

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 236

Introduced By: Johnson, 37; Hansen, 42

Read first time: January 10, 2007

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to health and human services; to amend
2 sections 71-6615 and 71-6720, Reissue Revised Statutes of
3 Nebraska; to provide for in-home personal care services; to
4 define terms; to provide requirements for agencies and
5 workers; to harmonize provisions; and to repeal the original
6 sections.

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

1 Section 1. For purposes of sections 1 to 4 of this act:

2 (1) Activities of daily living has the definition found in
3 section 71-6602;

4 (2) Attendant services means hands-on assistance with
5 activities of daily living and transfer, exercise, grooming,
6 self-administering medication, and similar activities;

7 (3) Companion services means the provision of fellowship,
8 care, and protection for an individual, including, but not limited to,
9 letter writing, escort services, reading, and medication reminders;

10 (4) Homemaker services means assistance with household
11 tasks, including, but not limited to, housekeeping, personal laundry,
12 shopping, incidental transportation, and meals;

13 (5) In-home personal care services means attendant
14 services, companion services, and homemaker services provided to an
15 individual in his or her residence to enable him or her to remain
16 safe and comfortable in his or her residence;

17 (6) In-home personal care services agency means a person or
18 entity that provides or offers to provide in-home personal care
19 services in an individual's residence for compensation, whether
20 through the agency's own employees, or through contract employees.
21 In-home personal care services agency does not include: A local
22 public health department; a home health agency; a hospital, a skilled
23 nursing facility, or an intermediate care facility licensed under the
24 Health Care Facility Licensure Act; a nurse aide registry; or an
25 agency that limits its business to exclusively providing
26 housecleaning services; and

27 (7) In-home personal care services worker means a person

1 who meets the requirements of section 2 of this act and provides
2 in-home personal care services.

3 Sec. 2. An in-home personal care services worker:

4 (1) Shall be at least eighteen years of age;

5 (2) Shall have good moral character;

6 (3) Shall not have been convicted of a crime under the laws
7 of Nebraska or another jurisdiction, the penalty for which is
8 imprisonment for a period of more than one year and which crime is
9 rationally related to the person's fitness or capacity to act as an
10 in-home personal care services worker;

11 (4) Shall have no adverse findings on the Adult Protective
12 Services Central Registry or on the central register created in
13 section 28-718; and

14 (5) Shall be able to speak and understand the English
15 language or the language of the person for whom he or she is providing
16 in-home personal care services.

17 A person applying for employment as an in-home care
18 personal services worker shall provide proof to the in-home personal
19 care services agency that he or she meets the requirements of this
20 section.

21 Sec. 3. An in-home personal care services agency shall
22 employ only persons who meet the requirements of section 2 of this act
23 to provide in-home personal care services. The in-home personal care
24 services agency shall perform or cause to be performed a criminal
25 history record information check on each in-home personal care
26 services worker and a check of his or her driving record as
27 maintained by the Department of Motor Vehicles or by any other state

1 which has issued an operator's license to the in-home personal care
2 services worker and shall maintain documentation of such checks in
3 its records for inspection at its place of business.

4 Sec. 4. An in-home personal care services worker shall not
5 perform services which require the exercise of nursing judgment or
6 medical judgment. Notwithstanding any provision of the Medication
7 Aide Act to the contrary, an in-home personal care services worker
8 may direct or provide reminders to clients to self-administer
9 medications or assist in the application of nontherapeutic topical
10 ointments.

11 Sec. 5. Section 71-6615, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-6615. Sections 71-6601 to 71-6612 shall not apply to any
14 volunteers working on behalf of a hospice licensed under the Health
15 Care Facility Licensure Act who, as part of their volunteer duties,
16 provide home health care, to in-home personal care services agencies,
17 or to in-home personal care services workers.

18 Sec. 6. Section 71-6720, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-6720. The purposes of the Medication Aide Act are to
21 ensure the health, safety, and welfare of the public by providing for
22 the accurate, cost-effective, efficient, and safe utilization of
23 medication aides to assist in the administration of medications by (1)
24 competent individuals, (2) caretakers who are parents, foster parents,
25 family, friends or legal guardians, and (3) licensed health care
26 professionals. The act applies to all settings in which medications
27 are administered except the home. The act does apply to medication

1 administered in the home when provided through a licensed home health
2 agency or licensed or certified home and community-based provider.
3 The act does not apply to in-home personal care services workers
4 directing or providing reminders to clients to self-administer
5 medications or assisting clients in the application of nontherapeutic
6 topical ointments.

7 Sec. 7. Original sections 71-6615 and 71-6720, Reissue
8 Revised Statutes of Nebraska, are repealed.