

LEGISLATIVE BILL 355

Approved by the Governor April 17, 1986

Introduced by Goll, 16

AN ACT relating to public health and welfare; to amend section 33-150, Reissue Revised Statutes of Nebraska, 1943, section 71-101, Revised Statutes Supplement, 1984, and sections 71-102, 71-110, 71-112, 71-113, 71-131, and 71-162, Revised Statutes Supplement, 1985; to define terms; to provide for licensed athletic trainers as prescribed; to create a fund; to provide powers and duties; to increase the limit on biennial renewal fees; to harmonize provisions; to provide an operative date; and to repeal the original sections.

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

Section 1. As used in sections 1 to 6 of this act, unless the context otherwise requires:

(1) Athletic trainer shall mean a person who is responsible for the prevention, emergency care, first aid, treatment, and rehabilitation of athletic injuries to athletes under his or her care and who is licensed to perform the functions set out in section 3 of this act.

(2) Athletic training shall mean the prevention, evaluation, emergency care, first aid, treatment, and rehabilitation of athletic injuries utilizing the treatments set out in section 3 of this act.

(3) Athletic injuries shall mean those injuries which are incurred by individuals through participation in sports or recreation.

(4) Board shall mean the Board of Examiners in Athletic Training; and

(5) Department shall mean the Department of Health.

Sec. 2. A licensed athletic trainer may practice athletic training in some or all respects only for educational institutions, professional athletic organizations, or amateur athletic organizations.

Sec. 3. (1) No person shall be authorized to perform the physical modalities set out in subsection (2) of this section on any person unless he or she first obtains a license as an athletic trainer or unless such person is licensed as a physician, osteopath,

osteopathic physician, chiropractor, nurse, physical therapist, or podiatrist. No person shall hold himself or herself out to be an athletic trainer unless licensed under sections 1 to 6 of this act.

(2) Athletic trainers shall be authorized to use the following physical modalities in the treatment of athletic injuries under guidelines established with a referring licensed physician:

(a) Application of electrical stimulation;

(b) Application of ultrasound;

(c) Use of medical diathermies;

(d) Application of infrared light; and

(e) Application of ultraviolet light.

(3) The application of heat, cold, air, water, or exercise shall not be restricted by sections 1 to 6 of this act.

Sec. 4. (1) Except as provided in section 5 of this act, an applicant for licensure as an athletic trainer shall at the time of application provide proof to the department that he or she meets one or more of the following qualifications:

(a) Graduation after successful completion of the athletic training curriculum requirements of an accredited college or university approved by the department; or

(b) Graduation with a four-year degree from an accredited college or university and completion of at least two consecutive years, military duty excepted, as a student athletic trainer under the supervision of an athletic trainer approved by the board.

(2) In order to be licensed as an athletic trainer, an applicant shall, in addition to the requirements of subsection (1) of this section, successfully complete an examination approved by the department on the recommendation of the board.

Sec. 5. (1) A license to practice athletic training may be issued to a person who:

(a) Submits an application and the required licensure fee as provided in section 71-162 to the department before January 1, 1988;

(b) Meets one of the following criteria: (i) He or she is an athletic trainer on January 1, 1988, or (ii) he or she has been an athletic trainer for five of the ten years immediately preceding January 1, 1988; and

(c) Satisfactorily completes the examination for licensure as an athletic trainer as provided in subsection (2) of section 4 of this act.

Sec. 6. The Athletic Trainer Fund is hereby created. All money in the fund shall be used

exclusively by the Bureau of Examining Boards to carry out the statutory and regulatory duties pertaining to the practice of athletic training. The State Treasurer shall credit to the Athletic Trainer Fund, on or after the effective date of this act, all certification and renewal fees for the practice of athletic training remitted to the state treasury by the department pursuant to section 71-162, except such amounts distributed pursuant to sections 33-150 and 71-6228. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 7. That section 33-150, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

33-150. The State Treasurer shall credit to the General Fund of the state fifteen per cent of all fees remitted to the state treasury by the state boards of examiners in medicine and surgery, chiropractic, dentistry, including fees from dental hygienists, athletic training, optometry, pharmacy, embalming and funeral directing, including fees received from funeral establishments as well as embalmers and funeral directors, podiatry, and veterinary medicine, the Board of Occupational Therapy Practice, the Board of Cosmetologist Examiners, the Board of Barber Examiners, the Board of Nursing, the State Real Estate Commission, the Brand Fund of the Secretary of State, the State Board of Examiners for Professional Engineers and Architects, the State Athletic Commissioner, the Nebraska Oil and Gas Conservation Commission pursuant to sections 57-906 and 57-911, and any other state board, bureau, division, fund, or commission not mentioned above, if and when fifteen per cent of all such fees remitted into the treasury be appropriated or reappropriated to the General Fund of the state by the Legislature for the uses and purposes of the General Fund during any biennium. Nothing in this section shall be construed to apply to the fees inuring to the Nebraska Brand Inspection and Theft Prevention Fund and funds of the State Racing Commission.

Sec. 8. That section 71-101, Revised Statutes Supplement, 1984, be amended to read as follows:

71-101. For the purpose of this act: (1) Board of examiners shall mean one of the boards appointed by the Department of Health to give examinations to applicants for licenses; (2) licensed, when applied to any licensee in any of the professions named in section 71-102, shall mean a person licensed

under this act; (3) profession shall mean and refer to any of the several groups named in section 71-102; (4) department shall mean the Department of Health, ~~of the State of Nebraska~~; (5) wherever the masculine gender is used, it shall be construed to include the feminine; and the singular number shall include the plural when consistent with the intent of this act; and (6) this act shall mean and refer to sections 71-101 to 71-1,167 and 71-1,206 to 71-1,226 and sections 1 to 6 of this act, which for convenience shall be known as the Uniform Licensing Law.

Sec. 9. That section 71-102, Revised Statutes Supplement, 1985, be amended to read as follows:

71-102. No person shall engage in the practice of medicine and surgery, athletic training, osteopathy, chiropractic, dentistry, dental hygiene, pharmacy, podiatry, optometry, physical therapy, audiology, speech-language pathology, embalming, funeral directing, psychology, or veterinary medicine and surgery, as defined in this act, unless such person shall have obtained from the Department of Health a license for that purpose.

Sec. 10. That section 71-110, Revised Statutes Supplement, 1985, be amended to read as follows:

71-110. (1) The different licenses to practice a profession shall be renewed biennially upon request of the licensee without examination. The biennial license renewals provided for in this section shall be accomplished in such manner as the department, with the approval of the board, shall establish by rule and regulation. The biennial expiration date in the different professions shall be as follows: January, pharmacy and psychology; February, embalming and funeral directing; March, dentistry and dental hygiene; April, podiatry and veterinary medicine and surgery; May, athletic training; August, chiropractic and optometry; September, osteopathy; October, medicine and surgery; November, physical therapy; and December, audiology and speech-language pathology. The request for renewal need not be in any particular form and shall be accompanied by the legal fee. Such fee shall be paid not later than the date of the expiration of such license, except that while actively engaged in the military service of the United States, as defined in the Soldiers' and Sailors' Civil Relief Act of 1940 as amended, persons licensed to practice the professions above named shall not be required to pay the renewal license fee.

(2) At least thirty days before the expiration

of a license, as set forth in subsection (1) of this section, the Department of Health shall notify each licensee by a letter addressed to him or her at his or her last place of residence as noted upon its records. Any licensee who fails to pay the renewal fee on or before the date of expiration of his or her license shall be given a second notice in the same manner advising him or her (a) of the failure to pay, (b) that the license on that account has expired, (c) that the department will suspend action for thirty days following the date of expiration, (d) that upon the receipt of the renewal fee, together with an additional fee of five dollars, within that time, no order of revocation will be entered, and (e) that upon the failure to receive the amount then due and five dollars in addition to the regular renewal fee, as provided by subsection (1) of this section, an order of revocation will be entered.

(3) Any licensee who allows a license to lapse by failing to renew the same, as provided in subsections (1) and (2) of this section, may be reinstated upon the recommendation of the board of examiners for his or her profession and the payment of the regular and additional renewal fees then due.

Sec. 11. That section 71-112, Revised Statutes Supplement, 1985, be amended to read as follows:

71-112. The boards of examiners provided in section 71-111 shall be designated as follows: For medicine and surgery and osteopathy, Examiners in Medicine and Surgery; for athletic training, Examiners in Athletic Training; for chiropractic, Examiners in Chiropractic; for dentistry and dental hygiene, Examiners in Dentistry; for optometry, Examiners in Optometry; for physical therapy, Examiners in Physical Therapy; for pharmacy, Examiners in Pharmacy; for audiology and speech-language pathology, Examiners in Audiology and Speech-Language Pathology; for embalming and funeral directing, Examiners in Embalming and Funeral Directing; for podiatry, Examiners in Podiatry; for psychology, Examiners of Psychologists; and for veterinary medicine and surgery, Examiners in Veterinary Medicine.

Sec. 12. That section 71-113, Revised Statutes Supplement, 1985, be amended to read as follows:

71-113. (1) Each board of examiners shall consist of four members, including one lay person, except that (a) in audiology and speech-language pathology the board shall consist of five members,

including one lay person, (b) in dentistry the board shall consist of eight members, including one lay person, (c) in medicine and surgery the board shall consist of seven members, including one lay person, (d) in embalming and funeral directing the board shall consist of four members, including one lay person appointed by the Department of Health, (e) in pharmacy the board shall consist of five members, including one lay member, and (e) and (f) in psychology the board shall consist of six members, including one lay person. Notwithstanding any other provision of law, the Department of Health shall appoint one lay member to each board of examiners set forth in this subsection in accordance with section 71-114.

(2) Membership on the Board of Examiners in Audiology and Speech-Language Pathology shall consist of two members who are audiologists, two members who are speech-language pathologists, and one lay person. All professional members shall be qualified to be licensed in accordance with this act. The professional members appointed to the initial board shall be licensed not later than six months after being appointed to the board. If for any reason a professional member cannot be licensed within such time period, a new professional member shall be appointed.

(3) Membership on the Board of Examiners in Athletic Training shall consist of three athletic trainers and one lay person. Each professional member first appointed to the board pursuant to this section shall be a person who is and has been actively engaged in the practice of athletic training for at least two years immediately preceding his or her appointment to the board and shall be licensed not later than six months after being appointed to the board. If for any reason an athletic trainer examiner cannot be licensed within such a time period, a new examiner shall be appointed.

Sec. 13. That section 71-131, Revised Statutes Supplement, 1985, be amended to read as follows:

71-131. (1) In the absence of any specific requirement or provision relating to any particular profession:

(a) The Department of Health may adopt and promulgate rules and regulations pertaining to the grading of examination papers;

(b) An examinee must obtain an average grade of seventy-five per cent;

(c) An examinee must obtain a grade of sixty

per cent in each subject in which examined; and

(d) An examinee who fails to comply with subdivisions (b) and (c) of this subsection may take the entire examination over without charge at any time within fourteen months, except that in the case in which a national standardized examination is utilized by any examining board, which requires the payment of a fee to purchase such examination, the Department of Health shall require the applicant to pay the appropriate examination fee.

(2) In pharmacy all applicants shall be required to attain a grade to be determined by the Board of Examiners in Pharmacy in an examination in pharmacy and a grade of seventy-five per cent in an examination in jurisprudence of pharmacy. When an applicant falls below the designated grade in one of the two examinations, the applicant may take that examination over without charge at any time within fourteen months at any regular session of such board held for the purpose of giving examinations or at the first regular session of the board held for the purpose of giving examinations thereafter if not held within that time. If an applicant falls below the designated grade in both the examination in pharmacy and the examination in jurisprudence of pharmacy, the applicant shall take both examinations over, and may do this without charge at any time within fourteen months at any regular session of the board held for the purpose of giving examinations or at the first regular session of the board held for the purpose of giving examinations thereafter if not held within that time. Notwithstanding any provision of this section, whenever the Board of Examiners in Pharmacy utilizes a national standardized examination, which requires the payment of a fee to purchase such examination, the Department of Health shall require the applicant to pay the appropriate examination fee.

(3) In medicine and surgery the passing grade shall be determined by the department upon recommendation of the Board of Examiners in Medicine and Surgery. Fees for reexamination shall be determined by the department upon recommendation of the Board of Examiners in Medicine and Surgery.

(4) In psychology the passing grade shall be determined by the department upon recommendation of the Board of Examiners of Psychologists. Fees for reexamination shall be the same as the fee for the initial examination.

(5) In athletic training the passing grade shall be determined by the department upon the

recommendation of the Board of Examiners in Athletic Training. Fees for reexamination shall be the same as the fee for the initial examination. If an applicant fails the first examination, the applicant shall, after the expiration of six months and within two years from the first failure, be allowed to take a second examination upon payment of the examination fee. Applicants failing the second examination may take the examination a third time if the applicant qualifies under the rules and regulations of the department in effect at the time of his or her application for reexamination.

Sec. 14. That section 71-162, Revised Statutes Supplement, 1985, be amended to read as follows:

71-162. (1) The following fees shall be collected by the Department of Health and turned in to the state treasury as is now provided by law:

(a) Not less than fifty dollars nor more than three hundred dollars for a license issued on the basis of an examination given by the appropriate state or national board of examiners or on the basis of a license granted by another state or territory to practice dental hygiene, athletic training, embalming, physical therapy, dentistry, podiatry, optometry, pharmacy, chiropractic, audiology, speech-language pathology, or funeral directing and for a license to practice psychology on the basis of such an examination or foreign license, one hundred dollars plus actual costs incurred in issuing the license, as determined by the department, except that the total fee shall not exceed four hundred dollars;

(b) Not less than twenty dollars nor more than ~~one~~ four hundred dollars for the biennial renewal of a license to practice medicine and surgery, osteopathy, or any of the professions enumerated in subdivision (a) of this subsection except psychology, for which the renewal fee shall equal the actual costs incurred for such renewal by the department or one hundred dollars, whichever is less;

(c) For a license to practice medicine and surgery and osteopathy issued upon the basis of an examination given by the board of examiners, three hundred dollars, and this may be adjusted by the Department of Health upon recommendation of the Board of Examiners in Medicine and Surgery to cover necessary expenses;

(d) For a license to practice medicine and surgery and osteopathy issued without examination based

on a license granted in another state, territory, or the District of Columbia, two hundred dollars, and this may be adjusted by the Department of Health upon recommendation of the Board of Examiners in Medicine and Surgery to cover necessary expenses;

(e) For a certified statement that a licensee is licensed in this state, five dollars; and

(f) For a duplicate original license, five dollars, except that for a duplicate license to practice psychology the fee shall be ten dollars.

All money paid as license and renewal fees shall be kept in a separate fund to be used for the benefit of the profession so paying such fees.

(2) The Department of Health, upon the recommendation of the appropriate examining board, shall determine the exact fee to be charged for a license or license renewal in each profession enumerated in subdivisions (1)(a) and (b) of this section based on the administrative costs incurred by the board. Such board may provide differing rates for licenses issued on the basis of an examination and licenses issued on the basis of a license from another state or territory.

Sec. 15. This act shall become operative on October 1, 1987.

Sec. 16. That original section 33-150, Reissue Revised Statutes of Nebraska, 1943, section 71-101, Revised Statutes Supplement, 1984, and sections 71-102, 71-110, 71-112, 71-113, 71-131, and 71-162, Revised Statutes Supplement, 1985, are repealed.