

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 42

Introduced by Riepe, 12; Hardin, 48.

Read first time January 09, 2025

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to public health and welfare; to amend
2 sections 71-6038 and 71-6039, Reissue Revised Statutes of Nebraska;
3 to provide for employment of nurse aides in intellectual and
4 developmental disability facilities; and to repeal the original
5 sections.
6 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 71-6038, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 71-6038 For purposes of sections 71-6038 to 71-6042:

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

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

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

14 (4) Nursing home means any facility or a distinct part of any
15 facility that provides care as defined in sections 71-420, 71-421,
16 71-422, 71-424, and 71-429; ~~and~~

17 (5) Paid dining assistant means any person employed by a nursing
18 home for the purpose of aiding a licensed registered or practical nurse
19 through the feeding of residents other than a nurse aide or a licensed
20 registered or practical nurse; and -

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

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

25 71-6039 (1) No person shall act as a nurse aide for a service
26 provider under the medicaid comprehensive developmental disabilities
27 waiver for services as defined in section 71-6501, or in a facility or a
28 distinct part of a facility that provides care as defined in section
29 71-405, 71-406, 71-409, 71-412, 71-416, 71-417, 71-418, 71-419, 71-420,
30 71-421, 71-422, 71-424, 71-426, 71-427, or 71-429 unless such person:

31 (a) Is at least sixteen years of age and has not been convicted of a

1 crime involving moral turpitude;

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

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

8 (2)(a) A registered nurse or licensed practical nurse whose license
9 has been revoked, suspended, or voluntarily surrendered in lieu of
10 discipline may not act as a nurse aide for a service provider or in a
11 facility described in subsection (1) of this section.

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

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

19 (3) The department may prescribe a curriculum for training nurse
20 aides and may adopt and promulgate rules and regulations for such courses
21 of training. The content of the courses of training and competency
22 evaluation programs shall be consistent with federal requirements unless
23 exempted. The department may approve courses of training if such courses
24 of training meet the requirements of this section. Such courses of
25 training shall include instruction on the responsibility of each nurse
26 aide to report suspected abuse or neglect pursuant to sections 28-372 and
27 28-711. Nursing homes may carry out approved courses of training within
28 the nursing home, except that nursing homes may not conduct the
29 competency evaluation part of the program. The prescribed training shall
30 be administered by a licensed registered nurse.

31 (4) For nurse aides at intermediate care facilities for persons with

1 developmental disabilities, such courses of training shall be no less
2 than twenty hours in duration and shall include at least fifteen hours of
3 basic personal care training and five hours of basic therapeutic and
4 emergency procedure training, and for nurse aides at all nursing homes
5 other than intermediate care facilities for persons with developmental
6 disabilities, such courses shall be no less than seventy-five hours in
7 duration.

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

10 **Sec. 3.** Original sections 71-6038 and 71-6039, Reissue Revised
11 Statutes of Nebraska, are repealed.