

LEGISLATIVE BILL 296

Approved by the Governor May 21, 2021

Introduced by Hansen, B., 16.

A BILL FOR AN ACT relating to state institutions; to amend section 83-109, Revised Statutes Cumulative Supplement, 2020; to change provisions regarding access to records; to harmonize provisions; and to repeal the original section.

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

Section 1. Section 83-109, Revised Statutes Cumulative Supplement, 2020, is amended to read:

83-109 (1) 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.

(2) 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 ~~such~~ records shall ~~to~~ be accessible only (a) ~~(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, (b) ~~(2)~~ upon order of a judge, ~~or~~ court, or mental health board, (c) ~~(3)~~ in accordance with sections 20-161 to 20-166, (d) ~~(4)~~ to the Nebraska State Patrol pursuant to section 69-2409.01, (e) ~~(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, (f) ~~(6)~~ to law enforcement and county attorneys when a crime occurs on the premises of an institution, (g) ~~(7)~~ upon request when a patient or resident has been deceased for fifty years or more, (h) ~~or~~ ~~(8)~~ to current treatment providers, or (i) to treatment providers for coordination of care related to transfer or discharge. 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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. 2. Original section 83-109, Revised Statutes Cumulative Supplement, 2020, is repealed.