

## LEGISLATIVE BILL 150

Approved by the Governor March 1, 1971

Introduced by Richard Lewis, 38th District

AN ACT to amend sections 71-1,103, 71-1,104, 71-1,104.02, 71-1,107.01, 71-1,107.02, 71-1,107.03, 71-1,107.04, 71-1,107.05, 71-1,107.06, 71-1,107.07, 71-1,107.08, 71-1,107.09, 71-1,107.10, 71-1,107.11, and 71-1,107.13, Revised Statutes Supplement, 1969, relating to medicine and surgery; to transfer duties from the State Board of Health and Director of Health to the Department of Health as prescribed; to provide qualifications for issuing visiting faculty permits; to define terms; to provide for temporary educational permits; to clarify the meaning thereof; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 71-1,103, Revised Statutes Supplement, 1969, be amended to read as follows:

71-1,103. The following classes of persons shall not be construed to be engaged in the unauthorized practice of medicine: (1) Persons rendering gratuitous services in cases of emergency; (2) persons administering ordinary household remedies; (3) the members of any church practicing its religious tenets; Provided, they do not prescribe or administer drugs or medicines, perform surgical or physical operations, nor assume the title of, or hold themselves out to be physicians or surgeons; and provided further, that such members shall not be exempt from the quarantine laws of this state; (4) students of medicine and surgery who are studying in an accredited school or college of medicine and who gratuitously prescribe for and treat disease under the supervision of a licensed physician; (5) physicians and surgeons of the United States armed forces or Public Health Service or United States Veterans' Administration, when acting in the line of such duty in this state; (6) physicians and surgeons who are graduates of an accredited school or college of medicine with the degree of Doctor of Medicine and licensed in another state when incidentally called into this state for consultation with a physician and surgeon licensed in this state; (7) physicians and surgeons who are graduates of an accredited school or college of

medicine with the degree of Doctor of Medicine and who reside in a state bordering this state, and who are duly licensed under the laws thereof to practice medicine and surgery but who do not open an office or maintain or appoint a place to meet patients or to receive calls within this state; (8) persons providing or instructing as to use of braces, prosthetic appliances, crutches, contact lenses and other lenses and devices prescribed by a doctor of medicine licensed to practice while working under the direction of said physician; (9) dentists practicing their profession, when licensed and practicing in accordance with the provisions of sections 71-183 to 71-193; (10) optometrists practicing their profession, when licensed and practicing under and in accordance with the provisions of sections 71-1,133 to 71-1,136; (11) osteopaths practicing their profession, if licensed and practicing under and in accordance with the provisions of sections 71-1,137 and 71-1,141; (12) chiropractors practicing their profession, if licensed and practicing under the provisions of sections 71-177 to 71-182; (13) podiatrists practicing their profession, when licensed and practicing under and in accordance with the provisions of sections 71-173 to 71-176; (14) any licentiates, licensed under the laws of this state to practice a limited field of the healing art, not heretofore specifically named, when confining themselves strictly to the field for which they are licensed, not assuming the title of physician, surgeon, or physician and surgeon, and not professing or holding themselves out as qualified to administer or prescribe drugs in any form, to perform operative surgery, or to practice obstetrics; and (15) physicians and surgeons who are duly licensed to practice medicine and surgery in another state, who have been recommended by the secretary of the board of examiners in the state of licensure, and who have been granted temporary practice rights by the Board of Examiners in Medicine and Surgery, with the approval of the Director Department of Health, for a period not to exceed three months in any twelve-month period.

Every act or practice falling within the practice of medicine and surgery as defined not specially excepted herein, shall constitute the practice of medicine and surgery and may be performed in this state only by those licensed by law to practice medicine in Nebraska.

Sec. 2. That section 71-1,104, Revised Statutes Supplement, 1969, be amended to read as follows:

71-1,104. Each applicant for a license to practice medicine and surgery shall (1) present to the Department of Health a certificate of ability in basic sciences, issued by the Board of Basic Sciences ~~or substitute-in-lieu-thereof~~ on the basis of an examination conducted by the board or issued on the basis of a certificate of ability in the basic science portion of the examination of the National Board of Medical Examiners or the Federation Licensing Examination or other appropriate examination; (2) present proof that he or she is a graduate of an accredited school or college of medicine; (3) unless waived by the Board of Examiners in Medicine and Surgery with the approval of the Department of Health present proof that he or she has served at least one year of graduate training medical education approved by the Board of Examiners in Medicine and Surgery; and (4) pass an examination prescribed and conducted by the Board of Examiners in Medicine and Surgery, and approved by the Director Department of Health covering appropriate medical subjects.

Sec. 3. That section 71-1,104.02, Revised Statutes Supplement, 1969, be amended to read as follows:

71-1,104.02. When any complaint has been filed in the office of the Department of Health by any person alleging that one licensed to practice medicine and surgery in Nebraska is suffering from physical or mental illness or physical or mental deterioration or disability, the Director of Health shall investigate such complaint to determine if any reasonable cause exists to question the qualification of the licensee to continue to practice medicine and surgery. If the director on the basis of such investigation or, in the absence of such a complaint, upon the basis of his own independent knowledge, finds that reasonable cause exists to question the qualification of the licensee to practice medicine and surgery because of physical or mental illness or physical or mental deterioration or disability, he shall report such finding and the evidence supporting it to the Board of Examiners in Medicine and Surgery and if such board agrees that reasonable cause exists to question the qualification of such licensee it shall appoint a committee of three qualified physicians to examine the licensee and to report their findings and conclusions to the board. The board shall then consider the findings and the conclusions of the physicians and any other evidence or material which may be submitted to that board by the licensee or by the director or by any other person and shall then determine if the licensee is qualified to

continue to practice medicine and surgery in Nebraska. If such board finds the licensee to be not qualified to continue to practice medicine and surgery because of physical or mental illness or physical or mental deterioration or disability, it shall so certify that fact to the director who with a recommendation for the revocation, suspension, or limitation of such license. The director shall thereupon suspend or limit the license of the licensee to practice medicine and surgery in Nebraska in such manner and to such extent as the director determines to be necessary for the protection of the public.

Sec. 4. That section 71-1,107.01, Revised Statutes Supplement, 1969, be amended to read as follows:

71-1,107.01. For the purposes of sections 71-1,107.01 to 71-1,107.13 and section 16 of this act, unless the context otherwise requires:

(1) Temporary educational permit shall mean a permit to practice medicine and surgery or any of its allied specialties in a supervised educational program approved by the Board of Examiners in Medicine and Surgery;

(2) Graduate medical education shall mean a period of supervised educational training by a graduate of an accredited school or college of medicine or an accredited school or college of osteopathy, which training has been approved by the Department of Health upon recommendation of the Board of Examiners in Medicine and Surgery;

(3) Visiting faculty permit shall mean a permit for a physician qualified by virtue of previous medical training and experience to teach students of medicine, to conduct research, or both;

(4) Accredited hospital shall mean a hospital accredited by the State Board of Health upon recommendation of the Board of Examiners in Medicine and Surgery; and

(5) Accredited school or college of medicine shall mean any school or college of medicine accredited as such pursuant to the laws of the State of Nebraska; and

(6) An accredited school or college of osteopathy shall mean any school or college of

osteopathy accredited as such under the laws of the State of Nebraska.

Sec. 5. That section 71-1,107.02, Revised Statutes Supplement, 1969, be amended to read as follows:

71-1,107.02. The ~~State--Board~~ Department of Health, upon the recommendation of the Board of Examiners in Medicine and Surgery, shall have authority, in its discretion, to issue temporary educational permits and visiting faculty permits to qualified applicants in accordance with the provisions of sections 71-1,107.01 to 71-1,107.13 and section 16 of this act.

Sec. 6. That section 71-1,107.03, Revised Statutes Supplement, 1969, be amended to read as follows:

71-1,107.03. The holder of a temporary educational permit or of a visiting faculty permit shall be entitled to practice medicine and surgery and any of its allied specialties, including prescribing medicine and narcotics, while serving in a supervised educational program or in an approved graduate medical education program conducted by an accredited hospital in the State of Nebraska or by an accredited school or college of medicine of the State of Nebraska, but neither the holder of a temporary educational permit nor the holder of a visiting faculty permit shall be qualified to engage in the practice of medicine and surgery or any of its allied specialties within the State of Nebraska and outside of the assigned training or teaching program.

Sec. 7. That section 71-1,107.04, Revised Statutes Supplement, 1969, be amended to read as follows:

71-1,107.04. Before any temporary educational permit or visiting faculty permit is issued pursuant to sections 71-1,107.01 to 71-1,107.13 and section 16 of this act, the State Board of Health, upon recommendation of the Board of Examiners in Medicine and Surgery shall first determine that the applicant for such permit is of good moral character and that such applicant has otherwise met all of the requirements of ~~this--section~~ sections 71-1,107.01 to 71-1,107.13 and section 16 of this act relating to issuing any such permit.

Sec. 8. That section 71-1,107.05, Revised Statutes Supplement, 1969, be amended to read as follows:

71-1,107.05. The Except as otherwise provided by law, the holder of any temporary educational permit or visiting faculty permit shall be subject to all of the rules and regulations prescribed for physicians regularly licensed in the State of Nebraska and such other rules and regulations as may be adopted by the State-Board Department of Health upon the recommendation of the Board of Examiners in Medicine and Surgery with respect to such permits in order to carry out the purposes of sections 71-1,107.01 to 71-1,107.13 and section 16 of this act.

Sec. 9. That section 71-1,107.06, Revised Statutes Supplement, 1969, be amended to read as follows:

71-1,107.06. The duration of any permit issued pursuant to sections 71-1,107.01 to 71-1,107.13 and section 16 of this act shall be determined by the State Board Department of Health but in no case shall it be in excess of one year. The permit may be renewed from time to time at the discretion of the State-Board Department of Health but in no case shall it be renewed for more than five one-year periods. The department may issue to all qualified graduates of accredited colleges of medicine or accredited colleges of osteopathy, who are eligible for the examination provided in section 71-1,104, and who make application for such examination, a temporary educational permit, without charge. Such permit shall be issued only for the duration of the time between the date of the examination and the date of licensure granted as result of such examination. Any person issued a temporary educational permit, without charge, shall meet all requirements provided for in sections 71-1,107.01 to 71-1,107.13, except the required fee, and such exemption is only for the period of time between examination date and licensing date and for only those individuals who take the examination as provided in section 71-1,104.

Sec. 10. That section 71-1,107.07, Revised Statutes Supplement, 1969, be amended to read as follows:

71-1,107.07. Before granting any temporary educational permit, the State-Board Department of Health shall ascertain by evidence satisfactory to such board that an accredited hospital or school or college of medicine in the State of Nebraska has requested the issuance of a temporary educational permit for an applicant to serve as a graduate student in its approved program for the period involved and any application for

the issuance of such permit shall be signed by the applicant requesting that such permit be issued to him and shall designate the specified approved graduate medical educational program with respect to which such permit shall apply.

Sec. 11. That section 71-1,107.08, Revised Statutes Supplement, 1969, be amended to read as follows:

71-1,107.08. Before a visiting faculty permit shall be issued, the State-Board Department of Health shall determine on the basis of evidence satisfactory to the board department that a an accredited school or college of medicine in the State of Nebraska has requested issuance of such visiting faculty permit for the individual involved to serve as a member of the faculty of such school or college of medicine and that the applicant for such permit has met the requirements of sections 71-1,107.01 to 71-1,107.13 and section 16 of this act. Any application for issuing a visiting faculty permit shall be signed by the applicant to whom such permit is to be issued and shall designate the accredited school or college of medicine where such applicant proposes to serve as a member of the faculty and shall outline the faculty duties to be performed pursuant to the permit.

Sec. 12. That section 71-1,107.09, Revised Statutes Supplement, 1969, be amended to read as follows:

71-1,107.09. The recommendation of the Board of Examiners in Medicine and Surgery for the issuance of any temporary educational permits or any visiting faculty permits shall be made at regular meetings of such board, but the president or one other member of the State-Board-of-Health Board of Examiners in Medicine and Surgery and its executive secretary jointly shall have the power to recommend the issuance of such permits between the meetings of the board, which permits shall be subject to approval or disapproval at the next subsequent meeting of the Board of Examiners in Medicine and Surgery.

Sec. 13. That section 71-1,107.10, Revised Statutes Supplement, 1969, be amended to read as follows:

71-1,107.10. (1) The recipient of a temporary educational permit shall pay an annual registration fee of fifteen dollars or any additional amount deemed

necessary by the Department of Health upon recommendation of the Board of Medical Examiners in Medicine and Surgery to carry out the provisions of sections 71-1,107.01 to 71-1,107.13 and section 16 of this act.

(2) The recipient of a visiting faculty permit shall pay an annual registration fee of twenty-five dollars or any additional amount deemed necessary by the Department of Health upon recommendation of the Board of Examiners in Medicine and Surgery in order to carry out the terms and provisions of sections 71-1,107.01 to 71-1,107.13 and section 16 of this act.

Sec. 14. That section 71-1,107.11, Revised Statutes Supplement, 1969, be amended to read as follows:

71-1,107.11. Any permit granted under the authority of sections 71-1,107.01 to 71-1,107.13 and section 16 of this act may be suspended, limited, or revoked by the Department of Health upon recommendation of the Board of Examiners in Medicine and Surgery at any time upon a finding that the reasons for issuing such permit no longer exist or that the person to whom such permit has been issued is no longer qualified to hold such permit.

Sec. 15. That section 71-1,107.13, Revised Statutes Supplement, 1969, be amended to read as follows:

71-1,107.13. A temporary educational permit may be issued to graduates of foreign schools or colleges of medicine or to individuals who are not citizens of the United States; Provided, that such applicant in addition to meeting the other requirements for the issuance of such permit presents to the ~~State--Board~~ Department of Health a copy of a permanent certificate of the ~~educational--council--for--foreign--medical--graduates~~ Educational Council for Foreign Medical Graduates currently effective and relating to such applicant, at such time as the Department of Health, upon recommendation of the Board of Examiners in Medicine and Surgery shall determine, and, if so directed by the Department of Health, shall pass an examination prescribed by the Department of Health upon recommendation of the Board of Examiners in Medicine and Surgery to measure his or her clinical competence to proceed to advanced training before advancing beyond the initial phase of the training program, and if such examination is required, shall pay a fee of one hundred



dollars or such additional amount as shall be determined by the Department of Health upon recommendation of the Board of Examiners in Medicine and Surgery to cover the expense of such examination.

Sec. 16. A visiting faculty permit may be issued to graduates of foreign schools or colleges of medicine or to individuals who are not citizens of the United States, if an accredited college or school of medicine in the State of Nebraska has requested that such permit be issued. It shall not be necessary for such applicant to provide a certificate of the Educational Council for Foreign Medical Graduates as required in the case of temporary educational permits. If directed by the Department of Health an applicant for a visiting faculty permit may be required to pass an examination prescribed by the Department of Health upon recommendation of the Board of Examiners in Medicine and Surgery to measure his or her clinical competence to practice medicine and if such examination is required the applicant shall pay a fee of one hundred dollars or such additional amount as shall be determined by the Department of Health upon recommendation of the Board of Examiners in Medicine and Surgery to cover expense of such examination.

Sec. 17. That original sections 71-1,103, 71-1,104, 71-1,104.02, 71-1,107.01, 71-1,107.02, 71-1,107.03, 71-1,107.04, 71-1,107.05, 71-1,107.06, 71-1,107.07, 71-1,107.08, 71-1,107.09, 71-1,107.10, 71-1,107.11, and 71-1,107.13, Revised Statutes Supplement, 1969, are repealed.