

LEGISLATIVE BILL 375

Approved by the Governor May 6, 1993

Introduced by Health and Human Services Committee:

Wesely, 26, Chairperson; Byars, 30; Day, 19;
Dierks, 40; Horgan, 4; Vrtiska, 1

AN ACT relating to public health and welfare; to amend sections 71-1,132.07, 71-2601, 71-2602, and 71-3707, Reissue Revised Statutes of Nebraska, 1943, and sections 71-3706 and 71-4715, Revised Statutes Supplement, 1992; to change provisions for appointment and removal of members of the Board of Nursing, the Board of Registration for Environmental Health Specialists, and the Board of Hearing Aid Instrument Dispensers and Fitters; to change the number of members on the State Board of Health and the length of their terms; to eliminate certain appointment provisions; and to repeal the original sections, and also section 71-2602.01, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 71-1,132.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.07. (1) There is hereby established ~~a board, to be known as~~ the Board of Nursing; which shall consist of seven registered nurse members, two practical nurse members, and one consumer member, all of whom shall be appointed by the ~~Governor State Board of Health~~. ~~The present members of the board shall serve as members of the board until the expiration of their respective terms or until their successors have been appointed.~~ The registered nurses on the ~~board~~ Board of Nursing shall be from the following areas: (a) One practical nurse educator; (b) one associate degree nurse educator; (c) one diploma nurse educator; (d) one baccalaureate nurse educator; (e) two nursing service administrators; and (f) one staff nurse. All congressional districts shall be equally represented by the voting members on the board, and each member shall have been a bona fide resident of the congressional district from which he or she is appointed for a period of at least one year prior to the time of the appointment of such member.

(2) The initial ~~term~~ terms of office for members of the board shall be as follows: (a) One registered nurse shall be appointed for one year; (b) one registered nurse shall be appointed for two years; (c) two registered nurses shall be appointed for four years; (d) one licensed practical nurse shall be appointed for two years; and (e) one licensed practical nurse shall be appointed for four years. On expiration of the terms of the initial board members, the term of all board members shall

be four years.

(3) At the expiration of the term of any member, the ~~Governor~~ State Board of Health may consult with appropriate professional nursing organizations regarding candidates for appointment. Appointments shall be made on or before December 1 of each year. Vacancies occurring on the ~~board~~ Board of Nursing shall be filled for the unexpired terms by appointments made by the ~~Governor~~ State Board of Health. No individual shall serve more than two consecutive terms on the ~~board~~ Board of Nursing. ~~The Governor may remove any member from the board as provided in Article IV, section 10, of the Constitution of the State of Nebraska.~~

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

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

Sec. 2. That section 71-2601, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2601. The State Board of Health shall consist of ~~fifteen~~ sixteen members to be appointed by the Governor with the consent of a majority of the members ~~elected to~~ of the Legislature. Two members shall be licensed to practice medicine and surgery in this state, one member shall be licensed to practice dentistry in this state, one member shall be licensed to practice optometry in this state, one member shall be licensed to practice veterinary medicine in this state, one member shall be licensed to practice pharmacy in this state, one member shall be licensed to practice nursing in this state, one member shall be licensed to practice osteopathic medicine and surgery or as an osteopathic physician in this state, one member shall be licensed to practice podiatry in this state, one member shall be licensed to practice chiropractic in this state, one member shall be licensed to practice physical therapy in this state, one member shall be a registered professional engineer in this state, one member shall be an administrator of a hospital in this state which is licensed pursuant to sections 71-2017 to 71-2029, one member shall be a credentialed mental health professional, and two members shall ~~be laypersons who~~ be at all times ~~be~~ are public-spirited citizens of Nebraska interested in the health of the people of the State of Nebraska; and not less than twenty-one years of age. The Governor shall also be an ex officio member of such board but shall be permitted to vote on matters before such board only when necessary to break a tie.

Sec. 3. That section 71-2602, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2602. The Governor shall appoint the members of the State Board of Health. Each member of the board serving on the effective date of this act shall hold office for the remainder of the term for which he or she was appointed. Appointments made for the succeeding members shall be for terms of five years. The term of office of each member of the board shall expire on September 14 of the appropriate year. If a vacancy occurs prior to the expiration of a term, the Governor shall appoint a successor with similar qualifications for the remainder of the unexpired term, who shall hold office for a period of three years. The term of office of each member of the board shall expire on September 14 at the end of his three year appointment. Each member of the board shall be appointed for a term of three years, except members appointed to fill vacancies whose tenure shall be the unexpired term for which they shall be appointed. No member of the board shall serve more than two ~~three year~~ consecutive, full terms. If the Legislature is not in session when ~~such members, or one of them, are appointed~~ an appointment is made by the Governor, such members the member shall take office and act as a recess appointees appointee until the Legislature ~~next thereafter~~ convenes.

Sec. 4. That section 71-3706, Revised Statutes Supplement, 1992, be amended to read as follows:

71-3706. The ~~board~~ Board of Registration for Environmental Health Specialists shall consist of five members appointed by the ~~Governor State Board of Health~~. Each member shall have been engaged in environmental health for at least ten years and shall have had responsible charge of work for at least five years at the time of his or her appointment. Each member shall be a registered environmental health specialist. Each member of the ~~board~~ Board of Registration for Environmental Health Specialists shall receive as compensation not more than twenty-five dollars per day for each day actually spent in traveling to and from and while attending sessions of the board and its committees, and each member shall also receive the necessary expenses incident to the performance of his or her duties as provided by sections 81-1174 to 81-1177 and subject to section 71-3708.01.

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

Sec. 5. That section 71-3707, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3707. ~~Appointive members of the board shall be appointed for a term of office as follows: One appointive member of the board shall be designated for a term expiring December 31, 1964, one shall be designated for a term expiring December 31, 1965, and two shall be designated for a term terms expiring December 31, 1966. Thereafter the term of office of each board member shall be for three years.~~

Vacancies shall be filled by appointment by the Governor State Board of Health for unexpired terms. ~~The Governor may remove an appointee member for misconduct in office, incompetence, neglect of duty, or other sufficient cause after due notice and a hearing.~~ The State Board of Health shall have power to remove from office any member of the Board of Registration for Environmental Health Specialists, after a public hearing pursuant to the Administrative Procedure Act, for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a registration may be suspended or revoked, for a lack of registration in the member's profession, or for other sufficient cause.

Sec. 6. That section 71-4715, Revised Statutes Supplement, 1992, be amended to read as follows:

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

(2) Members of the board shall be residents of the state. The board shall consist of three hearing aid instrument dispensers and fitters, one otolaryngologist, and one audiologist. Each hearing aid instrument dispenser and fitter on the board shall have not less than five years of experience and shall hold a valid license.

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

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

(5) The State Board of Health shall have power to remove from office at any time any member of the Board of Hearing Aid Instrument Dispensers and Fitters, after a public hearing pursuant to the Administrative Procedure Act, for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of

authority, for malfeasance in office, for any cause for which a license in the member's profession may be suspended or revoked, for a lack of licensure in the member's profession, or for other sufficient cause.

Sec. 7. That original sections 71-1,132.07, 71-2601, 71-2602, and 71-3707, Reissue Revised Statutes of Nebraska, 1943, and sections 71-3706 and 71-4715, Revised Statutes Supplement, 1992, and also section 71-2602.01, Reissue Revised Statutes of Nebraska, 1943, are repealed.