

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 409**

Introduced by Kolowski, 31.

Read first time January 18, 2019

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to the Health Care Facility Licensure Act; to
- 2 amend section 71-439, Reissue Revised Statutes of Nebraska; to adopt
- 3 design standards for health care facilities; and to repeal the
- 4 original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-439, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 71-439 (1) The Legislature adopts the 2018 Guidelines for Design and  
4 Construction of Hospitals, the 2018 Guidelines for Design and  
5 Construction of Outpatient Facilities, and the 2018 Guidelines for Design  
6 and Construction of Residential Health, Care, and Support Facilities  
7 published by the Facility Guidelines Institute for the construction of  
8 any health care facility on or after the effective date of this act and  
9 for any major addition, remodeling, restoration, repair, or renovation of  
10 any health care facility on or after the effective date of this act as  
11 determined by the department.

12 (2) The department may waive any rule, regulation, or standard  
13 adopted and promulgated by the department relating to construction or  
14 physical plant requirements of a licensed health care facility or health  
15 care service upon proof by the licensee satisfactory to the department  
16 (a) that such waiver would not unduly jeopardize the health, safety, or  
17 welfare of the persons residing in or served by the facility or service,  
18 (b) that such rule, regulation, or standard would create an unreasonable  
19 hardship for the facility or service, and (c) that such waiver would not  
20 cause the State of Nebraska to fail to comply with any applicable  
21 requirements of medicare or medicaid so as to make the state ineligible  
22 for the receipt of all funds to which it might otherwise be entitled.

23 (3) ~~(2)~~ In evaluating the issue of unreasonable hardship, the  
24 department shall consider the following:

- 25 (a) The estimated cost of the modification or installation;
- 26 (b) The extent and duration of the disruption of the normal use of  
27 areas used by persons residing in or served by the facility or service  
28 resulting from construction work;
- 29 (c) The estimated period over which the cost would be recovered  
30 through reduced insurance premiums and increased reimbursement related to  
31 cost;

1 (d) The availability of financing; and

2 (e) The remaining useful life of the building.

3 (4) ~~(3)~~ Any such waiver may be granted under such terms and  
4 conditions and for such period of time as provided in rules and  
5 regulations adopted and promulgated by the department.

6 Sec. 2. Original section 71-439, Reissue Revised Statutes of  
7 Nebraska, is repealed.