

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 797

Introduced by Health and Human Services Committee: Johnson, 37, Chairperson; Erdman, 47; Gay, 14; Hansen, 42; Howard, 9; Pankonin, 2; Stuthman, 22.

Read first time January 10, 2008

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to health and human services; to amend sections
2 71-1901, 71-7003.01, 71-7010, and 71-7013, Reissue
3 Revised Statutes of Nebraska, sections 71-5663, 71-5665,
4 and 71-5668, Revised Statutes Cumulative Supplement,
5 2006, and sections 68-906, 68-1017, 71-5662, 71-7012,
6 71-8249, 81-671, and 86-570, Revised Statutes Supplement,
7 2007; to change a date within the Medical Assistance Act
8 relating to acceptance of federal provisions; to change
9 and eliminate provisions relating to organization of the
10 Department of Health and Human Services, the Rural Health
11 Systems and Professional Incentive Act, mammography,
12 the statewide trauma registry, and release of health
13 information; to provide for disqualification for certain

1 public assistance programs; to eliminate the Governor's
2 Roundtable and repeal obsolete provisions; to harmonize
3 provisions; to provide operative dates; to repeal the
4 original sections; to outright repeal sections 68-1736,
5 68-1737, 71-7002, 71-7003, 71-7004, 71-7005, 71-7006,
6 71-7007, 71-7008, and 71-7009, Reissue Revised Statutes
7 of Nebraska, and section 71-7001, Revised Statutes
8 Supplement, 2007; and to declare an emergency.

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

1 Section 1. Section 68-906, Revised Statutes Supplement,
2 2007, is amended to read:

3 68-906 For purposes of paying medical assistance under
4 the Medical Assistance Act and sections 68-1002 and 68-1006, the
5 State of Nebraska accepts and assents to all applicable provisions
6 of Title XIX and Title XXI of the federal Social Security Act.
7 Any reference in the Medical Assistance Act to the federal Social
8 Security Act or other acts or sections of federal law shall be to
9 such federal acts or sections as they existed on April 1, ~~2007~~
10 2008.

11 Sec. 2. Section 68-1017, Revised Statutes Supplement,
12 2007, is amended to read:

13 68-1017 Any person, including vendors and providers
14 of medical assistance and social services, who, by means of a
15 willfully false statement or representation, or by impersonation
16 or other device, obtains or attempts to obtain, or aids or abets
17 any person to obtain or to attempt to obtain (1) an assistance
18 certificate of award to which he or she is not entitled, (2) any
19 commodity, any foodstuff, any food coupon, any food stamp coupon,
20 electronic benefit, or electronic benefit card, or any payment to
21 which such individual is not entitled or a larger payment than
22 that to which he or she is entitled, (3) any payment made on
23 behalf of a recipient of medical assistance or social services, or
24 (4) any other benefit administered by the Department of Health
25 and Human Services, or who violates any statutory provision

1 relating to assistance to the aged, blind, or disabled, aid to
2 dependent children, social services, or medical assistance, commits
3 an offense and shall upon conviction be punished as follows: (a)
4 If the aggregate value of all funds or other benefits obtained or
5 attempted to be obtained is less than five hundred dollars, the
6 person so convicted shall be guilty of a Class III misdemeanor; or
7 (b) if the aggregate value of all funds and other benefits obtained
8 or attempted to be obtained is five hundred dollars or more, the
9 person so convicted shall be guilty of a Class IV felony.

10 An individual convicted of a violation under this section
11 is also subject to the administrative disqualification provisions
12 of section 15 of this act.

13 Sec. 3. Section 71-1901, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-1901 For purposes of sections 71-1901 to 71-1906.01:

16 (1) Person includes a partnership, limited liability
17 company, firm, agency, association, or corporation;

18 (2) Child means an unemancipated minor;

19 (3) Department means the Division of Public Health of the
20 Department of Health and Human Services;

21 (4) Foster care means engaged in the service of
22 exercising twenty-four-hour daily care, supervision, custody, or
23 control over children, for compensation or hire, in lieu of
24 the care or supervision normally exercised by parents in their
25 own home. Foster care does not include casual care at irregular

1 intervals or programs as defined in section 71-1910; and

2 (5) Native American means a person who is a member of an
3 Indian tribe or eligible for membership in an Indian tribe.

4 Sec. 4. Section 71-5662, Revised Statutes Supplement,
5 2007, is amended to read:

6 71-5662 (1) To be eligible for a student loan under the
7 Rural Health Systems and Professional Incentive Act, an applicant
8 or a recipient shall be enrolled or accepted for enrollment in
9 an accredited medical or dental education program or physician
10 assistant education program or an approved mental health practice
11 program in Nebraska.

12 (2) To be eligible for loan repayment under the act,
13 an applicant or a recipient shall be a pharmacist, a dentist,
14 a physical therapist, an occupational therapist, a mental health
15 practitioner, a psychologist licensed before December 1, 2008,
16 under the requirements of the Uniform Licensing Law or on or after
17 December 1, 2008, under the requirements of section 38-3114 or
18 the equivalent thereof, ~~an advanced practice registered nurse,~~ a
19 nurse practitioner, a physician assistant, or a physician in an
20 approved specialty and shall be licensed to practice in Nebraska,
21 not be enrolled in a residency program, not be practicing under
22 a provisional or temporary license, and enter practice in a
23 designated health profession shortage area in Nebraska.

24 Sec. 5. Section 71-5663, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 71-5663 (1) The amount of financial assistance provided
2 through student loans pursuant to the Rural Health Systems and
3 Professional Incentive Act shall be limited to twenty thousand
4 dollars for each recipient for each academic year and shall
5 not exceed eighty thousand dollars per medical, dental, or
6 doctorate-level mental health student or twenty thousand dollars
7 per master's level mental health or physician assistant student.

8 (2) The amount of financial assistance provided by
9 the state through loan repayments pursuant to the act (a)
10 for physicians, dentists, and psychologists shall be limited to
11 twenty thousand dollars per recipient per year of full-time
12 practice in a designated health profession shortage area and
13 shall not exceed sixty thousand dollars per recipient and (b)
14 for physician assistants, ~~advanced practice registered nurses,~~
15 nurse practitioners, pharmacists, physical therapists, occupational
16 therapists, and mental health practitioners shall be limited to ten
17 thousand dollars per recipient per year of full-time practice in
18 a designated health profession shortage area and shall not exceed
19 thirty thousand dollars per recipient.

20 Sec. 6. Section 71-5665, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 71-5665 The commission shall periodically designate
23 health profession shortage areas within the state for the
24 following professions: Medicine and surgery, physician assistants'
25 practice, ~~advanced practice registered nurses~~ nurse practitioners'

1 practice, psychology, and mental health practitioner's practice.
2 The commission shall also periodically designate separate health
3 profession shortage areas for each of the following professions:
4 Pharmacy, dentistry, physical therapy, and occupational therapy.
5 In making such designations the commission shall consider, after
6 consultation with other appropriate agencies concerned with health
7 services and with appropriate professional organizations, among
8 other factors:

9 (1) The latest reliable statistical data available
10 regarding the number of health professionals practicing in an area
11 and the population to be served by such practitioners;

12 (2) Inaccessibility of health care services to residents
13 of an area;

14 (3) Particular local health problems;

15 (4) Age or incapacity of local practitioners rendering
16 services; and

17 (5) Demographic trends in an area both past and future.

18 Sec. 7. Section 71-5668, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 71-5668 Each loan repayment recipient shall execute an
21 agreement with the department and a local entity. Such agreement
22 shall include, at a minimum, the following terms:

23 (1) The loan repayment recipient agrees to practice his
24 or her profession, and a physician, dentist, ~~advanced practice~~
25 ~~registered nurse,~~ nurse practitioner, or physician assistant also

1 agrees to practice an approved specialty, in a designated health
2 profession shortage area for at least three years and to accept
3 medicaid patients in his or her practice;

4 (2) In consideration of the agreement by the recipient,
5 the State of Nebraska and a local entity within the designated
6 health profession shortage area will provide equal funding for
7 the repayment of the recipient's qualified educational debts, in
8 amounts up to twenty thousand dollars per year per recipient for
9 physicians, dentists, and psychologists and up to ten thousand
10 dollars per year per recipient for physician assistants, ~~advanced~~
11 ~~practice registered nurses,~~ nurse practitioners, pharmacists,
12 physical therapists, occupational therapists, and mental health
13 practitioners toward qualified educational debts for up to
14 three years. The department shall make payments directly to the
15 recipient; and

16 (3) If the loan repayment recipient discontinues practice
17 in the shortage area prior to completion of the three-year
18 requirement, the recipient shall repay to the state one hundred
19 twenty-five percent of the total amount of funds provided to the
20 recipient for loan repayment. Upon repayment by the recipient to
21 the department, the department shall reimburse the local entity its
22 share of the funds.

23 Sec. 8. Section 71-7003.01, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-7003.01 The department may apply for, receive,

1 and administer funds received from private sources to pay for
2 definitive diagnostic procedures for women enrolled in the
3 ~~screening mammography~~ program authorized under sections 71-7001 to
4 71-7013 and in the early detection of breast and cervical cancer
5 program funded through a grant from the United States Department of
6 Health and Human Services.

7 This section does not create an entitlement for enrollees
8 in the programs. Payments may be made to the extent funds are
9 available in the order requests are received by the department.

10 The funds obtained for definitive diagnostic procedures
11 shall be remitted to the State Treasurer for credit to the Breast
12 and Cervical Cancer Cash Fund. Money credited to the fund for
13 purposes of this section shall be used to reimburse the costs of
14 definitive diagnostic procedures as provided in this section.

15 Sec. 9. Section 71-7010, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-7010 The Breast and Cervical Cancer Cash Fund is
18 created. The fund shall consist of any money appropriated to it
19 by the Legislature, any money received by the department for the
20 program, including federal and other public and private funds, and
21 funds credited under section 71-7003.01. ~~and all fees received~~
22 ~~pursuant to section 71-7009.~~ Money in the fund shall be used to
23 ~~reimburse mammogram suppliers pursuant to section 71-7003~~ and may
24 be used to reimburse expenses of members of the Breast and Cervical
25 Cancer Advisory Committee, expenses of the program for early

1 detection of breast and cervical cancer funded through a grant
2 from the United States Department of Health and Human Services,
3 and funds received under section 71-7003.01. Any money in the fund
4 available for investment shall be invested by the state investment
5 officer pursuant to the Nebraska Capital Expansion Act and the
6 Nebraska State Funds Investment Act. ~~Any money in the Mammography
7 Screening Cash Fund on September 9, 1995, shall be transferred to
8 the Breast and Cervical Cancer Cash Fund on such date.~~

9 Sec. 10. Section 71-7012, Revised Statutes Supplement,
10 2007, is amended to read:

11 71-7012 The Breast and Cervical Cancer Advisory Committee
12 is established. The committee consists of the members of the
13 Mammography Screening Committee serving immediately prior to
14 September 9, 1995, and eight additional members appointed by the
15 chief executive officer of the department or his or her designee
16 who have expertise or a personal interest in cervical cancer. The
17 committee shall consist of not more than twenty-four volunteer
18 members, at least eight of whom are women, appointed by the chief
19 executive officer or his or her designee. Members of the committee
20 shall be persons interested in health care, the promotion of breast
21 cancer screening, and cervical cancer and shall be drawn from both
22 the private sector and the public sector. At least one member
23 shall be a person who has or who has had breast cancer. ~~one
24 member shall be a radiologist, and one member shall be a medical
25 radiographer.~~

1 Of the initial members of the committee, four shall be
2 appointed for terms of one year and four shall be appointed for
3 terms of two years. Thereafter all appointments shall be for terms
4 of two years. All members shall serve until their successors are
5 appointed. No member shall serve more than two successive two-year
6 terms. Vacancies in the membership of the committee for any cause
7 shall be filled by appointment by the chief executive officer or
8 his or her designee for the unexpired term.

9 Duties of the committee shall include, but not be limited
10 to, ~~recommending guidelines for the program established under~~
11 ~~section 71-7002, developing and monitoring the schedule of fees~~
12 ~~established pursuant to section 71-7009,~~ encouraging payment of
13 public and private funds to the Breast and Cervical Cancer Cash
14 Fund, researching and recommending to the department reimbursement
15 limits, planning and implementing outreach and educational programs
16 to Nebraska women, advising the department on its operation of
17 the early detection of breast and cervical cancer grant from
18 the United States Department of Health and Human Services, and
19 encouraging payment of public and private funds to the fund. 7
20 ~~and researching and recommending to the department appropriate~~
21 ~~definitive diagnostic procedures which may be reimbursed.~~ Members
22 of the committee shall be reimbursed for their actual and necessary
23 expenses as provided in sections 81-1174 to 81-1177.

24 Sec. 11. Section 71-7013, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 71-7013 The State of Nebraska, the department and its
 2 employees, ~~members of the Mammography Screening Committee,~~ and
 3 members of the Breast and Cervical Cancer Advisory Committee shall
 4 not be liable for any damage or injury resulting from: ~~(1) Failure~~
 5 ~~to issue a certificate of eligibility under section 71-7009;~~ ~~(2)~~
 6 ~~failure to certify a mammogram supplier under section 71-7004;~~ ~~(3)~~
 7 ~~failure to waive the fee pursuant to section 71-7009;~~ ~~(4) a (1) a~~
 8 false negative result or a false positive result interpretation or
 9 any other act or omission of an interpreting physician with respect
 10 to any screening mammogram performed under the program established
 11 ~~pursuant to section 71-7002;~~ ~~or (5) pursuant to sections 71-7001~~
 12 ~~to 71-7012 or (2) any act or omission of a mammogram screening~~
 13 supplier or person acting on behalf of such supplier with respect
 14 to the provisions of such sections. ~~71-7001.01 to 71-7011.~~

15 Sec. 12. Section 71-8249, Revised Statutes Supplement,
 16 2007, is amended to read:

17 71-8249 (1) All data collected under section 71-8248
 18 shall be held confidential pursuant to sections 81-663 to 81-675.
 19 Confidential patient medical record data shall only be released
 20 as (a) Class I, II, or IV medical records under sections 81-663
 21 to 81-675, (b) aggregate or case-specific data to the regional
 22 trauma system quality assurance program and the regional trauma
 23 advisory boards, (c) as protected health information to a public
 24 health authority, as such terms are defined under the federal
 25 Health Insurance Portability and Accountability Act of 1996, as

1 such act existed on January 1, ~~2007~~, 2008, and (d) as protected
2 health information, as defined under the federal Health Insurance
3 Portability and Accountability Act of 1996, as such act existed
4 on January 1, ~~2007~~, 2008, to an emergency medical service, to an
5 out-of-hospital emergency care provider, to a licensed health care
6 facility, or to a center that will treat or has treated a specific
7 patient.

8 A record may be shared with the emergency medical
9 service, the out-of-hospital emergency provider, the licensed
10 health care facility, or center that reported that specific record.

11 (2) Patient care quality assurance proceedings, records,
12 and reports developed pursuant to this section and section
13 71-8248 are confidential and are not subject to discovery by
14 subpoena or admissible as evidence in any civil action, except
15 pursuant to a court order which provides for the protection
16 of sensitive information of interested parties, including the
17 department, pursuant to section 25-12,123.

18 Sec. 13. Section 81-671, Revised Statutes Supplement,
19 2007, is amended to read:

20 81-671 (1) Except as otherwise provided by the law
21 governing a specific medical record and health information
22 registry, the department may release information contained in a
23 registry to official public health departments and agencies as
24 follows:

25 (a) Upon request by an official local health department

1 within the State of Nebraska, the department may release such
2 data to the requesting local health department. The official local
3 health department shall not contact patients using data received
4 under sections 81-663 to 81-675 without approval by the department
5 of an application made pursuant to section 81-666; and

6 (b) Upon approval of an application by federal, state,
7 or local official public health agencies made pursuant to section
8 81-666, the department may release such data.

9 (2) The Except as provided in subsection (3) of this
10 section, the receiving agency shall not further disclose such
11 data to any third party but may publish aggregate statistical
12 reports, except that no patient-identifying data shall be divulged,
13 made public, or released to any public or private person or
14 entity. The receiving agency shall comply with the patient contact
15 provisions of sections 81-663 to 81-675. The receiving agency
16 shall acknowledge the department and its medical record and health
17 information registries in any publication in which information
18 obtained from the medical record and health information registries
19 is used.

20 (3) The release and acknowledgment provisions of this
21 section do not apply to the Centers for Disease Control and
22 Prevention of the United States Public Health Service of the United
23 States Department of Health and Human Services, the North American
24 Association of Central Cancer Registries, or cancer registries
25 located outside Nebraska which receive data through approved data

1 exchange agreements.

2 Sec. 14. Section 86-570, Revised Statutes Supplement,
3 2007, is amended to read:

4 86-570 (1) The Geographic Information System Steering
5 Committee is hereby created and shall consist of nineteen members
6 as follows:

7 (a) The Chief Information Officer or his or her designee,
8 the chief executive officer or designee of the Department of Health
9 and Human Services, and the director or designee of the Department
10 of Environmental Quality, ~~the Department of Health and Human~~
11 ~~Services,~~ the Conservation and Survey Division of the University of
12 Nebraska, the Department of Natural Resources, and the Governor's
13 Policy Research Office;

14 (b) The Director-State Engineer or designee;

15 (c) The State Surveyor or designee;

16 (d) The Clerk of the Legislature or designee;

17 (e) The secretary of the Game and Parks Commission or
18 designee;

19 (f) The Property Tax Administrator or designee;

20 (g) One representative of federal agencies appointed by
21 the Governor;

22 (h) One representative of the natural resources districts
23 nominated by the Nebraska Association of Resources Districts and
24 appointed by the Governor;

25 (i) One representative of the public power districts

1 appointed by the Governor;

2 (j) Two representatives of the counties nominated by
3 the Nebraska Association of County Officials and appointed by the
4 Governor;

5 (k) One representative of the municipalities nominated
6 by the League of Nebraska Municipalities and appointed by the
7 Governor; and

8 (1) Two members at large appointed by the Governor.

9 (2) The appointed members shall serve for terms of
10 four years, except that of the initial members appointed by the
11 Governor, one of the representatives of the counties shall be
12 appointed for one year and the other shall be appointed for three
13 years, one of the members at large shall be appointed for one
14 year and the other for three years, and the representative of the
15 public power districts shall be appointed for two years. Their
16 successors shall be appointed for four-year terms. Any vacancy on
17 the committee shall be filled in the same manner as the original
18 appointment, and the person selected to fill such vacancy shall
19 have the same qualifications as the member whose vacancy is being
20 filled.

21 (3) The members shall be reimbursed for their actual and
22 necessary expenses as provided in sections 81-1174 to 81-1177.

23 Sec. 15. (1) The Department of Health and Human Services
24 shall establish an administrative disqualification process for the
25 aid to dependent children program described in section 43-512

1 and the child care subsidy program established pursuant to
2 section 68-1202. The department may initiate an administrative
3 disqualification proceeding when it has reason to believe, on the
4 basis of sufficient documentary evidence, that an individual has
5 committed an intentional program violation. Proceedings under this
6 section shall be subject to the Administrative Procedure Act.

7 (2) If an individual is found to have committed an
8 intentional program violation, a period of disqualification shall
9 be imposed. The period may be determined by the Department of
10 Health and Human Services after an administrative disqualification
11 hearing or without a hearing if the individual waives his or her
12 right to such hearing. The period of disqualification shall be: (a)
13 For a first violation, up to one year; (b) for a second violation,
14 up to two years; and (c) for a third violation, permanent
15 disqualification. The penalties described in this subsection shall
16 also be imposed if the individual is found by a court to have
17 violated section 68-1017.

18 (3) For the aid to dependent children program, only
19 the individual found to have committed the intentional program
20 violation shall be disqualified under this section. For the child
21 care subsidy program, the individual found to have committed the
22 intentional violation shall disqualify such individual and his or
23 her family under this section. The department shall inform each
24 applicant in writing of the penalties described in this section
25 for intentional program violations each time an application for

1 benefits is made to either program.

2 (4) For purposes of this section, intentional program
3 violation means any action by an individual to intentionally (a)
4 make a false statement, either verbally or in writing, to obtain
5 benefits to which the individual is not entitled, (b) conceal
6 information to obtain benefits to which the individual is not
7 entitled, or (c) alter one or more documents to obtain benefits to
8 which the individual is not entitled.

9 (5) The department may adopt and promulgate rules and
10 regulations to carry out this section.

11 Sec. 16. Sections 1, 2, 15, 16, 17, and 20 of this act
12 become operative on their effective date. The other sections of
13 this act become operative three calendar months after adjournment
14 of this legislative session.

15 Sec. 17. Original sections 68-906 and 68-1017, Revised
16 Statutes Supplement, 2007, are repealed.

17 Sec. 18. Original sections 71-1901, 71-7003.01, 71-7010,
18 and 71-7013, Reissue Revised Statutes of Nebraska, sections
19 71-5663, 71-5665, and 71-5668, Revised Statutes Cumulative
20 Supplement, 2006, and sections 68-1017, 71-5662, 71-7012, 71-8249,
21 81-671, and 86-570, Revised Statutes Supplement, 2007, are
22 repealed.

23 Sec. 19. The following sections are outright repealed:
24 Sections 68-1736, 68-1737, 71-7002, 71-7003, 71-7004, 71-7005,
25 71-7006, 71-7007, 71-7008, 71-7009, and 71-7011, Reissue Revised

1 Statutes of Nebraska, and section 71-7001, Revised Statutes
2 Supplement, 2007.

3 Sec. 20. Since an emergency exists, this act takes effect
4 when passed and approved according to law.