

ENGROSSED LEGISLATIVE BILL 42

Introduced by Riepe, 12; Hardin, 48; Quick, 35; Cavanaugh, M., 6; Conrad, 46.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-6038 and 71-6039, Reissue Revised Statutes of Nebraska; to provide for employment of nurse aides in intellectual and developmental disability facilities; and to repeal the original sections.

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

Section 1. 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 means any person employed by a service provider or facility described in subsection (1) of section 71-6039 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;

(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 or a licensed registered or practical nurse; and

(6) Service provider means a person certified by the department to provide developmental disabilities services.

Sec. 2. Section 71-6039, Reissue Revised Statutes of Nebraska, is amended to read:

71-6039 (1) No person shall act as a nurse aide for a service provider under the medicaid comprehensive developmental disabilities waiver for services as defined in section 71-6501, or 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 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 residents; and

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

(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 for a service provider or in a facility described in subsection (1) of this section.

(b) If a person registered as a nurse aide becomes licensed as a registered nurse or licensed practical nurse, his or her registration as a nurse aide 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 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 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 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 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. 3. Original sections 71-6038 and 71-6039, Reissue Revised Statutes of Nebraska, are repealed.

PRESIDENT OF THE LEGISLATURE

*THIS IS TO CERTIFY that the within LB 42 was passed by the One Hundred Ninth
Legislature of Nebraska at its First Session on the day
of 20.....*

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR