

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
NOTICE OF PUBLIC HEARING

July 31, 2023  
10:00 a.m. Central Time  
Nebraska State Office Building – Lower Level  
Meadowlark Conference Room  
301 Centennial Mall South, Lincoln, Nebraska

The purpose of this hearing is to receive comments on proposed REPEAL to Title 175, Chapter 13 of the Nebraska Administrative Code (NAC) – *Regulations and Standards Governing The Approval of Training Programs For Nursing Assistants and Care Staff Members and Approval of Care Staff members in Skilled Nursing and Intermediate Care Facilities, Intermediate Care Facilities for the Mentally Retarded, and In Rehabilitation and Long-Term Care Facilities Operated By Hospitals*. The regulations are proposed for REPEAL in their entirety as the regulations are obsolete or duplicative of statutory language and other regulations found in Title 175.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

Interested persons may attend the hearing and provide verbal or written comments, or mail, fax, or email written comments, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 (fax) or [dhhs.regulations@nebraska.gov](mailto:dhhs.regulations@nebraska.gov), respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals who are deaf or hard of hearing may call DHHS via the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

## FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title: 175	Prepared by: Dan Taylor
Chapter: 13	Date prepared: April 21, 2023
Subject: Approval of Training Programs for Nursing Assistants & Care Staff Members	Telephone: 402-471-9207

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> )
Increased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Increased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Indeterminable	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )

Provide an Estimated Cost & Description of Impact:

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

TITLE 175 - HEALTH CARE FACILITIES AND SERVICES LICENSURE  
CHAPTER 13 - (Repealed)

Title 175  
Chapter 13

~~TITLE 175- NEBRASKA DEPARTMENT OF HEALTH~~

~~CHAPTER 13- REGULATIONS AND STANDARDS GOVERNING THE APPROVAL OF TRAINING PROGRAMS FOR NURSING ASSISTANTS AND CARE STAFF MEMBERS AND APPROVAL OF CARE STAFF MEMBERS IN SKILLED NURSING AND INTERMEDIATE CARE FACILITIES, INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED, AND IN REHABILITATION AND LONG-TERM CARE FACILITIES OPERATED BY HOSPITALS~~

~~001 SCOPE. These regulations and standards shall apply to the training of nursing assistants employed in skilled nursing facilities, as defined in Neb. Rev. Stat. §71-2017.01(10), intermediate care facilities, or intermediate care facilities for the mentally retarded as defined in Neb. Rev. Stat. §71-2017.01(11) and (12). These standards and regulations shall also apply to the training and approval of persons to administer oral and external medications as care staff members in skilled and intermediate care facilities, or intermediate care facilities for the mentally retarded and in rehabilitation or long-term care facilities operated by a hospital as defined in Neb. Rev. Stat. §71-2017.01.~~

~~002 DEFINITIONS~~

~~002.01 Administrator. Administrator shall mean the operating officer for the health care facility and may be titled as administrator, manager, superintendent, or director, or may have a similar designation. The Administrator may also be the licensee of the health care facility. The Administrator of a licensed intermediate care or skilled nursing facility or intermediate care facility for the mentally retarded must be licensed by the State of Nebraska.~~

~~002.02 Care Staff Member. Care staff member shall mean a nursing assistant who:~~

~~002.02A Is at least eighteen (18) years of age;~~

~~002.02B Has not been convicted of a crime rationally related to his or her practice involving moral turpitude;~~

~~002.02C Speaks, reads, and understands the English language;~~

~~002.02D Has successfully completed a Basic Resident Care Course approved by the Department;~~

~~002.02E Has successfully completed an Advanced Care Course for care staff members approved by the Department, achieving a score of at least 80% for that course, or has successfully completed a course in another state approved by the Department because it is substantially equivalent, scoring at least 80% for that course;~~

~~002.02F Is approved to administer oral and external medication both by the Department and by the administrator of the facility by which the care staff member is employed; and~~

Title 175  
Chapter 13

~~002.02G~~ Maintains such approved status according to the provisions of 006.02H of these regulations.

~~002.03~~ Curriculum. Curriculum shall mean a detailed course outline, description, or syllabus submitted to the Department as part of the approval process by an association, hospital, nursing home, educational institution, or health care facility sponsoring a basic resident care course or an advanced course. A curriculum shall contain, at a minimum:

~~002.03A~~ The title of the course;

~~002.03B~~ The sponsor's name;

~~002.03C~~ The names and authors of all textbooks to be used, if any, including the publisher and edition, or if no textbook is to be used, a list of written materials to be used, if any, including the source of such materials;

~~002.03D~~ The specific objectives for the course;

~~002.03E~~ The units to be covered in the course, as determined by the components required by 004.02A-C and 005.03A-B of these regulations;

~~002.03F~~ The hours to be spent on each unit within the components required by 004.02A-C and 005.03A-B of these regulations;

~~002.03G~~ The method(s) of instruction for each unit listed in 002.03E, e.g., lecture, demonstration, simulation, slide presentation, film strip, etc.;

~~002.03H~~ A description of the practical training to be provided for each unit listed in 002.03E;

~~002.03I~~ The reading assignment in the text or in other materials, if any, for each unit;

~~002.03J~~ The evaluation method for each unit, e.g., written examination, student presentation or demonstration, competency check-off, etc.;

~~002.03K~~ An explanation of when students will be evaluated (e.g., after each unit, comprehensively at the end of the course);

~~002.03L~~ An explanation of the grading system to be used for written examinations and proficiency evaluations; and

~~002.03M~~ A list of tasks and duties connected with each unit listed in 004.02A-C or 005.03A-B on which students will be evaluated for Competency, and guidelines for examinations to be used, which shall include, at a minimum:

~~002.03M1~~ Procedures to be followed in administering examinations;

Title 175  
Chapter 13

~~002.03M2~~ Procedures to be followed to insure security of examinations, both during administration and otherwise, including but not limited to the number of times a particular examination will be used;

~~002.03M3~~ Procedures to be followed to validate the examinations as testing competency in the unit being tested; and

~~002.03M4~~ Procedures to be followed in reporting the grades to the sponsor and the Department.

~~002.04~~ Department. Department shall mean the Department of Health of the State of Nebraska.

~~002.05~~ Drug Administration Error. Drug administration error shall mean that a drug was not given (1) in the right amount, (2) in the right strength, (3) at the right time (more than 60 minutes from the ordered time of administration), (4) by the correct route or method of administration, (5) to the correct resident. Drug administration error shall also mean that a drug was ordered and not administered for any or all of the preceding reasons and that the reason and justification for the omission of administration were not recorded.

~~002.06~~ Drugs or Medications. Drugs or medications shall mean substances intended for use in diagnosis, care, mitigation, treatment, or prevention of disease.

~~002.06A~~ Legend drugs shall mean those drugs which bear the manufacturer label and are marked, "Caution: Federal Law prohibits dispensing without a prescription." Such drugs shall be classified as legend drugs.

~~002.07~~ Employee. An employee shall mean an individual under hire to a licensed health care facility to perform any duty required to be performed regularly on the premises of a skilled nursing or intermediate care facility, or intermediate care facility for the mentally retarded, or rehabilitation or long-term care facility operated by a hospital whether on a full-time or part-time basis.

~~002.08~~ Nursing Assistant. Nursing assistant shall mean any person, other a licensed registered or practical nurse, employed by a skilled nursing, intermediate care facility, or intermediate care facility for the mentally retarded 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. A nursing assistant:

~~002.08A~~ Must be at least sixteen (16) years of age;

~~002.08B~~ Cannot have been convicted of a crime rationally related to his or her practice involving moral turpitude;

~~002.08C~~ Must be able to speak and understand the English language or a language understood by a substantial portion of the facility's residents; and

Title 175  
Chapter 13

~~002.08D~~ Must successfully complete, within 120 days of employment, a Basic Resident Care Course approved by the Department.

~~002.09 Registered Nurse.~~ A registered nurse shall mean an individual who a current active Nebraska license, issued by the Department of Health upon the recommendation of the State Board of Nursing, to practice professional nursing and to use the title "Registered Nurse" and the abbreviation "R.N.".

~~002.10 Resident.~~ A resident shall mean any person domiciled, residing or receiving care or treatment, for a period in excess of twenty four (24) hours, in a skilled nursing, intermediate care facility, intermediate care facility for the mentally retarded, or long term care or rehabilitation facility operated by a hospital.

~~002.11 Three Year Medication Examination.~~ The three year medication examination shall mean the examination administered by the Department every three years to individuals approved as care staff members.

~~003 APPROVAL OF TRAINING PROGRAMS.~~

~~003.01 Applications for Basic Resident Care Course.~~ Any association, educational institution, or health care facility, including a skilled or intermediate care facility or intermediate care facility for the mentally retarded may apply to the Department for approval to conduct a Basic Resident Care Course for nursing assistants.

~~003.01A~~ Application for approval of a Basic Resident Care Course shall be made on the form prescribed by the Department, which form is attached as Attachment 1 and incorporated by reference into these regulations, together with the curriculum for the course as defined in section 002.03 of these regulations.

~~003.01B~~ The application and curriculum must be submitted at least thirty (30) days prior to the date on which the course is to be given.

~~003.01C~~ The application must be submitted by the administrator or operating officer for the entity conducting the course.

~~003.01D~~ Only applications which are complete will be considered. In order to be considered complete, an application must include:

~~003.01D1~~ All of the information requested on Attachment 1;

~~003.01D2~~ A complete curriculum as defined in section 002.03 of these regulations and sections incorporated therein by reference; and

~~003.01D3~~ The signature of the administrator or operating officer of the entity making application.

Title 175  
Chapter 13

~~003.01E— An applicant may submit such additional documents or information as the applicant may consider relevant to the application and compliance with the provisions of these regulations.~~

~~003.01F— In the event that an application is determined to be incomplete, the Department will notify the applicant of the information necessary to complete the application and retain the application submitted pending receipt of such additional information.~~

~~003.02— Application for Advanced Care Course. Any hospital operating a rehabilitation or long-term care facility, or any association, educational institution, or skilled or intermediate care facility or intermediate care facility for the mentally retarded may apply to the Department for approval to conduct an Advanced Care Course.~~

~~003.02A— Application for approval of an Advanced Care Course shall be made on the form prescribed by the Department, which form is attached as Attachment 1 and incorporated by reference into these regulations, together with the curriculum for the course as defined in section 002.03 of these regulations.~~

~~003.02B— The application and curriculum must be submitted at least sixty (60) days prior to the date on which the course is to be given.~~

~~003.02C— The application must be submitted by the administrator or operating officer for the entity conducting the course.~~

~~003.02D— Only applications which are complete will be considered. In order to be considered complete, an application must include:~~

~~003.02D1— All of the information requested on Attachment 1;~~

~~003.02D2— A complete curriculum as defined in section 002.03 of these regulations and sections incorporated therein by reference; and~~

~~003.02D3— The signature of the administrator or operating officer of the entity making application.~~

~~003.02E— An applicant may submit such additional documents or information as the applicant may consider relevant to the application and compliance with the provisions of these regulations.~~

~~003.02F— In the event that an application is determined to be incomplete, the Department will notify the applicant of the information necessary to complete the application and retain the application submitted pending receipt of such additional information.~~

~~003.03— Continuing Approval. Once an application for approval for either a Basic Resident care course or Advanced Care Course has been granted by the Department, reapproval~~



Title 175  
Chapter 13

~~shall not be required for each occasion on which such course is administered so long as the course is not changed, or so long as the course requirements are not changed by law if the course, or any portion of a course is changed, reapplication must be made in accordance with 003.01 or 003.02. In cases where only a portion of a course is changed, the applicant may submit documentation and information only as to the changes made, but must clearly indicate those portions that are unchanged by so stating on the application.~~

~~003.04 Applications When Conducting Approved Courses Developed By Others. Health care facilities may, with the consent of the developer(s), conduct Basic Resident Care Courses or Advanced Care Courses developed by others which have received approval from the Department. Such facilities must apply for approval in accordance with 003.01 or 003.02, but need not submit curriculum materials required by 002.03A-M except to the extent that the course will be varied in any manner from the approved course. Applicants must indicate on the application the title of the approved course to be used, name of the entity whose approved course will be used, and the date on which such course was approved.~~

~~003.05 Denial, Suspension or Revocation of Approval. The Department shall deny, suspend, or revoke its approval of a Basic Resident Care Course or Advanced Care Course for failure to meet the requirements of Neb. Rev. Stat. §§71-2050 to 71-2055, 71-6038 to 71-6042, as applicable, or the provisions of these regulations. Should the Department determine to deny, suspend or revoke its approval of a Basic Resident Care Course or Advanced Care Course, it shall send to the applicant, by either certified or registered mail, a notice setting forth the reasons for the determination. The denial shall become final thirty days after the mailing of the notice unless the applicant, within such thirty day period, give's written notice of a desire for hearing. Hearings shall be conducted in accordance with Chapter 14, Article 9, Nebraska Revised Statutes and 184 NAC 1.~~

004 NURSING ASSISTANTS: BASIC RESIDENT CARE COURSE

~~004.01 Basic Resident Care Course. The basic resident care course must be given by a single sponsor or organization and include, at a minimum: fifteen (15) hours of classroom instruction in basic personal care and five (5) hours of classroom instruction in basic therapeutic and emergency procedures. In addition, the course must include at least one hour of instruction on procedures for reporting suspected abuse or neglect pursuant to Neb. Rev. Stat. §28-711.~~

~~004.01A The Department shall review and approve all courses, lectures, seminars, course materials, and other instructional programs used in or for a basic resident care course. In no event will correspondence courses be approved by the Department.~~

~~004.02 The curriculum for a basic resident care course must include, at a minimum, the following components of classroom instruction including appropriate practical training:~~

~~004.02A Basic personal care training of at least fifteen (15) hours in the following areas:~~

Title 175  
Chapter 13

~~004.02A1~~ Personal care: bathing; oral hygiene; backrubs; nail care; shaving; hair care; dressing; and bed-making (both occupied and unoccupied).

~~004.02A2~~ Active range of motion: Ambulation; positioning; transfer techniques; and use of physical restraints.

~~004.02A3~~ Foods and fluids: basic nutrition; diet descriptions; preparation of residents for meals; feeding techniques; reporting intake and output; and weighing techniques.

~~004.02A4~~ Elimination: appropriate use of urinal and bedpan; bowel bladder retraining; incontinent care; and enemas.

~~004.02A5~~ Safety and accident prevention: lighting; siderails; call lights; wheelchairs; and smoking.

~~004.02A6~~ Infection prevention techniques: handwashing; care of linen and equipment; and introduction to isolation techniques.

~~004.02A7~~ Aging process: basic principles; psychosocial needs; and communication skills.

~~004.02B~~ Therapeutic and emergency procedures training of at least five (5) hours in at least the following areas:

~~004.02B1~~ Fire and disaster safety and procedures.

~~004.02B2~~ Basic emergency care: recognition of signs and symptoms (bleeding, burns, convulsions, fainting, falls, choking, etc.); and reporting procedures.

~~004.02B3~~ Measuring vital signs (temperature, pulse, respiration, and blood pressure).

~~004.02C~~ At least one (1) hour of training in procedures for reporting suspected abuse or neglect, including:

~~004.02C1~~ The requirements of Neb. Rev. Stat. §28-711.

~~004.02C2~~ Residents' rights as set forth in 175 NAC 8-003.02F, and 175 NAC 12-003.02F.

~~004.03~~ Individuals completing a basic resident care course must demonstrate at least the minimum acceptable proficiency in tasks or duties connected with each unit of the components set forth in 004.02A-C. This minimum acceptable proficiency shall be determined by the registered nurse administering the course and the instructor for the course.

~~Title 175  
Chapter 13~~

~~004.04~~ Courses may exceed the minimum hour or training requirements set forth in these regulations.

~~004.05~~ Basic resident care courses shall be administered by registered nurses licensed in the State of Nebraska.

~~004.06~~ The registered nurse administering the Basic Resident Care Course shall document an individual's successful completion of the course in a certificate or letter, the original of which shall be given to the individual, containing the following information:

~~004.06A~~ The individual's name;

~~004.06B~~ The individual's date of birth;

~~004.06C~~ The date of successful completion of the course;

~~004.06D~~ The course sponsor; and

~~004.06E~~ The course instructor.

~~004.07~~ The information required by 004.06 shall also be submitted to the Department in a form or letter signed by the Administrator.

~~004.08~~ Any changes in approved courses must be submitted to the Department for prior approval.

~~004.09~~ All basic resident care courses are subject to on-site periodic review by the Department. Sponsors of approved courses must provide written notice to the Department of the dates that and location at which a basic course will be held at least 5 working days before each occasion on which an approved course is scheduled to begin.

~~004.10~~ The approved applicant shall maintain attendance records for such courses for a minimum of one year from the date of completion of each course. Attendance records are subject to review by the Department upon request.

~~005-009 REPEALED 2/21/01~~

~~010~~ Disciplinary Action. Pursuant to Neb. Rev. Stat. §§71-2055 and 71-6042, health care facilities are subject to disciplinary action against their license for violations of Neb. Rev. Stat. §71-2050 to 71-2055 or 71-6038 to 71-6042 or regulations promulgated thereunder.

Authority: Neb Rev. Stat. §71-2050  
to 2055, 71-6038 to 6042