

Enrollment and Review Change to LB296

Introduced by Enrollment and Review Committee: McGill, 26,
Chairperson

The following changes, required to be reported for
publication in the Journal, have been made:

1. The following new sections have been inserted:

Sec. 46. Section 29-2928, Revised Statutes Cumulative
Supplement, 2006, is amended to read:

29-2928 (1) If the Department of Health and Human
Services determines that treatment in an inpatient treatment
program operated by the Department of Health and Human Services
is appropriate for a convicted sex offender, that the offender
will enter the treatment program voluntarily, and that space is
available in the program, the Director of Correctional Services
shall transfer the offender to the treatment program designated by
the ~~Director~~ Department of Health and Human Services for treatment.
The Department of Correctional Services shall be responsible for
physical transfer of the offender to the treatment facility.

(2) If the Department of Health and Human Services
determines that treatment in an inpatient treatment program
operated by the Department of Health and Human Services is not
appropriate for a convicted sex offender, the offender shall
serve the sentence in a facility operated by the Department of
Correctional Services and may participate in treatment offered
by the Department of Correctional Services if the Department of
Correctional Services determines that such treatment is appropriate
for the offender. The Department of Correctional Services may make
a recommendation concerning treatment as provided in subsection (4)
of this section.

(3) If the Department of Health and Human Services
determines that treatment in an inpatient treatment program
operated by the Department of Health and Human Services is not
initially appropriate for a convicted sex offender but may be
appropriate at a later time, a treatment decision may be deferred
until a designated time, no later than two and one-half years
prior to the offender's earliest parole eligibility date, when the
offender will be reevaluated.

(4) If the Department of Correctional Services determines
that an offender participating in treatment offered by the
Department of Correctional Services will benefit from a treatment
program operated by the Department of Health and Human Services,
the Department of Correctional Services shall notify the Department
of Health and Human Services and recommend admission of the
offender to the treatment program. The evaluation process to

determine whether such offender is to be admitted into a treatment program operated by the Department of Health and Human Services pursuant to this subsection shall be based upon criteria and procedures established by the Department of Health and Human Services and shall not be subject to appeal or review.

Sec. 69. Section 43-119, Reissue Revised Statutes of Nebraska, is amended to read:

43-119 For purposes of sections 43-119 to 43-146.16, unless the context otherwise requires, the definitions found in sections 43-121 to 43-123.01 and section 70 of this act shall be used.

Sec. 70. Department shall mean the Department of Health and Human Services.

Sec. 134. Section 43-1904, Reissue Revised Statutes of Nebraska, is amended to read:

43-1904 The board shall have the following powers and duties:

(1) To meet not less than twice annually at the call of the chairperson to conduct its official business;

(2) To require that at least five of the board members approve the awarding of grants made under subdivision (3)(b) of this section; and

(3) To develop, one year after the appointment of the original board and annually thereafter, a state plan for the distribution and disbursement of money in the fund. The plan developed under this subdivision shall assure that an equal opportunity exists for the establishment and maintenance of prevention programs and the receipt of money from the fund in all geographic areas of this state. The plan shall be transmitted to the ~~director~~, department, the Governor, and the Legislature and made available to the general public. In carrying out a plan developed under this subdivision, the board shall establish procedures for:

(a) Developing and publicizing criteria for the awarding of grants for programs to be supported with money from the fund within the limits of appropriations made for that purpose;

(b) Awarding grants to agencies, organizations, or individuals for community-based child abuse prevention programs. The programs shall provide education, public awareness, or prevention services. In awarding grants under this subdivision, consideration shall be given by the board to factors such as need,

geographic location, diversity, coordination with or improvement of existing services, and extensive use of volunteers;

(c) Supporting and encouraging the formation of local child abuse councils;

(d) Consulting with applicable state agencies, commissions, and boards to help determine probable effectiveness, fiscal soundness, and need for proposed community-based educational and service prevention programs;

(e) Facilitating information exchange among groups concerned with prevention programs; and

(f) Encouraging statewide educational and public awareness programs regarding the problems of families and children which (i) encourage professional persons and groups to recognize and deal with problems of families and children, (ii) make information regarding the problems of families and children and the prevention of such problems available to the general public in order to encourage citizens to become involved in the prevention of such problems, and (iii) encourage the development of community prevention programs.

Sec. 135. Section 43-1905, Reissue Revised Statutes of Nebraska, is amended to read:

43-1905 The ~~director~~ department shall:

(1) Have the power to deny any grant award, or portion of such award, made by the board;

(2) Review and monitor expenditures of money from the fund on a periodic basis; and

(3) Submit to the Governor and the Legislature an annual report of all receipts and disbursements of funds, including the recipients, the nature of the program funded, the dollar amount awarded, and the percentage of the total annually available funds the grant represents. The report may be made available to the public upon request.

Sec. 262. Section 68-948, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-948 (1) The Medicaid Reform Council is established. The council shall consist of ten persons appointed by the chairperson of the committee, in consultation with the committee, the Governor, and the ~~director~~ department. The council shall include, but not be limited to, at least one representative from each of the following: Providers, recipients of medical assistance,

advocates for such recipients, business representatives, insurers, and elected officials. The chairperson of the committee shall appoint the chairperson of the council. Members of the council may be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(2) The council shall (a) oversee and support implementation of reforms to the medical assistance program, including, but not limited to, reforms such as those contained in the Medicaid Reform Plan, (b) conduct at least two public meetings annually and other meetings at the call of the chairperson of the council, in consultation with the ~~director~~ department and the chairperson of the committee, and (c) provide comments and recommendations to the department regarding the administration of the medical assistance program and any proposed changes to such program.

(3) The Medicaid Reform Council and this section terminate on June 30, 2010.

Sec. 263. Section 68-949, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

(2)(a) The department shall develop recommendations relating to the provision of health care and related services for medicaid-eligible children under the state children's health insurance program as allowed under Title XIX and Title XXI of the federal Social Security Act. Such study and recommendations shall include, but not be limited to, the organization and administration of such program, the establishment of premiums, copayments, and deductibles under such program, and the establishment of limits on the amount, scope, and duration of services offered to recipients under such program.

(b) The department shall provide a draft report of such recommendations to the committee and the Medicaid Reform Council no later than October 1, 2007. The council shall conduct a public meeting no later than October 15, 2007, to discuss and receive

public comment regarding such report. The council shall provide any comments and recommendations regarding such report in writing to the ~~director~~ department and the committee no later than November 1, 2007. The department shall provide a final report of such recommendations to the Governor, the committee, and the council no later than December 1, 2007.

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

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

Sec. 363. Section 71-1,341, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,341 For purposes of sections 71-1,340 to 71-1,342:

(1) Credentialing means the grant of authority or approval by the state to health care practitioners, facilities, and providers who provide health care or related services through licensure, certification, registration, approval of provider status, enrollment in a program for reimbursement, and other similar activities;

(2) Department means the Division of Public Health of the Department of Health and Human Services; ~~Regulation and Licensure;~~

(3) Director means the Director of ~~Regulation and Licensure;~~ Public Health of the Division of Public Health;

(4) Facility means a health care facility or health care service licensed under the Health Care Facility Licensure Act to provide health care;

(5) Health care practitioner means an individual licensed, certified, or otherwise authorized by law to administer health care in the course of professional practice; and

(6) Provider means a person providing health care services under an agreement with the state and its contractors for payment for those services.

Sec. 367. Section 71-3,173, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,173 (1) The hearing in any disciplinary action shall be before the ~~director~~ Director of Public Health or a hearing officer appointed by the director.

(2) The department may impose the disciplinary actions cited in section 71-155.

Sec. 368. Section 71-3,174, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-3,174 (1) Persons, cosmetology, nail technology, and electrology establishments, and body art facilities holding licenses, registrations, or permits under the Nebraska Cosmetology Act shall be subject to the disciplinary actions described in section 71-155 and in sections 71-3,170 to 71-3,173 upon the finding by the ~~director~~ Director of Public Health that a violation has occurred.

(2) A person not holding a license, registration, or permit under the Nebraska Cosmetology Act shall, upon conviction of violation of such act, except as specific penalties are otherwise imposed, be guilty of a Class II misdemeanor. Any such person convicted of a second violation of the Nebraska Cosmetology Act, except as specific penalties are otherwise imposed, shall be guilty of a Class I misdemeanor.

(3) Any person engaging in any of the practices regulated under the Nebraska Cosmetology Act, any person operating an establishment or a facility without being duly licensed or registered under the Nebraska Cosmetology Act, any person engaging in the provision of home services without having complied with such act, or any person found to be acting in violation of the Nebraska Cosmetology Act may be restrained by a temporary or permanent injunction.

Sec. 457. Section 71-809, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-809 (1) Each regional behavioral health authority shall be responsible for the development and coordination of publicly funded behavioral health services within the behavioral

health region pursuant to rules and regulations adopted and promulgated by the department, including, but not limited to, (a) administration and management of the regional behavioral health authority, (b) integration and coordination of the public behavioral health system within the behavioral health region, (c) comprehensive planning for the provision of an appropriate array of community-based behavioral health services and continuum of care for the region, (d) submission for approval by the division of an annual budget and a proposed plan for the funding and administration of publicly funded behavioral health services within the region, (e) submission of annual reports and other reports as required by the division, (f) initiation and oversight of contracts for the provision of publicly funded behavioral health services, and (g) coordination with the division in conducting audits of publicly funded behavioral health programs and services.

(2) Except for services being provided by a regional behavioral health authority on July 1, 2004, under applicable state law in effect prior to such date, no regional behavioral health authority shall provide behavioral health services funded in whole or in part with revenue received and administered by the division under the Nebraska Behavioral Health Services Act unless:

(a) There has been a public competitive bidding process for such services;

(b) There are no qualified and willing providers to provide such services; and

(c) The regional behavioral health authority receives written authorization from the ~~administrator~~ director and enters into a contract with the division to provide such services.

(3) Each regional behavioral health authority shall comply with all applicable rules and regulations of the department relating to the provision of behavioral health services by such authority, including, but not limited to, rules and regulations which (a) establish definitions of conflicts of interest for regional behavioral health authorities and procedures in the event such conflicts arise, (b) establish uniform and equitable public bidding procedures for such services, and (c) require each regional behavioral health authority to establish and maintain a separate budget and separately account for all revenue and expenditures for the provision of such services.

Sec. 770. Section 81-2251, Reissue Revised Statutes of Nebraska, is amended to read:

81-2251 The ~~director~~ department shall adopt and promulgate rules and regulations to carry out the Long-Term Care

Ombudsman Act. The ~~director~~ department shall ensure that the state long-term care ombudsman has no conflicts of interest in fulfilling the duties of the office, is capable of administering the office impartially, has an understanding of long-term care issues, has experience in the fields of aging and health care, and has worked with and been involved in volunteer programs.

Sec. 771. Section 81-2252, Reissue Revised Statutes of Nebraska, is amended to read:

81-2252 The ~~director~~ department may designate for two-year periods, within each planning-and-service area designated pursuant to section 81-2213, local long-term care ombudsman programs in accordance with rules and regulations established by the ~~director~~, department. Such rules and regulations shall include specifications regarding the sites of the offices of the local long-term care ombudsman programs and requirements concerning staffing, levels of training required for ombudsman advocates and staff, standards of operation, and program review.

The office may withdraw or provisionally maintain the designation of an entity as a local long-term care ombudsman program if the entity fails to meet the rules and regulations established by the ~~director~~, department. If the designation of a local long-term care ombudsman program is provisionally maintained, the office shall notify the program of the reasons for the provisional status, of the changes or corrections necessary for the removal of the provisional status, of the length of time permitted to make the changes or corrections, and that the office will withdraw the designation if the program does not comply with the requirements specified in the notice. If the designation of a local long-term care ombudsman program is withdrawn, the office may provide for the continuation of long-term care ombudsman services for that area.

Sec. 801. Section 83-384, Reissue Revised Statutes of Nebraska, is amended to read:

83-384 An application for admission to a residential facility shall contain the name, age, and place of residence of the person for whom admission is requested. The application shall set forth the name of the person submitting the application and the capacity in which he or she makes the application. The application shall contain authorization for the ~~director~~ department to obtain all relevant medical records and information concerning the person for whom admission is requested.

Sec. 802. Section 83-385, Reissue Revised Statutes of Nebraska, is amended to read:

83-385 Upon receipt of an application for admission, the ~~director~~ department shall refer the person for whom admission

is requested to an agency or person specially qualified in the diagnosis of mental or related conditions for examination and evaluation. Within fourteen days of referral, the agency or person making such examination and evaluation shall return the findings of the examination and evaluation to the ~~director~~, department. The findings and evaluation may also include recommendations with respect to the placement of the person for whom admission is requested in a residential facility. The ~~director~~ department may require further examination of the person for whom admission is requested.

Sec. 803. Section 83-386, Reissue Revised Statutes of Nebraska, is amended to read:

83-386 The ~~director~~ department shall examine all information concerning the person for whom admission is requested and shall determine therefrom whether the person is a person with mental retardation and whether residence in the residential facility is necessary for the welfare, care, treatment, or training of such person. Such determination shall be made in writing and shall set forth the reasons for the determination. If at any time it shall become necessary, for want of room or other cause, to discriminate in the admission of persons with mental retardation to residential facilities, the selection shall be made as follows: (1) Persons whose care is necessary in order to protect themselves or the public health and safety; (2) persons who are most likely to be benefited thereby; (3) persons shall next be admitted in the order in which their applications for admission have been filed with the ~~director~~; department; and (4) when cases are equally meritorious in all other respects, an indigent person or a person from an indigent family shall be given preference.

Sec. 804. Section 83-387, Reissue Revised Statutes of Nebraska, is amended to read:

83-387 At such time as the ~~director~~ department determines that continued residence in a residential facility will no longer benefit a person with mental retardation, ~~he or she~~ the department shall arrange for the discharge or transfer of such person from the residential facility. The ~~director~~ department shall give reasonable notice to the person authorized to make an application for admission for such person under subsection (1) of section 83-383 that ~~he or she~~ the department intends to discharge or transfer such person. The ~~director~~ department shall also be responsible for the placement of such person in any other available program or facility and in the development of other methods for the care, treatment, and training of such person.

Sec. 805. Section 83-390, Reissue Revised Statutes of Nebraska, is amended to read:

83-390 A person shall not lose his or her rights as a

citizen, his or her property rights, or his or her legal capacity by reason of being admitted to a residential facility. The ~~director~~ department may make reasonable rules and regulations concerning the exercise of such rights within the residential facility. Every person admitted to a residential facility under sections 83-217, 83-218, and 83-381 to 83-390 shall have an absolute right to communicate with the ~~director~~, department, any court, a member of his or her family who does not file a written objection thereto with the ~~director~~, department, a physician, or an attorney and to be visited at any reasonable hour by a physician or attorney. The ~~director~~ department may make reasonable rules and regulations concerning communication by letter or otherwise with any other person or agency and concerning the right to receive other visitors.

2. In the Johnson amendment, AM435:

a. Section 40 has been struck;

b. On page 342, line 2, "the Division of Public Health of" has been inserted after "by", the stricken matter beginning with "Department" through "Services" has been reinstated, and an underscored period has been inserted after the reinstated "Services"; and in line 3 the new matter has been struck;

c. On page 345, line 5, "the Division of Public Health of" has been inserted after "to"; in line 6 the stricken matter beginning with "Department" through "Services" has been reinstated and an underscored semicolon has been inserted after the reinstated "Services"; and in line 7 the new matter has been struck;

d. On page 530, line 7, "and" has been inserted after the first semicolon;

e. On page 541, line 10, the new matter has been struck;

f. On page 623, lines 12 and 13; and page 624, line 5, the new matter has been struck and the stricken matter reinstated;

g. On page 677, lines 4 and 5 have been struck and the following new paragraph inserted:

"Members serving on the operative date of this act may serve until a replacement is appointed."

h. On page 802, line 9, "director," has been struck, shown as stricken, and "department," inserted;

i. On page 813, line 21, "42-347," has been struck; and

in line 23 "43-119," has been inserted after the third comma;

j. On page 814, line 4, "43-1904, 43-1905," has been inserted after the last comma;

k. On page 815, line 3, "71-354, 71-390," has been struck and "71-1,341, 71-354, 71-390, 71-3,173," inserted;

l. On page 816, line 17, "81-2251, 81-2252," has been inserted after the fourth comma; in line 20 "83-384, 83-385, 83-386, 83-387, 83-390," has been inserted after the fifth comma; and in line 25 "29-2928," has been inserted after the third comma; and

m. On page 817, line 4, "68-948, 68-949," has been inserted after the first comma; in line 8 "71-3,174," has been inserted after "71-1,367,"; and in line 12 "71-809," has been inserted after the fifth comma.

3. In the Standing Committee amendments, AM74, on page 1, line 3, "16" has been struck and "15" inserted.

4. On page 1, the matter beginning with line 2 through line 16 and all amendments thereto have been struck and "sections 2-3925, 2-3932, 13-1207, 23-3595, 31-740, 32-327, 37-1254.05, 37-1254.06, 42-106, 42-358.01, 42-705, 42-917, 43-102, 43-104.01, 43-104.02, 43-104.03, 43-104.04, 43-107, 43-118, 43-119, 43-123.01, 43-124, 43-125, 43-126, 43-127, 43-130, 43-131, 43-132, 43-133, 43-134, 43-135, 43-137, 43-138, 43-139, 43-140, 43-141, 43-142, 43-143, 43-144, 43-145, 43-146, 43-146.02, 43-146.04, 43-146.05, 43-146.06, 43-146.07, 43-146.08, 43-146.09, 43-146.10, 43-146.11, 43-146.12, 43-146.13, 43-146.14, 43-146.15, 43-146.16, 43-161, 43-284.02, 43-404, 43-411, 43-504.01, 43-507, 43-508, 43-511, 43-512, 43-512.11, 43-515, 43-523, 43-525, 43-529, 43-536, 43-905, 43-907, 43-908, 43-1320, 43-1408.01, 43-1414, 43-1718.02, 43-1720, 43-1902, 43-1903, 43-1904, 43-1905, 43-2002, 43-2003, 43-2411, 43-2503, 43-2511, 43-2515, 43-2605, 43-2616, 43-2617, 43-2620, 43-3305.01, 43-3314, 43-3317, 43-3318, 43-3319, 43-3320, 43-3323, 43-3325, 43-3326, 43-3327, 43-3329, 43-3333, 43-3334, 43-3335, 43-3336, 43-3338, 43-3342.04, 44-771, 44-772, 44-773, 44-774, 44-782, 44-793, 44-1102, 44-2835, 44-2847, 44-2901, 44-2904, 44-32,119, 44-32,120, 44-32,127, 44-32,128, 44-32,134, 44-32,136, 44-32,152, 44-32,153, 44-32,156, 44-32,157, 44-32,163, 44-32,165, 44-32,176, 44-4109.01, 44-7006, 44-7107, 44-7206, 44-7306, 46-705, 46-724, 46-1011, 46-1018, 46-1204.01, 46-1207, 46-1235, 46-1235.01, 46-1237.01, 46-1237.02, 46-1240.05, 48-647, 48-1902, 48-2305, 48-2306, 48-2307, 49-506, 49-617, 54-744.01, 54-747, 60-480.01, 60-493, 60-4,118.02, 60-4,164.01, 60-6,104, 60-6,107, 60-6,201, 60-6,202, 68-126, 68-130, 68-309,

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sections 68-1729, 68-1730, 71-355, 71-6011, 71-6319.17, 81-2207, 81-2241, 81-3103, 81-3108, 81-3203, 81-3303, and 83-125, Reissue Revised Statutes of Nebraska, and sections 43-2414, 81-3001, 81-3001.01, 81-3004, 81-3006, 81-3007.01, 81-3008, 81-3009, 81-3101, 81-3102, 81-3106, 81-3107, 81-3109, 81-3201, 81-3202, 81-3206, 81-3207, 81-3208, 81-3209, 81-3210, 81-3211, 81-3301, 81-3302, 81-3306, 81-3307, 81-3308, 81-3309, 81-3310, and 81-3311, Revised Statutes Cumulative Supplement, 2006; and to declare an emergency." inserted.

5. On page 2, lines 17 and 1 through 6 and all amendments thereto have been struck.

6. Sections have been renumbered to incorporate all adopted amendments.