

LEGISLATIVE BILL 95

Approved by the Governor February 13, 1979

Introduced by Public Health and Welfare Committee, Cullan, 49, Chmn.; Kennedy, 21; Clark, 47; R. Maresh, 32; Goodrich, 20; Wesley, 26; Simon, 31

AN ACT to amend sections 71-147 and 71-148, Reissue Revised Statutes of Nebraska, 1943, relating to professional licenses; to change provisions relating to the suspension and revocation of such licenses; and to repeal the original sections.

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

Section 1. That section 71-147, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-147. A license to practice a profession may be denied, refused renewal, limited, revoked, suspended or have other disciplinary measures taken against it in accordance with section 71-155 when the applicant or licensee is guilty of any of the following acts or offenses: (1) Fraud, forgery, or misrepresentation of material facts, in procuring or attempting to procure a license; (2) grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state; (3) habitual intoxication or dependency on, or addiction to the use of alcohol or habituation, dependency on, or addiction to the use of any kind of controlled substance or narcotic drug; (4) conviction of a felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a felony under state law, and which has a rational connection with the applicant's or licensee's fitness or capacity to practice the profession; (5) practice of the profession: (a) fraudulently; (b) beyond its authorized scope; (c) with manifest incapacity; or (d) with gross incompetence; (6) practice of the profession while the ability to practice is impaired by alcohol, controlled substances or narcotic drugs, physical disability, mental disability, or emotional disability; (7) physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means; (8) permitting, aiding or abetting the practice of a profession or the performance of activities requiring a license by a person not licensed to do so; (9) the denial, refusal of renewal, limitation, suspension,

revocation or the taking of other disciplinary measures in accordance with section 71-155 against such individual by another state or jurisdiction to practice the particular profession involved, based upon acts by the applicant or licensee similar to acts described in this section, a certified copy of the record of denial, refusal of renewal, limitation, suspension, revocation or the taking of other disciplinary measures against it of the state or jurisdiction taking such action being conclusive evidence thereof; (10) unprofessional conduct, ~~as defined, including which term includes~~ all acts specified in section 71-148 and such other acts as may be defined in regulations adopted by the board of examiners in the profession of the applicant or licensee with the approval of the department; (11) use of untruthful or improbable statements, or flamboyant, exaggerated or extravagant claims, concerning such licensee's professional excellence or abilities, in advertisements; (12) conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act, Chapter 87, article 3; use and distribution of literature advertising professional abilities; ~~(13) other unethical advertising practice;~~ ~~(14)~~ (13) distribution of intoxicating liquors or controlled substances or drugs for any other than lawful purposes; ~~(15)~~ (14) willful or repeated violations of this act or the rules and regulations of the Department of Health relating to the licensee's profession, sanitation, quarantine, or school inspection; ~~(16)~~ (15) unlawful invasion of the field of practice of any profession mentioned in this act which the licensee is not licensed to practice; or ~~(17)~~ (16) failure to pay annual renewal fees as outlined in section 71-110. A license to practice a profession may also be refused renewal or revoked when the licensee is guilty of practicing such profession while his license to do so is suspended or is guilty of practicing such profession in contravention of any limitation placed upon his license.

Sec. 2. That section 71-148, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-148. For the purpose of section 71-147, unprofessional conduct shall include any of the following acts: (1) Solicitation of professional patronage by agents or persons, popularly known as cappers or steerers, or profiting by the acts of those representing themselves to be agents of the licensee; (2) receipt of fees on the assurance that a manifestly incurable disease can be permanently cured; (3) division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or

referring a patient; (4) assisting in the care or treatment of a patient without the consent of such patient or his or her legal representative; (5) the use of any letters, words, term or terms, either as a prefix, affix or suffix, on stationery, in advertisements, or otherwise, indicating that such person is entitled to practice a system or mode of healing for which he or she is not licensed; ~~(6)-advertisement-of-any-medicine-or-means-whereby-the-monthly-periods-of-women-can-be-regulated,-or-the-menses-reestablished-if-suppressed;-~~(7) (6) performing, procuring or aiding and abetting in the performance or procurement of a criminal abortion; ~~(8)~~ (7) willful betrayal of a professional secret; ~~(9)~~ (8) making use of any advertising statements of a character tending to deceive or mislead the public; ~~(10)~~ (9) advertising professional superiority or the performance of professional services in a superior manner; ~~(11)~~ advertising-prices-for-professional-service;- ~~(12)~~ advertising,-by-means-of-a-large-display,-light-signs-or-containing,-as-a-part-thereof,-the-representation-of-a-tooth,-teeth,-bridge-work-or-any-portion-of-the-human-head-or-body;- ~~(13)~~ employing-or-making-use-of-advertising-solicitors-or-free-public-press-agents;- ~~(14)~~ advertising-any-free-professional-services-or-free-examination;- ~~(15)~~ offering-discounts-or-inducements-to-prospective-patients,-by-means-of-coupons,-or-otherwise,-to-perform-professional-services-during-a-given-period-of-time-or-during-any-period-of-time-for-a-lesser-or-more-attractive-price; and (10) ~~(16)~~ advertising to guarantee any professional service, or to perform any operations, painlessly, ~~and~~ ~~(17)~~ advertising-any-price-or-prices-of-corrective-devices-or-services;

Sec. 3. That original sections 71-147 and 71-148, Reissue Revised Statutes of Nebraska, 1943, are repealed.