

ONE HUNDRED FIRST LEGISLATURE - SECOND SESSION - 2010
COMMITTEE STATEMENT
LB849

Hearing Date: Thursday February 04, 2010
Committee On: Health and Human Services
Introducer: Gay
One Liner: Change provisions relating to the Department of Health and Human Services

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 7 Senators Campbell, Gay, Gloor, Howard, Pankonin, Stuthman, Wallman
Nay:
Absent:
Present Not Voting:

Proponents: Senator Gay Sheila Krolikowski Kerry Winterer	Representing: Introducer Mosaic Department of Health and Human Services
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Opponents:	Representing:
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Neutral:	Representing:
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Summary of purpose and/or changes:

LB 849 (Gay) Changes provisions relating to the Department of Health and Human Services. The bill is the Department of Health and Human Services "clean up" bill.

The bill changes the state law regarding references to the Federal Social Security Act in state Medicaid statutes. Nebraska law adopts by reference the Federal Social Security Act as it existed on January 1, 2009. Nebraska case law provides that a state statute may incorporate by reference a federal statute, but only as to the date such state statute became effective and not all future changes in federal law. The statute needs updating so federal changes that have been made are incorporated by reference.

The bill deletes obsolete language related to the Supplemental Nutrition Assistance Program (SNAP). Specifically, food stamp coupons have expired as of June 17, 2009. LB 849 deletes the references to coupons relating to trafficking and legal penalties.

LB 849 changes the state law in regards to development disability services. Specifically, the certification requirements of specialized programs providing specialized services to the Department are changed by deleting the requirement to have elected officials on their governing boards. Also, the board membership is changed to require one-third of the membership be legal guardians of persons with developmental disabilities and one-third of the members be interested community leaders.

The bill changes state law relating to the decision-making authority for appeals to the Director of the Division of Developmental Disabilities instead of a hearing officer.

Explanation of amendments:

Committee Amendment

AM 2120

Contains provisions of LB 25 (as amended by COMM AM 589), LB 702 (as amended by COMM AM 1730), LB 726 (as amended by COMM AM 1763), LB 734, LB 766, LB 828 (as amended by COMM AM 1732), LB 857, LB 930, LB 941 and LB1027.

AM 2120 (sections 19, 20, 21, 22) includes provisions from LB 25 as amended by Committee Amendment 589 adds children's day health services within the definition of "health care service" under the Health Care Facilities Licensure Act. The amendment defines specialized care and treatment for a period less than twenty-four continual hours in a community-based program for twenty or more persons under twenty-one years of age. Children's day health services do not include services provided under the Developmental Disabilities Services Act.

AM 2120 (section 28) includes LB 702 as amended by Committee Amendment 1730 removes provisions in section 71-8403 relating to medical records. The law allows individuals to obtain copies, or review, medical records if requested or authorized in writing. Currently the request is effective for 180 days. The Committee Amendment 1730 states if the written authorization for release of records does not contain an expiration date, or specify an event that causes the authorization to expire, the authorization expires twelve months after the date the release was signed.

AM 2120 (section 23) includes LB 726 as amended by Committee Amendment 1763 requires staff training and continuing education for facilities offering care in an Alzheimer's special care unit under 71-516.04. Amendment 1763 requires four hours of annual education and training for direct care staff pertaining to the care or treatment outlined in the disclosure under the Alzheimer's Special Care Disclosure Act. The amendment removes the bill's requirement that the department prescribes and approve the curriculum. It also clarifies the four hours specified shall not be construed to increase the aggregate hourly training requirement of the Alzheimer's special care unit.

AM 2129 (sections 17, 18) includes LB 734 that removes the special notification process of certified mail to welfare recipients and the requirement of notification to the department. Current law requires notification to welfare recipients via certified mail prior to termination of water, natural gas or electricity service for non-payment of past due accounts. Current law, also, requires notice of shut off of services to welfare recipients be given to the Department of Health and Human Services. After the changes enacted through LB 734 the law would continue to require notification, by first class mail seven days prior to termination of utility service, to all domestic subscribers for payment of past due accounts.

AM 2120 (section 25) includes LB 766 repeals the current July 1, 2010 termination date for the Nebraska Center for the Nursing Act. Current statute establishes the Nebraska Center for Nursing Act that created the Nebraska Center for Nursing, to "address issues of supply and demand for nurses, including issues of recruitment, retention, and utilization of nurses." The bill will result in no termination date for the Nebraska Center for Nursing.

AM 2120 (sections 1, 2, 3, 4, 5) includes LB 828 as amended by Committee Amendment 1732 defines patient care and management; redefines medical radiography; and changes the specific requirements of the educational program for medical radiographers and limited radiographers under the Medical Radiography Practice Act. The bill states "patient care and management, as it relates to the practice of medical radiography, includes, but is not limited to: (1) infection control; (2) patient transfer and movement; (3) assisting patients with medical equipment; (4) routine monitoring; (5) medical emergencies; and (6) proper use of contrast media and patient safety and protection, including minimizing and monitoring patient radiation exposure through utilizing proper professional standards and protocols, including the principle of as low as reasonably achievable." LB 828 as amended by AM 1732 also redefines medical radiography to include, but not limited to "utilizing proper: (1) radiation protection for the patient, the radiographer, and others; (2) radiation generating equipment operation and quality control; (3) image production and evaluation; (4) radiographic procedures and (5) patient care and management as it relates to the practice of medical radiography". The bill adds to the education program requirements under 38-1918 to include "radiation protection for the patient, the radiographer, and others; radiation generating equipment operation and quality control; image production and evaluation; radiographic

procedures; processing films; positioning of patients; performance methods to achieve optimum radiographic technique with a minimum of radiation exposure; and patient care and management as it relates to the practice of medical radiography". Finally, the bill states the examination for limited radiographers shall include, in addition to the list under current law, "quality control and radiographic procedures".

AM 2120 (sections 13, 14, 15, 16, 29, 30, 31, 32, 33, 34, 35)) amends LB 849 to end the strict one-third, one-third, one-third division representation requirement for membership on the local governing board or advisory committee for community based developmental disability programs.

AM 2120 (sections 24, 26, 36) includes LB 857 that consolidates the Modular Housing Units Cash Fund and the Manufactured Homes and Recreational Vehicles Cash Fund into one new fund, the Public Service Commission Housing and Recreational Vehicle Cash Fund. The bill creates the new fund and transfers funds from the Modular Housing Units Cash Fund and the Manufactured Homes and Recreational Vehicles Cash Fund to the new fund on the operative date of the bill (July 1, 2010). The bill changes provisions relating to fees charged by the commission for manufactured home and recreational vehicle seals. Current law permits the commission to charge a fee of not less than ten dollars (\$10) and not more than seventy-five dollars (\$75) for such seals. LB 857 permits the commission to charge an amount determined annually by the commission after published notice and a hearing for such seals, and eliminates provisions establishing specific statutory dollar amounts for such fees. Money credited to the fund pursuant to section 71-4601.01 will be used by the commission for the purpose of administering the Nebraska Uniform Standards for Modular Housing Units Act and Uniform Standard Code for Manufactured Homes and Recreational Vehicles. Transfers from the fund to the General Fund may be made at the direction of the Legislature.

AM 2120 (sections 8, 9, 10, 11, 12, 27) includes LB 930 that relates to the Pharmacy Practice Act stating that a prescription drug or device does not include a device, supplies and device components that carry the FDA legend "Caution: federal law restricts this device to sale by or on the order of a licensed health care provider" or an alternative legend approved by the FDA conveying essentially the same language. Additionally, the bill states the practice of pharmacy does not include a business or a person accredited by an accrediting body which, or who, pursuant to a medical order sells, delivers or distributes-or purchases or receives with intent to sell, deliver or distributes-devices describe above to patients or ultimate users.

AM 2120 (sections 6, 7) amends LB 941 and includes the amended language to LB 849 LB 941 adds to the practice of optometry to include the dispensing and sale of contact lens containing an ocular pharmaceutical agent which an optometrist is authorized by law to prescribe and which is classified by the federal Food and Drug Administration as a drug. The amendment requires an optometrist who dispenses contact lens containing an ocular pharmaceutical agent to comply with the rules and regulations relating to packaging, labeling, storage and drug utilization review adopted and promulgated by the board relating to packaging, labeling, and record keeping. The bill adds to the Uniform Credentialing Act that optometrists may prescribe or dispense contact lenses that contain and deliver ocular pharmaceutical agents. The amendment adds to the bill ophthalmologists who prescribe or dispense eyeglasses or contact lenses to their own patients, including contact lenses that contain and deliver ocular pharmaceutical agents.

AM 2120 (section 31) amends LB 1027 and includes the amended language to LB 849. The amendment sets March 1, 2011 as the deadline when the department must begin reimbursing on a daily rate basis specialized services through community-based developmental disability programs.

Tim Gay, Chairperson