, neglect, or exploitation and the identity of the perpetrator or perpetrators.

(3) Any law enforcement agency receiving a report of abuse, neglect, or exploitation shall notify the department no later than the next working day by telephone or mail.

(4) A report of abuse, neglect, or exploitation made to the department which was not previously made to or by a law enforcement agency shall be communicated to the appropriate law enforcement agency by the department no later than the next working day by telephone or mail.

(5) The department shall establish a statewide toll-free number to be used by any person any hour of the day or night and any day of the week to make reports of abuse, neglect, or exploitation.

Sec. 3. Section 38-101, Reissue Revised Statutes of Nebraska, is amended to read:

38-101 Sections 38-101 to 38-1,142 and the following practice acts shall be known and may be cited as the Uniform Credentialing Act:

- (1) The Advanced Practice Registered Nurse Practice Act;
- (2) The Alcohol and Drug Counseling Practice Act;
- (3) The Athletic Training Practice Act;
- (4) The Audiology and Speech-Language Pathology Practice Act;
- (5) The Certified Nurse Midwifery Practice Act;
- (6) The Certified Registered Nurse Anesthetist Practice Act;
- (7) The Chiropractic Practice Act;
- (8) The Clinical Nurse Specialist Practice Act;
- (9) The Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act;
- (10) The Dentistry Practice Act;
- (11) The Emergency Medical Services Practice Act;
- (12) The Environmental Health Specialists Practice Act;
- (13) The Funeral Directing and Embalming Practice Act;
- (14) The Genetic Counseling Practice Act;
- (15) The Hearing Instrument Specialists Practice Act;
- (16) The Licensed Practical Nurse-Certified Practice Act;
- (17) The Massage Therapy Practice Act;
- (18) The Medical Nutrition Therapy Practice Act;
- (19) The Medical Radiography Practice Act;
- (20) The Medicine and Surgery Practice Act;
- (21) The Mental Health Practice Act;
- (22) The Nurse Practice Act;
- (23) The Nurse Practitioner Practice Act;
- (24) The Nursing Home Administrator Practice Act;
- (25) The Occupational Therapy Practice Act;
- (26) The Optometry Practice Act;
- (27) The Perfusion Practice Act;
- (28) The Pharmacy Practice Act;
- (29) The Physical Therapy Practice Act;
- (30) The Podiatry Practice Act;
- (31) The Psychology Practice Act;
- (32) The Respiratory Care Practice Act;
- (33) The Surgical First Assistant Practice Act;
- (34) The Veterinary Medicine and Surgery Practice Act; and
- (35) The Water Well Standards and Contractors' Practice Act.

If there is any conflict between any provision of sections 38-101 to ~~38-1,142~~ ~~38-1,139~~ and ~~38-1,141~~ and any provision of a practice act, the provision of the practice act shall prevail.

The Revisor of Statutes shall assign the Uniform Credentialing Act, including the practice acts enumerated in subdivisions (1) through (34) ~~(33)~~ of this section, to articles within Chapter 38.

Sec. 4. Section 38-123, Reissue Revised Statutes of Nebraska, is amended to read:

38-123 (1) The department shall establish and maintain a record of all credentials issued pursuant to the Uniform Credentialing Act. The record shall contain identifying information for each credential holder and the credential issued pursuant to the act.

(2) For individual credential holders engaged in a profession:

(a) The record information shall include:

(i) The name, date and place of birth, and social security number;

(ii) The street, rural route, or post office address;

(iii) The school and date of graduation;

(iv) The name of examination, date of examination, and ratings or grades received, if any;

(v) The type of credential issued, the date the credential was issued, the identifying name and number assigned to the credential, and the basis on which the credential was issued;

(vi) The status of the credential; and

(vii) A description of any disciplinary action against the credential, including, but not limited to, the type of disciplinary action, the effective date of the disciplinary action, and a description of the basis for any such disciplinary action;

(b) The record may contain any additional information the department deems appropriate to advance or support the purpose of the Uniform Credentialing Act;

(c) The record may be maintained in computer files or paper copies and may be stored on microfilm or in similar form; and

(d) The record is a public record, except that social security numbers shall not be public information but may be shared as specified in subsection (5) of section 38-130.

(3) For credential holders engaged in a business:

(a) The record information shall include:

(i) The full name and address of the business;

(ii) The type of credential issued, the date the credential was issued, the identifying name and number assigned to the credential, and the basis on which the credential was issued;

(iii) The status of the credential; and

(iv) A description of any disciplinary action against the credential, including, but not limited to, the type of disciplinary action, the effective date of the disciplinary action, and a description of the basis for any such disciplinary action;

(b) The record may contain any additional information the department deems appropriate to advance or support the purpose of the Uniform Credentialing Act;

(c) The record may be maintained in computer files or paper copies and may be stored on microfilm or in similar form; and

(d) The record is a public record.

(4) ~~Except as otherwise specifically provided, if~~ If the department is required to provide notice or notify an applicant or credential holder under the Uniform Credentialing Act, such requirements shall be satisfied by sending mailing a written notice to such applicant or credential holder at his or her last address of record.

Sec. 5. Section 43-296, Reissue Revised Statutes of Nebraska, is amended to read:

43-296 All associations receiving juveniles under the Nebraska Juvenile Code shall be subject to the same visitation, inspection, and supervision by the Department of Health and Human Services as are public charitable institutions of this state, and it shall be the duty of the department to pass annually upon the fitness of every such association as may receive or desire to receive juveniles under the provisions of such code. ~~Every such association shall annually, on or before September 15, make a report to the department showing its condition, management, and competency to adequately care for such juveniles as are or may be committed to it and such other facts as the department may require. Upon receiving such report, the department shall provide an electronic copy of such report to the Health and Human Services Committee of the Legislature on or before September 15 of 2012, 2013, and 2014.~~ Upon the department being satisfied that such association is competent and has adequate facilities to care for such juveniles, it shall issue to such association a certificate to that effect, which certificate shall continue in force for one year unless sooner revoked by the department. No juvenile shall be committed to any such association which has not received such a certificate within the fifteen months immediately preceding the commitment. The court may at any time require from any association receiving or desiring to receive juveniles under the provisions of the Nebraska Juvenile Code such reports, information, and statements as the judge shall deem proper and necessary for his or her action, and the court shall in no case be required to commit a juvenile to any association whose standing, conduct, or care of juveniles or ability to care for the same is not satisfactory to the court.

Sec. 6. Section 43-4406, Reissue Revised Statutes of Nebraska, is amended to read:

43-4406 On or before September 15, 2012, and each September 15 thereafter, the department shall report electronically to the Health and Human Services Committee of the Legislature the following information regarding child welfare services, with respect to children served by any lead agency or the pilot project and children served by the department:

(1) The percentage of children served and the allocation of the child welfare budget, categorized by service area and by lead agency or the pilot project, including:

(a) The percentage of children served, by service area and the corresponding budget allocation; and

(b) The percentage of children served who are wards of the state and the corresponding budget allocation;

(2) The number of siblings in out-of-home care placed with siblings as of the June 30th immediately preceding the date of the report, categorized by service area and by lead agency or the pilot project;

(3) The number of waivers granted under subsection (2) of section 71-1904;

~~(4) (3)~~ An update of the information in the report of the Children's Behavioral Health Task Force pursuant to sections 43-4001 to 43-4003, including:

(a) The number of children receiving mental health and substance abuse services annually by the Division of Behavioral Health of the department;

(b) The number of children receiving behavioral health services annually at the Hastings Regional Center;

(c) The number of state wards receiving behavioral health services as of September 1 immediately preceding the date of the report;

(d) Funding sources for children's behavioral health services for the fiscal year ending on the immediately preceding June 30;

(e) Expenditures in the immediately preceding fiscal year by the division, categorized by category of behavioral health service and by behavioral health region; and

(f) Expenditures in the immediately preceding fiscal year from the medical assistance program and CHIP as defined in section 68-969 for mental health and substance abuse services, for all children and for wards of the state;

~~(5) (4)~~ The following information as obtained for each service area and lead agency or the pilot project:

(a) Case manager education, including college degree, major, and level of education beyond a baccalaureate degree;

(b) Average caseload per case manager;

(c) Average number of case managers per child during the preceding twelve months;

(d) Average number of case managers per child for children who have been in the child welfare system for three months, for six months, for twelve months, and for eighteen months and the consecutive yearly average for children until the age of majority or permanency is attained;

(e) Monthly case manager turnover;

(f) Monthly face-to-face contacts between each case manager and the children on his or her caseload;

(g) Monthly face-to-face contacts between each case manager and the parent or parents of the children on his or her caseload;

(h) Case documentation of monthly consecutive team meetings per quarter;

(i) Case documentation of monthly consecutive parent contacts per quarter;

(j) Case documentation of monthly consecutive child contacts with case manager per quarter;

(k) Case documentation of monthly consecutive contacts between child welfare service providers and case managers per quarter;

(l) Timeliness of court reports; and

(m) Non-court-involved children, including the number of children served, the types of services requested, the specific services provided, the cost of the services provided, and the funding source;

(6) ~~(5)~~ All placements in residential treatment settings made or paid for by the child welfare system, the Office of Juvenile Services, the State Department of Education or local education agencies, any lead agency or the pilot project through letters of agreement, and the medical assistance program, including, but not limited to:

(a) Child variables;

(b) Reasons for placement;

(c) The percentage of children denied medicaid-reimbursed services and denied the level of placement requested;

(d) With respect to each child in a residential treatment setting:

(i) If there was a denial of initial placement request, the length and level of each placement subsequent to denial of initial placement request and the status of each child before and immediately after, six months after, and twelve months after placement;

(ii) Funds expended and length of placements;

(iii) Number and level of placements;

(iv) Facility variables; and

(v) Identification of specific child welfare services unavailable in the child's community that, if available, could have prevented the need for residential treatment; and

(e) Identification of child welfare services unavailable in the state that, if available, could prevent out-of-state placements;

(7) ~~(6)~~ From any lead agency or the pilot project, the percentage of its accounts payable to subcontracted child welfare service providers that are thirty days overdue, sixty days overdue, and ninety days overdue; and

(8) ~~(7)~~ For any individual involved in the child welfare system receiving a service or a placement through the department or its agent for which referral is necessary, the date when such referral was made by the department or its agent and the date and the method by which the individual receiving the services was notified of such referral. To the extent the department becomes aware of the date when the individual receiving the referral began receiving such services, the department or its agent shall document such date.

Sec. 7. Section 68-908, Revised Statutes Cumulative Supplement, 2016, is amended to read:

68-908 (1) The department shall administer the medical assistance program.

(2) The department may (a) enter into contracts and interagency agreements, (b) adopt and promulgate rules and regulations, (c) adopt fee schedules, (d) apply for and implement waivers and managed care plans for services for eligible recipients, including services under the Nebraska Behavioral Health Services Act, and (e) perform such other activities as necessary and appropriate to carry out its duties under the Medical Assistance Act. A covered item or service as described in section 68-911 that is furnished through a school-based health center, furnished by a provider, and furnished under a managed care plan pursuant to a waiver does not require prior consultation or referral by a patient's primary care physician to be covered. Any federally qualified health center providing services as a sponsoring facility of a school-based health center shall be reimbursed for such services provided at a school-based health center at the federally qualified health center reimbursement rate.

(3) The department shall maintain the confidentiality of information regarding applicants for or recipients of medical assistance and such information shall only be used for purposes related to administration of the medical assistance program and the provision of such assistance or as otherwise permitted by federal law.

(4) ~~(4)(a)~~ The department shall prepare an annual summary and analysis of the medical assistance program for legislative and public review. The department shall submit a report of such summary and analysis to the Governor and the Legislature electronically no later than December 1 of each year, including, but not limited to, a description of eligible recipients, covered services, provider reimbursement, program trends and projections, program budget and expenditures, the status of implementation of the Medicaid Reform Plan, and recommendations for program changes.

~~(b) The department shall provide a draft report of such summary and analysis to the Medicaid Reform Council no later than September 15 of each year. The council shall conduct a public meeting no later than October 1 of each year to discuss and receive public comment regarding such report. The council shall provide any comments and recommendations regarding such report in writing to the department no later than November 1 of each year. The department shall submit a final report of such summary and analysis to the Governor, the Legislature, and the council no later than December 1 of each year. The report submitted to the Legislature shall be submitted electronically. Such final~~

~~report shall include a response to each written recommendation provided by the council.~~

Sec. 8. Section 68-909, Revised Statutes Cumulative Supplement, 2016, is amended to read:

68-909 (1) All contracts, agreements, rules, and regulations relating to the medical assistance program as entered into or adopted and promulgated by the department prior to July 1, 2006, and all provisions of the medicaid state plan and waivers adopted by the department prior to July 1, 2006, shall remain in effect until revised, amended, repealed, or nullified pursuant to law.

(2) Prior to the adoption and promulgation of proposed rules and regulations under section 68-912 or relating to the implementation of medicaid state plan amendments or waivers, the department shall provide a report to the Governor, the Legislature, and the Medicaid Reform Council no later than December 1 before the next regular session of the Legislature summarizing the purpose and content of such proposed rules and regulations and the projected impact of such proposed rules and regulations on recipients of medical assistance and medical assistance expenditures. The report submitted to the Legislature shall be submitted electronically. Any changes in medicaid copayments in fiscal year 2011-12 are exempt from the reporting requirement of this subsection and the requirements of section 68-912.

(3) The Medicaid Reform Council, no later than thirty days after the date of receipt of any report under subsection (2) of this section, may conduct a public meeting to receive public comment regarding such report. The council shall promptly provide any comments and recommendations regarding such report in writing to the department. Such comments and recommendations shall be advisory only and shall not be binding on the department, but the department shall promptly provide a written response to such comments or recommendations to the council.

~~(4) The department shall monitor and shall periodically, as necessary, but no less than biennially, report to the Governor, the Legislature, and the Medicaid Reform Council on the implementation of rules and regulations, medicaid state plan amendments, and waivers adopted under the Medical Assistance Act and the effect of such rules and regulations, amendments, or waivers on eligible recipients of medical assistance and medical assistance expenditures. The report submitted to the Legislature shall be submitted electronically.~~

Sec. 9. Section 68-949, Reissue Revised Statutes of Nebraska, is amended to read:

68-949 (1) It is the intent of the Legislature that the department implement reforms to the medical assistance program such as those contained in the Medicaid Reform Plan, including (a) an incremental expansion of home and community-based services for aged persons and persons with disabilities consistent with such plan, (b) an increase in care coordination or disease management initiatives to better manage medical assistance expenditures on behalf of high-cost recipients with multiple or chronic medical conditions, and (c) other reforms as deemed necessary and appropriate by the department, in consultation with the committee and the Medicaid Reform Council.

~~(2) (2)(a)~~ The department shall develop recommendations based on a comprehensive analysis of various options available to the state under applicable federal law for the provision of medical assistance to persons with disabilities who are employed, including persons with a medically improved disability, to enhance and replace current eligibility provisions contained in subdivision (8) of section 68-915.

~~(b) The department shall provide a draft report of such recommendations to the committee and the Medicaid Reform Council no later than October 1, 2008. The council shall conduct a public meeting no later than October 15, 2008, to discuss and receive public comment regarding such report. The council shall provide any comments and recommendations regarding such report in writing to the department and the committee no later than November 1, 2008. The department shall provide a final report of such recommendations to the Governor, the committee, and the council no later than December 1, 2008.~~

~~(3) (3)(a)~~ The department shall develop recommendations for further modification or replacement of the defined benefit structure of the medical assistance program. Such recommendations shall be consistent with the public policy in section 68-905 and shall consider the needs and resources of low-income Nebraska residents who are eligible or may become eligible for medical assistance, the experience and outcomes of other states that have developed and implemented such changes, and other relevant factors as determined by the department.

~~(b) The department shall provide a draft report of such recommendations to the committee and the Medicaid Reform Council no later than October 1, 2008. The council shall conduct a public meeting no later than October 15, 2008, to discuss and receive public comment regarding such report. The council shall provide any comments and recommendations regarding such report in writing to the department and the committee no later than November 1, 2008. The department shall provide a final report of such recommendations to the Governor, the committee, and the council no later than December 1, 2008.~~

Sec. 10. Section 71-806, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-806 (1) The division shall act as the chief behavioral health authority for the State of Nebraska and shall direct the administration and coordination of the public behavioral health system, including, but not limited to: (a) Administration and management of the division, regional centers, and any other

facilities and programs operated by the division; (b) integration and coordination of the public behavioral health system; (c) comprehensive statewide planning for the provision of an appropriate array of community-based behavioral health services and continuum of care; (d) coordination and oversight of regional behavioral health authorities, including approval of regional budgets and audits of regional behavioral health authorities; (e) development and management of data and information systems; (f) prioritization and approval of all expenditures of funds received and administered by the division, including: The establishment of rates to be paid; reimbursement methodologies for behavioral health services; methodologies to be used by regional behavioral health authorities in determining a consumer's financial eligibility as provided in subsection (2) of section 71-809; and fees and copays to be paid by consumers of such services; (g) cooperation with the department in the licensure and regulation of behavioral health professionals, programs, and facilities; (h) cooperation with the department in the provision of behavioral health services under the medical assistance program; (i) audits of behavioral health programs and services; ~~and~~ (j) promotion of activities in research and education to improve the quality of behavioral health services, recruitment and retention of behavioral health professionals, and access to behavioral health programs and services; and (k) establishment of standards for peer services, including standards for training programs and for training, certification of, and service delivery by individuals.

(2) The department shall adopt and promulgate rules and regulations to carry out the Nebraska Behavioral Health Services Act.

Sec. 11. Section 71-810, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-810 (1) The division shall encourage and facilitate the statewide development and provision of an appropriate array of community-based behavioral health services and continuum of care for the purposes of (a) providing greater access to such services and improved outcomes for consumers of such services and (b) reducing the necessity and demand for regional center behavioral health services.

(2) The division may reduce or discontinue regional center behavioral health services only if (a) appropriate community-based services or other regional center behavioral health services are available for every person receiving the regional center services that would be reduced or discontinued, (b) such services possess sufficient capacity and capability to effectively replace the service needs which otherwise would have been provided at such regional center, and (c) no further commitments, admissions, or readmissions for such services are required due to the availability of community-based services or other regional center services to replace such services.

(3) The division shall notify the Governor and the Legislature of any intended reduction or discontinuation of regional center services under this section. The notification submitted to the Legislature shall be submitted electronically. Such notice shall include detailed documentation of the community-based services or other regional center services that are being utilized to replace such services.

(4) As regional center services are reduced or discontinued under this section, the division shall make appropriate corresponding reductions in regional center personnel and other expenditures related to the provision of such services. All funding related to the provision of regional center services that are reduced or discontinued under this section shall be reallocated and expended by the division for purposes related to the statewide development and provision of community-based services.

(5) The division may establish state-operated community-based services to replace regional center services that are reduced or discontinued under this section. The division shall provide regional center employees with appropriate training and support to transition such employees into positions as may be necessary for the provision of such state-operated services.

~~(6) When the occupancy of the licensed psychiatric hospital beds of any regional center reaches twenty percent or less of its licensed psychiatric hospital bed capacity on March 15, 2004, the division shall notify the Governor and the Legislature of such fact. The notification submitted to the Legislature shall be submitted electronically. Upon such notification, the division, with the approval of a majority of members of the Executive Board of the Legislative Council, may provide for the transfer of all remaining patients at such center to appropriate community-based services or other regional center services pursuant to this section and cease the operation of such regional center.~~

~~(7) The division, in consultation with each regional behavioral health authority, shall establish and maintain a data and information system for all persons receiving state-funded behavioral health services under the Nebraska Behavioral Health Services Act. Information maintained by the division shall include, but not be limited to, (a) the number of persons receiving regional center services, (b) the number of persons ordered by a mental health board to receive inpatient or outpatient treatment and receiving regional center services, (c) the number of persons ordered by a mental health board to receive inpatient or outpatient treatment and receiving community-based services, (d) the number of persons voluntarily admitted to a regional center and receiving regional center services, (e) the number of persons waiting to receive regional center services, (f) the number of persons waiting to be transferred from a regional center to community-based services or other regional center services, (g) the number of persons discharged from a regional center who are receiving community-based services or other regional center services, and (h) the number~~

~~of persons admitted to behavioral health crisis centers. Each regional behavioral health authority shall provide such information as requested by the division and necessary to carry out this subsection. The division shall submit reports of such information to the Governor and the Legislature on a quarterly basis beginning July 1, 2005, in a format which does not identify any person by name, address, county of residence, social security number, or other personally identifying characteristic. The report submitted to the Legislature shall be submitted electronically.~~

~~(6) (8)~~ The provisions of this section are self-executing and require no further authorization or other enabling legislation.

Sec. 12. Section 71-1904, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-1904 (1) The department shall adopt and promulgate rules and regulations pursuant to sections 71-1901 to 71-1906.01 for (a) the proper care and protection of children by licensees under such sections, (b) the issuance, suspension, and revocation of licenses to provide foster care, (c) the issuance, suspension, and revocation of probationary licenses to provide foster care, (d) the issuance, suspension, and revocation of provisional licenses to provide foster care, (e) the provision of training in foster care, which training shall be directly related to the skills necessary to care for children in need of out-of-home care, including, but not limited to, abused, neglected, dependent, and delinquent children, and (f) the proper administration of sections 71-1901 to 71-1906.01.

(2) The department may issue a waiver for any licensing standard not related to children's safety for a relative home that is pursuing licensure. Such waivers shall be granted on a case-by-case basis upon assessment by the department based upon the best interests of the child. A relative home that receives a waiver pursuant to this subsection shall be considered fully licensed for purposes of federal reimbursement under the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351. ~~The department shall submit electronically an annual report to the Health and Human Services Committee of the Legislature on the number of waivers granted under this subsection and the total number of children placed in relative homes. For 2013 and 2014, the department shall provide the report electronically to the Health and Human Services Committee of the Legislature on or before September 15.~~

(3) The department shall adopt and promulgate rules and regulations establishing new foster home licensing requirements that ensure children's safety, health, and well-being but minimize the use of licensing mandates for nonsafety issues. Such rules and regulations shall provide alternatives to address nonsafety issues regarding housing and provide assistance to families in overcoming licensing barriers, especially in child-specific relative and kinship placements, to maximize appropriate reimbursement under Title IV-E of the federal Social Security Act, as amended, including expanding the use of kinship guardianship assistance payments under 42 U.S.C. 673(d), as such act and section existed on January 1, 2013.

Sec. 13. Section 71-6038, Reissue Revised Statutes of Nebraska, is amended to read:

71-6038 For purposes of sections 71-6038 to 71-6042:

(1) Complicated feeding problems include, but are not limited to, difficulty swallowing, recurrent lung aspirations, and tube or parenteral or intravenous feedings;

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

(3) Nurse aide Nursing assistant means any person employed by a facility described in subsection (1) of section 71-6039 nursing home for the purpose of aiding a licensed registered or practical nurse through the performance of nonspecialized tasks related to the personal care and comfort of residents other than a paid dining assistant or a licensed registered or practical nurse;

(4) Nursing home means any facility or a distinct part of any facility that provides care as defined in sections 71-420, 71-421, 71-422, 71-424, and 71-429; and

(5) Paid dining assistant means any person employed by a nursing home for the purpose of aiding a licensed registered or practical nurse through the feeding of residents other than a nurse aide nursing assistant or a licensed registered or practical nurse.

Sec. 14. Section 71-6039, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-6039 (1) No person shall act as a nurse aide nursing assistant in a facility or a distinct part of a facility that provides care as defined in section 71-405, 71-406, 71-409, 71-412, 71-416, 71-417, 71-418, 71-419, 71-420, 71-421, 71-422, 71-424, 71-426, 71-427, or 71-429 nursing home unless such person:

(a) Is at least sixteen years of age and has not been convicted of a crime involving moral turpitude;

(b) Is able to speak and understand the English language or a language understood by a substantial portion of the facility nursing home residents; and

(c) Has successfully completed a basic course of training approved by the department for nurse aides nursing assistants within one hundred twenty days of initial employment in the capacity of a nurse aide nursing assistant at any nursing home.

(2)(a) A registered nurse or licensed practical nurse whose license has been revoked, suspended, or voluntarily surrendered in lieu of discipline may not act as a nurse aide nursing assistant in a facility described in subsection

(1) of this section ~~nursing home~~.

(b) If a person registered as a nurse aide ~~nursing assistant~~ becomes licensed as a registered nurse or licensed practical nurse, his or her registration as a nurse aide ~~nursing assistant~~ becomes null and void as of the date of licensure.

(c) A person listed on the Nurse Aide Registry with respect to whom a finding of conviction has been placed on the registry may petition the department to have such finding removed at any time after one year has elapsed since the date such finding was placed on the registry.

(3) The department may prescribe a curriculum for training nurse aides ~~nursing assistants~~ and may adopt and promulgate rules and regulations for such courses of training. The content of the courses of training and competency evaluation programs shall be consistent with federal requirements unless exempted. The department may approve courses of training if such courses of training meet the requirements of this section. Such courses of training shall include instruction on the responsibility of each nurse aide ~~nursing assistant~~ to report suspected abuse or neglect pursuant to sections 28-372 and 28-711. Nursing homes may carry out approved courses of training within the nursing home, except that nursing homes may not conduct the competency evaluation part of the program. The prescribed training shall be administered by a licensed registered nurse.

(4) For nurse aides ~~nursing assistants~~ at intermediate care facilities for persons with developmental disabilities, such courses of training shall be no less than twenty hours in duration and shall include at least fifteen hours of basic personal care training and five hours of basic therapeutic and emergency procedure training, and for nurse aides ~~nursing assistants~~ at all nursing homes other than intermediate care facilities for persons with developmental disabilities, such courses shall be no less than seventy-five hours in duration.

(5) This section shall not prohibit any facility from exceeding the minimum hourly or training requirements.

Sec. 15. Section 71-6039.06, Reissue Revised Statutes of Nebraska, is amended to read:

71-6039.06 Nurse aides ~~Nursing assistants~~ and paid dining assistants are eligible to participate in the Licensee Assistance Program as prescribed by section 38-175.

Sec. 16. Section 71-6603, Reissue Revised Statutes of Nebraska, is amended to read:

71-6603 On and after September 6, 1991, no person shall act as a home health aide unless such person:

- (1) Is at least eighteen years of age;
- (2) Is of good moral character;
- (3) Has not been convicted of a crime under the laws of this state or another jurisdiction, the penalty for which is imprisonment for a period of more than one year and which is rationally related to the person's fitness or capacity to act as a home health aide;
- (4) Is able to speak and understand the English language or the language of the home health agency patient and the home health agency staff member who acts as the home health aide's supervisor;
- (5) Meets one of the following qualifications:
 - (a) Has successfully completed a home health aide training course which meets the standards described in section 71-6608.01;
 - (b) Is a graduate of a school of nursing;
 - (c) Has been employed by a licensed home health agency as a home health aide II prior to September 6, 1991;
 - (d) Has successfully completed a course in a school of nursing which included practical clinical experience in fundamental nursing skills and has completed a competency evaluation as described in section 71-6608.02;
 - (e) Has successfully completed a basic course of training approved by the department for nurse aides ~~nursing assistants~~ as required by section 71-6039 and has completed a competency evaluation as described in section 71-6608.02;
 - (f) Has been employed by a licensed home health agency as a home health aide I prior to September 6, 1991, and has completed a competency evaluation as described in section 71-6608.02; or
 - (g) Has met the qualifications equal to one of those contained in subdivisions (a) through (f) of this subdivision in another state or territory of the United States; and
- (6) Has provided to the employing licensed home health agency proof of meeting the requirements of this section.

Sec. 17. Section 81-2210, Reissue Revised Statutes of Nebraska, is amended to read:

81-2210 Community aging services means those activities and services which fulfill the goals of the Nebraska Community Aging Services Act, which are necessary to promote, restore, or support self-sufficiency and independence for older persons, and which include: (1) Congregate activities, including, but not limited to, senior centers, group meals, volunteerism, adult day services, and recreation; and (2) individual services, including, but not limited to, specialized transportation, meals-on-wheels, home handyman services, home health care services, legal services, counseling related to problems of aging or encouraging access to aging services, and senior ~~companion~~ volunteer services.

Sec. 18. Section 81-2273, Reissue Revised Statutes of Nebraska, is amended to read:

81-2273 Sections 81-2273 to 81-2283 shall be known and may be cited as the Nebraska Senior Companion Volunteer Program Act.

Sec. 19. Section 81-2274, Reissue Revised Statutes of Nebraska, is amended to read:

81-2274 The purpose of the Nebraska Senior Companion Volunteer Program Act is to provide volunteer community service opportunities for to low-income older persons following priorities outlined in the federal Older Americans Act of 1965, as the act existed on January 1, 2017 for the benefit of frail elderly persons with special needs.

Sec. 20. Section 81-2275, Reissue Revised Statutes of Nebraska, is amended to read:

81-2275 For purposes of the Nebraska Senior Companion Volunteer Program Act:

(1) Department means the Department of Health and Human Services; and
~~(2) Direct service contractor means any public or private nonprofit organization that (a) is not currently receiving federal funding for the federal senior companion program and (b) demonstrates the ability to provide the services specified in section 81-2277;~~

~~(3) Frail elderly means a person who (a) is sixty years of age or older, (b) has a physical, mental, or emotional health limitation, and (c) needs assistance to achieve and maintain independent living; and~~

~~(2) (4) Senior companion volunteer means an individual who (a) is sixty years of age or older, (b) has an annual income not exceeding one hundred twenty-five percent of the federal poverty level, (c) is determined by a physical examination to be capable, with or without reasonable accommodation, of serving adults with special needs without detriment to himself or herself or the persons served, and (d) provides companion services at least four hours a day, four days a week.~~

Sec. 21. Section 81-2279, Reissue Revised Statutes of Nebraska, is amended to read:

81-2279 (1) A senior volunteer may ~~Senior companion volunteers providing companion services pursuant to the Nebraska Senior Companion Volunteer Program Act shall receive (a) (1) transportation expenses for transportation to and from their residences and the place where services are to be rendered, (b) (2) one free meal when reasonably available during each day that services are rendered, and (c) (3)(a) accident and liability insurance, (b) an annual physical examination, and (c) a nontaxable hourly stipend of two dollars and fifty-five cents per hour.~~

(2) A senior volunteer shall receive motor vehicle accident and liability insurance coverage.

Sec. 22. Section 81-2281, Reissue Revised Statutes of Nebraska, is amended to read:

81-2281 (1) The department shall make annual grants in an amount not to exceed twenty-five fifty thousand dollars ~~to direct service contractors and shall give preference to applications for grants to provide in-home services.~~

~~(2) Applications shall be made on forms provided by the department.~~

~~(3) No grant shall be approved for any applicant who has received federal funding to provide services under any federal senior companion program.~~

~~(2) (4) As a condition to receiving a grant, an applicant shall obtain at least ten percent matching funds from a local sources governmental or other source.~~

~~(5) Grants shall be for a period of twenty-four months and shall not be used as matching funds but solely to carry out the requirements of the Nebraska Senior Companion Volunteer Program Act.~~

~~(6) No person paid from grant funds shall replace any staff member of the grantee.~~

Sec. 23. Section 81-2283, Reissue Revised Statutes of Nebraska, is amended to read:

81-2283 The department shall adopt and promulgate rules and regulations to carry out the Nebraska Senior Companion Volunteer Program Act.

Sec. 24. Original sections 13-308, 28-372, 38-101, 38-123, 43-296, 43-4406, 68-949, 71-6038, 71-6039.06, 71-6603, 81-2210, 81-2273, 81-2274, 81-2275, 81-2279, 81-2281, and 81-2283, Reissue Revised Statutes of Nebraska, and sections 68-908, 68-909, 71-806, 71-810, 71-1904, and 71-6039, Revised Statutes Cumulative Supplement, 2016, are repealed.

Sec. 25. The following sections are outright repealed: Sections 81-2233, 81-2276, 81-2277, 81-2278, and 81-2280, Reissue Revised Statutes of Nebraska.