

2016 Summary of Legislative Bills Passed into Law Impacting DHHS

May 16, 2016

LB 19 (Krist) Change provisions relating to laboratory certification under the Nebraska Safe Drinking Water Act.

LB 19 eliminates permissive language that allows the Director of Public Health to certify laboratories performing tests on water that is intended for human consumption. This bill requires the Director to:

- Certify and enter into authorization agreements with laboratories to perform tests on water that is intended for human consumption, including the tests required by the director for compliance and monitoring purposes.
- Establish, through rules and regulations, standards for certification. These standards may include requirements for staffing, equipment, procedures and methodology for conducting laboratory tests. These standards shall provide for certification of independent laboratories to test samples. Also, these standards must be consistent with the requirements for performing laboratory tests established by the U.S. Environmental Protection Agency.
- To adopt and promulgate rules and regulations which list accreditation bodies, public agencies and federal programs that may be accepted as evidence that a laboratory meets the standards of certification.

The Director will also be able to accept accreditation by a recognized independent accreditation body, public agency, or federal program which has standards that are at least as stringent as the standards in this section of law.

LB 19 also requires inspection fees and fees for certifying other laboratories to be established and collected to defray the costs of inspection and certification. This bill also permits laboratories to test water samples which are not compliance samples. Compliance samples are water samples required under the Nebraska Safe Drinking Water Act and DHHS rules and regulations.

LB 19 effective date, July 21, 2016.

LB 235 (Howard) Adopt the Consumer Protection in Eye Care Act.

LB 235 provides definitions for spectacles (eyeglasses), over-the-counter spectacles and kiosks. Spectacles are defined as an optical instrument or device worn or used by an individual that has one or more lenses designed to correct or enhance vision addressing the visual needs of the individual wearer, commonly known as glasses or eyeglasses.

Over-the-counter spectacles are defined as eyeglasses or lenses in a frame for the correction of vision that may be sold by any person, firm, or corporation at retail without a prescription. The lenses in over-the-counter spectacles must be of uniform focus power in each eye and shall not exceed +3.25 diopters. Kiosks are defined as automated equipment or application designed to be used on a telephone, computer, or Internet-based device that can be used either in person or remotely to conduct an eye examination.

This bill prohibits a person in this state from dispensing contact lens or other spectacles, other than over-the-counter spectacles, to a patient without a valid prescription from a provider. Requirements for a valid prescription are provided in the bill. The prescription shall take into consideration any medical findings and any refractive error discovered during the eye examination. A provider may not refuse to release a prescription for spectacles or contact lens to a patient.

The kiosks will be required to meet the federal requirements of the Food and Drug Administration, the Health Insurance Portability and Accountability Act and the American Disabilities Act. The procedure must have a recognized Current Procedural code maintained by the American Medical Association. If the kiosk has a physical location, the name and state license number of the provider shall be prominently displayed on the kiosk. Requirements for diagnostic information are provided in the bill.

The Uniform Credentialing Act (UCA) will be required to apply to any person alleged or believed to have violated this act. DHHS shall investigate potential violations of this act and take appropriate action as provided by the UCA.

DHHS will be allowed to impose a civil penalty against a person who has violated the UCA and this act. The civil penalty shall not exceed ten thousand dollars or each violation. DHHS may also issue a warning if there is no harm to human health. At the request of DHHS, the Attorney General may file a civil action to enforce this act. This bill also allows DHHS, in consultation with the Board of Optometry and Board of Medicine and Surgery, to adopt and promulgate rules and regulations to carry out this act.

LB 235 effective date, July 21, 2016.

LB 471 (Howard) Change prescription drug monitoring provisions and create the Veterinary Prescription Monitoring Program Task Force.

PRESCRIPTION DRUG MONITORING:

LB 471 requires DHHS to establish a system of prescription drug monitoring. On January 1, 2017, all dispensed prescriptions of controlled substances shall be reported. Beginning January 1, 2018, all prescription information shall be reported to the prescription drug monitoring system.

Definitions for designee, dispenser and prescriber are provided in the bill and the prescription drug monitoring system shall include, but not be limited to, provisions that:

- Prohibit any patient from opting out of the system;
- Require all prescriptions dispensed in this state or to an address in this state to be entered in the system by the dispenser;
- Allow all prescribers or dispensers of prescription drugs to access the system at no cost; and
- Ensure that the system includes information relating to all payors.

Dispensers will be allowed to begin to report dispensing of prescriptions to DHHS and prescription information submitted to the system shall include, but not be limited to the:

- Patient's name, address, and date of birth;
- Name and address of the pharmacy dispensing the prescription;
- Date of the prescription issued;
- Date of the prescription filled;
- Name of the drug dispensed or the National Drug Code number;
- Strength of the drug prescribed;
- Quantity of the drug prescribed and the number of days' supply; and
- Prescriber's name and National Provider Identifier number or Drug Enforcement Administration number when reporting a controlled substance.

LB 471 does not allow for prescription information, all data in the system and any report obtained from this data to be public records and may be withheld.

VETERINARY PRESCRIPTION MONITORING PROGRAM:

Beginning January 1, 2018, LB 471 requires a veterinarian to report a dispensed prescription of controlled substances and also creates the Veterinary Prescription Monitoring Program Task Force. The task force is required to conduct a study to develop recommendations of which controlled substances shall be reported by a veterinarian to the prescription drug monitoring program. The study shall include appropriate methods and procedures of reporting by the veterinarians with the necessary data field information. The task force shall utilize nationally available resources afforded by the American Association of Veterinary State Boards and the Department of State Legislative and Regulatory Affairs of the American Veterinary Medical Association in development of recommendations.

Membership provisions for the task force are also created through LB 471. The task force shall consist of ten members appointed by the chairperson of the Health and Human Services Committee. These members consist of two members of the Legislature, veterinarians, and a pharmacist and include a representative of the prescription drug monitoring program who shall be a non-voting member. Also, requirements involving meetings and reporting to the Legislature are provided in the bill.

LB 471 effective date, February 26, 2016.

LB 567 (Johnson) Change transfer of prescription refill information provisions and provide for forwarding original prescriptions.

LB 567 allows a pharmacist to forward an original prescription for a non-controlled substance to another pharmacy at the request of the patient or the patient's caregiver. An original prescription for a controlled substance shall not be forwarded to another pharmacy unless permitted under federal regulations.

LB 567, effective date, July 21, 2016.

LB 680 (Riepe) Change requirements for pharmacy technicians.

LB 680 requires a pharmacy technician in a health care facility to be certified by a state or national certifying body approved by the Board of Pharmacy. The pharmacy technician must be certified by January 1, 2017, if he or she registered with the Pharmacy Technician Registry on or by January 1, 2016. Also, the pharmacy technician may be certified within one year after being registered with the Pharmacy Technician Registry, if he or she was so registered after January 1, 2016. Upon being so certified, the pharmacy technician is required to maintain current certification during the time he or she is so registered.

LB 680 effective date, April 7, 2016.

LB 698 (Mello) Adopt the Home Care Consumer Bill of Rights Act and the Assisting Caregiver Transitions Act, and change provisions of the Medicaid Assistance Act (Medicaid), Health Care Facility Act, Alzheimer's Special Care Disclosure Act, and Nebraska Community Aging Services Act.

LB 698 changes provisions relating to home care consumer rights, assisting caregivers, Medicaid providers' criminal history record information, memory care endorsement and aging services.

HOME CARE CONSUMER RIGHTS:

LB 698 defines a home care consumer as any person who receives home care services and who is sixty years of age or older, or a person with disabilities and is younger than sixty years of age. A home care consumer shall also include the parent or guardian of the home care consumer when the consumer is a minor child. This bill also provides definitions for home care services and provider of home care services and provides rights for home care consumers, who are minor children and incapacitated persons, to be represented by a guardian or attorney.

In addition to any other rights recognized under state or federal law, the following rights for home care consumers are provided through LB 698:

- The right to confidentiality of all personal, financial, and medical information;

- The right to receive disclosure from the provider of home care services in writing and in plain language;
- The right to be informed of the home care consumer's rights under this Act by a provider of home care services prior to receiving home care services;
- The right to be informed of the contact information for the entities the home consumers may contact if the home care consumer's rights are violated;
- The right to participate in the planning of his or her home care services;
- The right to receive sufficient information to make informed decisions;
- The right to refuse home care services;
- The right to be informed of the cost of home care services prior to receiving those services;
- Right to receive care and services provided in a way that promotes his or her dignity and individually; and
- The right to express grievances about any violations to this act and to assert these rights without retaliation.

The Attorney General is allowed to enforce this act if there is cause to believe that any provider of home care services is violating this act. The Attorney General may:

- Require a provider of home care services to file a statement or report in writing under oath;
- Examine under oath any person in connection with the provision of these services;
- Examine any property or sample thereof as the Attorney General deems necessary; and
- Issue subpoenas to require the attendance of witnesses or the production of documents.
- Bring a civil action. Any person who violates this act shall be subject to a civil penalty of not more than \$2,000 for each violation.
- Seek and recover actual damages for each home care consumer injured by the violation of this act.

Also, any home care consumer who suffers a loss or harm as a result of a violation of this act may file a civil action to recover actual damages, attorney's fees and court costs.

ASSISTING CAREGIVERS:

LB 698 provides definitions and requires a hospital to give each patient or patient's legal guardian the opportunity to designate at least one caregiver as soon as practicable, and prior to the patient's release and to designate a caregiver after the patient's recovery if the patient is unconscious or incapacitated. A patient or his or her legal guardian is not required to designate a caregiver, and a person designated as a caregiver is not obligated to accept such designation.

Hospitals are required to document information regarding refusal for a caregiver, designation of caregiver, changes to these designations, discharge plan instructions and delay in contacting

caregiver in the patient's medical record. The hospital must notify the caregiver of the patient's discharge from the hospital or to another facility. If a hospital is unable to make this contact, the lack of contact shall not affect the medical care to the patient.

Hospitals will also be required to issue a discharge plan that describes the patient's aftercare needs and provide the caregiver with instructions concerning all aftercare tasks described in the discharge plan. This bill does not create a private right of action or create additional liability for hospital. The bill does not affect licensure of the facility, reimbursement, or interfere with a valid health care power of attorney. Also, DHHS will be permitted to adopt and promulgate rules and regulations.

MEDICAID PROVIDERS CRIMINAL HISTORY RECORD INFORMATION:

LB 698 requires that certain Medicaid providers be subject to a national criminal history record information check. Any provider with a high-categorical-risk level, as determined by the State Medicaid program or the Centers for Medicare and Medicaid Services, will be subject to a fingerprint-based criminal history record information check. Such provider who is an individual, or any individual with at least a five percent ownership interest in such provider, shall provide their fingerprints to the Nebraska State Patrol (NSP). NSP shall undertake a search for this information relating to such provider. This search shall include transmittal of the fingerprints to the Federal Bureau of Investigation for a national fingerprint-based criminal history record information check. This information check shall include information concerning the provider from federal repositories and repositories of in other states. NSP is required to issue a report to DHHS that includes this information. The provider or individual being screened is required to pay the actual cost of the information check.

DHHS will be required to maintain a record of the results of this information check, and is authorized to deny or terminate the enrollment of any Medicaid provider and their owner who do not pass the information check. Criteria for not passing this information check includes criminal convictions within the last ten years involving federal health programs or any conviction involving fraudulent activities.

MEMORY CARE ENDORSEMENT:

LB 698 provides for a memory care endorsement under this act. Memory care endorsement is defined in this bill as an endorsement for the license of an assisted-living facility providing care for persons with cognitive impairments or dementia.

Assisted-living facilities are allowed to apply to DHHS for a memory care endorsement on a form prescribed by DHHS. Only an assisted-living facility, which qualifies for an endorsement, may advertise itself as an endorsed memory care facility and may qualify for Medicaid reimbursement. In order to qualify for this endorsement, an assisted-living facility shall provide proof of meeting DHHS requirements.

DHHS will be required to adopt and promulgate rules and regulations establishing qualifications for a memory care endorsement. The qualifications shall be specific to those necessary for residents with cognitive impairment or dementia. The qualifications include staffing enhancements, staff training, dedicated memory care programming, cultural competencies, facility requirements and security issues. DHHS shall award this endorsement to an assisted-living facility upon application which meets the qualifications and payment of fee and set the fee at an amount to cover the costs of administering the endorsement.

DHHS is required to examine the rates paid for care for persons with cognitive impairment or dementia including state spending and Medicaid reimbursement rates.

AGING SERVICES:

LB 698 removes outdated funding language and changes provisions relating area plans and budgets under the Nebraska Community Aging Services Act. In order to comply with current federal laws, each area agency on aging is required to submit a two-year, three-year, or four-year area plan and budget to DHHS and requires DHHS to review and approve these plans and budgets.

The portions of this bill relating to home care consumer rights, assisting caregivers, memory care endorsement and aging services become effective July 21, 2016. The portion of the bill relating to Medicaid providers' criminal history record information check became effective March 31, 2016.

LB 721 (Baker) Adopt the Surgical First Assistant Practice Act.

LB 721 provides findings and definitions and allows a surgical first assistants to engage in the practice of surgical assisting. This practice may include assisting in the intraoperative care of a surgical patient, positioning the patient, assisting with hemostasis, applying appropriate wound dressings and preparing specimens.

LB 721 requires an applicant for licensure to:

- Be certified as a surgical first assistant by an approved certifying body;
- Have successfully completed an approval surgical first assistant education program approved by the Board of Medicine and Surgery or other experiential or training program as approved by the board;
- Have passed a nationally recognized surgical first assistant examination adopted by the board; and
- Have a high school diploma or the equivalent as determined by the board

This bill allows DHHS to waive the education and examination requirements for an applicant under this act who:

- By January 1, 2017, submits demonstrated evidence satisfactory to the board that he or she has been functioning as a surgical first assistant as his or her primary function in a licensed health care facility within the last five years before September 1, 2016;
- By January 1, 2017, submits evidence of holding a current certification as a surgical first assistant issued by an approved certifying body; or
- Submits evidence of holding a credential as a surgical first assistant issued by another state or territory of the United States or District of Columbia which has standards substantially equivalent to those of this state.

Licensed surgical first assistants are required to perform delegated functions only under the personal supervision of a physician. The board will need to recommend to DHHS the issuance of these licenses, investigate and adopt standards and provide for distribution of information regarding this practice.

This act shall not be construed to prohibit any nurse practitioner, registered nurse, physician or physician assistant from engaging in the practice for which he or she is credentialed. Also, this act shall not be construed to prohibit any student enrolled in a surgical first assistant program from performing those duties which are necessary for the student's course of study, if the duties are performed under the personal supervision of a physician. This act also allows a person holding an active license as a licensed certified surgical first assistant to have the right to use the title licensed surgical first assistant and the abbreviation, L.S.F.A.

DHHS is required to establish and collect fees for initial licensure and renewal under this act. DHHS is required to receive and investigate complaints, conduct hearings, and impose disciplinary actions relating to complaints against surgical first assistants. DHHS also is required to perform other duties as required under this act and the Uniform Credentialing Act.

LB 721 operative date, January 1, 2017.

LB 722 (Baker) Adopt the Stroke System of Care Act.

LB 722 allows a hospital that is designated as a comprehensive stroke care center or a primary stroke center to enter into a coordinating stroke care agreement with an acute stroke-ready hospital to provide appropriate access to care for acute stroke patients. The agreement shall be in writing and shall include a transfer agreement and communication criteria and protocol.

Beginning on January 1, 2017:

- A hospital that does not have certification shall have a pre-determined plan for the triage and transfer of acute stroke patients and shall file the plan annually with DHHS.
- An emergency medical service is required to use the stroke triage assessment tool that is substantially similar to DHHS's tool.
- A licensed emergency medical service shall establish pre-hospital care protocols related to the assessment, and transport of a stroke patient by the emergency medical service.

LB 722 provides findings and definitions and requires DHHS to designate hospitals as comprehensive stroke centers, primary stroke centers, and acute stroke-ready hospitals based on certification from the American Heart Association, the Joint Commission on Accreditation of Healthcare Organizations, or other nationally recognized, guidelines-based organization that provides certification for stroke care. DHHS shall compile and maintain a list of such hospitals and post the list on its web site. Before June 1 of each year, DHHS shall send the list to the physician medical director of each emergency medical service in Nebraska. This bill prohibits a person from advertising to the public, by way of any medium, that a hospital is a comprehensive stroke center, primary stroke center, or acute stroke-ready hospital unless the hospital is listed by DHHS.

DHHS is required to adopt and distribute a nationally recognized, standardized stroke triage assessment tool. DHHS shall post this tool on its web site and provide a copy of this tool to each emergency medical service in Nebraska.

DHHS also is required to establish a stroke system of care task force to address matters of triage, treatment, and transport of possible acute stroke patients. The task force shall include representation from a program relating to chronic disease prevention within DHHS, Emergency Medical Services program within DHHS, the Office of Rural Health, the American Stroke Association, the Nebraska State Stroke Association, hospitals designated as primary stroke centers, rural hospitals, physicians, and emergency medical services.

The task force is required to provide advice and recommendations to DHHS regarding the implementation of this act. The task force shall:

- Focus on serving both rural and urban areas;
- Provide advice regarding protocols for the assessment, stabilization, and appropriate routing of stroke patients; and
- Recommend eligible essential health care services for acute stroke care provided through tele-health.

Also, the current Board of Emergency Medical Services will be required to adopt rules and regulations necessary to establish model protocols for compliance with this act.

LB 722 effective date, July 21, 2016.

LB 746 (Campbell) Adopt the Nebraska Strengthening Families Act, change provisions for guardians ad litem and services for children, create the Normalcy Task Force, and eliminate a reporting requirement.

NEBRASKA STRENGTHENING FAMILITES ACT:

LB 746 implements provisions of the federal Preventing Sex Trafficking and Strengthening Families Act. Legislative findings and definitions are provided in the bill.

Every child placed in a foster family home or child-care institution is required to be entitled to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities. This bill shall not affect the parental rights of a parent whose parental rights have been terminated. To the extent possible, a parent shall be consulted about his or her views on the child's participation in the activities in the planning process.

DHHS shall document such consultations. The child's participation in these activities shall be considered at any family team meeting. Each caregiver is required to use the reasonable and prudent parent standard in determining whether to give permission for a child to participate in extracurricular, enrichment, cultural, and social activities and defines parameters for this standard. This bill provides that a caregiver is not liable for harm to a child who participates in an activity approved by the caregiver or if the caregiver acted in accordance with the reasonable and prudent standard.

DHHS must ensure that each foster family home and child-care institution has policies consistent with this law and promotes and protects the ability of children to participate in age or developmentally appropriate activities. DHHS shall also require, as a condition of each contract entered into by a child-care institution to provide foster care, the presence onsite of at least one official who is designated to be the caregiver. Additionally, DHHS shall require, as a conditions of these contracts, that all children placed at the child-care institution be notified verbally and in writing of the process for making a request to participate in age or developmentally appropriate activities and that the written notice be posted in the child-care institution. DHHS is also directed to adopt and promulgate rules and regulations regarding training for foster parents and revoke any rules or regulations inconsistent with this act by October 15, 2016.

This bill requires juvenile courts, at every dispositional, review, or permanency planning hearing, to make a determination if these children are able to engage in such activities. DHHS and the courts shall work collaboratively to remove or reduce barriers to a child's participation in these activities.

The current case plan for a juvenile is required to also include a document that describes the rights of the child and a signed acknowledgement by the child that they have been provided this document. This document shall be provided to the child in a hard copy and offered within seventy-two hours of placement with a foster family home or child-care institution. DHHS shall require that the child-care institution post this document in an accessible location.

GUARDIANS AD LITEM/SERVICES FOR CHILDREN:

LB 746 requires guardian's ad litem to be in compliance with this act and provides changes to the written independent transition proposal used to transition the child, who is at least

fourteen years old, from foster care to successful adulthood. Revisions or additions to the proposal shall be made in consultation with the child. The proposal shall describe the services needed for the child to transition to a successful adulthood as provided in this act. The proposal shall now include behavioral health treatment and support needs as well as access to such treatment and support and permanent connections. The court shall determine whether the proposal includes the services to assist the child. DHHS shall provide without cost a copy of any consumer report as defined in federal law pertaining to the child each year until the child is discharged from care and assistance. DHHS is required to provide additional documents (i.e. health insurance information, child's medical records, list of local community resources) to the child as they become an adult and the proposal shall document this information. This bill also provides changes to the permanency plans.

DHHS shall recommend termination of parental rights and referral for adoption, guardianship, placement with a relative, or, as a last resort, another planned permanent living arrangement, for cases when the child has attained sixteen years of age. The permanency plan shall include the identification of significant supportive connections with adults willing to be involved in the child's life as they transition to adulthood. DHHS shall document their unsuccessful efforts to return the child home or place the child with a fit and willing relative. Courts are required to make a determination on these matters.

CHILDREN'S COMMISSION:

The Children's Commission is required to create a statewide strategic plan of reform of juvenile justice programs. The Commission must also develop a system-of-care plan beginning with prevention services through treatment services for the child welfare system based on relevant data and evidence-based practices. The plan shall include services that are goal-driven and outcome-based and shall evaluate the feasibility of using performance-based contracting. An analysis of case management workforce issues will also be required as well as making recommendations to the Health and Human Services Committee. Also, LB 746 extends the termination date of the commission to June 30, 2019.

NORMALCY TASK FORCE:

LB 746 creates the Normalcy Task Force. Beginning July 1, 2016, the task force will monitor and make recommendations regarding the implementation in Nebraska of the federal Preventing Sex Trafficking and Strengthening Families Act. Members of the task force will be required to include, but not be limited to, representatives from the legislative, executive and judicial branches, who will be non-voting members. Also, this task force shall include young adults, currently or previously, in foster care (may be filled by members of Project Everlast or a similar youth support or advocacy group), representatives from the juvenile probation system, a Foster Care Review Office, a child welfare advocacy organization, a child welfare service agency, an agency providing independent living services, child-care institution, former foster parents,

parents with experience in foster care system, guardians ad litem and professionals with relevant experience (i.e. caseworkers).

On or before July 1, 2016, the Nebraska Children’s Commission is to appoint the task force members. Members shall be appointed for terms of two years. The commission shall appoint a chairperson and fill vacancies. This task force will need to report, electronically, on its recommendations to the Commission, Health and Human Services Committee, DHHS and the Governor by December 15 of each year.

LB 746 (Children’s Commission and Normalcy Task Force), effective date, July 21, 2016. LB 746 (remainder of bill) operative date, July 1, 2016.

LB 750 (Lindstrom) Prohibit discrimination and retaliation against and provide for confidentiality of the identity of persons involved in making reports under the Uniform Credentialing Act (UCA).

LB 750 prohibits an individual or a business credentialed under the UCA, and a health care facility licensed under the Health Care Facility Licensure Act from discriminating or retaliating against any person who has initiated or participated in the making of a report that may result in a disciplinary action.

This bill clarifies that the identity of any person making such reports or providing information leading to the making of these reports shall be confidential.

LB 750 effective date, July 21, 2016.

LB 816 (Scheer) Change and eliminate provisions relating to state institution patient’s records.

LB 816 aligns state law with the federal Health Insurance Portability and Accountability Act (HIPAA) requirements regarding access to records of patients in state institutions. Specifically, these records will be accessible to law enforcement and county attorneys when a crime occurs on the premises of the institution, upon request when a patient or resident has been deceased for 55 years or more, or to current treatment providers. Also, this bill eliminates reporting requirements relating to children’s behavioral health.

LB 816 effective date, July 21, 2016.

LB 817 (Riepe) Adopt the Direct Primary Care Agreement Act.

LB 817 adopts the Direct Primary Care Agreement Act.

This bill requires that a valid direct agreement between a direct provider and a direct patient or the patient’s representative in which the direct provider charges a direct service charge to meet the following requirements:

- a direct agreement shall be in writing;

- a direct agreement shall be signed by the direct provider and direct patient;
- a direct agreement shall describe the scope of the primary care services;
- a direct agreement shall state each location where primary care services may be provided;
- a direct agreement shall specify the direct service charge and any other charges;
- a direct agreement shall specify the duration of the agreement;
- a direct agreement shall specify the terms and conditions;
- a direct agreement shall state it is terminable at will by written notice from direct provider to direct patient;
- a direct agreement shall state if it is terminated, direct provider must refund direct patient;
- a direct agreement shall state in writing that the direct patient is required to pay direct provider for any service not covered by the agreement; and
- a direct agreement shall include a notice; and
- a direct provider shall ensure that a copy of a direct agreement is given to each direct patient at the time the patient signs the direct agreement

A direct provider is required to provide a written disclaimer regarding the direct patient's financial rights and responsibilities. Requirements are provided for a direct provider involving refusal to accept new direct patients, notice of direct service charges and payment of health care services. A direct agreement is not insurance and not subject to state insurance law. Neither a direct provider nor an agent of a direct provider is required to obtain a certificate of authority or license to market, sell, or offer to sell a direct agreement. A direct agreement cannot be sold or transferred by either party without the written consent of the other party. A direct provider shall not bill an insurer for services provided under this agreement, but may bill insurance for services outside the direct agreement. A direct provider is allowed to accept payment of direct service charges directly or indirectly from third parties and to provide primary care services to a patient who is not a party to a direct agreement with that provider and may receive payment for the services.

This bill, for services outside the direct agreement, allows a direct provider to accept payment of direct service charges directly or indirectly from the Medicaid program or any managed care organization, subject to any necessary approval from the federal Centers for Medicare and Medicaid Services.

LB 817 effective date, July 21, 2016.

LB 859 (Campbell) Change cease and desist orders under the Uniform Credentialing Act.

LB 859 transfers the authority to issue cease and desist orders from the individual boards, to the director of the Division of Public Health with the recommendation of such board.

LB 859 effective date, March 10, 2016.

LB 867 (Legislative Performance Audit Committee) Change provision relating to the Administrative Procedure Act.

LB 867 provides legislative findings relating to rules and regulations and provides changes to the definition of a rule or regulation. A rule or regulation will be defined as any standard of general application adopted by an agency in accordance with the authority conferred by statute. A rule or regulation includes, but is not limited to, the amendment or repeal of a rule or regulation. A rule or regulation shall not include internal procedural documents which provide guidance to staff on agency organization, guidance documents and forms and instructions by an agency. Nothing in this bill shall be interpreted to require an agency and promulgate rules and regulations when statute authorizes, but does not require it. It does provide requirements relating to guidance documents.

This bill allows an agency to adopt, amend, or repeal a rule or regulation upon approval of the Governor if an agency determines that the adoption, amendment, or repeal of a rule or regulation is necessitated by an emergency situation. Such agency's request shall be submitted to the Governor in writing and include a justification as to why the emergency rule or regulation is necessary. Factors for the justification shall include imminent peril to the public health, safety or welfare; or the unforeseen loss of federal funding for an agency program.

Any agency is allowed to use the emergency rule or regulation procedure. However, no agency shall use such procedure to avoid the consequences for failing to timely adopt and promulgate rules and regulations. Rules, regulations adopted, amended, or repealed under this law are required to be exempted from the notice and hearing requirements and review process and shall be valid upon approval of the Governor. An emergency rule or regulation shall remain in effect for ninety calendar days and is renewable once for a period not to exceed ninety calendar days.

Also, any agency which adopts, amends, or repeals a rule or regulation under this law are required to file such rules and regulations with the Secretary of State. The agency shall also publish these rules and regulations on the agency's web site.

LB 867 becomes operative January 1, 2017.

LB 891 (Brasch) Adopt the Down Syndrome Diagnosis Information and Support Act.

LB 891 creates the Down Syndrome Diagnosis Information and Support Act and defines Down Syndrome as a chromosomal condition caused by cell division that results in the presence of an extra whole or partial copy of chromosome 21.

DHHS is required to make available up-to-date information about Down Syndrome that has been reviewed by medical experts and Down syndrome organizations. This information shall be in a written format and shall include a clinical course description, treatment and therapy options and life expectancy. Also, DHHS shall make available contact information for Down syndrome organizations that are nonprofit and that provide information and support services

for parents. These support services include first-call programs, information hotlines specific to Down syndrome, and resource centers or clearinghouses.

DHHS is also required to post this information on its web site and shall provide an information support sheet. This bill requires health care practitioners involved with prenatal or postnatal screening or diagnostic tests that detect Down syndrome to deliver to the parents the information support sheet with the above information made available by DHHS. Down syndrome organizations will be allowed to request that DHHS include the organization's informational material and contact information on the web site.

LB 891 effective date, July 21, 2016.

LB 894 (Pansing Brooks) Change provisions relating to juveniles.

LB 894 provides changes in juvenile law relating to alternative detention; jurisdiction, temporary custody and disposition; confinement, legal counsel and guardian ad litem.

ALTERNATIVE DETENTION:

This bill defines alternative detention as a program or directive that increases supervision of a youth in the community in an effort to ensure the youth attends court and refrains from committing a new law violation. Alternative detention includes, but is not limited to, electronic monitoring, house arrest and tracking. This term is inserted throughout the Juvenile Code. LB 894 inserts the definition of staff secure juvenile facility in the Juvenile Code and removes the outdated term, non-secure detention.

JURISDICTION, TEMPORARY CUSTODY & DISPOSITION:

This bill requires the juvenile court to have jurisdiction over juveniles eleven years or older at the time the act was committed. However, juveniles under the age of eleven shall not be adjudicated for misdemeanors, felonies, traffic offenses or being uncontrollable. The juveniles under the age of eleven shall be adjudicated under the child abuse and neglect statutes.

LB 894 allows a peace officer to take a juvenile into temporary custody when the juvenile is under eleven years of age and deliver them to DHHS and prohibits juveniles under the age of eleven from being placed in a juvenile detention facility.

CONFINEMENT:

This bill provides definitions for the purposes of this section of law. Juvenile facility will be defined as a residential child caring facility, a juvenile detention facility or staff secure juvenile facility, a facility operated by the Department of Corrections that houses youth under 18 years old or a youth rehabilitation and treatment center. Room confinement is defined as the involuntary restriction of a juvenile to a cell, room, or other area, including a juvenile's own room, except during normal sleeping hours. Intent is provided in the bill language regarding the use of room confinement.

LB 894 requires that room confinement of a juvenile for more than one hour shall be documented and approved in writing by a supervisor in the juvenile facility. Requirements for this documentation are provided. Also, if any physical or mental health clinical evaluation was performed during the confinement, the evaluation shall be considered in any future decisions of the juvenile being placed in confinement.

The juvenile facility is to submit a quarterly report to the Legislature on the following:

- Number of juveniles placed in room confinement;
- Length of time each juvenile was in room confinement;
- The race, ethnicity, age, and gender of each juvenile placed in room confinement;
- Facility staffing levels; and
- The reason each juvenile was placed in room confinement.

This report shall also address each instance of room confinement for more than four hours and detail all corrective measures taken in response to non-compliance. This report shall be electronically submitted within two weeks after the quarter ending on September 30, 2016 and for the ensuing quarters within two weeks after the end of each quarter. The Inspector General of Nebraska Child Welfare is to review all data collected pursuant to this section of law.

LEGAL COUNSEL:

This bill requires law enforcement or other governmental officials having custody of any person under eighteen years of age, to inform them of their right to call or consult an attorney and to permit consultation of attorney without delay. Counsel are to be appointed for juveniles for counties having a population of one hundred fifty thousand or more inhabitants. This bill does not require counsel to be appointed for juveniles for counties having a population of less than one hundred fifty thousand inhabitants. Any waiver of the juvenile's right to counsel is required to be made in open court, be recorded and be confirmed in writing signed by the juvenile. The juvenile's right to counsel may not be waived if he or she is under the age of fourteen. The Nebraska Supreme Court must provide guidelines setting forth standards for all attorneys who practice in juvenile court.

GUARDIAN AD LITEM DIVISION:

This bill allows a county board to create a county guardian ad litem division. The county board shall appoint a division director for this division. The qualifications for this director are provided in the bill. Assistant guardian's ad litem may be appointed by the director.

The provisions of LB 894 relating to jurisdiction, temporary custody and disposition and the Nebraska Supreme Court setting standards become effective July 1, 2017. The rest of these provisions become effective July 21, 2016.

LB 895 (Coash) Require a report regarding the Beatrice State Developmental Center and the Bridges Program.

LB 895, within the best interests of persons with development disabilities, requires DHHS to prepare a comprehensive plan for the Beatrice State Developmental Center (BSDC) and the Bridges program in Hastings, Nebraska. The plan shall include, but not be limited to:

- An analysis of residents of BSDC and the Bridges program and their needs and the ability to serve them in the community;
- The role of BSDC and the Bridges program in the continuum of services offered to persons with developmental disabilities in Nebraska;
- The preferences of residents of BSDC and the Bridges program and their families;
- Nationwide trends in facilities like BSDC and the Bridges program;
- The cost efficiency of services provided at BSDC and the Bridges program;
- An analysis of the facilities at BSDC and the Bridges program and the long-term structural needs of the facilities;
- Census trends and future needs for services at BSDC and the Bridges program; and
- The level of community integration for residents of BSDC and the Bridges program.

DHHS is required to:

- Prepare an assessment of the long-term viability of the facilities used to provide services at BSDC and Bridges.
- Analyze the U.S. Supreme Court's decision in *Olmstead v. L.C.*, and provide an analysis of Nebraska's compliance with the decision.
- Hold a public hearing to receive input from the public on BSDC and the Bridges program.
- Prepare a report to include an assessment, analysis and results of the hearing. DHHS shall submit the report electronically to the Legislature on or before June 1, 2017.

LB 895 effective date, April 8, 2016.

LB 898 (Fox) Exempt persons solely engaged in natural hair braiding from the credentialing requirements under the Uniform Credentialing Act.

LB 898 exempts any person engaging solely in natural hair braiding from the credentialing requirements of the Cosmetology, Electrology, Esthetics, Nail Technology and Body Art Practice Act. This bill defines natural hair braiding as the twisting, wrapping, weaving, extending, locking, or braiding of hair by hand or with mechanical devices (i.e. curlers, hairpins, rollers, scissors, thread). Natural hair braiding includes the use of natural or synthetic hair extensions, minor trimming of natural hair and the use of topical agents. Natural hair does not include the application of dyes or use of chemical hair joining agents.

LB 898 effective date, July 21, 2016.

LB 899 (Baker) Change lead content provisions relating to the Nebraska Safe Drinking Water Act.

LB 899 changes the definition of lead free to mirror the federal definition. Specifically, lead free is now defined as not containing more than two-tenths percent lead when used with respect to solder and flux and not containing more than a weighted average of twenty-five hundredths percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings and fixtures.

This bill allows DHHS to adopt and promulgate rules and regulations regarding the use of lead-free materials in public water systems in compliance with federal law.

LB 899 effective date, July 21, 2016.

LB 908 (Kolterman) Provide for temporary licenses for veterinary technicians.

LB 908 permits DHHS to grant a temporary license to practice as a veterinary technician for up to one year upon application by:

- A graduate of an approved veterinary technician program pending passage of the national examination approved by the Board of Veterinary Medicine and Surgery; or
- Person lawfully authorized to practice as a veterinary technician in another state pending completion of the application for a license under the Veterinary Medicine and Surgery Practice Act.

LB 908 effective date, July 21, 2016.

LB 919 (Williams) Change provisions relating to problem solving courts.

LB 919 expands the use of problem-solving courts in Nebraska to include veterans, mental health, driving under the influence, re-entry, and other problem-solving courts.

This bill updates:

- Legislative language findings relating to problem-solving courts; and
- The Nebraska Probation Administration Act by striking drug courts and replacing with problem-solving courts.

LB 919 effective date, July 21, 2016.

LB 924 (Kolterman) Provide and additional withholding procedure for certain payments under the Income Withholding for Child Support Act.

LB 924 authorizes the noncustodial parent to pay his or her child support through monthly automatic financial institution withdrawal through the State Disbursement Unit if the following conditions are met:

- The noncustodial parent, the custodial parent and DHHS sign a written, notarized agreement;
- The noncustodial parent is current and not in arrears on his or her child support payments at the time of the written, notarized agreement;
- the amount automatically withdrawn from the noncustodial parent's financial institution is at least the amount of the court-ordered monthly child support obligation; and
- The automatic financial institution withdrawal occurs on a regular, consistent basis each month.

Any partial payment or missed payment shall subject the noncustodial parent to mandatory income withholding as provided in the court order.

LB 924 effective date, July 21, 2016.

LB 934 (Coash) Changes provisions relating to the Adult Protective Services, provide for appointment, powers and duties of guardians ad litem, and change provisions of the Public Guardianship Act.

LB 934 provides changes to definitions relating to Adult Protective Services. This bill expands the current definition of exploitation to include criteria for taking of property of a vulnerable adult or senior adult. Also, the definition of isolation is created which involves intentional acts of preventing a vulnerable adult or senior adult from having contact with family and friends, preventing them from receiving their mail, use of physical or chemical restraint or being confined into a restricted area. Isolation does not include medical isolation, action taken in compliance with a harassment order or action authorized by a nursing home administrator. A senior adult is redefined as any person sixty-five years of age or older. The definition of vulnerable adult is changed to any person eighteen years of age or older who has a substantial mental or functional impairment for whom a guardian or conservator has been appointed. Provisions relating to guardians ad litem will also be changed through LB 934.

DHHS will be required to investigate each case of alleged abuse, neglect, or exploitation of a vulnerable adult. Criminal penalties for the assault, abuse, neglect, or exploitation of a senior adult are provided in LB 934.

LB 934 effective date, April 19, 2016.

LB 947 (Mello) State intent relating to professional or commercial licenses for certain aliens and restrict credential issuance as prescribed.

LB 947 provides legislative findings that it is in the best interest of the State to make full use of the skills and talents in the state by ensuring that a person who is work authorized is able to obtain a professional or commercial license. Nothing in this bill shall affect the requirements to obtain a professional or commercial license that are unrelated to the lawful presence

requirements or construed to grant eligibility for any public benefits other than obtaining a professional or commercial license. Any person who has complied with these requirements shall have his or her employment authorization document verified through the Systematic Alien Verification for Entitlements Program or an equivalent program.

This bill allows a credential to be issued to a person who submits:

- An unexpired employment authorization document issued by the U.S. Department of Homeland Security, Form I-766; and
- Documentation issued by the U.S. Department of Homeland Security, the U.S. Citizenship and Immigration Services or any federal agency (i.e. Form I-797) demonstrating that such person is described in the federal REAL ID Act.

Such credential shall be valid only for the period of time during which such person's authorization document is valid.

LB 947 effective date, April 21, 2016.

LB 956 (Speaker Hadley at the request of the Governor) Provide for deficit appropriations.

LB 956 appropriates funds to the Rural Health Provider Incentive Program, Child Abuse Prevention, Developmental Disability Aid, Public Health Aid, Behavioral Health Aid, Children's Health Insurance, Public Assistance, Medicaid, and Child Welfare Aid. This bill also provides new language relating to behavioral health appropriations and transfers involving public assistance and child welfare.

BEHAVIORAL HEALTH:

LB 956 appropriates \$200,000 General Funds, for the next fiscal year, to create and develop a plan for systems of care for adult users of behavioral health services. It is the intent of the Legislature for the plan to be developed in partnership with community stakeholders and consultants, or contractors may be utilized. The plan shall include a statewide assessment of needs, shall outline an infrastructure, services, support, and financing strategies to address the needs, and shall identify related short-term and long-term outcomes.

The Division of Behavioral Health will be required to report the results of the cost study of behavioral health rates to the Legislature. The final results, from phases of the cost study which have been completed by June 30, 2016, shall be reported on or before July 31, 2016. Thereafter, the final results of each phase shall be reported to the Legislature upon completion. At the conclusion of the rate study, a final report shall be submitted to the Legislature. This reporting shall be done electronically.

This bill appropriates one-time funding of \$100,000 Cash Funds to the Behavioral Health Aid program from the Health Care Cash Fund for housing services for persons with substance abuse

disorders. It is the intent of the Legislature that the funds be used for persons recovering from substance abuse disorders in the following manner:

- To support evidence-based practices that conform to nationally recognized standards for residential treatment;
- To increase access to residential treatment in areas of the state with demonstrable need; and
- To support the administrative need of providing housing services.

PUBLIC ASSISTANCE/CHILD WELFARE:

On or before June 30, 2016, the DHHS Chief Executive Officer is required to certify to the budget administrator of DAS (Department of Administrative Services) an amount, not to exceed ten million dollars, to be transferred from the Public Assistance program to the Child Welfare Aid program. The budget administrator shall transfer this amount. The Chief Executive Officer shall report the certified amount to the chairperson of the Appropriations Committee of the Legislature and the Legislative Fiscal Analyst at the same time if is certified to the budget administrator.

LB 956 effective date, March 31, 2016.

LB 981 (Business and Labor Committee) Provide for payment of claims against the state.

LB 981 provides payment of claims against the State as well as authorized agency write-offs of certain claims. This bill writes off \$1,590,534.29 for DHHS, and provides payments to other claims involving state agencies.

LB 981 effective date, March 31, 2016.

LB 1009 (Williams) Prohibit transactions involving lookalike substances, provide and change seizure and forfeiture authority, and prohibit conduct as deceptive trade practices.

LB 1009 defines look-alike substance within the Uniform Controlled Substances Act. Look-alike substance is defined as a product or substance, not specifically designated as a controlled substance, that is either portrayed in such a manner by a person to lead another person to reasonably believe that it produces effects on the human body that replicate, mimic, or are intended to simulate the effects produced by a controlled substance or that it possesses certain characteristics involving packaging.

This bill prohibits a person from offering, displaying, marketing, advertising for sale, or selling a look-alike substance. Penalties are provided in the bill. Look-alike substances will be added to the forfeiture statutes and to the Uniform Deceptive Trade Practices Act.

LB 1009 effective date, March 31, 2016.

LB 1011 (Campbell) Change provisions relating to at-risk managed care contracts as prescribed.

LB 1011 changes the requirements for all contracts and agreements relating to the Medicaid program governing at-risk managed care service delivery for behavioral health services. This bill requires the contracts and agreements to provide a definition and cap on administrative spending such that:

- Administrative expenditures do not include profit greater than the contracted amount;
- Any administrative spending is necessary to improve the health status of the population to be served; and
- Administrative expenditures do not include contractor incentives.

Administrative spending shall not under any circumstances exceed twelve percent. Such spending shall be tracked by the contractor and reported to DHHS quarterly.

The contracts and agreements are required to restrict profits under the contract to not exceed a percentage specified by DHHS, but not more than three percent, and must provide for reinvestment of any remittance if the contractor does not meet the minimum medical loss ratio. The contracts shall provide reinvestment of any unearned incentive funds, to fund all additional health services, not just behavioral services, for children, families and adults according to a plan developed with input from stakeholders and approved by DHHS.

LB 1011 effective date, July 21, 2016.

LB 1033 (Campbell) Create and advisory committee relating to persons with disabilities within DHHS.

LB 1033 provides legislative finding relating to the case of *Olmstead v. L.C.* which held that unjustified segregation of persons with disabilities constitutes discrimination under federal law.

DHHS will be required to:

- Develop a comprehensive strategic plan for providing services to qualified persons with disabilities in the most integrated community-based settings pursuant to the *Olmstead* decision;
- Convene a team consisting of persons from each of its six divisions to assess components of the strategic plan;
- Consult with other state agencies that administer programs serving persons with disabilities;
- Appoint and convene a stakeholder advisory committee to assist in the review and development of the strategic plan;
- Determine the need for a consultant to assist with the development of the strategic plan;

- Provide a preliminary progress report to the Legislature and the Governor by December 15, 2016;
- Provide a second progress report to the Legislature and the Governor by December 15, 2017; and
- Provide the completed strategic plan to the Legislature and the Governor by December 15, 2018.

LB 1033 effective date, April 21, 2016.

LB 1039 (Coash) Define and redefine terms relating to developmental disabilities.

LB 1039 clarifies the definition of intellectual disability. Intellectual disability is now defined as a state of significantly sub-average general intellectual functioning which is associated with significant impairments in adaptive functioning manifested before the age of 22 years. Significant sub-average general intellectual functioning shall refer to a score of 70 or below on a properly administered and valid intelligence quotient test. The definition of a person with an intellectual disability reflects this definition of intellectual disability.

The definition of developmental disability is redefined as a severe, chronic disability including an intellectual disability, other than mental illness, which:

- Is attributable to a mental or physical impairment unless the impairment is solely attributable to a severe emotional disturbance of persistent mental illness;
- Is manifested before the age of 22;
- Is likely to continue indefinitely;
- Results in substantial functional limitations in one of each of the following areas of adaptive functioning:
 - conceptual skills (i.e. language, literacy, time, number);
 - social skills (i.e. interpersonal skills, social responsibility, self-esteem, ability to follow laws, social problem solving); and
 - practical skills (i.e. daily living, personal care, healthcare, occupational skills) and:
- Reflects the individual’s need for combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration are individually planned and coordinated.

This bill provides that an individual from birth through nine years of age, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting three or more of the major life activities if the individual, without services or support, has a high probability of meeting those criteria later in life.

LB 1039 effective date, July 21. 2016

LB 1081 - (Campbell) -Change provisions relating to eligibility for public assistance and eliminate termination dates for self-sufficiency contracts.

LB 1081 excludes income when determining eligibility for Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), the child care subsidy program, and the low-income home energy assistance program (LIHEAP) for grant-funded research of the development of children in low-income families. This exclusion of income must not exceed \$4,000 per year for a maximum of four years and shall only be made if it is permissible under federal law. No such exclusion shall be made on or after December 31, 2022.

In addition, the sunset date will be eliminated in the current law that allows a person receiving TANF assistance to count hours spent on vocational training toward meeting the work activity requirements in self-sufficiency contracts.

LB 1081 effective date, July 21, 2016.

LB 1086 (Davis) Change provisions relating to student self-management of asthma or anaphylaxis.

LB 1086 changes the current law regarding students self-managing their asthma or anaphylaxis to include the written authorization of other health care professionals who prescribed the medication for treatment of the student's condition.

LB 1086 effective date, July 21, 2016.