

LEGISLATIVE BILL 449

Approved by the Governor March 19, 1982

Introduced by Performance Review and Audit Committee,
Warner, 25, Chpn.; S. Marsh, 29; Rumery, 42;
Hoagland, 6; Labedz, 5; Fowler, 27; Cope, 36;
Dworak, 22

AN ACT relating to optometry; to amend section 71-1,136.03, Reissue Revised Statutes of Nebraska, 1943, section 71-133, Revised Statutes Supplement, 1980, and sections 71-162, 71-2610, and 81-196, Revised Statutes Supplement, 1981; to change provisions relating to the Board of Examiners in Optometry; to provide duties; to change provisions relating to examinations; to change fees as prescribed; to state intent; to provide duties for the State Board of Health; to provide for the continuation of the Board of Examiners in Optometry; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 71-133, Revised Statutes Supplement, 1980, be amended to read as follows:

71-133. The practical work, required in connection with any examination regulated under this act, shall be given by at least one-third of the members of the board giving such examination, except for optometry, in which at least a majority of the board members shall be present at such examination. In dentistry, the final practical examination in operative and prosthetic dentistry may be given at the infirmary of each of the dental colleges, schools, or departments, legally conducted in the State of Nebraska of which the applicant is a graduate. Regional practical examinations may be used to meet the requirement of a final practical examination in operative and prosthetic dentistry upon the recommendation of the Board of Examiners in Dentistry and the subsequent approval of the department.

Sec. 2. That section 71-162, Revised Statutes Supplement, 1981, be amended to read as follows:

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

(1) For a license to practice dental hygiene issued upon the basis of an examination given by the board of examiners, twenty-five dollars;

(2) For a license to practice medicine and surgery and osteopathy issued upon the basis of an examination given by the board of examiners, one hundred fifty 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;

(3) For a license to practice embalming issued upon the basis of an examination given by the board of examiners, thirty dollars;

(4) For a license to practice physical therapy issued upon the basis of an examination given by the board of examiners, thirty-five dollars;

(5) For a license to practice dentistry, or podiatry, ~~or~~ optometry issued upon the basis of an examination given by the board of examiners, fifty dollars;

(6) For a license to practice pharmacy issued upon the basis of an examination given by the board of examiners, one hundred dollars;

(7) For a license to practice chiropractic issued upon the basis of an examination given by the board of examiners, seventy-five dollars;

(8) For a license to practice any of the professions enumerated in subdivisions (1), (3), (4), (5), (7), and (16) of this section, except podiatry and dental hygiene, issued without examination upon a license granted in another state, territory, or the District of Columbia, fifty dollars;

(9) For a license issued to practice dentistry without examination upon a license granted in another state, territory, or the District of Columbia, fifty dollars;

(10) For a license issued to practice podiatry when based upon an examination held by the National Board of Podiatry Examiners, fifty dollars;

(11) For a license to practice audiology or speech pathology issued upon the basis of an examination given by the board of examiners, seventy-five dollars;

(12) For a license to practice podiatry issued without an examination based upon a license granted in another state, territory, or the District of Columbia, one hundred dollars;

(13) For a license to practice pharmacy issued without an examination upon a license granted in another state, territory, or the District of Columbia, one hundred dollars;

(14) For a license to practice dental hygiene issued without examination upon a license granted in another state, territory, or the District of Columbia, twenty-five dollars;

(15) For a license to practice audiology or speech pathology issued without examination upon a license granted in another state, territory, or the District of Columbia, or when examination is waived or a national examination is used, seventy-five dollars;

(16) For a license to practice funeral directing issued upon the basis of an examination given by the board of examiners, thirty dollars;

(17) 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, one 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;

(18) For a license to practice optometry, issued with or without an examination given by the board of examiners, an amount to be determined by such board between twenty-five and one hundred dollars;

~~(18)~~ (19) For the annual renewal of a license to practice any of the professions enumerated in this section the fee shall be as follows: Dental hygiene, physical therapy, funeral directing, and embalming, ten dollars; optometry, audiology, and speech pathology, twenty-five dollars; and chiropractic, podiatry, pharmacy, dentistry, medicine and surgery, and osteopathy, fifteen dollars. The Board of Examiners in Optometry shall establish the annual renewal fee for optometry which shall be in an amount between ten and fifty dollars and based upon the administration costs of renewal. 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;

~~(19)~~ (20) For a certified statement that a licensee is licensed in this state, two dollars; and

~~(20)~~ (21) For a duplicate original license, two dollars.

Sec. 3. The purpose of the Board of Examiners in Optometry is to: (1) Provide for the health, safety, and welfare of the citizens; (2) insure that optometrists serving the public meet minimum standards of proficiency and competency; and (3) control the field of optometry in the interest of consumer protection when it does not prohibit or restrict current legitimate practices in this state.

Sec. 4. The members of the Board of Examiners in Optometry need not be present at an examination given to applicants for the licensure in optometry when a national standardized examination is utilized. Such board may delegate the administration of such examination to the Department of Health or another person. A majority of the members of the board shall be present at any other written examination given to applicants for licensure in optometry.

A majority of the members of the board shall be present at any oral examination. The oral examination questions shall be limited to the technical knowledge of the practice of optometry.

Sec. 5. That section 71-1,136.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,136.03. The Board of Examiners in Optometry, with the approval of the Department of Health, may adopt such rules and regulations as may be reasonable and proper for the purpose of administering such provisions of sections 71-1,133 to 71-1,136.02 and sections 3 and 4 of this act, as properly fall within the jurisdiction of the board.

Sec. 6. The Department of Health shall adopt and promulgate rules and regulations which establish definitions of conflicts of interest for members of the Board of Examiners in Optometry and which establish procedures in the case such a conflict arises.

Sec. 7. The Board of Examiners in Optometry shall provide the Attorney General with copies of all complaints it receives which allege or may involve possible statutory violations by the licensee. The Attorney General shall then determine the appropriate

legal action to take, if any, against the licensee.

Sec. 8. That section 71-2610, Revised Statutes Supplement, 1981, be amended to read as follows:

71-2610. The State Board of Health shall advise the department regarding:

(1) Rules and regulations for the government of the Department of Health, including those required pursuant to section 6 of this act;

(2) The policies of the Department of Health;

(3) Health needs for the state;

(4) An educational health program throughout the state; and

(5) Plans of organization or reorganization of the Department of Health.

All funds rendered available by law, including funds already collected for such purposes, may be used by the department in administering and effecting such purposes.

Sec. 9. That section 81-196, Revised Statutes Supplement, 1981, be amended to read as follows:

81-196. The following agencies, boards, or commissions shall terminate on July 1, 1981:

(1) Board of Examiners in Medicine and Surgery, created by sections 71-111 and 71-112;

~~(2) Board of Examiners in Optometry, created by sections 71-444 and 71-442;~~

~~(3)~~ (2) Board of Examiners in Osteopathy, created by sections 71-111 and 71-112; and

~~(4)~~ (3) Board of Examiners in Podiatry, created by sections 71-111 and 71-112.

Sec. 10. That original section 71-1,136.03, Reissue Revised Statutes of Nebraska, 1943, section 71-133, Revised Statutes Supplement, 1980, and sections 71-162, 71-2610, and 81-196, Revised Statutes Supplement, 1981, are repealed.

Sec. 11. Since an emergency exists, this act shall be in full force and take effect, from and after

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its passage and approval, according to law.