

LEGISLATIVE BILL 587

Approved by the Governor May 12, 1971

Introduced by William F. Swanson, 27th District

AN ACT to amend sections 71-102, 71-113, 71-116, 71-122.01, 71-124, 71-183, 71-183.01, and 71-193.09, Reissue Revised Statutes of Nebraska, 1943, sections 71-115, 71-122, and 71-139, Revised Statutes Supplement, 1969, and section 71-162, Revised Statutes Supplement, 1969, as amended by section 1, Legislative Bill 300, Eighty-second Legislature, First Session, 1971, relating to public health and welfare; to provide for certain changes in examination procedure, fees and qualifications for licensure; to provide for dental auxiliaries as prescribed; and to repeal the original sections, and also sections 71-193, 71-193.06, 71-193.07, 71-193.08, 71-193.10, and 71-193.12, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 71-102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-102. No person shall engage in the practice of medicine and surgery, osteopathy, chiropractic, dentistry, dental hygiene, pharmacy, podiatry, optometry, physical therapy, embalming, or veterinary medicine and surgery, as defined in this act, unless he shall have obtained from the Department of Health a license for that purpose.

Sec. 2. That section 71-113, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-113. Each board of examiners shall consist of three members, except that in dentistry ~~the board shall consist of five members~~ and in medicine and surgery the board shall consist of six members.

Sec. 3. That section 71-115, Revised Statutes Supplement, 1969, be amended to read as follows:

71-115. No examiner shall be connected in any manner with any wholesale or jobbing house dealing in supplies or instruments having to do with his profession. Two of the six members of the Board of Examiners in Medicine and Surgery shall be officials or members of the instructional staff of a class A medical school in this state. Two of the six members of the Board of Examiners in Dentistry shall be officials or members of the instructional staff of an accredited school or college of dentistry in this state.

Sec. 4. That section 71-116, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-116. (1) The members of each board of examiners shall be appointed for a term of three years, except as herein otherwise provided.

(2) The members of the Board of Examiners in Dentistry shall be appointed for a term of five years as follows: As of December 1, 1971, one member shall be appointed for a term of five years and one member shall be appointed for a term of three years; as of December 1, 1972, one member shall be appointed for a term of three years; as of December 1, 1973, one member shall be appointed for a term of three years; and as of December 1 of each year thereafter, two members shall be appointed for a term of three years. No member shall be appointed for more than two consecutive full terms.

(3) The members of the Board of Examiners in Medicine and Surgery shall be appointed as follows: Within thirty days after May 25, 1943 five members shall be appointed, one of whom shall hold office until December 1, 1944, one until December 1, 1945, one until December 1, 1946, one until December 1, 1947, and one until December 1, 1948; upon the expiration of said several terms, successors shall be appointed for terms of five years each. Within thirty days after October 19, 1963, a sixth member, who shall be a person eligible for appointment to the Board of Examiners in Osteopathy who also has a license to practice medicine and surgery in the State of Nebraska, shall be appointed for a term expiring on December 1, 1968. Thereafter successors with like qualifications shall be appointed for five-year terms.

(4) The term of each examiner provided for herein shall commence on the first day of December, following the expiration of the term of the member whom such person succeeds, and shall be rotated in such a

manner that one examiner shall retire each year.

(5) The members of boards for professions, coming under the scope of sections 71-101 to 71-1,152, for the first time shall be appointed within thirty days after September 20, 1957 providing for licensing of the profession, the terms of the initial board members to be as follows: One member shall hold office until December 1 of the first year, one until December 1 of the second year, and one until December 1 of the third year following the year 1957.

Sec. 5. That section 71-122, Revised Statutes Supplement, 1969, be amended to read as follows:

71-122. Each member of a board of examiners, except members of the Board of Examiners in Medicine and Surgery, and the Board of Examiners in Dentistry, shall, in addition to necessary traveling and hotel expenses, receive a per diem for each day actually engaged in the discharge of his duties, including compensation for the time spent in traveling to and from the place of conducting the examination, and for a reasonable number of days for the preparation of examination questions and the reading of the answer papers, in addition to the time actually spent in conducting the examination; Provided, that traveling and hotel expenses shall not exceed the amounts allowed by state administrative departments. The compensation per day in the several professions shall be as follows: (1) In osteopathy, dentistry, chiropractic, embalming, and pharmacy, fifteen dollars; (2) in podiatry and physical therapy, ten dollars; and (3) in optometry, thirty dollars; Provided, there shall not be paid for examiners' compensation and expenses a greater sum than is received in fees from the applicants taking the examination in any particular profession; provided further, that the Board of Examiners in Chiropractic shall receive, in addition to the fees of the applicants, all of the renewal fees in excess of two dollars, after the state's share of fifteen per cent to the General Fund has been deducted; provided further, that the Board of Examiners in Optometry shall receive, in addition to the fees of the applicants, all of the renewal fees in excess of three dollars, after the state's share of fifteen per cent to the General Fund has been deducted; and provided further, that the Board of Examiners in Podiatry shall receive, in addition to the fees of the applicants, all of the annual renewal fees in excess of three dollars after the state's share of fifteen per cent to the General Fund has been deducted.

Sec. 6. That section 71-122.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-122.01. Each member of the Board of Examiners for Medicine and Surgery and the Board of Examiners in Dentistry shall be reimbursed for his necessary travel and hotel expenses incurred in discharge of his duties including attending regional and national conferences relating to medical and dental licensure. In addition for each day actually spent in discharge of such duties, including a reasonable number of days for preparation of examination questions and reading the answer papers, each member of such board boards shall be entitled to a per diem allowance at the rate of fifty dollars per day; Provided, there shall not be paid for compensation or expenses a greater sum than is received in fees from the applicants taking the examination in medicine and surgery and dentistry and from renewal fees allocated to the each board; and provided further, the board respective boards shall receive all of the renewal fees in excess of three dollars after the state's share of fifteen per cent to the General Fund has been deducted. The secretary of the Board of Examiners in Dentistry shall be paid five hundred dollars per year in addition to any per diem.

Sec. 7. That section 71-124, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-124. Each board of examiners may select one or more of its members to attend the annual meeting of the national organization of state examining boards of such profession. The Any member so selected shall receive his necessary traveling and hotel expenses in attending such meeting if there are funds available belonging to that board.

Sec. 8. That section 71-139, Revised Statutes Supplement, 1969, be amended to read as follows:

71-139. The Department of Health, without examination, except where a practical examination is required, may issue a license to practice any profession except pharmacy, podiatry, dentistry, and medicine and surgery to a citizen of the United States who has been in the active practice of that profession in some other state, territory or the District of Columbia, upon the certificate of the proper licensing authority of the state, territory or the District of Columbia, certifying that the applicant is duly licensed, that his license

has never been suspended or revoked, and that, so far as the records of such authority are concerned, the applicant is entitled to its endorsement. The applicant shall also present proof of the following things: (1) That the state, territory or the District of Columbia from which the applicant comes shall have and maintain standards regulating his profession equal to those maintained in that profession by Nebraska; (2) that his license there was based upon a written examination and the grades given at such examination; (3) the date of his license; (4) that such licensee has been actively engaged in the practice under such license since it was issued; if not, he shall fix the time when he was out of practice; (5) the affidavit of at least two practitioners in that state, territory or the District of Columbia, testifying to the applicant being of good moral character and standing in his profession; and (6) show that the applicant has been in the active and continuous practice under license by examination in the state, territory or the District of Columbia from whence he comes for at least ~~the--periods--in--the--different professions--as--follows--in--dentistry--five--years--in--the--several--remaining--professions;~~ one year. An applicant for reciprocal registration coming from any state may be licensed by reciprocity; Provided, his individual qualifications meet the Nebraska legal requirements.

The Board of Examiners in Dentistry may approve without examination any person who has been duly licensed to practice dentistry in some other state or territory of the United States of America or in the District of Columbia under conditions and circumstances which the board shall find to be comparable to the requirements of the State of Nebraska for obtaining a license to practice dentistry. The applicant shall produce evidence satisfactory to the board that he has had the required secondary and professional education and training and is possessed of good character and morals as required by the laws of the State of Nebraska. The applicant shall also produce evidence satisfactory to the board that he is a citizen of the United States, and shall submit a certificate of the proper licensing authority of the state, territory or the District of Columbia where he is licensed to practice such profession, that he is duly licensed, that his license has not been suspended or revoked, and that so far as the records of such authority are concerned he is entitled to its endorsement. If the applicant is found by the board to meet the requirements provided in this section and is qualified to be licensed to practice the profession of dentistry in the State of Nebraska, the

board shall certify such fact to the Department of Health, and the department upon receipt of such certification shall issue a license to practice dentistry in the State of Nebraska to such applicant.

Sec. 9. That section 71-162, Revised Statutes Supplement, 1969, as amended by section 1, Legislative Bill 300, Eighty-second Legislature, First Session, 1971, 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, chiropractic, physical therapy, embalming, 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 dentistry, podiatry, optometry, or pharmacy issued upon the basis of an examination given by the board of examiners, fifty dollars;

(4) For a license to practice any of the professions enumerated in subdivision (1) hereof, except pharmacy and dental hygiene, issued without examination upon a license granted in another state, territory, or the District of Columbia, fifty dollars;

(5) For a license issued to practice dentistry ~~without when-based-upon-a-license-by examination held-by the-National-Board-of-Dental-Examiners-of-the-United States-of-America,~~ upon a license granted in another state, territory, or the District of Columbia, fifty dollars;

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

(7) 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;

(8) 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;

(9) 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:

{9} (10) Where a segregated examination is given, one half the fixed fee shall be paid when the junior is taken, and the remaining one half when the senior is taken;

{10} (11) For the annual renewal of a license to practice any of the professions enumerated in this section the fee shall be as follows: ~~Dentistry,--dental~~ Dental hygiene, osteopathy, physical therapy, and embalming, three dollars; chiropractic, five dollars; optometry, twenty-five dollars; and podiatry, pharmacy, ~~dentistry~~, and medicine and surgery, ten 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;

{11} (12) For a certified statement that a licensee is licensed in this state, one dollar; and

{12} (13) For a duplicate original license, one dollar.

Sec. 10. That section 71-183, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-183. For the purpose of Chapter 71, article 1, any person shall be deemed to be practicing dentistry who:

(1) Performs, or attempts or professes to perform, any dental operation or oral surgery or dental service of any kind, gratuitously or for a salary, fee, money, or other remuneration paid, or to be paid directly or indirectly, to himself or to any other person or agency who is a proprietor of a place where dental operations, oral surgery, or dental services are performed;

(2) Directly or indirectly, by any means or method, takes impression of the human tooth, teeth, jaws, or performs any phase of any operation incident to the replacement of a part of a tooth;

(3) Supplies artificial substitutes for the natural teeth, or who furnishes, supplies, constructs, reproduces, or repairs any prosthetic denture, bridge, appliance, or any other structure to be worn in the human mouth, except on the written prescription work authorization of a duly licensed and registered dentist;

(4) Places such appliance or structure in the human mouth, or adjusts or attempts or professes to adjust the same, or delivers the same to any person other than the dentist upon whose prescription work authorization the work was performed;

(5) Professes to the public by any method to furnish, supply, construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth;

(6) Diagnoses, or professes to diagnose, prescribe for, or professes to prescribe for, treats, or professes to treat disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws, or adjacent structure;

(7) Extracts, or attempts to extract, human teeth, or corrects or attempts to correct, malformations of teeth or of the jaws;

(8) Repairs or fills cavities in the human teeth;

(9) Diagnoses, makes and adjusts appliances to artificial casts or malposed teeth for treatment of the malposed teeth in the human mouth, with or without instruction;

(10) Uses a roentgen or X-ray machine for the purpose of taking dental X-rays or roentgenograms;

(11) Gives or professes to give, interpretations or readings of dental X-rays or roentgenograms;

(12) Administers an anaesthetic of any nature in connection with a dental operation;

(13) Uses the words dentist, dental surgeon, oral surgeon, or the letters D. D. S., D. M. D., or

any other words, letters, title, or descriptive matter which in any way represents him as being able to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of the teeth or jaws or adjacent structures; or

(14) States, or professes, or permits to be stated or professed by any means or method whatsoever that he or she can perform or will attempt to perform dental operations, or render a diagnosis connected therewith, ~~; provided, nothing herein contained shall be deemed to make unlawful, or to affect the eligibility or qualification for continuance of the use of roentgen or X-ray machines or other rays for making radiograms or similar records of dental or oral tissues under Chapter 71, article 4, where the person was qualified to perform such acts as defined and set out herein before August 27, 1954.~~

Sec. 11. That section 71-183.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-183.01. Nothing in section 71-183 shall apply to the following practices, acts, and operations:

(1) To the practice of his profession by a physician or surgeon licensed as such under the laws of this state, unless he practices dentistry as a specialty;

(2) To the giving by a qualified anaesthetist or registered nurse of an anaesthetic for a dental operation under the direct supervision of a licensed dentist or physician;

(3) The practice of dentistry in the discharge of their official duties by graduate dentists or dental surgeons in the United States Army, Navy, public health service, Coast Guard, or veterans' bureau;

(4) The practice of denistry by a licensed dentist of other states or countries at meetings of the Nebraska State Dental Association or components thereof, or other like dental organizations approved by the board, while appearing as ciincians;

(5) To the filling of prescriptions work authorizations of a licensed and registered dentist as hereinafter provided by any person or persons, association, corporation, or other entity, for the

construction, reproduction, or repair of prosthetic dentures, bridges, plates, or appliances to be used or worn as substitutes for natural teeth; Provided, that such person or persons, association, corporation, or other entity, shall not solicit or advertise, directly or indirectly by mail, card, newspaper, pamphlet, radio, or otherwise, to the general public to construct, reproduce, or repair prosthetic dentures, bridges, plates, or other appliances to be used or worn as substitutes for natural teeth; or

(6) To the use of roentgen or X-ray machines or other rays for making radiograms or similar records, of dental or oral tissues under the supervision of a licensed dentist or physician; Provided, that such service shall not be advertised by any name whatever as an aid or inducement to secure dental patronage, and no person shall advertise that he has, leases, owns, or operates a roentgen or X-ray machine for the purpose of making dental radiograms of the human teeth or tissues or the oral cavity, or administering treatment thereto for any disease thereof; ~~provided--further,--nothing herein-contained-shall-be-deemed-to-make-unlawful,--or-to affect-the-eligibility-or-qualification-for--continuance of-the-use-of-roetgen-or-X-ray-machines--or--other--rays for-making-radiograms-or-similar-records--of--dental--or oral-tissues-under-Chapter--74,--article--4,--where--the person-was-qualified-to-perform-such-acts-as-defined-and set-out-herein-before-August-27,-1954.~~

(7) To the performance by a licensed dental hygienist, under the supervision of a licensed dentist, of the oral prophylaxis procedure, which shall include the scaling and polishing of teeth and such additional procedures as are prescribed in accordance with rules and regulations adopted by the Department of Health: or

(8) To the performance by a dental auxiliary other than a licensed dental hygienist, under the supervision of a licensed dentist, of duties prescribed in accordance with rules and regulations adopted by the Department of Health.

Sec. 12. That section 71-193.09, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-193.09. Any licensed dentist, public institution, or school authorities may employ such licensed dental hygienist hygienists. ~~Such--dental hygienist-may-apply-topical-applications-to-the-teeth-as approved--by--the--Department--of--Health,--remove--line~~

~~deposits, accretions, and stains from the surfaces of the teeth and polish teeth. Such dental hygienist may perform such services in the office of a licensed dentist, but at all times under his direct supervision, or in any public institution or school, but at all such times under the direct supervision of a licensed dentist. No licensed dentist shall employ more than one dental hygienist. A licensed dental hygienist, under the supervision of a licensed dentist, may perform the scaling and polishing of teeth in the oral prophylaxis procedure and such additional procedures as are prescribed in accordance with rules and regulations adopted by the Department of Health: Provided, that only a licensed dentist or a licensed dental hygienist may perform the scaling and polishing of teeth in the oral prophylaxis procedure.~~

Sec. 13. Any licensed dentist, public institution or school may employ dental auxiliaries, in addition to licensed dental hygienists. Such dental auxiliaries, under the supervision of a licensed dentist, may perform such duties as are prescribed in accordance with rules and regulations adopted by the Department of Health: Provided, that only a licensed dentist or a licensed dental hygienist may perform the scaling and polishing of teeth in the oral prophylaxis procedure.

Sec. 14. The Board of Examiners in Dentistry shall recommend rules and regulations to the Department of Health governing the performance of duties by licensed dental hygienists and other dental auxiliaries. The Department of Health shall adopt rules and regulations for such purpose upon the recommendations being submitted by the Board of Examiners in Dentistry.

Sec. 15. That original sections 71-102, 71-113, 71-116, 71-122.01, 71-124, 71-183, 71-183.01, and 71-193.09, Reissue Revised Statutes of Nebraska, 1943, sections 71-115, 71-122, and 71-139, Revised Statutes Supplement, 1969, and section 71-162, Revised Statutes Supplement, 1969, as amended by section 1, Legislative Bill 300, Eighty-second Legislature, First Session, 1971, and also sections 71-193, 71-193.06, 71-193.07, 71-193.08, 71-193.10, and 71-193.12, Reissue Revised Statutes of Nebraska, 1943, are repealed.