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# Long Term Care Newsletter

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## Funding a Summer Intern Program In Nebraska By Mark R. Pence

Summer is upon us and among the many activities happening during this time of year is the hiring of interns by Nebraska companies. Internships are a valuable opportunity for college students to gain real world experience and forge valuable connections in the professional world. In order to facilitate this growth experience, the state of Nebraska offers the Intern Nebraska (InternNE) program as part of the state's strategic economic initiative called Nebraska Advantage. Nebraska businesses can apply to this

program and gain full or partial funding for the paid internship they are offering. Recently, the Nebraska Legislature passed LB 476, which makes important and exciting changes to the InternNE program. After the passage of LB 476, there have been a variety of changes in the eligibility and compensation areas of the InternNE program. The changes will take effect for businesses applying to the InternNE program on or after September 1, 2013. This article will summarize these changes and how they relate to businesses that ap-

ply for a grant through InternNE.

One major change will be a paradigm shift regarding the eligibility of businesses who can receive funding from InternNE. The new emphasis will be on the quality of internship offered rather than the type of business that provides the internship. This change broadens the scope of businesses which can apply for funding, most notably; non-profit groups may now apply for InternNE grants. Second, the new requirements will no (continued on pg. 2)

## New Requirements for Contracts Hospice Providers Between Nursing Facilities By Charles E. Wilbrand

On August 26, 2013, 42 CFR 483.75(t) will go into effect and implement new requirements for contracts between hospice providers and nursing facilities.

Often times the provisions regulating the services a nursing facility provides and those of a hospice provider do not overlap or conflict. There is only a problem when a

nursing home resident elects to receive services from a hospice provider. Then there is usually some overlap between the services provided by the nursing facility and the services provided by hospice. The Centers for Medicare and Medicaid Services (CMS) issued a ruling in late June that addressed this issue.

The ruling requires that

when nursing facilities contract with hospice providers, the contract must be in writing and specifically detail the roles and responsibility of each entity. This is to ensure that the resident is receiving all necessary services, but not receiving any duplicate or conflicting services. (continued on pg. 3)



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## Demise of DOMA By Michael W. Khalili and Laura K. Essay

In a landmark decision the Supreme Court of the United States struck down DOMA and punted on the California Proposition 8 case, *United States v. Windsor*. DOMA defined marriage as a union of a man and a woman and was a base on which federal taxes and entitlement programs were applied. Because the Court did not say that all states must recognize same-sex marriage and, in fact, gave full deference to the states to define marriage, different

jurisdictions may apply different rules. Citizens domiciled in states that do not recognize same-sex marriage, such as Nebraska, will be affected substantially differently by this decision.

What does this mean specifically for you? It may take years for answers to come into focus. However, we do know that the invalidation of DOMA makes federal benefits available to gay couples who are legally married in their states, and affects Social Security

survivor benefits, immigration rights and family leave.

There are more than 1,000 federal laws relating to marital status. A few examples of questions that parties will need to wrestle with going forward include:

- **Family and Medical Leave Act (FMLA) for Non-Federal Employees.** Under FMLA, employees are entitled to take FMLA leave in order to care for a spouse if (continued on pg. 3)

## Summer Intern (continued from pg. 1)

longer require businesses to offer 200 minimum hours in 12 weeks or less. Instead, the changes focus on the duration of the internship coupled with the quality of the internship, which allows the selection committee to make a more individualized determination on the internships to fund without regard to the earlier, more rigid requirements. Finally, keeping with the theme of broadening the scope of funding, LB 476 expanded the type of students eligible for this funding. The new changes allow funding for all full-time students who are enrolled in colleges or universities in Ne-

braska, or students who are Nebraska residents attending colleges or universities outside Nebraska, as well as students who have graduated college within six months. This expansion signals a significant departure from the old funding scheme which only accepted full-time students who had completed at least one half of the required credit hours for an associates or Bachelor's degree.

Another major change involves the amount of compensation businesses may potentially receive from the InternNE program. The selection committee will now have the discretion to award

up to 75 percent of the cost of the internship. Further, businesses that hire Pell Grant students will be eligible to receive a \$7,500 reimbursement per internship. All other businesses will be eligible to receive up to \$5,000 per internship.

The changes announced in LB 467 are meant to enhance the Intern Nebraska Grant Program and assist an increasing number of students in finding opportunities and growing professionally. For more information on the Intern Nebraska Program, please visit its website found at this address <http://www.internne.com>.



## Demise of DOMA (continued from pg. 2)

the employee meets all other FMLA leave requirements. The decision in *Windsor* found Section 3 of DOMA unconstitutional, which means that an employee who resides in a state that recognizes same-sex marriage is entitled to take FMLA leave to care for a same-sex spouse. Existing FMLA regulations look to an employee's state of primary residence to determine whether a person is considered a "spouse."

- **Federal Taxes.** Under

the current tax code, employees generally receive preferential tax treatment with respect to employer-sponsored benefits plans. The *Windsor* ruling that Section 3 of DOMA is unconstitutional means that same-sex spouses should be eligible for tax-free benefits paid for by the employer, such as health, dental and vision benefits, as well as FSA, HRA and HSA reimbursements, even if the same-sex spouse does not qualify as an employee's federal tax dependent. In addition, the

Court's ruling suggests that employers are no longer required to impute the value of employer-sponsored and paid healthcare coverage as additional income to an employee, and employers are not subject to the related payroll tax costs for that imputed income. The IRS has historically used the "domicile" rule, like the FMLA, to assess marital status.

- **Consolidated Omnibus Budget Reconciliation Act (COBRA).** Under COBRA, group health plans must pro-

vide continuation coverage to "qualified beneficiaries" which includes spouses. Plans generally are not required to provide independent COBRA continuation coverage to an employee's same sex-spouse, or to the child of a same-sex spouse. The invalidation of Section 3 of DOMA means that plans will be required to offer continuation coverage at a minimum to same-sex spouses in states that recognize same-sex marriage.

- **Medicaid.** It's possible that some states will provide hardship protection for partners of a person in long-term care, but eligibility for other Medicaid protections is also dependent on state recognition of marital status.

- **Social Security.** Family and spousal protections relating to Social Security use a wage earner's primary state of residence as guidance for marriage recognition.

## Employer Mandate of Affordable Care Act Delayed By Charles Wilbrand

The date requiring employers to supply health insurance to its employees under the Affordable Care Act has been delayed until 2015. Originally, the provision was set to begin in January 2014, but in July President Obama's administration decided to push back the start date another year. Under the Affordable Care Act, employers who employ 50 or more full-time employees

are required to supply health insurance to their employees or face a penalty of \$2,000 per full-time employee that was not covered by health insurance.

This delay gives employers extra time to start planning and implementing the program in order to avoid being fined. The added time should be used to ensure that the insurance policy the facility is going to use meets all the

guidelines of the ACA. Nursing homes should take advantage of this delay not put off the implementation until the last minute, and carry on as if the implementation was still 2014. The delay also gives employers the chance to be fully prepared for the transition in 2015 as they can practice voluntary reporting for one year.

## New Requirements (continued from pg. 1)

This will establish better quality and consistency of care for the residents. Also, the contract will have to lay out communication and coordination procedures to ensure that each group is maintaining their end. The new rule established that the nursing home facility's interdisciplinary team will act as the point of contact for the

hospice care.

CMS expects these changes to have an initial impact of \$437 per facility and then \$232 after it is implemented. CMS did not determine this to be a significant impact.



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A large graphic consisting of two thick, black, curved lines that form a wide, shallow parentheses shape, framing the text below.

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