

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 481
FINAL READING

Introduced by Johnson, 37

Read first time January 17, 2007

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Uniform Licensing Law; to amend
2 sections 71-101, 71-104.01, and 71-131, Revised Statutes
3 Cumulative Supplement, 2006; to change provisions
4 relating to criminal background checks and certain
5 licensing examinations as prescribed; to harmonize
6 provisions; to repeal the original sections; and to
7 declare an emergency.

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

1 Section 1. Section 71-101, Revised Statutes Cumulative
2 Supplement, 2006, 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 to 71-1,361, and 71-1301 to 71-1354, section 4
5 of this act, and the Physical Therapy Practice Act shall be known
6 and may be cited as the Uniform Licensing Law.

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

9 (1) Board or professional board means one of the boards
10 appointed by the State Board of Health pursuant to sections 71-111
11 and 71-112;

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

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

17 (4) Department means the Department of Health and Human
18 Services Regulation and Licensure;

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

23 (6) License, licensing, or licensure means permission to
24 engage in a health profession which would otherwise be unlawful
25 in this state in the absence of such permission and which is

1 granted to individuals who meet prerequisite qualifications and
2 allows them to perform prescribed health professional tasks and use
3 a particular title;

4 (7) Certificate, certify, or certification, with respect
5 to professions, means a voluntary process by which a statutory,
6 regulatory entity grants recognition to an individual who has met
7 certain prerequisite qualifications specified by such regulatory
8 entity and who may assume or use the word certified in the title or
9 designation to perform prescribed health professional tasks. When
10 appropriate, certificate means a document issued by the department
11 which designates particular credentials for an individual;

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

16 (9) Credentialing means the totality of the process
17 associated with obtaining state approval to provide health care
18 services or human services or changing aspects of a current
19 approval. Credentialing grants permission to use a protected
20 title that signifies that a person is qualified to provide the
21 services of a certain profession. Credential includes a license,
22 certificate, or registration; and

23 (10) Dependence means a compulsive or chronic need for
24 or an active addiction to alcohol or any controlled substance or
25 narcotic drug.

1 Sec. 2. Section 71-104.01, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 71-104.01 (1) An applicant for an initial license to
4 practice a profession which is authorized to prescribe controlled
5 substances shall be subject to a criminal background check. ~~The~~
6 Except as provided in subsection (3) of this section, the applicant
7 shall submit with the application a full set of fingerprints which
8 shall be forwarded to the Nebraska State Patrol to be submitted to
9 the Federal Bureau of Investigation for a national criminal history
10 record information check. The applicant shall authorize release of
11 the results of the national criminal history record information
12 check to the department. The applicant shall pay the actual cost of
13 the fingerprinting and criminal background check.

14 (2) This section shall not apply to dentists who are
15 applicants for temporary practice rights under subdivision (5) of
16 section 71-183.01 or to physicians and surgeons who are applicants
17 for temporary practice rights under subdivision (9) of section
18 71-1,103.

19 (3) An applicant for a temporary educational permit as
20 defined in section 71-1,107.01 shall have ninety days from the
21 issuance of the permit to comply with subsection (1) of this
22 section and shall have his or her permit suspended after such
23 ninety-day period if the criminal background check is not complete
24 or revoked if the criminal background check reveals that the
25 applicant was not qualified for the permit.

1 Sec. 3. Section 71-131, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 71-131 (1) In the absence of any specific requirement or
4 provision relating to any particular profession:

5 (a) The department may, upon the recommendation of
6 the designated professional board, adopt and promulgate rules
7 and regulations to specify the passing grade on licensure or
8 certification examinations. In the absence of such rules and
9 regulations, an examinee shall be required to obtain an average
10 grade of seventy-five and shall be required to obtain a grade of
11 sixty in each subject examined;

12 (b) A person who desires to take a licensure or
13 certification examination but does not wish to receive a license or
14 certification may take such examination by meeting the examination
15 eligibility requirements and paying the cost of the examination;
16 and

17 (c) An examinee who fails a licensure or certification
18 examination may retake the entire examination or the part failed
19 upon payment of the licensure or certification fee each time he or
20 she is examined. The department shall withhold from the licensure
21 or certification fee the cost of any national examination used
22 when an examinee fails a licensure or certification examination
23 and shall return to the examinee the remainder of the licensure
24 or certification fee collected subject to section 71-162.05, except
25 that:

1 (i) If the state-developed jurisprudence portion of the
2 licensure or certification examination was failed, the examinee may
3 retake that portion without charge; and

4 (ii) If any component of a national examination was
5 failed, the examinee shall be charged the cost for purchasing such
6 examination.

7 (2) In pharmacy, all applicants shall be required to
8 attain a grade to be determined by the Board of Pharmacy in
9 an examination in pharmacy and a grade of seventy-five in an
10 examination in jurisprudence of pharmacy.

11 (3) In social work, the passing criterion for such
12 examination shall be established and may be changed by the Board of
13 Mental Health Practice by rule and regulation. The board may exempt
14 an applicant from the written examination if he or she meets all
15 the requirements for certification without examination pursuant to
16 section 71-1,319 or rules and regulations adopted and promulgated
17 by the department pursuant to section 71-139.

18 (4) In professional counseling, the passing criterion for
19 such examination shall be established and may be changed by the
20 Board of Mental Health Practice by rule and regulation. The board
21 may exempt an applicant from the written examination if he or she
22 meets all of the requirements for certification without examination
23 pursuant to rules and regulations adopted and promulgated by the
24 department pursuant to section 71-139.

25 (5) In marriage and family therapy, the passing criterion

1 for such examination shall be established and may be changed by the
2 Board of Mental Health Practice by rule and regulation. The board
3 may exempt an applicant from the written examination if he or she
4 meets all of the requirements for certification without examination
5 pursuant to section 71-1,329 or rules and regulations adopted and
6 promulgated by the department pursuant to section 71-139.

7 ~~(6) Applicants for licensure in medicine and surgery~~
8 ~~and osteopathic medicine and surgery shall pass the licensing~~
9 ~~examination. An applicant who fails to pass any part of the~~
10 ~~licensing examination within four attempts shall complete one~~
11 ~~additional year of postgraduate medical education at an accredited~~
12 ~~school or college of medicine or osteopathic medicine. All parts~~
13 ~~of the licensing examination shall be successfully completed within~~
14 ~~seven years, except that if the applicant has been enrolled in a~~
15 ~~combined doctorate of medicine and doctorate of philosophy degree~~
16 ~~program in an accredited school or college of medicine, all parts~~
17 ~~of the licensing examination shall be successfully completed within~~
18 ~~ten years. An applicant who fails to successfully complete the~~
19 ~~licensing examination within the time allowed shall retake that~~
20 ~~part of the examination which was not completed within the time~~
21 ~~allowed.~~

22 ~~(7)~~ (6) In medical nutrition therapy, the passing
23 criterion for such examination shall be established and may be
24 changed by the Board of Medical Nutrition Therapy by rule and
25 regulation. Such examination shall test for the essential clinical

1 elements of the field of medical nutrition therapy. The board shall
2 base all of its actions on broad categorical parameters derived
3 from the essential elements of the field of medical nutrition
4 therapy and shall not endorse nor restrict its assessment to any
5 particular nutritional school of thought. The board may exempt
6 an applicant from the written examination if he or she meets all
7 of the requirements for licensure without examination pursuant to
8 section 71-1,291 or rules and regulations adopted and promulgated
9 by the department pursuant to section 71-139.

10 ~~(8)~~ (7) In alcohol and drug counseling, the Board of
11 Alcohol and Drug Counseling shall approve a licensing examination
12 and establish the passing criterion for such examination, which
13 meets or exceeds the minimum international standards for alcohol
14 and drug counselors established by the International Certification
15 and Reciprocity Consortium, Alcohol and Other Drug Abuse, Inc. or
16 its successor.

17 Sec. 4. Applicants for licensure in medicine and surgery
18 and osteopathic medicine and surgery shall pass the licensing
19 examination. An applicant who fails to pass any part of the
20 licensing examination within four attempts shall complete one
21 additional year of postgraduate medical education at an accredited
22 school or college of medicine or osteopathic medicine. All parts
23 of the licensing examination shall be successfully completed within
24 ten years. An applicant who fails to successfully complete the
25 licensing examination within the time allowed shall retake that

1 part of the examination which was not completed within the time
2 allowed.

3 Sec. 5. Original sections 71-101, 71-104.01, and 71-131,
4 Revised Statutes Cumulative Supplement, 2006, are repealed.

5 Sec. 6. Since an emergency exists, this act takes effect
6 when passed and approved according to law.