2012

STATE OF NEBRASKA

STATUTES RELATING TO NURSING ASSISTANTS AND PAID DINING ASSISTANTS (NURSING HOMES)

Department of Health and Human Services
Division of Public Health
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NURSING HOMES
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(c) TRAINING REQUIREMENTS

71-6038. Terms, defined. For purposes of sections 71-6038 to 71-6042:

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

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

(3) Nursing assistant means any person employed by a nursing home for the purpose of aiding a licensed registered or practical nurse through the performance of nonspecialized tasks related to the personal care and comfort of residents other than a paid dining assistant or a licensed registered or practical nurse;

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

(5) Paid dining assistant means any person employed by a nursing home for the purpose of aiding a licensed registered or practical nurse through the feeding of residents other than a nursing assistant or a licensed registered or practical nurse.

Source: Laws 1983, LB 273, § 1; Laws 1984, LB 416, § 10; Laws 1988, LB 190, § 4; Laws 1990, LB 1080, § 6; Laws 1994, LB 1210, § 148; Laws 1996, LB 1044, § 749; Laws 1998, LB 1354, § 40; Laws 2004, LB 1005, § 110; Laws 2007, LB296, § 642; Laws 2007, LB463, § 1235. The changes made by LB 296 became operative July 1, 2007. The changes made by LB 463 became operative December 1, 2008.

71-6039. Nursing assistant; qualifications; training requirements; department; duties; licensure as nurse; effect. (1) No person shall act as a nursing assistant in a nursing home unless such person:

(a) Is at least sixteen years of age and has not been convicted of a crime involving moral turpitude;

(b) Is able to speak and understand the English language or a language understood by a substantial portion of the nursing home residents; and

(c) Has successfully completed a basic course of training approved by the department for nursing assistants within one hundred twenty days of initial employment in the capacity of a nursing assistant at any nursing home.

(2)(a) A registered nurse or licensed practical nurse whose license has been revoked, suspended, or voluntarily surrendered in lieu of discipline may not act as a nursing assistant in a nursing home.

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

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

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

(4) For nursing assistants at intermediate care facilities for the mentally retarded, such courses of training shall be no less than twenty hours in duration and shall include at least fifteen hours of basic personal care training and five hours of basic therapeutic and emergency procedure training, and for nursing assistants at all nursing homes other than intermediate care facilities for the mentally retarded, such courses shall be no less than seventy-five hours in duration.

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

Source: Laws 1983, LB 273, § 2; Laws 1984, LB 416, § 11; Laws 1986, LB 921, § 11; Laws 1988, LB 463, § 49; Laws 1990, LB 1080, § 7; Laws 1994, LB 1210, § 149; Laws 2004, LB 1005, § 111; Laws 2007, LB185, § 43; Laws 2007, LB463, § 1236. The changes made by LB 185 became operative September 1, 2007. The changes made by LB 463 became operative December 1, 2008.

71-6039.01. Paid dining assistant; qualifications. No person shall act as a paid dining assistant in a nursing home unless such person:

(1) Is at least sixteen years of age;

(2) Is able to speak and understand the English language or a language understood by the nursing home resident being fed by such person;

(3) Has successfully completed at least eight hours of training as prescribed by the department for paid dining assistants;

(4) Has no adverse findings on the Nurse Aide Registry or the Adult Protective Services Central Registry; and

(5) Has no adverse findings on the central register created in section 28-718 if the nursing home which employs such person as a paid dining assistant has at any one time more than one resident under the age of nineteen years.

Source: Laws 2004, LB 1005, § 115. Operative date April 16, 2004.

71-6039.02. Paid dining assistant; permitted activities. A paid dining assistant shall:

(1) Only feed residents who have no complicated feeding problems as selected by the nursing home based on the resident's latest assessment and plan of care and a determination by the charge nurse that the resident's condition at the time of such feeding meets that plan of care;

(2) Work under the supervision of a licensed registered or practical nurse who is in the nursing home and immediately available; and

(3) Call a supervisor for help in an emergency.

Source: Laws 2004, LB 1005, § 116. Operative date April 16, 2004.

71-6039.03. Paid dining assistant; training requirements. (1) The department may prescribe a curriculum for training paid dining assistants and may adopt and promulgate rules and regulations for such courses of training. Such courses shall be no less than eight hours in duration. The department may approve courses of training for paid dining assistants that meet the requirements of this section. Nursing homes may carry out approved courses of training and competency evaluation programs at the nursing home. Training of paid dining assistants shall be administered by a licensed registered nurse.

(2) Courses of training and competency evaluation programs for paid dining assistants shall include:

(a) Feeding techniques;

(b) Assistance with feeding and hydration;

(c) Communication and interpersonal skills;

(d) Appropriate responses to resident behavior;

(e) Safety and emergency procedures, including the abdominal thrust maneuver;

(f) Infection control;

(g) Resident rights;

(h) Recognizing changes in residents that are inconsistent with their normal behavior and the importance of reporting those changes to the supervisory nurse;

(i) Special needs; and

(j) Abuse and neglect, including the responsibility to report suspected abuse or neglect pursuant to sections 28-372 and 28-711.

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

Source: Laws 2004, LB 1005, § 117. Operative date April 16, 2004.

71-6039.04. Paid dining assistant registry. The department shall maintain a paid dining assistant registry and shall include in the registry individuals who have successfully completed a paid dining assistant course of training and a competency evaluation program.

Source: Laws 2004, LB 1005, § 118. Operative date April 16, 2004.

71-6039.05. Paid dining assistant; nursing home; duties. Each nursing home shall maintain (1) a record of all paid dining assistants employed by such facility, (2) verification of successful completion of a training course for each paid dining assistant, and (3) verification that the facility has made checks with the Nurse Aide Registry, the Adult Protective Services Central Registry, and the central register created in section 28-718, if applicable under section 71-6039.01, with respect to each paid dining assistant.

Source: Laws 2004, LB 1005, § 119. Operative date April 16, 2004.

71-6039.06. Eligibility for Licensee Assistance Program. Nursing assistants and paid dining assistants are eligible to participate in the Licensee Assistance Program as prescribed by section 38-175.

Source: Laws 2007, LB463, § 1240; Operative date December 1, 2008.

71-6040. Department; approve programs and materials. The department shall approve all courses, lectures, seminars, course materials, or other instructional programs used to meet the requirements of sections 71-6038 to 71-6042.

Source: Laws 1983, LB 273, § 3; Laws 1996, LB 1044, § 750; Laws 2004, LB 1005, § 112; Laws 2007, LB463, § 1237. Operative date December 1, 2008.

71-6041. Department; adopt rules and regulations. To protect the health, safety, and welfare of nursing home residents and the public, the department shall adopt and promulgate such rules and regulations as are necessary for the effective administration of sections 71-6038 to 71-6042. Such rules and regulations shall be consistent with federal requirements developed by the United States Department of Health and Human Services.

Source: Laws 1983, LB 273, § 4; Laws 1994, LB 1210, § 150; Laws 1996, LB 1044, § 751; Laws 2004, LB 1005, § 113; Laws 2007, LB463, § 1238. Operative date December 1, 2008.

71-6042. Chief medical officer; enforcement; powers. The chief medical officer as designated in section 81-3115 shall have the authority to enforce sections 71-6038 to 71-6042 and rules and regulations adopted under section 71-6041 by any of the following means: Denial, suspension, restriction, or revocation of a nursing home's license, refusal of the renewal of a nursing home's license, restriction of a nursing home's admissions, or any other enforcement provision granted to the department.

Source: Laws 1983, LB 273, § 5; Laws 2004, LB 1005, § 114; Laws 2007, LB296, § 643; Laws 2007, LB463, § 1239. The changes made by LB 296 became operative July 1, 2007. The changes made by LB 463 became operative December 1, 2008.

STATUTES RELATING TO OFFENSES AGAINST THE PERSON

28-372. Report of abuse, neglect, or exploitation; required; contents; notification; toll-free number established. (1) When any physician, psychologist, physician assistant, nurse, nursing assistant, other medical, developmental disability, or mental health professional, law enforcement personnel, caregiver or employee of a caregiver, operator or employee of a sheltered workshop, owner, operator, or employee of any facility licensed by the department, or human services professional or paraprofessional not including a member of the clergy has reasonable cause to believe that a vulnerable adult has been subjected to abuse, neglect, or exploitation or observes such adult being subjected to conditions or circumstances which reasonably would result in abuse, neglect, or exploitation, he or she shall report the incident or cause a report to be made to the appropriate law enforcement agency or to the department. Any other person may report abuse, neglect, or exploitation if such person has reasonable cause to believe that a vulnerable adult has been subjected to abuse, neglect, or exploitation or observes such adult being subjected to conditions or circumstances which reasonably would result in abuse, neglect, or exploitation.

(2) Such report may be made by telephone, with the caller giving his or her name and address, and, if requested by the department, shall be followed by a written report within forty-eight hours. To the extent available the report shall contain: (a) The name, address, and age of the vulnerable adult; (b) the address of the caregiver or caregivers of the vulnerable adult; (c) the nature and extent of the alleged abuse, neglect, or exploitation or the conditions and circumstances which would reasonably be expected to result in such abuse, neglect, or exploitation; (d) any evidence of previous abuse, neglect, or exploitation, including the nature and extent of the abuse, neglect, or exploitation; and (e) any other information which in the opinion of the person making the report may be helpful in establishing the cause of the alleged abuse, neglect, or exploitation and the identity of the perpetrator or perpetrators.

(3) Any law enforcement agency receiving a report of abuse, neglect, or exploitation shall notify the department no later than the next working day by telephone or mail.

(4) A report of abuse, neglect, or exploitation made to the department which was not previously made to or by a law enforcement agency shall be communicated to the appropriate law enforcement agency by the department no later than the next working day by telephone or mail.

(5) The department shall establish a statewide toll-free number to be used by any person any hour of the day or night and any day of the week to make reports of abuse, neglect, or exploitation.

Source: Laws 1988, LB 463, § 25; Laws 1996, LB 1044, § 66; Laws 2006, LB 994, § 52; Laws 2007, LB296, § 32; Laws 2012, LB1051, § 10. Effective Date: July 19, 2012.

STATUTES RELATING TO OFFENSES INVOLVING THE FAMILY RELATION

28-711. Child subjected to abuse or neglect; report; contents; toll-free number. (1) When any physician, any medical institution, any nurse, any school employee, any social worker, the Inspector General appointed under section 43-4317, or any other person has reasonable cause to believe that a child has been subjected to child abuse or neglect or observes such child being subjected to conditions or circumstances which reasonably would result in child abuse or neglect, he or she shall report such incident or cause a report of child abuse or neglect to be made to the proper law enforcement agency or to the department on the toll-free number established by subsection (2) of this section. Such report may be made orally by telephone with the caller giving his or her name

and address, shall be followed by a written report, and to the extent available shall contain the address and age of the abused or neglected child, the address of the person or persons having custody of the abused or neglected child, the nature and extent of the child abuse or neglect or the conditions and circumstances which would reasonably result in such child abuse or neglect, any evidence of previous child abuse or neglect including the nature and extent, and any other information which in the opinion of the person may be helpful in establishing the cause of such child abuse or neglect and the identity of the perpetrator or perpetrators. Law enforcement agencies receiving any reports of child abuse or neglect under this subsection shall notify the department pursuant to section 28-718 on the next working day by telephone or mail.

(2) The department shall establish a statewide toll-free number to be used by any person any hour of the day or night, any day of the week, to make reports of child abuse or neglect. Reports of child abuse or neglect not previously made to or by a law enforcement agency shall be made immediately to such agency by the department.

Source: Laws 1977, LB 38, § 150; Laws 1979, LB 505, § 2; Laws 1982, LB 522, § 4; Laws 1988, LB 463, § 43; Laws 2002, LB 1105, § 432; Laws 2005, LB 116, § 2; Laws 2012, LB821, § 39. Effective Date: April 12, 2012.