

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 698

FINAL READING

Introduced by Mello, 5; Bolz, 29; Campbell, 25; Cook, 13; Davis, 43.

Read first time January 06, 2016

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to health; to amend sections 71-516.01,
2 71-516.02, 71-516.03, 81-2201, 81-2213, 81-2218, 81-2220, 81-2221,
3 and 81-2235, Reissue Revised Statutes of Nebraska, section
4 71-516.04, Revised Statutes Cumulative Supplement, 2014, and
5 sections 68-901, 71-401, and 71-403, Revised Statutes Supplement,
6 2015; to adopt the Home Care Consumer Bill of Rights Act; to provide
7 a penalty; to adopt the Assisting Caregiver Transitions Act; to
8 require that certain providers be subject to a national criminal
9 history record information check as prescribed; to define and
10 redefine terms; to provide for a memory care endorsement under the
11 Health Care Facility Licensure Act; to change provisions of the
12 Alzheimer's Special Care Disclosure Act; to change and eliminate
13 provisions of the Nebraska Community Aging Services Act; to
14 harmonize provisions; to provide operative dates; to repeal the
15 original sections; to outright repeal section 81-2228, Reissue
16 Revised Statutes of Nebraska; and to declare an emergency.
17 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the Home Care Consumer Bill of Rights Act.

3 Sec. 2. For purposes of the Home Care Consumer Bill of Rights Act:

4 (1) Home care consumer means any person who receives home care
5 services and who is (a) sixty years of age or older or (b) a person with
6 disabilities and is younger than sixty years of age. Home care consumer
7 shall also include the parent or guardian of the home care consumer when
8 the consumer is a minor child;

9 (2) Home care services means home and community-based services the
10 purposes of which are to promote independence and reduce the necessity
11 for residence in a long-term care facility, including, but not limited
12 to, personal care services designed to assist an individual in the
13 activities of daily living such as bathing, exercising, personal
14 grooming, and getting in and out of bed, and which are provided under the
15 medicare program under Title XVIII of the federal Social Security Act, as
16 amended, the medicaid program under Title XIX of the federal Social
17 Security Act, as amended, or any other public or private program
18 providing home care services; and

19 (3) Provider of home care services means a public or private
20 organization that provides home care services or arranges for the
21 provision of home care services by an independent contractor.

22 Sec. 3. (1) A home care consumer who is a minor child shall be
23 represented by his or her parent or guardian. Such parent or guardian
24 shall act on behalf of the minor child in securing the minor child's
25 rights under the Home Care Consumer Bill of Rights Act.

26 (2) A home care consumer who has been found by a court to be an
27 incapacitated person shall be represented by a guardian. Such guardian
28 shall act on behalf of the incapacitated person in securing the
29 incapacitated person's rights under the Home Care Consumer Bill of Rights
30 Act.

31 (3) A home care consumer or an incapacitated person who is not a

1 minor child has the right to the assistance of an agent, an attorney, an
2 individual designated pursuant to a power of attorney, or an individual
3 otherwise designated in writing by the home care consumer to act on
4 behalf of the home care consumer in securing his or her rights under the
5 act.

6 Sec. 4. In addition to any other rights recognized under state or
7 federal law, a home care consumer has the following rights:

8 (1) The right to confidentiality of all personal, financial, and
9 medical information which is disclosed to a provider of home care
10 services. A home care consumer also has the right of access to his or her
11 own records and all written information from those records;

12 (2) The right to receive disclosure from the provider of home care
13 services in writing and in plain language (a) whether the provider of
14 home care services is an employer, a joint employer, an employee leasing
15 company, or a contractor, as applicable, and (b) that the home care
16 consumer (i) may be considered an employer under law and, if the home
17 care consumer is so considered, may be held responsible for the payment
18 of federal and state taxes, including, but not limited to, federal and
19 state income taxes, taxes under the Federal Insurance Contributions Act
20 for purposes of social security and medicare, contributions under the
21 Federal Unemployment Tax Act and the Employment Security Law, payment of
22 overtime pay and minimum wage, workers' compensation insurance, and any
23 other applicable payments required under state or federal law and (ii)
24 should consult a tax professional if the home care consumer is uncertain
25 about his or her responsibility for such payments;

26 (3) The right to be informed of the home care consumer's rights
27 under the Home Care Consumer Bill of Rights Act by a provider of home
28 care services prior to receiving home care services. The provider of home
29 care services shall provide a copy of the rights guaranteed by the Home
30 Care Consumer Bill of Rights Act in the format accessible to the consumer
31 which may include paper, electronic, audio, large print, or braille;

1 (4) The right to be informed of the contact information for the
2 entities the home care consumer may contact if the home care consumer's
3 rights are violated, including the Consumer Protection Division of the
4 Office of the Attorney General, in order to have grievances addressed in
5 an appropriate and timely manner and without retaliation;

6 (5) The right to participate in the planning of his or her home care
7 services, including, but not limited to, the right to make choices about
8 aspects of the home care services that are important to him or her,
9 choosing providers and schedules to the extent practicable, receiving
10 reasonable accommodation of his or her needs and preferences, and
11 involving anyone he or she chooses to participate with him or her in that
12 planning;

13 (6) The right to receive sufficient information to make informed
14 decisions, to be fully informed in advance about any proposed changes in
15 home care services, and to be involved in the decisionmaking process
16 regarding those changes;

17 (7) The right to refuse home care services;

18 (8) The right to be informed of the cost of home care services prior
19 to receiving those services, whether the cost of home care services is
20 covered under health insurance, long-term care insurance, or other
21 private or public programs, and any charges the home care consumer will
22 be expected to pay for such home care services. A home care consumer has
23 the right to thirty days' advance notice of any changes to such costs or
24 services;

25 (9) The right to receive care and services provided in a way that
26 promotes his or her dignity and individuality; and

27 (10) The right to (a) express grievances about the quality of the
28 home care services, the number of hours of home care services, and any
29 violations of the home care consumer's rights under the Home Care
30 Consumer Bill of Rights Act and (b) assert the rights under the act
31 without retaliation.

1 Sec. 5. (1) When the Attorney General has cause to believe that any
2 provider of home care services is violating the Home Care Consumer Bill
3 of Rights Act, the Attorney General may enforce the act.

4 (2) For purposes of the act, the Attorney General may:

5 (a) Require a provider of home care services to file a statement or
6 report in writing under oath or otherwise as to all facts and
7 circumstances concerning the provision of home care services to the home
8 care consumer;

9 (b) Examine under oath any person in connection with the provision
10 of home care services;

11 (c) Examine any property or sample thereof, record, book, document,
12 account, or paper as the Attorney General deems necessary; and

13 (d) Issue subpoenas to require the attendance of witnesses or the
14 production of documents.

15 (3) The Attorney General may bring a civil action in the district
16 court of any county in which a violation occurred, or in Lancaster
17 County, seeking injunctive relief and a monetary award for civil
18 penalties, attorney's fees, and costs. Any person who violates the act
19 shall be subject to a civil penalty of not more than two thousand dollars
20 for each violation.

21 (4) The Attorney General may also seek and recover actual damages
22 for each health care consumer injured by a violation of the act.

23 Sec. 6. Any home care consumer who suffers a loss or harm as a
24 result of a violation of the Home Care Consumer Bill of Rights Act may
25 file a civil action to recover actual damages, attorney's fees, court
26 costs, and any other remedies provided by law.

27 Sec. 7. Sections 7 to 14 of this act shall be known and may be
28 cited as the Assisting Caregiver Transitions Act.

29 Sec. 8. For purposes of the Assisting Caregiver Transitions Act:

30 (1) Activities of daily living means transfer, ambulation, exercise,
31 toileting, eating, self-administration of medication, and similar

1 activities;

2 (2) Aftercare means assistance provided by a caregiver to a patient
3 in the patient's residence after the patient's discharge from a hospital
4 following an inpatient stay and may include, but is not limited to, (a)
5 assisting with activities of daily living and (b) carrying out medical or
6 nursing tasks, including, but not limited to, managing wound care,
7 assisting in administration of medication, and operating medical
8 equipment;

9 (3) Caregiver means a person nineteen years of age or older who is
10 designated by a patient or a patient's legal guardian to provide
11 aftercare;

12 (4) Hospital means a general acute hospital as defined in section
13 71-412; and

14 (5) Residence means the home in which a patient resides. Residence
15 does not include an assisted-living facility as defined in section
16 71-406, a group home, a hospital as defined in section 71-419, an
17 intermediate care facility as defined in section 71-420, a rehabilitation
18 hospital as defined in section 71-427 or other rehabilitation facility, a
19 nursing facility as defined in section 71-424, or a skilled nursing
20 facility as defined in section 71-429.

21 Sec. 9. (1) A hospital shall give each patient or patient's legal
22 guardian the opportunity to designate at least one caregiver as soon as
23 practicable and prior to the patient's release.

24 (2) If a patient is unconscious or incapacitated upon his or her
25 admission to the hospital, the hospital shall give the patient or the
26 patient's legal guardian the opportunity to designate a caregiver as soon
27 as possible after the patient's recovery of consciousness or capacity.

28 (3) A patient or his or her legal guardian is not required to
29 designate a caregiver at any time. If a patient or a patient's legal
30 guardian declines to designate a caregiver, the hospital shall document
31 this fact in the patient's medical record.

1 Sec. 10. (1) If a patient or a patient's legal guardian designates
2 a caregiver, the hospital shall record in the patient's medical record
3 the designated caregiver's name, his or her relationship to the patient,
4 and the caregiver's telephone number, residence address, and other
5 contact information.

6 (2) A patient or a patient's legal guardian may change the caregiver
7 designation at any time. The hospital shall document the change in the
8 patient's medical record before the patient's discharge.

9 (3) A person designated as a caregiver is not obligated to accept
10 such designation or to perform aftercare for the designating patient or
11 patient's legal guardian.

12 Sec. 11. If a patient or a patient's legal guardian designates a
13 caregiver, the hospital shall notify the caregiver of the patient's
14 discharge from the hospital or transfer to another facility as soon as
15 practicable which may be after the patient's physician issues a discharge
16 or transfer order. If the hospital is unable to contact the caregiver,
17 such lack of contact shall not interfere with, delay, or otherwise affect
18 the medical care provided to the patient or the medically appropriate
19 discharge or transfer of the patient. The hospital shall document all
20 attempts to contact the caregiver in the patient's medical record.

21 Sec. 12. (1) As soon as possible after designation of a caregiver
22 and prior to the patient's discharge, the hospital shall attempt to
23 consult with the patient or the patient's legal guardian and the
24 caregiver and shall issue a discharge plan that describes the patient's
25 aftercare needs. The discharge plan shall include, but need not be
26 limited to:

27 (a) The name and contact information of the caregiver, as provided
28 by him or her; and

29 (b) A description of the aftercare tasks necessary to maintain the
30 patient's ability to reside in his or her residence.

31 (2) The hospital shall provide the caregiver with instructions

1 concerning all aftercare tasks described in the discharge plan. The
2 instructions shall include, but need not be limited to:

3 (a) A live demonstration of or instruction in the aftercare tasks,
4 as performed by a hospital employee or other authorized individual in a
5 culturally competent manner;

6 (b) An opportunity for the caregiver and the patient or the
7 patient's guardian to ask questions about aftercare; and

8 (c) Answers to the caregiver's, patient's, and patient's legal
9 guardian's questions in a culturally competent manner.

10 (3) The hospital shall document the instructions in the patient's
11 medical record, including the date, time, and contents of the
12 instructions and whether the caregiver accepted or refused the offer of
13 instruction.

14 Sec. 13. The Assisting Caregiver Transitions Act does not:

15 (1) Create a private right of action against a hospital, a hospital
16 employee, or a person with whom the hospital has a contractual
17 relationship;

18 (2) Create additional civil or regulatory liability for a hospital,
19 a hospital employee, or a person with whom the hospital has a contractual
20 relationship;

21 (3) Supersede or replace existing rights or remedies under any other
22 law;

23 (4) Affect a license issued to a hospital pursuant to the Health
24 Care Facility Licensure Act;

25 (5) Establish a new requirement to reimburse or otherwise pay for
26 services rendered by a caregiver for aftercare; or

27 (6) Interfere with an individual acting under a valid power of
28 attorney for health care as defined in section 30-3402 or acting as a
29 conservator as defined in section 30-2209.

30 Sec. 14. The Department of Health and Human Services may adopt and
31 promulgate rules and regulations to carry out the Assisting Caregiver

1 Transitions Act.

2 Sec. 15. Section 68-901, Revised Statutes Supplement, 2015, is
3 amended to read:

4 68-901 Sections 68-901 to 68-975 and section 16 of this act shall be
5 known and may be cited as the Medical Assistance Act.

6 Sec. 16. (1)(a) Any provider with a high categorical risk level as
7 determined by the Centers for Medicare and Medicaid Services or the
8 medicaid assistance program established pursuant to the Medical
9 Assistance Act shall be subject to a fingerprint-based criminal history
10 record information check.

11 (b) Such provider who is an individual, or any individual with at
12 least a five percent direct or indirect ownership interest in any such
13 provider, shall provide his or her fingerprints to the Nebraska State
14 Patrol. The Nebraska State Patrol shall undertake a search for
15 fingerprint-based criminal history record information relating to such
16 provider, including transmittal of the fingerprints to the Federal Bureau
17 of Investigation for a national fingerprint-based criminal history record
18 information check.

19 (c) The fingerprint-based criminal history record information check
20 shall include information concerning the provider from federal
21 repositories of such information and repositories of such information in
22 other states, if authorized by federal law.

23 (d) The Nebraska State Patrol shall issue a report to the department
24 that includes the fingerprint-based criminal history record information
25 concerning the provider.

26 (e) The provider or individual being screened shall pay the actual
27 cost of the fingerprinting and fingerprint-based criminal history record
28 information check.

29 (2) The department shall maintain a record of the results of the
30 fingerprint-based criminal history record information check.

31 (3) The department may deny or terminate the enrollment of:

1 (a) Any provider who is an individual who does not pass the national
2 fingerprint-based criminal history record information check; or

3 (b) Any provider in which an individual with at least a five percent
4 direct or indirect ownership interest in the provider does not pass the
5 national fingerprint-based criminal history record information check.
6 Criteria for not passing the fingerprint-based criminal history record
7 information check includes at least the following: (i) Any criminal
8 conviction within the last ten years related to the provider's
9 involvement with the federal Health Insurance for the Aged Act, 42 U.S.C.
10 1305 et seq., any program or assistance set forth in Chapter 68, or the
11 federal Children's Health Insurance Program established pursuant to 42
12 U.S.C. 1397aa, as such act, laws, and section existed on January 1, 2016;
13 or (ii) any conviction involving fraudulent activities.

14 Sec. 17. Section 71-401, Revised Statutes Supplement, 2015, is
15 amended to read:

16 71-401 Sections 71-401 to 71-470 and sections 19 to 22 of this act
17 shall be known and may be cited as the Health Care Facility Licensure
18 Act.

19 Sec. 18. Section 71-403, Revised Statutes Supplement, 2015, is
20 amended to read:

21 71-403 For purposes of the Health Care Facility Licensure Act,
22 unless the context otherwise requires, the definitions found in sections
23 71-404 to 71-431 and section 19 of this act shall apply.

24 Sec. 19. Memory care endorsement means an endorsement for the
25 license of an assisted-living facility providing care for persons with
26 cognitive impairments or dementia which meets the requirements for the
27 endorsement under section 21 of this act.

28 Sec. 20. (1) An assisted-living facility may apply to the
29 department for a memory care endorsement on a form prescribed by the
30 department. Only an assisted-living facility which qualifies for the
31 endorsement may advertise itself as an endorsed memory care facility and

1 may qualify for reimbursement rates established pursuant to section 22 of
2 this act.

3 (2) In order to qualify for the memory care endorsement, an
4 assisted-living facility shall provide proof of meeting the
5 qualifications established by the department pursuant to section 21 of
6 this act.

7 Sec. 21. (1) The department shall adopt and promulgate rules and
8 regulations establishing qualifications for a memory care endorsement.
9 The qualifications shall be specific to those necessary for residents
10 with cognitive impairment or dementia and shall include, but not be
11 limited to, staffing enhancements, staff training, dedicated memory care
12 programming, cultural competencies, facility requirements, and security
13 issues.

14 (2) The department shall award a memory care endorsement to an
15 assisted-living facility licensed under the Health Care Facility
16 Licensure Act upon application which provides proof of meeting the
17 qualifications and payment of the required fee.

18 (3) The department shall set the fee at an amount to cover the costs
19 of administering the endorsement.

20 Sec. 22. The department shall examine the rates paid for care for
21 persons with cognitive impairment or dementia, including state spending
22 for such care and reimbursement rates paid for such care under the
23 medical assistance program pursuant to the Medical Assistance Act. The
24 department shall make findings regarding cost-savings for providing care
25 for persons with cognitive impairments or dementia in assisted-living
26 facilities with a memory care endorsement. The department shall make
27 recommendations regarding a higher or supplemental reimbursement rate for
28 assisted-living facilities which have a memory care endorsement and
29 provide care for persons with cognitive impairments or dementia at a
30 savings to the state or medical assistance program.

31 Sec. 23. Section 71-516.01, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 71-516.01 Sections 71-516.01 to 71-516.04 and section 27 of this act
3 shall be known and may be cited as the Alzheimer's Special Care
4 Disclosure Act.

5 Sec. 24. Section 71-516.02, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 71-516.02 The Legislature finds and declares that:

8 (1) Certain nursing homes and related facilities and assisted-living
9 facilities claim special care for persons who have Alzheimer's disease,
10 dementia, or a related disorder;

11 (2) It is in the public interest to provide for the protection of
12 consumers regarding the accuracy and authenticity of such claims;~~and~~

13 (3) The provisions of the Alzheimer's Special Care Disclosure Act
14 are intended to require such facilities to disclose the reasons for those
15 claims, require records of such disclosures to be kept, and require the
16 ~~department~~ Department of Health and Human Services to examine the
17 records; ~~and~~ -

18 (4) Alzheimer's special care units provide care for persons with
19 cognitive impairments and dementia and assisted-living facilities would
20 benefit from a memory care endorsement.

21 Sec. 25. Section 71-516.03, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 71-516.03 For ~~the~~ purposes of the Alzheimer's Special Care
24 Disclosure Act: -

25 (1) Alzheimer's special care unit means ~~shall mean~~ any nursing
26 facility or assisted-living facility, licensed by the department
27 ~~Department of Health and Human Services~~, which secures, segregates, or
28 provides a special program or special unit for residents with a diagnosis
29 of probable Alzheimer's disease, dementia, or a related disorder and
30 which advertises, markets, or otherwise promotes the facility as
31 providing specialized Alzheimer's disease, dementia, or related disorder

1 care services; -

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

4 (3) Memory care endorsement has the same meaning as in section 19 of
5 this act.

6 Sec. 26. Section 71-516.04, Revised Statutes Cumulative Supplement,
7 2014, is amended to read:

8 71-516.04 (1) Any facility which offers to provide or provides care
9 for persons with Alzheimer's disease, dementia, or a related disorder by
10 means of an Alzheimer's special care unit shall disclose the form of care
11 or treatment provided that distinguishes such form as being especially
12 applicable to or suitable for such persons. The disclosure shall be made
13 to the department ~~Department of Health and Human Services~~ and to any
14 person seeking placement within an Alzheimer's special care unit. The
15 department shall examine all such disclosures in the records of the
16 department as part of the facility's license renewal procedure at the
17 time of licensure or relicensure.

18 (2) The information disclosed shall explain the additional care
19 provided in each of the following areas:

20 (a 1) The Alzheimer's special care unit's written statement of its
21 overall philosophy and mission which reflects the needs of residents
22 afflicted with Alzheimer's disease, dementia, or a related disorder;

23 (b 2) The process and criteria for placement in, transfer to, or
24 discharge from the unit;

25 (c 3) The process used for assessment and establishment of the plan
26 of care and its implementation, including the method by which the plan of
27 care evolves and is responsive to changes in condition;

28 (d 4) Staff training and continuing education practices which shall
29 include, but not be limited to, four hours annually for direct care
30 staff. Such training shall include topics pertaining to the form of care
31 or treatment set forth in the disclosure described in this section. The

1 requirement in this subdivision shall not be construed to increase the
2 aggregate hourly training requirements of the Alzheimer's special care
3 unit;

4 (e 5) The physical environment and design features appropriate to
5 support the functioning of cognitively impaired adult residents;

6 (f 6) The frequency and types of resident activities;

7 (g 7) The involvement of families and the availability of family
8 support programs; and

9 (h 8) The costs of care and any additional fees.

10 (3) In order to qualify for a memory care endorsement, an assisted-
11 living facility making a disclosure under this section shall comply with
12 section 21 of this act.

13 Sec. 27. An assisted-living facility which is an Alzheimer's
14 special care unit may apply for a memory care endorsement as provided in
15 the Health Care Facility Licensure Act but shall not advertise itself as
16 an endorsed memory care unit without such endorsement.

17 Sec. 28. Section 81-2201, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 81-2201 Sections 81-2201 to 81-2227 ~~81-2228~~ shall be known and may
20 be cited as the Nebraska Community Aging Services Act.

21 Sec. 29. Section 81-2213, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 81-2213 The department shall have the following powers and duties:

24 (1) To develop, approve, and submit to the Governor a two-year,
25 three-year, or four-year state plan on aging, as determined by the
26 department, for purposes of administering grant funds allocated to the
27 state under the federal Older Americans Act of 1965, as such act existed
28 on January 1, 2016, as now or hereafter amended, or administering state
29 funds allocated to the Nebraska Community Aging Services Act;

30 (2) To cooperate with similar departments, commissions, or councils
31 in the federal government and in other states;

1 (3) To adopt and promulgate rules, regulations, and bylaws governing
2 its procedure and activities and as necessary to carry out the policies
3 of the department and the policies prescribed by the Administration on
4 Aging pursuant to the federal Older Americans Act of 1965, as such act
5 existed on January 1, 2016 ~~, as now or hereafter amended;~~

6 (4) To create committees to aid in the discharge of its powers and
7 duties;

8 (5) To cooperate with and assist other state and local governmental
9 agencies and officials on matters relating to services for older
10 individuals;

11 (6) To divide the state into planning-and-service areas as provided
12 in section 71-807 for behavioral health regions, except that Regions 3
13 and 5 may each be divided into two planning-and-service areas with
14 boundaries as established by the department for planning-and-service
15 areas in existence in those regions on July 1, 1982;

16 (7) To establish minimum standards for program operations and to
17 adopt and promulgate rules and regulations for the performance of area
18 agencies on aging and for any services provided by such area agencies on
19 aging which are funded in whole or in part under the Nebraska Community
20 Aging Services Act or the federal Older Americans Act of 1965, as such
21 federal act existed on January 1, 2016 ~~, as now or hereafter amended;~~

22 (8) To require the submission of a two-year, three-year, or four-
23 year ~~one-year and a five-year~~ area plan and budget by each area agency on
24 aging or agency seeking designation as an area agency on aging. Such
25 plans and budgets shall be submitted sixty days prior to the start of
26 each fiscal year in accordance with the uniform area plan format and
27 other instructions issued by the department;

28 (9) To review and approve a two-year, three-year, or four-year ~~one-~~
29 ~~year and a five-year~~ area plan and budget for the support of each area
30 agency on aging and the provision of eligible activities and services as
31 defined in section 81-2222;

1 (10) To adopt and submit electronically to the Legislature a
2 community aging services budget;

3 (11) To review the performance of each area agency on aging and,
4 based on the department-approved area plan and budget, to determine the
5 continued designation or the withdrawal of the designation of an area
6 agency on aging receiving or requesting resources through the state or
7 under the Nebraska Community Aging Services Act or the federal Older
8 Americans Act of 1965, as such federal act existed on January 1, 2016 ~~7~~
9 ~~as now or hereafter amended~~. After consultation with the director of the
10 area agency on aging and the governing unit of the area agency on aging,
11 the department may withdraw a designation when it can be shown that
12 federal or state laws, rules, or regulations have not been complied with,
13 state or federal funds are not being expended for the purposes for which
14 they were intended, or older individuals are not receiving appropriate
15 services within available resources. Withdrawal of a designation may be
16 appealed to the department. Upon withdrawal of a designation, the
17 department may temporarily perform all or part of the functions and
18 responsibilities of the area agency on aging, may designate another
19 agency to perform such functions and responsibilities identified by the
20 department until the designation of a new area agency on aging, and, when
21 deemed necessary, may temporarily deliver services to assure continuity;

22 (12) To conduct continuing studies and analyses of the problems
23 faced by older individuals within the state and develop such
24 recommendations for administrative or legislative action as appear
25 necessary;

26 (13) To develop grants and plans, enter into contracts, accept
27 gifts, grants, and federal funds, and do all things necessary and proper
28 to discharge these powers and duties;

29 (14) To accept and administer any other programs or resources
30 delegated, designated, assigned, or awarded to the department from public
31 or private sources; and

1 (15) Such other powers and duties necessary to effectively implement
2 the Nebraska Community Aging Services Act.

3 Sec. 30. Section 81-2218, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 81-2218 The governing unit of the designated area agency on aging
6 shall:

7 (1) In accordance with section 81-2219, employ a qualified
8 administrator to serve as the chief executive officer for the
9 administration of the agency and employ adequate staff for carrying out
10 the area program plan;

11 (2) Approve and submit an a one-year and a five-year area plan and
12 budget to the department pursuant to section 81-2213 by July 1 of each
13 year. The plan shall comply with the requirements of the Nebraska
14 Community Aging Services Act and the federal Older Americans Act of 1965,
15 as such federal act existed on January 1, 2016 , as now or hereafter
16 amended;

17 (3) Approve such contracts and agreements as are necessary to carry
18 out the functions of the agency; and

19 (4) Establish and consult with an area advisory council on needs,
20 services, and policies affecting older individuals in the area. The
21 advisory council for the area agency on aging shall establish bylaws
22 which specify the role and functions of the council, number of members,
23 selection of members, term of membership, and frequency of meetings.

24 Sec. 31. Section 81-2220, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 81-2220 An area agency on aging shall:

27 (1) Monitor, evaluate, and comment on policies, programs, hearings,
28 and community actions which affect older individuals;

29 (2) Conduct public hearings, studies, and assessments on the needs
30 of older individuals living in the planning-and-service area;

31 (3) Represent the interests of older individuals to public officials

1 and to public and private agencies or organizations;

2 (4) Cooperate, coordinate, and plan with other agencies,
3 organizations, or individuals to promote benefits and opportunities for
4 older individuals consistent with the goals of the Nebraska Community
5 Aging Services Act and the federal Older Americans Act of 1965, as such
6 federal act existed on January 1, 2016 ~~, as now or hereafter amended;~~

7 (5) Develop ~~an a one-year and a five-year~~ area plan and budget
8 pursuant to section 81-2213 for a comprehensive, coordinated program of
9 community aging services needed by older individuals of the area and
10 consistent with the requirements of the Nebraska Community Aging Services
11 Act and the federal Older Americans Act of 1965, as such federal act
12 existed on January 1, 2016 ~~, as now or hereafter amended;~~

13 (6) Monitor and evaluate the activities of service providers to
14 ensure that the services being provided comply with the terms of the
15 grant or contract. When a provider is found to be in breach of the terms
16 of its grant or contract, the area agency on aging shall enforce the
17 terms of the grant or contract;

18 (7) Comply with rules, regulations, and requirements of the
19 department which have been developed in consultation with the area
20 agencies on aging for client and fiscal information and provide to the
21 department information necessary for federal and state reporting, program
22 evaluation, program management, fiscal control, and research needs; and

23 (8) Provide technical assistance to service providers as needed,
24 prepare written monitoring reports, and provide written reports of onsite
25 assessments of all service providers funded by the area agency on aging
26 according to the rules and regulations promulgated by the department.

27 Sec. 32. Section 81-2221, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 81-2221 The ~~one-year and the five-year~~ area plan and budget adopted
30 pursuant to section 81-2220 shall contain at least the following:

31 (1) Provisions required by the Nebraska Community Aging Services Act

1 and the federal Older Americans Act of 1965, as such federal act existed
2 on January 1, 2016 ~~, as now or hereafter amended~~; and

3 (2) A detailed statement of the manner in which the area agency on
4 aging develops, administers, and supports the comprehensive, coordinated
5 program of community aging services throughout the area.

6 The department may require minimum service levels for the area and
7 establish minimum standards for activities which carry out the
8 requirements of the Nebraska Community Aging Services Act and the federal
9 Older Americans Act of 1965, as such federal act existed on January 1,
10 2016 ~~, as now or hereafter amended~~.

11 Sec. 33. Section 81-2235, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 81-2235 (1) Each care management unit may be reimbursed by the
14 Department of Health and Human Services for costs not paid for by the
15 individual or through other reimbursement specified in section 81-2234.
16 Reimbursement by the department shall be based on actual casework time
17 units expended on all care management services provided and shall include
18 expenses for personnel, administration and planning, client eligibility
19 review, contractual services, and necessary support services and other
20 necessary actual and indirect costs. Standardized rates of reimbursement
21 shall be adopted and promulgated by the department and shall be adjusted
22 at least every three years.

23 (2) Appropriations for reimbursement by the department for services
24 provided under sections 81-2229 to 81-2235 and for the costs of the
25 department to administer the program shall be appropriated separately
26 from funds appropriated under the Nebraska Community Aging Services Act.

27 ~~(3) Funds appropriated under this section shall not be used to~~
28 ~~replace funds appropriated under the Nebraska Community Aging Services~~
29 ~~Act and granted to the area agencies on aging prior to August 30, 1987,~~
30 ~~and used to provide case management or care management services in their~~
31 ~~planning and service area, except that such funds may be replaced by non-~~

1 ~~Nebraska Community Aging Services funds that are obtained subsequent to~~
2 ~~August 30, 1987, as allowed under rules and regulations adopted and~~
3 ~~promulgated by the Department of Health and Human Services.~~

4 Sec. 34. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
5 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35,
6 and 37 of this act become operative three calendar months after the
7 adjournment of this legislative session. The other sections of this act
8 become operative on their effective date.

9 Sec. 35. Original sections 71-516.01, 71-516.02, 71-516.03,
10 81-2201, 81-2213, 81-2218, 81-2220, 81-2221, and 81-2235, Reissue Revised
11 Statutes of Nebraska, section 71-516.04, Revised Statutes Cumulative
12 Supplement, 2014, and sections 71-401 and 71-403, Revised Statutes
13 Supplement, 2015, are repealed.

14 Sec. 36. Original section 68-901, Revised Statutes Supplement,
15 2015, is repealed.

16 Sec. 37. The following section is outright repealed: Section
17 81-2228, Reissue Revised Statutes of Nebraska.

18 Sec. 38. Since an emergency exists, this act takes effect when
19 passed and approved according to law.