

LEGISLATIVE BILL 409

Approved by the Governor April 17, 2019

Introduced by Kolowski, 31; Blood, 3.

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

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

71-439 (1)(a) For purposes of construction relating to ambulatory surgical centers, critical access hospitals, general acute hospitals, and hospitals, the Legislature adopts the 2018 Guidelines for Design and Construction of Hospitals, the 2018 Guidelines for Design and Construction of Outpatient Facilities, and the 2018 Guidelines for Design and Construction of Residential Health, Care, and Support Facilities published by the Facility Guidelines Institute.

(b) For new construction of assisted-living facilities, long-term care hospitals, nursing facilities, and skilled nursing facilities on or after the effective date of this act, the Legislature adopts the 2018 Guidelines for Design and Construction of Hospitals, the 2018 Guidelines for Design and Construction of Outpatient Facilities, and the 2018 Guidelines for Design and Construction of Residential Health, Care, and Support Facilities published by the Facility Guidelines Institute, except that the Legislature adopts only the definition of new construction found in section 1.1-2.1 and excludes the part of the definition found in sections 1.1-2.2 and 1.1-2.3 and any related provisions of such guidelines.

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

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

(a) The estimated cost of the modification or installation;

(b) The extent and duration of the disruption of the normal use of areas used by persons residing in or served by the facility or service resulting from construction work;

(c) The estimated period over which the cost would be recovered through reduced insurance premiums and increased reimbursement related to cost;

(d) The availability of financing; and

(e) The remaining useful life of the building.

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

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