

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 417

FINAL READING

Introduced by Riepe, 12.

Read first time January 13, 2017

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to public health and welfare; to amend
2 sections 13-308, 28-372, 38-101, 38-123, 43-296, 43-4406, 68-949,
3 71-6038, 71-6039.06, 71-6603, 81-2210, 81-2273, 81-2274, 81-2275,
4 81-2279, 81-2281, and 81-2283, Reissue Revised Statutes of Nebraska,
5 and sections 68-908, 68-909, 71-806, 71-810, 71-1904, and 71-6039,
6 Revised Statutes Cumulative Supplement, 2016; to eliminate
7 references to nursing assistants; to provide for nurse aides in
8 certain health care facilities as prescribed; to change provisions
9 relating to providing notice to credential holders under the Uniform
10 Credentialing Act; to change and eliminate reporting requirements
11 under the Medical Assistance Act; to change provisions relating to a
12 child welfare services report; to provide for standards for peer
13 services for and eliminate obsolete provisions of behavioral health
14 services; to rename the Nebraska Senior Companion Volunteer Program
15 Act; to change the purpose of the act; to eliminate the Nebraska
16 Senior Companion Volunteer Program; to change and eliminate benefits
17 for and restrictions on senior volunteers; to change and eliminate
18 provisions relating to application for and use of grant funds and
19 funding by municipal corporations; to eliminate certain reporting
20 requirements and provisions relating to foster care licensing,
21 regional center occupancy rates, and data systems; to harmonize
22 provisions; to repeal the original sections; and to outright repeal

1 sections 81-2233, 81-2276, 81-2277, 81-2278, and 81-2280, Reissue
2 Revised Statutes of Nebraska.
3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-308, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 13-308 Any municipal corporation may contract with any person and
4 provide funds for home-delivered meals for the elderly and ~~retired~~ senior
5 volunteer programs.

6 Sec. 2. Section 28-372, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 28-372 (1) When any physician, psychologist, physician assistant,
9 nurse, nurse aide ~~nursing assistant~~, other medical, developmental
10 disability, or mental health professional, law enforcement personnel,
11 caregiver or employee of a caregiver, operator or employee of a sheltered
12 workshop, owner, operator, or employee of any facility licensed by the
13 department, or human services professional or paraprofessional not
14 including a member of the clergy has reasonable cause to believe that a
15 vulnerable adult has been subjected to abuse, neglect, or exploitation or
16 observes such adult being subjected to conditions or circumstances which
17 reasonably would result in abuse, neglect, or exploitation, he or she
18 shall report the incident or cause a report to be made to the appropriate
19 law enforcement agency or to the department. Any other person may report
20 abuse, neglect, or exploitation if such person has reasonable cause to
21 believe that a vulnerable adult has been subjected to abuse, neglect, or
22 exploitation or observes such adult being subjected to conditions or
23 circumstances which reasonably would result in abuse, neglect, or
24 exploitation.

25 (2) Such report may be made by telephone, with the caller giving his
26 or her name and address, and, if requested by the department, shall be
27 followed by a written report within forty-eight hours. To the extent
28 available the report shall contain: (a) The name, address, and age of the
29 vulnerable adult; (b) the address of the caregiver or caregivers of the
30 vulnerable adult; (c) the nature and extent of the alleged abuse,
31 neglect, or exploitation or the conditions and circumstances which would

1 reasonably be expected to result in such abuse, neglect, or exploitation;
2 (d) any evidence of previous abuse, neglect, or exploitation, including
3 the nature and extent of the abuse, neglect, or exploitation; and (e) any
4 other information which in the opinion of the person making the report
5 may be helpful in establishing the cause of the alleged abuse, neglect,
6 or exploitation and the identity of the perpetrator or perpetrators.

7 (3) Any law enforcement agency receiving a report of abuse, neglect,
8 or exploitation shall notify the department no later than the next
9 working day by telephone or mail.

10 (4) A report of abuse, neglect, or exploitation made to the
11 department which was not previously made to or by a law enforcement
12 agency shall be communicated to the appropriate law enforcement agency by
13 the department no later than the next working day by telephone or mail.

14 (5) The department shall establish a statewide toll-free number to
15 be used by any person any hour of the day or night and any day of the
16 week to make reports of abuse, neglect, or exploitation.

17 Sec. 3. Section 38-101, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 38-101 Sections 38-101 to 38-1,142 and the following practice acts
20 shall be known and may be cited as the Uniform Credentialing Act:

- 21 (1) The Advanced Practice Registered Nurse Practice Act;
- 22 (2) The Alcohol and Drug Counseling Practice Act;
- 23 (3) The Athletic Training Practice Act;
- 24 (4) The Audiology and Speech-Language Pathology Practice Act;
- 25 (5) The Certified Nurse Midwifery Practice Act;
- 26 (6) The Certified Registered Nurse Anesthetist Practice Act;
- 27 (7) The Chiropractic Practice Act;
- 28 (8) The Clinical Nurse Specialist Practice Act;
- 29 (9) The Cosmetology, Electrology, Esthetics, Nail Technology, and
30 Body Art Practice Act;
- 31 (10) The Dentistry Practice Act;

- 1 (11) The Emergency Medical Services Practice Act;
- 2 (12) The Environmental Health Specialists Practice Act;
- 3 (13) The Funeral Directing and Embalming Practice Act;
- 4 (14) The Genetic Counseling Practice Act;
- 5 (15) The Hearing Instrument Specialists Practice Act;
- 6 (16) The Licensed Practical Nurse-Certified Practice Act;
- 7 (17) The Massage Therapy Practice Act;
- 8 (18) The Medical Nutrition Therapy Practice Act;
- 9 (19) The Medical Radiography Practice Act;
- 10 (20) The Medicine and Surgery Practice Act;
- 11 (21) The Mental Health Practice Act;
- 12 (22) The Nurse Practice Act;
- 13 (23) The Nurse Practitioner Practice Act;
- 14 (24) The Nursing Home Administrator Practice Act;
- 15 (25) The Occupational Therapy Practice Act;
- 16 (26) The Optometry Practice Act;
- 17 (27) The Perfusion Practice Act;
- 18 (28) The Pharmacy Practice Act;
- 19 (29) The Physical Therapy Practice Act;
- 20 (30) The Podiatry Practice Act;
- 21 (31) The Psychology Practice Act;
- 22 (32) The Respiratory Care Practice Act;
- 23 (33) The Surgical First Assistant Practice Act;
- 24 (34) The Veterinary Medicine and Surgery Practice Act; and
- 25 (35) The Water Well Standards and Contractors' Practice Act.

26 If there is any conflict between any provision of sections 38-101 to
27 38-1,142 ~~38-1,139~~ and ~~38-1,141~~ and any provision of a practice act, the
28 provision of the practice act shall prevail.

29 The Revisor of Statutes shall assign the Uniform Credentialing Act,
30 including the practice acts enumerated in subdivisions (1) through (34)
31 ~~(33)~~ of this section, to articles within Chapter 38.

1 Sec. 4. Section 38-123, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-123 (1) The department shall establish and maintain a record of
4 all credentials issued pursuant to the Uniform Credentialing Act. The
5 record shall contain identifying information for each credential holder
6 and the credential issued pursuant to the act.

7 (2) For individual credential holders engaged in a profession:

8 (a) The record information shall include:

9 (i) The name, date and place of birth, and social security number;

10 (ii) The street, rural route, or post office address;

11 (iii) The school and date of graduation;

12 (iv) The name of examination, date of examination, and ratings or
13 grades received, if any;

14 (v) The type of credential issued, the date the credential was
15 issued, the identifying name and number assigned to the credential, and
16 the basis on which the credential was issued;

17 (vi) The status of the credential; and

18 (vii) A description of any disciplinary action against the
19 credential, including, but not limited to, the type of disciplinary
20 action, the effective date of the disciplinary action, and a description
21 of the basis for any such disciplinary action;

22 (b) The record may contain any additional information the department
23 deems appropriate to advance or support the purpose of the Uniform
24 Credentialing Act;

25 (c) The record may be maintained in computer files or paper copies
26 and may be stored on microfilm or in similar form; and

27 (d) The record is a public record, except that social security
28 numbers shall not be public information but may be shared as specified in
29 subsection (5) of section 38-130.

30 (3) For credential holders engaged in a business:

31 (a) The record information shall include:

1 (i) The full name and address of the business;

2 (ii) The type of credential issued, the date the credential was
3 issued, the identifying name and number assigned to the credential, and
4 the basis on which the credential was issued;

5 (iii) The status of the credential; and

6 (iv) A description of any disciplinary action against the
7 credential, including, but not limited to, the type of disciplinary
8 action, the effective date of the disciplinary action, and a description
9 of the basis for any such disciplinary action;

10 (b) The record may contain any additional information the department
11 deems appropriate to advance or support the purpose of the Uniform
12 Credentialing Act;

13 (c) The record may be maintained in computer files or paper copies
14 and may be stored on microfilm or in similar form; and

15 (d) The record is a public record.

16 (4) Except as otherwise specifically provided, if If the department
17 is required to provide notice or notify an applicant or credential holder
18 under the Uniform Credentialing Act, such requirements shall be satisfied
19 by sending mailing a written notice to such applicant or credential
20 holder at his or her last address of record.

21 Sec. 5. Section 43-296, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 43-296 All associations receiving juveniles under the Nebraska
24 Juvenile Code shall be subject to the same visitation, inspection, and
25 supervision by the Department of Health and Human Services as are public
26 charitable institutions of this state, and it shall be the duty of the
27 department to pass annually upon the fitness of every such association as
28 may receive or desire to receive juveniles under the provisions of such
29 code. ~~Every such association shall annually, on or before September 15,~~
30 ~~make a report to the department showing its condition, management, and~~
31 ~~competency to adequately care for such juveniles as are or may be~~

1 ~~committed to it and such other facts as the department may require. Upon~~
2 ~~receiving such report, the department shall provide an electronic copy of~~
3 ~~such report to the Health and Human Services Committee of the Legislature~~
4 ~~on or before September 15 of 2012, 2013, and 2014.~~ Upon the department
5 being satisfied that such association is competent and has adequate
6 facilities to care for such juveniles, it shall issue to such association
7 a certificate to that effect, which certificate shall continue in force
8 for one year unless sooner revoked by the department. No juvenile shall
9 be committed to any such association which has not received such a
10 certificate within the fifteen months immediately preceding the
11 commitment. The court may at any time require from any association
12 receiving or desiring to receive juveniles under the provisions of the
13 Nebraska Juvenile Code such reports, information, and statements as the
14 judge shall deem proper and necessary for his or her action, and the
15 court shall in no case be required to commit a juvenile to any
16 association whose standing, conduct, or care of juveniles or ability to
17 care for the same is not satisfactory to the court.

18 Sec. 6. Section 43-4406, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 43-4406 On or before September 15, 2012, and each September 15
21 thereafter, the department shall report electronically to the Health and
22 Human Services Committee of the Legislature the following information
23 regarding child welfare services, with respect to children served by any
24 lead agency or the pilot project and children served by the department:

25 (1) The percentage of children served and the allocation of the
26 child welfare budget, categorized by service area and by lead agency or
27 the pilot project, including:

28 (a) The percentage of children served, by service area and the
29 corresponding budget allocation; and

30 (b) The percentage of children served who are wards of the state and
31 the corresponding budget allocation;

1 (2) The number of siblings in out-of-home care placed with siblings
2 as of the June 30th immediately preceding the date of the report,
3 categorized by service area and by lead agency or the pilot project;

4 (3) The number of waivers granted under subsection (2) of section
5 71-1904;

6 (4) ~~(3)~~ An update of the information in the report of the Children's
7 Behavioral Health Task Force pursuant to sections 43-4001 to 43-4003,
8 including:

9 (a) The number of children receiving mental health and substance
10 abuse services annually by the Division of Behavioral Health of the
11 department;

12 (b) The number of children receiving behavioral health services
13 annually at the Hastings Regional Center;

14 (c) The number of state wards receiving behavioral health services
15 as of September 1 immediately preceding the date of the report;

16 (d) Funding sources for children's behavioral health services for
17 the fiscal year ending on the immediately preceding June 30;

18 (e) Expenditures in the immediately preceding fiscal year by the
19 division, categorized by category of behavioral health service and by
20 behavioral health region; and

21 (f) Expenditures in the immediately preceding fiscal year from the
22 medical assistance program and CHIP as defined in section 68-969 for
23 mental health and substance abuse services, for all children and for
24 wards of the state;

25 (5) ~~(4)~~ The following information as obtained for each service area
26 and lead agency or the pilot project:

27 (a) Case manager education, including college degree, major, and
28 level of education beyond a baccalaureate degree;

29 (b) Average caseload per case manager;

30 (c) Average number of case managers per child during the preceding
31 twelve months;

1 (d) Average number of case managers per child for children who have
2 been in the child welfare system for three months, for six months, for
3 twelve months, and for eighteen months and the consecutive yearly average
4 for children until the age of majority or permanency is attained;

5 (e) Monthly case manager turnover;

6 (f) Monthly face-to-face contacts between each case manager and the
7 children on his or her caseload;

8 (g) Monthly face-to-face contacts between each case manager and the
9 parent or parents of the children on his or her caseload;

10 (h) Case documentation of monthly consecutive team meetings per
11 quarter;

12 (i) Case documentation of monthly consecutive parent contacts per
13 quarter;

14 (j) Case documentation of monthly consecutive child contacts with
15 case manager per quarter;

16 (k) Case documentation of monthly consecutive contacts between child
17 welfare service providers and case managers per quarter;

18 (l) Timeliness of court reports; and

19 (m) Non-court-involved children, including the number of children
20 served, the types of services requested, the specific services provided,
21 the cost of the services provided, and the funding source;

22 (6) ~~(5)~~ All placements in residential treatment settings made or
23 paid for by the child welfare system, the Office of Juvenile Services,
24 the State Department of Education or local education agencies, any lead
25 agency or the pilot project through letters of agreement, and the medical
26 assistance program, including, but not limited to:

27 (a) Child variables;

28 (b) Reasons for placement;

29 (c) The percentage of children denied medicaid-reimbursed services
30 and denied the level of placement requested;

31 (d) With respect to each child in a residential treatment setting:

1 (i) If there was a denial of initial placement request, the length
2 and level of each placement subsequent to denial of initial placement
3 request and the status of each child before and immediately after, six
4 months after, and twelve months after placement;

5 (ii) Funds expended and length of placements;

6 (iii) Number and level of placements;

7 (iv) Facility variables; and

8 (v) Identification of specific child welfare services unavailable in
9 the child's community that, if available, could have prevented the need
10 for residential treatment; and

11 (e) Identification of child welfare services unavailable in the
12 state that, if available, could prevent out-of-state placements;

13 (7) ~~(6)~~ From any lead agency or the pilot project, the percentage of
14 its accounts payable to subcontracted child welfare service providers
15 that are thirty days overdue, sixty days overdue, and ninety days
16 overdue; and

17 (8) ~~(7)~~ For any individual involved in the child welfare system
18 receiving a service or a placement through the department or its agent
19 for which referral is necessary, the date when such referral was made by
20 the department or its agent and the date and the method by which the
21 individual receiving the services was notified of such referral. To the
22 extent the department becomes aware of the date when the individual
23 receiving the referral began receiving such services, the department or
24 its agent shall document such date.

25 Sec. 7. Section 68-908, Revised Statutes Cumulative Supplement,
26 2016, is amended to read:

27 68-908 (1) The department shall administer the medical assistance
28 program.

29 (2) The department may (a) enter into contracts and interagency
30 agreements, (b) adopt and promulgate rules and regulations, (c) adopt fee
31 schedules, (d) apply for and implement waivers and managed care plans for

1 services for eligible recipients, including services under the Nebraska
2 Behavioral Health Services Act, and (e) perform such other activities as
3 necessary and appropriate to carry out its duties under the Medical
4 Assistance Act. A covered item or service as described in section 68-911
5 that is furnished through a school-based health center, furnished by a
6 provider, and furnished under a managed care plan pursuant to a waiver
7 does not require prior consultation or referral by a patient's primary
8 care physician to be covered. Any federally qualified health center
9 providing services as a sponsoring facility of a school-based health
10 center shall be reimbursed for such services provided at a school-based
11 health center at the federally qualified health center reimbursement
12 rate.

13 (3) The department shall maintain the confidentiality of information
14 regarding applicants for or recipients of medical assistance and such
15 information shall only be used for purposes related to administration of
16 the medical assistance program and the provision of such assistance or as
17 otherwise permitted by federal law.

18 ~~(4) (4)(a)~~ The department shall prepare an annual summary and
19 analysis of the medical assistance program for legislative and public
20 review. The department shall submit a report of such summary and analysis
21 to the Governor and the Legislature electronically no later than December
22 1 of each year , ~~including, but not limited to, a description of eligible~~
23 ~~recipients, covered services, provider reimbursement, program trends and~~
24 ~~projections, program budget and expenditures, the status of~~
25 ~~implementation of the Medicaid Reform Plan, and recommendations for~~
26 ~~program changes.~~

27 ~~(b) The department shall provide a draft report of such summary and~~
28 ~~analysis to the Medicaid Reform Council no later than September 15 of~~
29 ~~each year. The council shall conduct a public meeting no later than~~
30 ~~October 1 of each year to discuss and receive public comment regarding~~
31 ~~such report. The council shall provide any comments and recommendations~~

~~1 regarding such report in writing to the department no later than November
2 1 of each year. The department shall submit a final report of such
3 summary and analysis to the Governor, the Legislature, and the council no
4 later than December 1 of each year. The report submitted to the
5 Legislature shall be submitted electronically. Such final report shall
6 include a response to each written recommendation provided by the
7 council.~~

8 Sec. 8. Section 68-909, Revised Statutes Cumulative Supplement,
9 2016, is amended to read:

10 68-909 (1) All contracts, agreements, rules, and regulations
11 relating to the medical assistance program as entered into or adopted and
12 promulgated by the department prior to July 1, 2006, and all provisions
13 of the medicaid state plan and waivers adopted by the department prior to
14 July 1, 2006, shall remain in effect until revised, amended, repealed, or
15 nullified pursuant to law.

16 (2) Prior to the adoption and promulgation of proposed rules and
17 regulations under section 68-912 or relating to the implementation of
18 medicaid state plan amendments or waivers, the department shall provide a
19 report to the Governor, the Legislature, and the Medicaid Reform Council
20 no later than December 1 before the next regular session of the
21 Legislature summarizing the purpose and content of such proposed rules
22 and regulations and the projected impact of such proposed rules and
23 regulations on recipients of medical assistance and medical assistance
24 expenditures. The report submitted to the Legislature shall be submitted
25 electronically. Any changes in medicaid copayments in fiscal year 2011-12
26 are exempt from the reporting requirement of this subsection and the
27 requirements of section 68-912.

28 (3) The Medicaid Reform Council, no later than thirty days after the
29 date of receipt of any report under subsection (2) of this section, may
30 conduct a public meeting to receive public comment regarding such report.
31 The council shall promptly provide any comments and recommendations

1 regarding such report in writing to the department. Such comments and
2 recommendations shall be advisory only and shall not be binding on the
3 department, but the department shall promptly provide a written response
4 to such comments or recommendations to the council.

5 (4) The department shall monitor ~~and shall periodically, as~~
6 ~~necessary, but no less than biennially, report to the Governor, the~~
7 ~~Legislature, and the Medicaid Reform Council on the implementation of~~
8 rules and regulations, medicaid state plan amendments, and waivers
9 adopted under the Medical Assistance Act and the effect of such rules and
10 regulations, amendments, or waivers on eligible recipients of medical
11 assistance and medical assistance expenditures. ~~The report submitted to~~
12 ~~the Legislature shall be submitted electronically.~~

13 Sec. 9. Section 68-949, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 68-949 (1) It is the intent of the Legislature that the department
16 implement reforms to the medical assistance program such as those
17 contained in the Medicaid Reform Plan, including (a) an incremental
18 expansion of home and community-based services for aged persons and
19 persons with disabilities consistent with such plan, (b) an increase in
20 care coordination or disease management initiatives to better manage
21 medical assistance expenditures on behalf of high-cost recipients with
22 multiple or chronic medical conditions, and (c) other reforms as deemed
23 necessary and appropriate by the department, in consultation with the
24 committee and the Medicaid Reform Council.

25 (2) ~~(2)(a)~~ The department shall develop recommendations based on a
26 comprehensive analysis of various options available to the state under
27 applicable federal law for the provision of medical assistance to persons
28 with disabilities who are employed, including persons with a medically
29 improved disability, to enhance and replace current eligibility
30 provisions contained in subdivision (8) of section 68-915.

31 ~~(b) The department shall provide a draft report of such~~

1 ~~recommendations to the committee and the Medicaid Reform Council no later~~
2 ~~than October 1, 2008. The council shall conduct a public meeting no later~~
3 ~~than October 15, 2008, to discuss and receive public comment regarding~~
4 ~~such report. The council shall provide any comments and recommendations~~
5 ~~regarding such report in writing to the department and the committee no~~
6 ~~later than November 1, 2008. The department shall provide a final report~~
7 ~~of such recommendations to the Governor, the committee, and the council~~
8 ~~no later than December 1, 2008.~~

9 (3) ~~(3)(a)~~ The department shall develop recommendations for further
10 modification or replacement of the defined benefit structure of the
11 medical assistance program. Such recommendations shall be consistent with
12 the public policy in section 68-905 and shall consider the needs and
13 resources of low-income Nebraska residents who are eligible or may become
14 eligible for medical assistance, the experience and outcomes of other
15 states that have developed and implemented such changes, and other
16 relevant factors as determined by the department.

17 ~~(b)~~ The department shall provide a draft report of such
18 recommendations to the committee and the Medicaid Reform Council no later
19 than October 1, 2008. The council shall conduct a public meeting no later
20 than October 15, 2008, to discuss and receive public comment regarding
21 such report. The council shall provide any comments and recommendations
22 regarding such report in writing to the department and the committee no
23 later than November 1, 2008. The department shall provide a final report
24 of such recommendations to the Governor, the committee, and the council
25 no later than December 1, 2008.

26 Sec. 10. Section 71-806, Revised Statutes Cumulative Supplement,
27 2016, is amended to read:

28 71-806 (1) The division shall act as the chief behavioral health
29 authority for the State of Nebraska and shall direct the administration
30 and coordination of the public behavioral health system, including, but
31 not limited to: (a) Administration and management of the division,

1 regional centers, and any other facilities and programs operated by the
2 division; (b) integration and coordination of the public behavioral
3 health system; (c) comprehensive statewide planning for the provision of
4 an appropriate array of community-based behavioral health services and
5 continuum of care; (d) coordination and oversight of regional behavioral
6 health authorities, including approval of regional budgets and audits of
7 regional behavioral health authorities; (e) development and management of
8 data and information systems; (f) prioritization and approval of all
9 expenditures of funds received and administered by the division,
10 including: The establishment of rates to be paid; reimbursement
11 methodologies for behavioral health services; methodologies to be used by
12 regional behavioral health authorities in determining a consumer's
13 financial eligibility as provided in subsection (2) of section 71-809;
14 and fees and copays to be paid by consumers of such services; (g)
15 cooperation with the department in the licensure and regulation of
16 behavioral health professionals, programs, and facilities; (h)
17 cooperation with the department in the provision of behavioral health
18 services under the medical assistance program; (i) audits of behavioral
19 health programs and services; ~~and~~ (j) promotion of activities in research
20 and education to improve the quality of behavioral health services,
21 recruitment and retention of behavioral health professionals, and access
22 to behavioral health programs and services; and (k) establishment of
23 standards for peer services, including standards for training programs
24 and for training, certification of, and service delivery by individuals.

25 (2) The department shall adopt and promulgate rules and regulations
26 to carry out the Nebraska Behavioral Health Services Act.

27 Sec. 11. Section 71-810, Revised Statutes Cumulative Supplement,
28 2016, is amended to read:

29 71-810 (1) The division shall encourage and facilitate the statewide
30 development and provision of an appropriate array of community-based
31 behavioral health services and continuum of care for the purposes of (a)

1 providing greater access to such services and improved outcomes for
2 consumers of such services and (b) reducing the necessity and demand for
3 regional center behavioral health services.

4 (2) The division may reduce or discontinue regional center
5 behavioral health services only if (a) appropriate community-based
6 services or other regional center behavioral health services are
7 available for every person receiving the regional center services that
8 would be reduced or discontinued, (b) such services possess sufficient
9 capacity and capability to effectively replace the service needs which
10 otherwise would have been provided at such regional center, and (c) no
11 further commitments, admissions, or readmissions for such services are
12 required due to the availability of community-based services or other
13 regional center services to replace such services.

14 (3) The division shall notify the Governor and the Legislature of
15 any intended reduction or discontinuation of regional center services
16 under this section. The notification submitted to the Legislature shall
17 be submitted electronically. Such notice shall include detailed
18 documentation of the community-based services or other regional center
19 services that are being utilized to replace such services.

20 (4) As regional center services are reduced or discontinued under
21 this section, the division shall make appropriate corresponding
22 reductions in regional center personnel and other expenditures related to
23 the provision of such services. All funding related to the provision of
24 regional center services that are reduced or discontinued under this
25 section shall be reallocated and expended by the division for purposes
26 related to the statewide development and provision of community-based
27 services.

28 (5) The division may establish state-operated community-based
29 services to replace regional center services that are reduced or
30 discontinued under this section. The division shall provide regional
31 center employees with appropriate training and support to transition such

1 employees into positions as may be necessary for the provision of such
2 state-operated services.

3 ~~(6) When the occupancy of the licensed psychiatric hospital beds of~~
4 ~~any regional center reaches twenty percent or less of its licensed~~
5 ~~psychiatric hospital bed capacity on March 15, 2004, the division shall~~
6 ~~notify the Governor and the Legislature of such fact. The notification~~
7 ~~submitted to the Legislature shall be submitted electronically. Upon such~~
8 ~~notification, the division, with the approval of a majority of members of~~
9 ~~the Executive Board of the Legislative Council, may provide for the~~
10 ~~transfer of all remaining patients at such center to appropriate~~
11 ~~community-based services or other regional center services pursuant to~~
12 ~~this section and cease the operation of such regional center.~~

13 ~~(7) The division, in consultation with each regional behavioral~~
14 ~~health authority, shall establish and maintain a data and information~~
15 ~~system for all persons receiving state-funded behavioral health services~~
16 ~~under the Nebraska Behavioral Health Services Act. Information maintained~~
17 ~~by the division shall include, but not be limited to, (a) the number of~~
18 ~~persons receiving regional center services, (b) the number of persons~~
19 ~~ordered by a mental health board to receive inpatient or outpatient~~
20 ~~treatment and receiving regional center services, (c) the number of~~
21 ~~persons ordered by a mental health board to receive inpatient or~~
22 ~~outpatient treatment and receiving community-based services, (d) the~~
23 ~~number of persons voluntarily admitted to a regional center and receiving~~
24 ~~regional center services, (e) the number of persons waiting to receive~~
25 ~~regional center services, (f) the number of persons waiting to be~~
26 ~~transferred from a regional center to community-based services or other~~
27 ~~regional center services, (g) the number of persons discharged from a~~
28 ~~regional center who are receiving community-based services or other~~
29 ~~regional center services, and (h) the number of persons admitted to~~
30 ~~behavioral health crisis centers. Each regional behavioral health~~
31 ~~authority shall provide such information as requested by the division and~~

1 ~~necessary to carry out this subsection. The division shall submit reports~~
2 ~~of such information to the Governor and the Legislature on a quarterly~~
3 ~~basis beginning July 1, 2005, in a format which does not identify any~~
4 ~~person by name, address, county of residence, social security number, or~~
5 ~~other personally identifying characteristic. The report submitted to the~~
6 ~~Legislature shall be submitted electronically.~~

7 (6) (8) The provisions of this section are self-executing and
8 require no further authorization or other enabling legislation.

9 Sec. 12. Section 71-1904, Revised Statutes Cumulative Supplement,
10 2016, is amended to read:

11 71-1904 (1) The department shall adopt and promulgate rules and
12 regulations pursuant to sections 71-1901 to 71-1906.01 for (a) the proper
13 care and protection of children by licensees under such sections, (b) the
14 issuance, suspension, and revocation of licenses to provide foster care,
15 (c) the issuance, suspension, and revocation of probationary licenses to
16 provide foster care, (d) the issuance, suspension, and revocation of
17 provisional licenses to provide foster care, (e) the provision of
18 training in foster care, which training shall be directly related to the
19 skills necessary to care for children in need of out-of-home care,
20 including, but not limited to, abused, neglected, dependent, and
21 delinquent children, and (f) the proper administration of sections
22 71-1901 to 71-1906.01.

23 (2) The department may issue a waiver for any licensing standard not
24 related to children's safety for a relative home that is pursuing
25 licensure. Such waivers shall be granted on a case-by-case basis upon
26 assessment by the department based upon the best interests of the child.
27 A relative home that receives a waiver pursuant to this subsection shall
28 be considered fully licensed for purposes of federal reimbursement under
29 the federal Fostering Connections to Success and Increasing Adoptions Act
30 of 2008, Public Law 110-351. ~~The department shall submit electronically~~
31 ~~an annual report to the Health and Human Services Committee of the~~

1 ~~Legislature on the number of waivers granted under this subsection and~~
2 ~~the total number of children placed in relative homes. For 2013 and 2014,~~
3 ~~the department shall provide the report electronically to the Health and~~
4 ~~Human Services Committee of the Legislature on or before September 15.~~

5 (3) The department shall adopt and promulgate rules and regulations
6 establishing new foster home licensing requirements that ensure
7 children's safety, health, and well-being but minimize the use of
8 licensing mandates for nonsafety issues. Such rules and regulations shall
9 provide alternatives to address nonsafety issues regarding housing and
10 provide assistance to families in overcoming licensing barriers,
11 especially in child-specific relative and kinship placements, to maximize
12 appropriate reimbursement under Title IV-E of the federal Social Security
13 Act, as amended, including expanding the use of kinship guardianship
14 assistance payments under 42 U.S.C. 673(d), as such act and section
15 existed on January 1, 2013.

16 Sec. 13. Section 71-6038, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 71-6038 For purposes of sections 71-6038 to 71-6042:

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

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

23 (3) Nurse aide ~~Nursing assistant~~ means any person employed by a
24 facility described in subsection (1) of section 71-6039 ~~nursing home~~ for
25 the purpose of aiding a licensed registered or practical nurse through
26 the performance of nonspecialized tasks related to the personal care and
27 comfort of residents other than a paid dining assistant or a licensed
28 registered or practical nurse;

29 (4) Nursing home means any facility or a distinct part of any
30 facility that provides care as defined in sections 71-420, 71-421,
31 71-422, 71-424, and 71-429; and

1 (5) Paid dining assistant means any person employed by a nursing
2 home for the purpose of aiding a licensed registered or practical nurse
3 through the feeding of residents other than a nurse aide ~~nursing~~
4 ~~assistant~~ or a licensed registered or practical nurse.

5 Sec. 14. Section 71-6039, Revised Statutes Cumulative Supplement,
6 2016, is amended to read:

7 71-6039 (1) No person shall act as a nurse aide ~~nursing assistant~~ in
8 a facility or a distinct part of a facility that provides care as defined
9 in section 71-405, 71-406, 71-409, 71-412, 71-416, 71-417, 71-418,
10 71-419, 71-420, 71-421, 71-422, 71-424, 71-426, 71-427, or 71-429 ~~nursing~~
11 ~~home~~ unless such person:

12 (a) Is at least sixteen years of age and has not been convicted of a
13 crime involving moral turpitude;

14 (b) Is able to speak and understand the English language or a
15 language understood by a substantial portion of the facility ~~nursing home~~
16 residents; and

17 (c) Has successfully completed a basic course of training approved
18 by the department for nurse aides ~~nursing assistants~~ within one hundred
19 twenty days of initial employment in the capacity of a nurse aide ~~nursing~~
20 ~~assistant at any nursing home.~~

21 (2)(a) A registered nurse or licensed practical nurse whose license
22 has been revoked, suspended, or voluntarily surrendered in lieu of
23 discipline may not act as a nurse aide ~~nursing assistant~~ in a facility
24 described in subsection (1) of this section ~~nursing home.~~

25 (b) If a person registered as a nurse aide ~~nursing assistant~~ becomes
26 licensed as a registered nurse or licensed practical nurse, his or her
27 registration as a nurse aide ~~nursing assistant~~ becomes null and void as
28 of the date of licensure.

29 (c) A person listed on the Nurse Aide Registry with respect to whom
30 a finding of conviction has been placed on the registry may petition the
31 department to have such finding removed at any time after one year has

1 elapsed since the date such finding was placed on the registry.

2 (3) The department may prescribe a curriculum for training nurse
3 aides ~~nursing assistants~~ and may adopt and promulgate rules and
4 regulations for such courses of training. The content of the courses of
5 training and competency evaluation programs shall be consistent with
6 federal requirements unless exempted. The department may approve courses
7 of training if such courses of training meet the requirements of this
8 section. Such courses of training shall include instruction on the
9 responsibility of each nurse aide ~~nursing assistant~~ to report suspected
10 abuse or neglect pursuant to sections 28-372 and 28-711. Nursing homes
11 may carry out approved courses of training within the nursing home,
12 except that nursing homes may not conduct the competency evaluation part
13 of the program. The prescribed training shall be administered by a
14 licensed registered nurse.

15 (4) For nurse aides ~~nursing assistants~~ at intermediate care
16 facilities for persons with developmental disabilities, such courses of
17 training shall be no less than twenty hours in duration and shall include
18 at least fifteen hours of basic personal care training and five hours of
19 basic therapeutic and emergency procedure training, and for nurse aides
20 ~~nursing assistants~~ at all nursing homes other than intermediate care
21 facilities for persons with developmental disabilities, such courses
22 shall be no less than seventy-five hours in duration.

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

25 Sec. 15. Section 71-6039.06, Reissue Revised Statutes of Nebraska,
26 is amended to read:

27 71-6039.06 Nurse aides ~~Nursing assistants~~ and paid dining
28 assistants are eligible to participate in the Licensee Assistance Program
29 as prescribed by section 38-175.

30 Sec. 16. Section 71-6603, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 71-6603 On and after September 6, 1991, no person shall act as a
2 home health aide unless such person:

3 (1) Is at least eighteen years of age;

4 (2) Is of good moral character;

5 (3) Has not been convicted of a crime under the laws of this state
6 or another jurisdiction, the penalty for which is imprisonment for a
7 period of more than one year and which is rationally related to the
8 person's fitness or capacity to act as a home health aide;

9 (4) Is able to speak and understand the English language or the
10 language of the home health agency patient and the home health agency
11 staff member who acts as the home health aide's supervisor;

12 (5) Meets one of the following qualifications:

13 (a) Has successfully completed a home health aide training course
14 which meets the standards described in section 71-6608.01;

15 (b) Is a graduate of a school of nursing;

16 (c) Has been employed by a licensed home health agency as a home
17 health aide II prior to September 6, 1991;

18 (d) Has successfully completed a course in a school of nursing which
19 included practical clinical experience in fundamental nursing skills and
20 has completed a competency evaluation as described in section 71-6608.02;

21 (e) Has successfully completed a basic course of training approved
22 by the department for nurse aides ~~nursing assistants~~ as required by
23 section 71-6039 and has completed a competency evaluation as described in
24 section 71-6608.02;

25 (f) Has been employed by a licensed home health agency as a home
26 health aide I prior to September 6, 1991, and has completed a competency
27 evaluation as described in section 71-6608.02; or

28 (g) Has met the qualifications equal to one of those contained in
29 subdivisions (a) through (f) of this subdivision in another state or
30 territory of the United States; and

31 (6) Has provided to the employing licensed home health agency proof

1 of meeting the requirements of this section.

2 Sec. 17. Section 81-2210, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 81-2210 Community aging services means those activities and services
5 which fulfill the goals of the Nebraska Community Aging Services Act,
6 which are necessary to promote, restore, or support self-sufficiency and
7 independence for older persons, and which include: (1) Congregate
8 activities, including, but not limited to, senior centers, group meals,
9 volunteerism, adult day services, and recreation; and (2) individual
10 services, including, but not limited to, specialized transportation,
11 meals-on-wheels, home handyman services, home health care services, legal
12 services, counseling related to problems of aging or encouraging access
13 to aging services, and senior ~~companion~~ volunteer services.

14 Sec. 18. Section 81-2273, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 81-2273 Sections 81-2273 to 81-2283 shall be known and may be cited
17 as the Nebraska Senior ~~Companion~~ Volunteer Program Act.

18 Sec. 19. Section 81-2274, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 81-2274 The purpose of the Nebraska Senior ~~Companion~~ Volunteer
21 Program Act is to provide volunteer community service opportunities for
22 to low-income older persons following priorities outlined in the federal
23 Older Americans Act of 1965, as the act existed on January 1, 2017 for
24 the benefit of frail elderly persons with special needs.

25 Sec. 20. Section 81-2275, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 81-2275 For purposes of the Nebraska Senior ~~Companion~~ Volunteer
28 Program Act:

29 (1) Department means the Department of Health and Human Services;
30 and

31 ~~(2) Direct service contractor means any public or private nonprofit~~

1 organization that ~~(a) is not currently receiving federal funding for the~~
2 ~~federal senior companion program and (b) demonstrates the ability to~~
3 ~~provide the services specified in section 81-2277;~~

4 ~~(3) Frail elderly means a person who (a) is sixty years of age or~~
5 ~~older, (b) has a physical, mental, or emotional health limitation, and~~
6 ~~(c) needs assistance to achieve and maintain independent living; and~~

7 ~~(2) (4) Senior companion volunteer means an individual who (a) is~~
8 ~~sixty years of age or older, (b) has an annual income not exceeding one~~
9 ~~hundred twenty-five percent of the federal poverty level, (c) is~~
10 ~~determined by a physical examination to be capable, with or without~~
11 ~~reasonable accommodation, of serving adults with special needs without~~
12 ~~detriment to himself or herself or the persons served, and (d) provides~~
13 ~~companion services at least four hours a day, four days a week.~~

14 Sec. 21. Section 81-2279, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 81-2279 (1) A senior volunteer may ~~Senior companion volunteers~~
17 ~~providing companion services pursuant to the Nebraska Senior Companion~~
18 ~~Volunteer Program Act shall receive (a) (1) transportation expenses for~~
19 ~~transportation to and from their residences and the place where services~~
20 ~~are to be rendered, (b) (2) one free meal when reasonably available~~
21 ~~during each day that services are rendered, and (c) (3)(a) accident and~~
22 ~~liability insurance, (b) an annual physical examination, and (c) a~~
23 ~~nontaxable hourly stipend of two dollars and fifty-five cents per hour.~~

24 (2) A senior volunteer shall receive motor vehicle accident and
25 liability insurance coverage.

26 Sec. 22. Section 81-2281, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 81-2281 (1) The department shall make annual grants in an amount not
29 to exceed twenty-five ~~fifty~~ thousand dollars ~~to direct service~~
30 ~~contractors and shall give preference to applications for grants to~~
31 ~~provide in-home services.~~

1 ~~(2) Applications shall be made on forms provided by the department.~~

2 ~~(3) No grant shall be approved for any applicant who has received~~
3 ~~federal funding to provide services under any federal senior companion~~
4 ~~program.~~

5 ~~(2)~~ (4) As a condition to receiving a grant, an applicant shall
6 obtain at least ten percent matching funds from a local sources
7 ~~governmental or other source.~~

8 ~~(5) Grants shall be for a period of twenty-four months and shall not~~
9 ~~be used as matching funds but solely to carry out the requirements of the~~
10 ~~Nebraska Senior Companion Volunteer Program Act.~~

11 ~~(6) No person paid from grant funds shall replace any staff member~~
12 ~~of the grantee.~~

13 Sec. 23. Section 81-2283, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 81-2283 The department shall adopt and promulgate rules and
16 regulations to carry out the Nebraska Senior ~~Companion~~ Volunteer Program
17 Act.

18 Sec. 24. Original sections 13-308, 28-372, 38-101, 38-123, 43-296,
19 43-4406, 68-949, 71-6038, 71-6039.06, 71-6603, 81-2210, 81-2273, 81-2274,
20 81-2275, 81-2279, 81-2281, and 81-2283, Reissue Revised Statutes of
21 Nebraska, and sections 68-908, 68-909, 71-806, 71-810, 71-1904, and
22 71-6039, Revised Statutes Cumulative Supplement, 2016, are repealed.

23 Sec. 25. The following sections are outright repealed: Sections
24 81-2233, 81-2276, 81-2277, 81-2278, and 81-2280, Reissue Revised Statutes
25 of Nebraska.