

LEGISLATURE OF NEBRASKA  
NINETY-SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 583**

Introduced by Byars, 30

Read first time January 12, 2001

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to public health and welfare; to amend sections  
2 71-3706, 71-3707, and 71-6115, Reissue Revised Statutes  
3 of Nebraska, and sections 71-101, 71-111, 71-117, 71-118,  
4 71-1,132.07, 71-374, 71-1718.01, 71-4715, and 71-6065,  
5 Revised Statutes Supplement, 2000; to provide for the  
6 Governor to appoint members to professional examining  
7 boards; to harmonize provisions; and to repeal the  
8 original sections.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 71-101, Revised Statutes Supplement,  
2 2000, is amended to read:

3           71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to  
4 71-1,338, 71-1,343, 71-1301 to 71-1354, and 71-2801 to 71-2822  
5 shall be known and may be cited as the Uniform Licensing Law.

6           For purposes of the Uniform Licensing Law, unless the  
7 context otherwise requires:

8           (1) Board or professional board means one of the boards  
9 appointed ~~by the State Board of Health pursuant to section 71-111;~~

10           (2) Licensed, when applied to any licensee in any of the  
11 professions named in section 71-102, means a person licensed under  
12 the Uniform Licensing Law;

13           (3) Profession or health profession means any of the  
14 several groups named in section 71-102;

15           (4) Department means the Department of Health and Human  
16 Services Regulation and Licensure;

17           (5) Whenever a particular gender is used, it is construed  
18 to include both the masculine and the feminine, and the singular  
19 number includes the plural when consistent with the intent of the  
20 Uniform Licensing Law;

21           (6) License, licensing, or licensure means permission to  
22 engage in a health profession which would otherwise be unlawful in  
23 this state in the absence of such permission and which is granted  
24 to individuals who meet prerequisite qualifications and allows them  
25 to perform prescribed health professional tasks and use a  
26 particular title;

27           (7) Certificate, certify, or certification, with respect  
28 to professions, means a voluntary process by which a statutory,

1 regulatory entity grants recognition to an individual who has met  
2 certain prerequisite qualifications specified by such regulatory  
3 entity and who may assume or use the word certified in the title or  
4 designation to perform prescribed health professional tasks. When  
5 appropriate, certificate means a document issued by the department  
6 which designates particular credentials for an individual;

7 (8) Lapse means the termination of the right or privilege  
8 to represent oneself as a licensed, certified, or registered person  
9 and to practice the profession when a license, certificate, or  
10 registration is required to do so; and

11 (9) Credentialing means the totality of the process  
12 associated with obtaining state approval to provide health care  
13 services or human services or changing aspects of a current  
14 approval. Credentialing grants permission to use a protected title  
15 that signifies that a person is qualified to provide the services  
16 of a certain profession. Credential includes a license,  
17 certificate, or registration.

18 Sec. 2. Section 71-111, Revised Statutes Supplement,  
19 2000, is amended to read:

20 71-111. For the purpose of giving examinations to  
21 applicants for license to practice the professions for which a  
22 license is required by the Uniform Licensing Law or for the purpose  
23 of certification or registration, the ~~State Board of Health~~  
24 Governor shall appoint a professional board for each of the  
25 professions under the Uniform Licensing Law except osteopathic  
26 medicine and surgery.

27 Sec. 3. Section 71-117, Revised Statutes Supplement,  
28 2000, is amended to read:

1           71-117. The regular state association or society, or its  
2 managing board, for each profession may submit each year to the  
3 ~~State Board of Health~~ Governor a list of five persons of recognized  
4 ability in such profession who have the qualifications prescribed  
5 for professional members of the professional board for that  
6 particular profession. Each professional member of the Board of  
7 Pharmacy shall be the recipient of a diploma of graduation from an  
8 accredited school or college of pharmacy. If such a list is  
9 submitted, the ~~State Board of Health~~ Governor shall consider the  
10 names on such list and may appoint one of the persons so named.  
11 Any person who desires to be considered for an appointment to a  
12 professional board and who possesses the necessary qualifications  
13 for such appointment may apply on a form provided by the ~~State~~  
14 ~~Board of Health~~ Governor any time prior to October 1 of each year.  
15 The ~~State Board of Health~~ Governor shall consider such applications  
16 and may appoint any qualified person so applying to the  
17 professional board, even though such person is not named on a list  
18 submitted by the association or society.

19           Sec. 4. Section 71-118, Revised Statutes Supplement,  
20 2000, is amended to read:

21           71-118. The ~~State Board of Health~~ Governor shall have  
22 power to remove from office at any time any member of a  
23 professional board, after a public hearing pursuant to the  
24 provisions of the Administrative Procedure Act, for physical or  
25 mental incapacity to carry out the duties of a board member, for  
26 continued neglect of duty, for incompetency, for acting beyond the  
27 individual member's scope of authority, for malfeasance in office,  
28 for any cause for which a credential in the profession involved may

1 be suspended or revoked under section 71-147 or 71-148, or for a  
2 lack of a credential in the profession involved.

3 Sec. 5. Section 71-1,132.07, Revised Statutes  
4 Supplement, 2000, is amended to read:

5 71-1,132.07. (1) The Board of Nursing is established.  
6 The board shall consist of eight registered nurse members, two  
7 licensed practical nurse members, and two consumer members, all of  
8 whom shall be appointed by the ~~State Board of Health~~ Governor. The  
9 registered nurses on the ~~Board of Nursing~~ board shall be from the  
10 following areas: (a) One practical nurse educator; (b) one  
11 associate degree or diploma nurse educator; (c) one baccalaureate  
12 nurse educator; (d) two nursing service administrators; (e) two  
13 staff nurses; and (f) one clinical nurse specialist, advanced  
14 practice registered nurse, certified nurse  
15 practitioner-anesthetist, or certified nurse midwife. The nursing  
16 service administrators, the staff nurses, and the licensed  
17 practical nurses shall be equally representative of acute care,  
18 long-term care, and community-based care. All congressional  
19 districts shall be equally represented on the board, and each  
20 member shall have been a bona fide resident of the congressional  
21 district from which he or she is appointed for a period of at least  
22 one year prior to the time of the appointment of such member.

23 (2) The terms of office of all board members shall be  
24 staggered terms of four years each as the ~~State Board of Health~~  
25 Governor determines.

26 (3) At the expiration of the term of any member, the  
27 ~~State Board of Health~~ Governor may consult with appropriate  
28 professional nursing organizations regarding candidates for

1 appointment. Appointments shall be made on or before December 1 of  
2 each year. In order to be considered for reappointment, a  
3 candidate must currently meet all criteria for initial appointment.  
4 Vacancies occurring on the ~~Board of Nursing~~ board shall be filled  
5 for the unexpired terms by appointments made by the ~~State Board of~~  
6 ~~Health~~ Governor. No member shall serve more than two consecutive  
7 terms on the ~~Board of Nursing~~ board. Any board member initially  
8 appointed for less than a full term shall be eligible to serve for  
9 two additional consecutive full terms.

10 (4) The ~~State Board of Health~~ Governor shall have power  
11 to remove from office at any time any member of the ~~Board of~~  
12 ~~Nursing~~ board, after a public hearing pursuant to the  
13 Administrative Procedure Act, for physical or mental incapacity to  
14 carry out the duties of a board member, for continued neglect of  
15 duty, for incompetency, for acting beyond the individual member's  
16 scope of authority, for malfeasance in office, for any cause for  
17 which a license or certificate in the member's profession involved  
18 may be suspended or revoked, for a lack of licensure or  
19 certification in the member's profession, or for other sufficient  
20 cause.

21 (5) All members of the board are immune from individual  
22 civil liability while acting within the scope of their duties as  
23 board members.

24 (6) If the entire board, an individual member, or a staff  
25 member is sued, the Attorney General shall appoint an attorney to  
26 represent the involved parties.

27 (7) The department shall adopt and promulgate rules and  
28 regulations which establish definitions of conflicts of interest

1 for members of the board and which establish procedures in the case  
2 such a conflict arises.

3           Sec. 6.     Section 71-374, Revised Statutes Supplement,  
4 2000, is amended to read:

5           71-374. (1) Except as provided in subsection (2) of this  
6 section, the board shall be composed of ten members, including two  
7 school owners, one licensed instructor, two laypersons, one  
8 cosmetologist who is a salon owner and who is not a school owner,  
9 one electrologist who is not a licensed cosmetologist, one nail  
10 technician, and two cosmetologists who are not school owners. The  
11 professional members shall be licensed in Nebraska and maintain  
12 such license as well as their establishment licenses in good  
13 standing. No school owners, salon owners, electrologists, nail  
14 technicians, instructors, or cosmetologists may be affiliated with  
15 the same establishment.

16           (2) By October 1, 1999, the ~~State Board of Health~~  
17 Governor shall appoint one nail technician for a five-year term.  
18 The initial nail technician member must be eligible for licensure  
19 and obtain a nail technician license by January 1, 2000, to remain  
20 eligible to serve on the board.

21           (3) Members of the board shall be appointed by the ~~State~~  
22 Board of Health Governor, and the Governor may select from among  
23 nominees submitted by professional associations and other  
24 interested parties. A person may nominate himself or herself.

25           (4) The ~~State Board of Health Governor~~ may remove a  
26 member of the board for physical or mental incapacity to carry out  
27 the duties of a board member, for continued neglect of duty, for  
28 incompetency, for acting beyond the individual member's scope of

1 authority, for malfeasance in office, for any cause for which a  
2 professional license in the profession involved may be suspended or  
3 revoked under the Nebraska Cosmetology Act, or for a lack of  
4 licensure in the profession involved.

5 (5) Vacancies on the board shall be filled in the same  
6 manner as original appointments for the remainder of the unexpired  
7 term only.

8 (6) Members of the board, other than the initial members,  
9 shall serve for five-year terms, and no member shall serve for more  
10 than two consecutive terms excluding any partial term for which he  
11 or she may have been appointed.

12 Sec. 7. Section 71-1718.01, Revised Statutes Supplement,  
13 2000, is amended to read:

14 71-1718.01. (1) The Board of Advanced Practice  
15 Registered Nurses is established. The purpose of the board is to  
16 (a) provide for the health, safety, and welfare of the citizens,  
17 (b) ensure that licensees serving the public meet minimum standards  
18 of proficiency and competency, and (c) control the profession in  
19 the interest of consumer protection. The Board of Advanced  
20 Practice Registered Nurses is the direct and only successor to the  
21 Board of Advanced Registered Nurse Practitioners.

22 (2) The board shall consist of (a) five advanced practice  
23 registered nurses representing different advanced practice  
24 registered nurse specialties for which a license has been issued,  
25 (b) five physicians licensed under the Uniform Licensing Law to  
26 practice medicine in Nebraska, at least three of whom shall have a  
27 current collaborating relationship with an advanced practice  
28 registered nurse, (c) three consumer members, and (d) one licensed

1 pharmacist.

2           (3) The members of the board shall be appointed by the  
3 ~~State Board of Health Governor~~. Members shall be appointed for  
4 terms of four years. At the expiration of the term of any member,  
5 the ~~State Board of Health Governor~~ may consult with appropriate  
6 professional organizations regarding candidates for appointment to  
7 the ~~Board of Advanced Practice Registered Nurses board~~. Upon  
8 expiration of terms, appointments or reappointments shall be made  
9 on or before December 1 of each year. Vacancies on the ~~Board of~~  
10 ~~Advanced Practice Registered Nurses board~~ shall be filled for the  
11 unexpired term by appointments made by the ~~State Board of Health~~  
12 ~~Governor~~. No member shall serve more than two consecutive terms on  
13 the ~~Board of Advanced Practice Registered Nurses board~~.

14           (4) The ~~State Board of Health Governor~~ has power to  
15 remove from office any member of the ~~Board of Advanced Practice~~  
16 ~~Registered Nurses board~~, after a public hearing pursuant to the  
17 Administrative Procedure Act, for physical or mental incapacity to  
18 carry out the duties of a board member, for continued neglect of  
19 duty, for incompetence, for acting beyond the individual member's  
20 scope of authority, for malfeasance in office, for any cause for  
21 which a license or certificate in the member's profession involved  
22 may be suspended or revoked, for a lack of licensure or  
23 certification in the member's profession, or for other sufficient  
24 cause.

25           (5) Each member of the ~~Board of Advanced Practice~~  
26 ~~Registered Nurses board~~ shall receive a per diem of thirty dollars  
27 per day for each day the member is actually engaged in the  
28 discharge of his or her official duties and shall be reimbursed for

1 travel, lodging, and other necessary expenses incurred as a member  
2 of the board pursuant to sections 81-1174 to 81-1177.

3 (6) The department shall adopt and promulgate rules and  
4 regulations which define conflicts of interest for members of the  
5 ~~Board of Advanced Practice Registered Nurses~~ board and which  
6 establish procedures in case such a conflict arises.

7 Sec. 8. Section 71-3706, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 71-3706. The Board of Registration for Environmental  
10 Health Specialists shall consist of six members appointed by the  
11 ~~State Board of Health~~ Governor. One member shall be a layperson  
12 who is at least the age of majority, who has been a resident of the  
13 state for at least five years immediately preceding appointment,  
14 and who is a representative of consumer viewpoints. Each of the  
15 other members shall have been engaged in environmental health for  
16 at least ten years, shall have had responsible charge of work for  
17 at least five years at the time of his or her appointment, and  
18 shall be a registered environmental health specialist. Each member  
19 of the ~~Board of Registration for Environmental Health Specialists~~  
20 shall receive as compensation not more than twenty-five dollars per  
21 day for each day actually spent in traveling to and from and while  
22 attending sessions of the board and its committees, and each member  
23 shall also receive the necessary expenses incident to the  
24 performance of his or her duties as provided by sections 81-1174 to  
25 81-1177 and subject to section 71-3708.01.

26 The Department of Health and Human Services Regulation  
27 and Licensure shall adopt and promulgate rules and regulations  
28 which establish definitions of conflicts of interest for members of

1 the board and which establish procedures in the case such a  
2 conflict arises.

3           Sec. 9.     Section 71-3707, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           71-3707. One appointive member of the board shall be  
6 designated for a term expiring December 31, 1964, one shall be  
7 designated for a term expiring December 31, 1965, and two shall be  
8 designated for terms expiring December 31, 1966. The layperson  
9 shall be appointed for a three-year term beginning on January 1,  
10 1995. Thereafter the term of office of each board member shall be  
11 for three years. Vacancies shall be filled by appointment by the  
12 ~~State Board of Health~~ Governor for unexpired terms. The ~~State~~  
13 ~~Board of Health~~ Governor shall have power to remove from office any  
14 member of the ~~Board of Registration for Environmental Health~~  
15 ~~Specialists~~ board, after a public hearing pursuant to the  
16 Administrative Procedure Act, for physical or mental incapacity to  
17 carry out the duties of a board member, for continued neglect of  
18 duty, for incompetency, for acting beyond the individual member's  
19 scope of authority, for malfeasance in office, for any cause for  
20 which a registration may be suspended or revoked, for a lack of  
21 registration in the member's profession, or for other sufficient  
22 cause.

23           Sec. 10. Section 71-4715, Revised Statutes Supplement,  
24 2000, is amended to read:

25           71-4715.   (1) There is hereby established a Board of  
26 Hearing Aid Instrument Dispensers and Fitters which shall guide,  
27 advise, and make recommendations to the department.

28           (2) Members of the board shall be residents of the state.

1 The board shall consist of three hearing aid instrument dispensers  
2 and fitters, one otolaryngologist, one audiologist, and one public  
3 member. Each hearing aid instrument dispenser and fitter on the  
4 board shall have not less than five years of experience and shall  
5 hold a valid license. The public member shall be at least the age  
6 of majority, a resident of this state at least five years preceding  
7 appointment, and a representative of consumer viewpoints.

8 (3) All members of the board shall be appointed by the  
9 ~~State Board of Health~~ Governor. The term of office of each member  
10 shall be for four years, except that of the first members appointed  
11 under sections 71-4701 to 71-4719, two shall be appointed for two  
12 years, two shall be appointed for three years, and one shall be  
13 appointed for four years. The ~~State Board of Health~~ Governor shall  
14 appoint the public member as of December 1, 1994, for a term of  
15 four years. Before a member's term expires, the ~~State Board of~~  
16 ~~Health~~ Governor shall appoint a successor to take office on the  
17 expiration of such term. A vacancy in the office of a member shall  
18 be filled by appointment for the unexpired term. The members shall  
19 annually designate one member to serve as chairperson and another  
20 to serve as secretary-treasurer. No member who has served two or  
21 more full terms may be reappointed to the ~~Board of Hearing Aid~~  
22 ~~Instrument Dispensers and Fitters~~ board until at least one year  
23 after the expiration of his or her most recent full term of office.

24 (4) Members of the board shall receive for each day  
25 actually engaged in the duties of the office a per diem amount of  
26 twenty-five dollars and reimbursement for actual and necessary  
27 travel and other expenses as provided in sections 81-1174 to  
28 81-1177. Such remuneration and reimbursement shall be paid from

1 appropriations made for this purpose.

2 (5) The ~~State Board of Health~~ Governor shall have power  
3 to remove from office at any time any member of the ~~Board of~~  
4 ~~Hearing Aid Instrument Dispensers and Fitters~~ board, after a public  
5 hearing pursuant to the Administrative Procedure Act, for physical  
6 or mental incapacity to carry out the duties of a board member, for  
7 continued neglect of duty, for incompetency, for acting beyond the  
8 individual member's scope of authority, for malfeasance in office,  
9 for any cause for which a license in the member's profession may be  
10 suspended or revoked, for a lack of licensure in the member's  
11 profession, or for other sufficient cause.

12 Sec. 11. Section 71-6065, Revised Statutes Supplement,  
13 2000, is amended to read:

14 71-6065. (1) The Board of Examiners in Nursing Home  
15 Administration is created. The board shall be under the  
16 supervision of the department and shall consist of a designated  
17 representative of the Policy Cabinet described in section 81-3009  
18 and the following members appointed by the ~~State Board of Health~~  
19 Governor: (a) Two members who hold active licenses and are  
20 currently employed in the management, operation, or ownership of  
21 proprietary homes for the aged or infirm or nursing homes that  
22 serve the aged or infirm in Nebraska; (b) two members who hold  
23 active licenses and are currently employed in the management or  
24 operation of a nonprofit home for the aged or infirm or nursing  
25 home or hospital caring for chronically ill or infirm, aged  
26 patients; (c) one member who is a member of the faculty of a  
27 college or university located in the state who is actively engaged  
28 in a teaching program relating to business administration, social

1 work, gerontology, or some other aspect of the administration of  
2 health care facilities; (d) one member who is a licensed physician  
3 and surgeon with a demonstrated interest in long-term care; (e) one  
4 member who is a licensed registered professional nurse; and (f) two  
5 members who are laypersons, at least the age of majority, residents  
6 of this state for at least five years preceding appointment, and  
7 representative of consumer viewpoints. The members of the board  
8 shall serve as members of such board until the expiration of their  
9 respective terms or until their successors have been appointed and  
10 qualified. Each appointed member who is an administrator shall be  
11 licensed pursuant to sections 71-6053 to 71-6068.

12 (2) The appointed members shall be appointed for terms of  
13 three years, and the terms shall be staggered so that the terms of  
14 three appointed members of the board expire each year. The term of  
15 each member shall commence on the first day of December following  
16 the expiration of the term of the member whom such person succeeds.  
17 A vacancy in any appointive position on the board shall be filled  
18 for the unexpired portion of the term by appointment by the ~~State~~  
19 ~~Board of Health~~ Governor in the same manner as original  
20 appointments are made. Appointed members shall serve until their  
21 successors are appointed and qualified.

22 (3) The ~~State Board of Health~~ Governor shall have power  
23 to remove from office at any time any member of the board after a  
24 public hearing pursuant to the Administrative Procedure Act for  
25 physical or mental incapacity to carry out the duties of a board  
26 member, for continued neglect of duty, for incompetency, for acting  
27 beyond the individual member's scope of authority, for malfeasance  
28 in office, for any cause for which a license may be suspended or

1 revoked, or for a lack of licensure.

2 (4) The department shall adopt and promulgate rules and  
3 regulations which establish definitions of conflicts of interest  
4 for members of the board and which establish procedures in the case  
5 such a conflict arises.

6 Sec. 12. Section 71-6115, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 71-6115. (1) There is hereby established the Board of  
9 Occupational Therapy Practice. The board shall consist of at least  
10 four members appointed by the ~~State Board of Health~~ Governor, all  
11 of whom shall be residents of this state. Any statewide  
12 association of occupational therapists may submit a list of names  
13 of qualified persons from which the ~~State Board of Health~~ Governor  
14 may choose members of the ~~Board of Occupational Therapy Practice~~  
15 board. Three of the persons appointed shall have been engaged in  
16 rendering services to the public, teaching, or research in  
17 occupational therapy for at least five years immediately preceding  
18 their appointments. Two of the persons appointed shall be  
19 occupational therapists and one shall be either an occupational  
20 therapist or an occupational therapy assistant and all shall be  
21 holders of valid licenses issued under the Occupational Therapy  
22 Practice Act during their terms. The fourth member shall be a  
23 member of the public with an interest in the rights of the  
24 consumers of health services. The members of the board shall serve  
25 five-year terms, except that the initial members of the board shall  
26 serve as follows: The member of the public shall serve one year  
27 and the remaining members shall serve terms of two, three, and four  
28 years as the ~~State Board of Health~~ Governor shall designate. The

1 term of each member shall commence on December 1 following the  
2 expiration of the preceding term. No person shall serve more than  
3 two full consecutive terms on the board. The ~~State Board of Health~~  
4 Governor shall fill any vacancy for an unexpired term in the same  
5 manner as the initial appointment. The members shall not receive  
6 compensation but shall be reimbursed for their actual expenses  
7 incurred while in the performance of their duties in the same  
8 manner as state employees pursuant to sections 81-1174 to 81-1177.  
9 The board shall annually elect a chairperson and such other  
10 officers as it deems necessary and shall meet at least once per  
11 year or more as the department and board shall determine. Members  
12 of the board may be removed from office on the grounds and in the  
13 manner provided by section 71-118.

14 (2) The department shall adopt and promulgate rules and  
15 regulations necessary to administer the Occupational Therapy  
16 Practice Act. The rules and regulations shall include (a)  
17 definitions of unprofessional conduct, (b) definitions of conflicts  
18 of interest for members of the board and procedures in the case  
19 such a conflict arises, and (c) role delineation for occupational  
20 therapy assistants.

21 Sec. 13. Original sections 71-3706, 71-3707, and  
22 71-6115, Reissue Revised Statutes of Nebraska, and sections 71-101,  
23 71-111, 71-117, 71-118, 71-1,132.07, 71-374, 71-1718.01, 71-4715,  
24 and 71-6065, Revised Statutes Supplement, 2000, are repealed.