

LEGISLATIVE BILL 246

Approved by the Governor March 22, 2005

Introduced by Johnson, 37; Burling, 33

AN ACT relating to public health and welfare; to amend sections 71-434 and 71-6054, Reissue Revised Statutes of Nebraska; to change health care facility license fee provisions; to change provisions relating to nursing home administrators performing duties in more than one facility; and to repeal the original sections.

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

Section 1. Section 71-434, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

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

(4) The department shall also collect the fee provided in subsection (1) of this section for reinstatement of a license that has lapsed or has been suspended or revoked. The department shall collect a fee of ten dollars for a duplicate original license.

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

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

Sec. 2. Section 71-6054, Reissue Revised Statutes of Nebraska, is amended to read:

71-6054. (1)(a) The board shall issue a license to an applicant who submits (i) satisfactory evidence of completion of (A) an associate degree which includes the core educational requirements and an administrator-in-training program under a certified preceptor, (B) a degree or an advanced degree and a mentoring program under a certified preceptor, (C) a nursing degree, previous work experience in health care administration, and a mentoring program under a certified preceptor, (D) a degree or an advanced degree in health care and previous work experience in health care administration, or (E) an associate degree which includes the core educational requirements, previous work experience, and a mentoring program under a certified preceptor, (ii) evidence of successful passage of the National Association of Boards of Examiners for Nursing Home Administration written examination, and (iii) his or her social security number. The board shall license administrators in accordance with sections 71-6053 to 71-6068 and standards, rules, and regulations adopted and promulgated by the board

pursuant to such sections. The license shall not be transferable or assignable. ~~Each administrator shall be full time and responsible for the operation of only one licensed facility or one integrated system, except that an administrator may oversee the operations of more than one licensed facility if such facilities are located within ten miles of each other and the combined number of licensed beds in such facilities does not exceed sixty-five~~ Each administrator shall be responsible for and oversee the operation of only one licensed facility or one integrated system, except that an administrator may make application to the board for approval to be responsible for and oversee the operations of a maximum of three licensed facilities if such facilities are located within two hours' travel time of each other or to act in the dual role of administrator and department head but not in the dual role of administrator and director of nursing. In reviewing the application, the board may consider the proximity of the facilities and the number of licensed beds in each facility. An administrator responsible for and overseeing the operations of an any integrated system is subject to disciplinary action against his or her license for any regulatory violations within such integrated each system.

(b) Notwithstanding the provisions of sections 71-6053 to 71-6068, the board shall issue a license as a nursing home administrator to an applicant who will function as the administrator of a facility caring primarily for persons with head injuries and associated disorders who submits satisfactory evidence that he or she (i) has at least two years of experience working with persons with head injuries or severe physical disabilities, at least one of which was spent in an administrative capacity, (ii) is (A) a psychologist with at least a master's degree in psychology from an accredited college or university and has specialized training or one year of experience working with persons with traumatic head injury or severe physical disability, (B) a physician licensed under the Uniform Licensing Law to practice medicine and surgery or psychiatry and has specialized training or one year of experience working with persons with traumatic head injury or severe physical disability, (C) an educator with at least a master's degree in education from an accredited college or university and has specialized training or one year of experience working with persons with traumatic head injury or severe physical disability, or (D) a certified social worker, a certified master social worker, or a licensed mental health practitioner certified or licensed under the Uniform Licensing Law and has at least three years of social work or mental health practice experience and specialized training or one or more years of experience working with persons who have experienced traumatic head injury or are severely physically disabled, and (iii) is of good moral character. The applicant shall also provide his or her social security number.

A license issued pursuant to this subdivision shall be issued without examination and without the requirement of completion of an administrator-in-training or mentoring program. Such license may be renewed without the completion of any continuing competency requirements.

(2) Licenses may be denied, suspended, limited, refused renewal, or revoked by the department for due cause which shall include: (a) Fraud in procuring a license; (b) immoral, unprofessional, or dishonorable conduct; (c) habitual intoxication or addiction to the use of drugs; (d) distribution of intoxicating liquors or drugs for other than lawful purposes; (e) conviction of a felony; (f) physical or mental incapacity to perform professional duties; (g) violation of any provision of sections 71-6053 to 71-6068 or standards, rules, and regulations adopted and promulgated thereunder or of any law or standards, rules, and regulations adopted and promulgated by the department relating to the proper administration and management of a home for the aged or infirm or nursing home; (h) commission of any of the acts or offenses set forth in sections 71-147 and 71-148; and (i) failure to pay the required fees. Except in cases of failure to pay the required fees, no license shall be denied, suspended, limited, refused renewal, or revoked except after due notice and opportunity for a hearing. Disciplinary actions and proceedings shall be conducted as specified in the Uniform Licensing Law. Any denial, suspension, limitation, refusal of renewal, or revocation of such license may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. A person whose license has been revoked, suspended, or limited may petition the board for reinstatement in the manner provided by sections 71-161.04 to 71-161.06.

Sec. 3. Original sections 71-434 and 71-6054, Reissue Revised Statutes of Nebraska, are repealed.