

LEGISLATIVE BILL 689

Approved by the Governor March 16, 1978

Introduced by Public Health and Welfare Committee, R. Lewis, 38; R. Maresh, 32; Rasmussen, 41; Kelly, 35; Kennedy, 21; Cullan, 49; Moylan, 6

AN ACT to amend section 71-162, Reissue Revised Statutes of Nebraska, 1943, and section 71-5403, Revised Statutes Supplement, 1977, relating to public health and welfare; to change a license fee as prescribed; to change the wording of a sign as prescribed; 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 71-162, Reissue Revised Statutes of Nebraska, 1943, 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 osteopathy and 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 issued upon the basis of an examination given by the board of examiners or 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;

(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 ~~chiropractic~~, dentistry, 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, sixty-five dollars;

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

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

{8} (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;

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

{10} (11) 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;

{11} (12) 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;

{12} (13) 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;

{13} (14) 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, osteopathy, physical therapy, and embalming, ten dollars; optometry, twenty-five dollars; and chiropractic, podiatry, pharmacy, dentistry, and medicine and surgery, fifteen 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;

{14} (15) For a certified statement that a licensee is licensed in this state, two dollars; and

(15) (16) For a duplicate original license, two dollars.

Sec. 2. That section 71-5403, Revised Statutes Supplement, 1977, be amended to read as follows:

71-5403. (1) Except as limited (a) by this section, when a medical practitioner designates that no drug product selection is permitted, and (b) by subsection (1) of section 71-5404, unless the purchaser instructs otherwise, the pharmacist may drug product select a drug product with the same generic name in the same strength, quantity, dose, and dosage form as the prescribed drug which is, in the pharmacist's professional opinion, therapeutically equivalent, except that products designated as controlled substances as listed in Schedule I or II of section 28-4,117 shall not be interchanged. It shall be the responsibility of the purchaser or the ultimate user to advise or instruct the pharmacist that he does not desire drug product selection, and it shall not be mandatory for the pharmacist to drug product select against his professional judgment.

(2) The department may promulgate necessary rules and regulations, upon the joint recommendation of the Board of Examiners in Medicine and Surgery and the Board of Examiners in Pharmacy, relating to (a) bioavailability, (b) fraudulent or misleading advertising pertaining to drug product selection, and (c) the control of conditions in which the prescribing practitioner or purchaser should be advised when drug product selection has been made by the pharmacist.

(3) A medical practitioner duly authorized to prescribe drugs, medicinal substances, or controlled substances may specify in writing or by telephonic communication on each prescription that there shall be no drug product selection for the specified brand name drug in any prescription. The phrase no drug product selection or the notation N.D.P.S. shall be specified on the prescription form or orally communicated by the medical practitioner. The pharmacist shall note N.D.P.S. on the face of the prescription if such is communicated orally by the prescribing medical practitioner.

(4) Each pharmacy shall post a sign in a location easily seen by patrons at the counter where prescriptions are dispensed stating that this pharmacy may be able to ~~drug-product~~ select a less expensive drug product which is therapeutically equivalent to the one prescribed by the prescriber unless the purchaser does not approve. The sign shall be provided by the department, at a cost

to the pharmacy which shall not exceed the actual cost of printing to the department, and the printing on the sign shall be in block letters not less than one inch in height.

(5) A pharmacist shall not drug product select a product under the provisions of this section unless: (a) The product has been marked with an identification code or monogram; (b) the product has been labeled with an expiration date; (c) the manufacturer provides reasonable services to accept return products that have reached their expiration date; and (d) the manufacturer maintains recall capabilities for unsafe or defective drugs.

Sec. 3. That original section 71-162, Reissue Revised Statutes of Nebraska, 1943, and section 71-5403, Revised Statutes Supplement, 1977, are repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.