

LEGISLATURE OF NEBRASKA  
ONE HUNDRED NINTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 42**

Introduced by Riepe, 12.

Read first time January 09, 2025

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to public health and welfare; to amend  
2 sections 71-6038 and 71-6039, Reissue Revised Statutes of Nebraska;  
3 to provide for employment of nurse aides in intellectual and  
4 developmental disability facilities; and to repeal the original  
5 sections.  
6 Be it enacted by the people of the State of Nebraska,

1           **Section 1.** Section 71-6038, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           71-6038 For purposes of sections 71-6038 to 71-6042:

4           (1) Complicated feeding problems include, but are not limited to,  
5 difficulty swallowing, recurrent lung aspirations, and tube or parenteral  
6 or intravenous feedings;

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

8           (3) Nurse aide means any person employed by a service provider or  
9 facility described in subsection (1) of section 71-6039 for the purpose  
10 of aiding a licensed registered or practical nurse through the  
11 performance of nonspecialized tasks related to the personal care and  
12 comfort of residents other than a paid dining assistant or a licensed  
13 registered or practical nurse;

14           (4) Nursing home means any facility or a distinct part of any  
15 facility that provides care as defined in sections 71-420, 71-421,  
16 71-422, 71-424, and 71-429; ~~and~~

17           (5) Paid dining assistant means any person employed by a nursing  
18 home for the purpose of aiding a licensed registered or practical nurse  
19 through the feeding of residents other than a nurse aide or a licensed  
20 registered or practical nurse; and -

21           (6) Service provider means a person certified by the department to  
22 provide developmental disabilities services.

23           **Sec. 2.** Section 71-6039, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25           71-6039 (1) No person shall act as a nurse aide for a service  
26 provider under the medicaid comprehensive developmental disabilities  
27 waiver for services as defined in section 71-6501, or in a facility or a  
28 distinct part of a facility that provides care as defined in section  
29 71-405, 71-406, 71-409, 71-412, 71-416, 71-417, 71-418, 71-419, 71-420,  
30 71-421, 71-422, 71-424, 71-426, 71-427, or 71-429 unless such person:

31           (a) Is at least sixteen years of age and has not been convicted of a

1 crime involving moral turpitude;

2 (b) Is able to speak and understand the English language or a  
3 language understood by a substantial portion of the facility residents;  
4 and

5 (c) Has successfully completed a basic course of training approved  
6 by the department for nurse aides within one hundred twenty days of  
7 initial employment in the capacity of a nurse aide.

8 (2)(a) A registered nurse or licensed practical nurse whose license  
9 has been revoked, suspended, or voluntarily surrendered in lieu of  
10 discipline may not act as a nurse aide for a service provider or in a  
11 facility described in subsection (1) of this section.

12 (b) If a person registered as a nurse aide becomes licensed as a  
13 registered nurse or licensed practical nurse, his or her registration as  
14 a nurse aide becomes null and void as of the date of licensure.

15 (c) A person listed on the Nurse Aide Registry with respect to whom  
16 a finding of conviction has been placed on the registry may petition the  
17 department to have such finding removed at any time after one year has  
18 elapsed since the date such finding was placed on the registry.

19 (3) The department may prescribe a curriculum for training nurse  
20 aides and may adopt and promulgate rules and regulations for such courses  
21 of training. The content of the courses of training and competency  
22 evaluation programs shall be consistent with federal requirements unless  
23 exempted. The department may approve courses of training if such courses  
24 of training meet the requirements of this section. Such courses of  
25 training shall include instruction on the responsibility of each nurse  
26 aide to report suspected abuse or neglect pursuant to sections 28-372 and  
27 28-711. Nursing homes may carry out approved courses of training within  
28 the nursing home, except that nursing homes may not conduct the  
29 competency evaluation part of the program. The prescribed training shall  
30 be administered by a licensed registered nurse.

31 (4) For nurse aides at intermediate care facilities for persons with

1 developmental disabilities, such courses of training shall be no less  
2 than twenty hours in duration and shall include at least fifteen hours of  
3 basic personal care training and five hours of basic therapeutic and  
4 emergency procedure training, and for nurse aides at all nursing homes  
5 other than intermediate care facilities for persons with developmental  
6 disabilities, such courses shall be no less than seventy-five hours in  
7 duration.

8 (5) This section shall not prohibit any facility from exceeding the  
9 minimum hourly or training requirements.

10 **Sec. 3.** Original sections 71-6038 and 71-6039, Reissue Revised  
11 Statutes of Nebraska, are repealed.