

LEGISLATIVE BILL 197

Approved by the Governor June 10, 1997

Introduced by Dierks, 40

AN ACT relating to health and human services; to amend sections 71-110, 71-501, 71-502.04, 71-503.01, and 71-504, Reissue Revised Statutes of Nebraska, and sections 81-3001, 81-3007, 81-3102, 81-3202, and 81-3302, Revised Statutes Supplement, 1996; to change provisions relating to a credentialing fee as prescribed; to change provisions relating to board of health regulations, laboratory notifications, and liability for certain examinations; to require confidentiality rules and regulations for certain departments; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 71-110, Reissue Revised Statutes of Nebraska, is amended to read:

71-110. (1) The different licenses, certificates, or registrations to practice a profession shall be renewed biennially, except as provided in sections 71-1,228 and 71-1,294, upon request of the licensee, certificate holder, or registrant, without examination. The biennial license, certificate, or registration renewals provided for in this section shall be accomplished in such manner as the department, with the approval of the board, shall establish by rule and regulation. The biennial expiration date in the different professions shall be as follows:

- (a) January, pharmacy and psychology;
- (b) February, funeral directing and embalming;
- (c) March, dentistry and dental hygiene;
- (d) April, podiatry and veterinary medicine and surgery;
- (e) May, athletic training;
- (f) June, respiratory care;
- (g) August, chiropractic and optometry;
- (h) September, medical nutrition therapy, mental health practice

including any associated certification, and osteopathic medicine;

- (i) October, medicine and surgery;
- (j) November, massage therapy and physical therapy; and
- (k) December, audiology and speech-language pathology.

The request for renewal need not be in any particular form and shall be accompanied by the legal fee. Such fee shall be paid not later than the date of the expiration of such license, certificate, or registration, except that while actively engaged in the military service of the United States, as defined in the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, persons licensed, certified, or registered to practice the professions listed in this subsection shall not be required to pay the renewal fee.

(2) When an individual licensed, certified, or registered pursuant to the Uniform Licensing Law desires to have his or her license, certificate, or registration lapse upon expiration, he or she shall notify the department of such desire in writing. The department shall notify the licensee, certificate holder, or registrant in writing of the acceptance or denial of the request to allow the license, certificate, or registration to lapse. When the lapsed status becomes effective, the right to represent himself or herself as a licensee, certificate holder, or registrant and to practice the profession in which such license is required shall terminate. To restore the license, certificate, or registration, such individual shall be required to meet the requirements for licensure, certification, or registration which are in effect at the time that he or she wishes to restore the license, certificate, or registration.

(3) When an individual licensed, certified, or registered pursuant to the Uniform Licensing Law desires to have his or her license, certificate, or registration placed on inactive status upon its expiration, he or she shall notify the department of such desire in writing and pay a fee of thirty-five dollars. The department shall notify the licensee, certificate holder, or registrant in writing of the acceptance or denial of the request to allow the license, certificate, or registration to be placed on inactive status. When the license, certificate, or registration is placed on inactive status, the licensee, certificate holder, or registrant shall not engage in the practice of such profession. A license, certificate, or registration may remain on inactive status for an indefinite period of time. In order to move a license, certificate, or registration from inactive to active status, an individual

shall complete the continuing education requirements in effect at the time he or she wishes to regain active status and pay the renewal fee then due.

(4) At least thirty days before the expiration of a license, certificate, or registration, the department shall notify each licensee, certificate holder, or registrant by a letter addressed to him or her at his or her last place of residence as noted upon its records. Any licensee, certificate holder, or registrant who fails to notify the department of his or her desire to let his or her license, certificate, or registration lapse or be placed on inactive status upon its expiration or who fails to pay the renewal fee on or before the date of expiration of his or her license, certificate, or registration shall be given a second notice in the same manner as the first notice advising him or her (a) of the failure to pay, (b) that the license, certificate, or registration has expired, (c) that the department will suspend action for thirty days following the date of expiration, (d) that upon the receipt of the renewal fee, together with an additional fee of twenty-five dollars, within that time, no order of revocation will be entered, and (e) that upon the failure to receive the amount then due and twenty-five dollars in addition to the regular renewal fee, the license, certificate, or registration will be revoked in the manner prescribed in section 71-149.

(5) Any licensee, certificate holder, or registrant who fails to renew his or her license, certificate, or registration may be reinstated upon the recommendation of the board of examiners for his or her profession and the payment of the renewal and any additional fees and an additional fee of fifty dollars if an application for reinstatement is made more than thirty days after expiration and not more than one year from the date of revocation.

(6) Any licensee, certificate holder, or registrant who applies for reinstatement more than one year after revocation shall pay the renewal fee and any additional fees for the intervening time period between revocation and reinstatement and an additional fee of seventy-five dollars and petition the board of examiners to recommend reinstatement as prescribed in section 71-161.05.

Sec. 2. Section 71-501, Reissue Revised Statutes of Nebraska, is amended to read:

71-501. The county boards of the several counties shall make and enforce regulations to prevent the introduction and spread of contagious, infectious, and malignant diseases in their respective counties. To that end a board of health shall be created, consisting of three members: The sheriff, who shall be chairperson and quarantine officer; a physician who resides permanently in the county, but if the county has no resident physician, then one conveniently situated, who shall be medical adviser, and who shall be chosen by the board of county commissioners or supervisors; and the county clerk or superintendent, to be appointed by the county board of commissioners or supervisors who shall be secretary. The county board may pay the chairperson of the board of health a salary for such services not to exceed fifty dollars per month, as fixed by the county board. The board shall make rules and regulations to safeguard the health of the people, prevent nuisances and insanitary conditions, and enforce the same throughout all the territory comprising such county, except incorporated cities and villages, and provide penalties for the violation thereof. Should the board of health fail to enact rules and regulations as herein provided, it shall enforce the rules and regulations promulgated by the ~~Department of Health and Human Services~~ or the Department of Health and Human Services Regulation and Licensure.

Sec. 3. Section 71-502.04, Reissue Revised Statutes of Nebraska, is amended to read:

71-502.04. Any person who is in charge of a clinical laboratory in which a laboratory examination of any specimen derived from the human body yields microscopical, cultural, immunological, serological, or other evidence of disease, illness, or poisoning as the Department of Health and Human Services Regulation and Licensure may from time to time specify shall promptly notify the official local health department or the Department of Health and Human Services Regulation and Licensure of such findings.

Each notification shall give the date and result of the test performed, the name and, when available, the age of the person from whom the specimen was obtained, and the name and address of the physician for whom such examination or test was performed. A legible copy of the laboratory report shall be deemed satisfactory notification.

All laboratory notifications required by this section shall be confidential and shall not be open to public inspection, except that the Director of Health and Human Services, the Director of Regulation and Licensure, the director of the official local health department, or some person appointed by any such director may discuss the notification with the attending physician.

Sec. 4. Section 71-503.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-503.01. Whenever any statute of the state, any ordinance or resolution of a municipal corporation or political subdivision enacted pursuant to statute, or any rule or regulation of an administrative agency adopted and promulgated pursuant to statute requires medical practitioners or other persons to report cases of communicable diseases, including sexually transmitted diseases and other reportable diseases, illnesses, or poisonings or to give notification of positive laboratory findings to the Department of Health and Human Services Regulation and Licensure or any county or city board of health, local health department established pursuant to sections 71-1626 to 71-1636, city health department, local health agency, or state or local public official exercising the duties and responsibilities of any board of health or health department, such reports or notifications and the resulting investigations shall be confidential except as provided in this section, shall not be subject to subpoena, and shall be privileged and inadmissible in evidence in any legal proceeding of any kind or character and shall not be disclosed to any other department or agency of the State of Nebraska, except that such information shall be shared with the immunization program within the Department of Health and Human Services which maintains staff and programs specifically designed for the surveillance, prevention, education, and outbreak control of diseases preventable through immunization. The Department of Health and Human Services Regulation and Licensure may disclose such reports or notifications to the Department of Health and Human Services.

In order to further the protection of public health, such reports and notifications may be disclosed by the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, the official local health department, and the person making such reports or notifications to the Centers for Disease Control and Prevention of the Public Health Service of the United States Department of Health and Human Services or its successor in such a manner as to ensure that the identity of any individual cannot be ascertained. To further protect the public health, the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, the official local health department, and the person making the report or notification may disclose to the official state and local health departments of other states, territories, and the District of Columbia such reports and notifications, including sufficient identification and information so as to ensure that such investigations as deemed necessary are made.

The appropriate board, health department, agency, or official may: (1) Publish analyses of such reports and information for scientific and public health purposes in such a manner as to ensure that the identity of any individual concerned cannot be ascertained; (2) discuss the report or notification with the attending physician; and (3) make such investigation as deemed necessary.

Any medical practitioner, any official health department, the Department of Health and Human Services Regulation and Licensure, the Department of Health and Human Services, or any other person making such reports or notifications shall be immune from suit for slander or libel or breach of privileged communication based on any statements contained in such reports and notifications.

Sec. 5. Section 71-504, Reissue Revised Statutes of Nebraska, is amended to read:

71-504. The Director of Health and Human Services, the Director of Regulation and Licensure, or local director of health, if a physician, or his or her agent, or any physician, upon consultation by any person as a patient, shall, with the consent of such person who is hereby granted the right of giving such consent, make or cause to be made a diagnostic examination for sexually transmitted diseases and prescribe for and treat such person for sexually transmitted diseases including prophylactic treatment for exposure to sexually transmitted diseases whenever such person is suspected of having a sexually transmitted disease or contact with anyone having a sexually transmitted disease. All such examinations and treatment may be performed without the consent of or notification to the parent, parents, guardian, or any other person having custody of such person. In any such case, the Director of Health and Human Services, the Director of Regulation and Licensure, or local director of health, if a physician, or his or her agent, or the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions. The Director of Health and Human Services or local director of health, if a physician, or his or her agent, or the physician shall incur no civil or criminal liability by

reason of any adverse reaction to medication administered if reasonable care is taken to elicit from any such person who is under twenty years of age any history of sensitivity or previous adverse reaction to medication. Parents shall be liable for expenses of such treatment to minors under their custody. In the event such person is affected with a sexually transmitted disease, the Director of Health and Human Services Regulation and Licensure or local director of health may cause an interview of the person by a sexually transmitted disease investigator to secure the names of sexual contacts so that appropriate investigation can be made in an effort to locate and eliminate sources of infection.

Sec. 6. Section 81-3001, Revised Statutes Supplement, 1996, is amended to read:

81-3001. Sections 81-3001 to 81-3014 and sections 8 and 9 of this act shall be known and may be cited as the Nebraska Partnership for Health and Human Services Act.

Sec. 7. Section 81-3007, Revised Statutes Supplement, 1996, is amended to read:

81-3007. The functions and duties of the departments shall be as follows:

(1) The Department of Health and Human Services shall manage all health and human services system services and programs, whether contracted or delivered directly by the state, with responsibility to:

(a) Provide services in accordance with established policies, desired outcomes, priorities, and goals;

(b) Identify strategies jointly with communities for accomplishing identified goals and outcomes;

(c) Deliver services directly or by contract or grant to provide a quality of life for each citizen that reflects safety, self-sufficiency, respect, health and well-being, and opportunities for maximum participation through new partnerships between the state and communities;

(d) Work in partnership with communities and other public and private sector entities to support current best practices, integrate services and functions when possible, and find solutions that emphasize responsibility and local determination;

(e) Promote the development of community partnerships to ensure that needed services are available across Nebraska;

(f) Assure service coordination and access through public education and information, community resource development, technical assistance, and coordinated service management; and

(g) Develop a health and human services system focused on achieving outcomes based on needs of Nebraskans and accountable to Nebraskans;

(2) The Department of Health and Human Services Regulation and Licensure shall preserve the quality of the health and human services system based on outcomes and performance measures, with responsibility to:

(a) Develop evaluation measurements and analyze results throughout the health and human services system;

(b) Certify and license facilities and professionals;

(c) Evaluate services or programs to determine compliance with state, federal, or other contractual requirements;

(d) Develop, review, and revise rules and regulations in accordance with established systemwide policies and objectives;

(e) Coordinate with the Department of Health and Human Services to develop appropriate technical assistance, education, training, and joint problem-solving; and

(f) Provide a common-sense approach to regulation and licensure that focuses on the outcomes of the health and human services system and assures compliance consistent with those outcomes; and

(3) The Department of Health and Human Services Finance and Support shall perform administrative activities, finance, and information management functions for all three departments, with responsibility to:

(a) Integrate and manage information systems across programs and functions, provide meaningful data to determine whether desired outcomes are achieved, and support policy development;

(b) Consolidate program funds of the departments whenever appropriate to accomplish desired results;

(c) Analyze financial status and impacts for the departments;

(d) Develop and manage a consistent accounting, contracting, disbursement, and fiscal compliance system; and

(e) Consolidate operational support services such as budget, information management, purchasing and procurement, personnel, audit, and contract management, and

(4) Nothing in the Nebraska Partnership for Health and Human

Services Act shall be construed to prohibit the sharing of information among programs for the sole purpose of delivering services to individuals in order to provide coordinated services to such individuals. However, no confidential information shall be shared if prohibited by statute.

Sec. 8. (1) The Legislature finds that a unified and accessible health and human services system serves Nebraska citizens through coordinated policy development, service provision, eligibility determination, program management and quality assurance, and financial and support services. The Legislature finds that coordination and exchange among the departments and with the Policy Secretary of financial and programmatic information, including, but not limited to, medical records, client records, vital records, and other documents or data otherwise confidential may be accomplished without compromising the confidentiality of this information. The purpose of section 9 of this act is to set standards and processes for assuring that confidentiality is maintained.

Sec. 9. (1) The departments are authorized to adopt and promulgate rules and regulations which prescribe standards and procedures for access to and security of confidential information among the departments, within each department, and with the Policy Secretary. These include standards for collection, maintenance, and use of information in electronic or other storage media. Procedures for disclosure of confidential information among the departments and with the Policy Secretary shall include a determination by the policy cabinet or its designees on whether confidential information should be shared among the departments and with the Policy Secretary. Such determinations may take the form of interagency agreements. In making the determination, the following factors shall be considered:

(a) The law governing the confidentiality of the information and the original purpose for which the information was collected;

(b) The potential for harm to an individual if the disclosure is made;

(c) Whether the disclosure will enhance the coordination of policy development, service provision, eligibility determination, program management, quality assurance, or financial and support services;

(d) Whether the information is a trade secret, academic or scientific research work which is in progress and unpublished, or other proprietary or commercial information;

(e) Any limitations placed on the use of the information by the original source of the information;

(f) Whether the proposed use is for a bona fide research project or study, the procedures and methodology of which meet the standards for research in the particular body of knowledge;

(g) The security of the information, including the scope of access, ongoing security, publication, and disposal of the information at the end of its use;

(h) The degree to which aggregate or summary data may identify an individual whose privacy would otherwise be protected; and

(i) Whether such information constitutes criminal intelligence information maintained by correctional or law enforcement authorities.

(2) Otherwise confidential information may be disclosed among the departments and with the Policy Secretary pursuant to subsection (1) of this section if not expressly prohibited by law. Such disclosure shall not be considered a public disclosure or make the record a public record. Any further disclosure may be made only if permitted by law or department policy governing the originating department.

The departments and the Policy Secretary shall observe confidentiality of human resources information and employment records, except that the departments shall act and be considered to be one department for purposes of human resources issues, employment records, and related matters.

(3) All officials and employees shall be informed regarding laws, rules and regulations, and policies governing confidential information and acknowledge receipt of that information.

Sec. 10. Section 81-3102, Revised Statutes Supplement, 1996, is amended to read:

81-3102. The powers and duties of the Department of Health and Human Services shall include, but are not limited to, the following:

(1) To operate as a member of the health and human services system in coordination with the Department of Health and Human Services Regulation and Licensure and the Department of Health and Human Services Finance and Support;

(2) To consult and cooperate with other state agencies so as to coordinate its activities in an effective manner with related activities in other agencies;

(3) To adopt and promulgate necessary rules and regulations to implement its programs and activities as required by state law or under federal law or regulation governing grants or contracts administered by the Department of Health and Human Services;

(4) Under the direction and guidance of the Adjutant General and the Nebraska Emergency Management Agency, to coordinate assistance programs established by the Adjutant General under section 81-829.72 with the programs of the department;

(5) To enter into such agreements as may be necessary or appropriate with the Department of Health and Human Services Finance and Support to provide services and manage funds as provided under the Nebraska Partnership for Health and Human Services Act and sections 81-3101 to 81-3107, including the administration of federal funds granted to the state in the furtherance of the activities of the Department of Health and Human Services;

(6) To enter into such agreements with and among the Department of Health and Human Services Regulation and Licensure and the Department of Health and Human Services Finance and Support as may be necessary or appropriate to carry out the intent and purposes of the act and sections, which may include, but are not limited to, agreements for the transfer of personnel, for the authority of such department or departments to act as its agent in carrying out certain services or functions, or a portion of them, or for the joint implementation of public or private grants or performance of contracts;

(7) To seek grants and other funds from federal and other public and private sources to carry out the purposes of the act and sections and the missions and purposes of the Department of Health and Human Services and to accept and administer programs or resources delegated, designated, assigned, or awarded by the Governor or by other public and private sources;

(8) To act as the agent of the federal government in matters of mutual concern in conformity with the act and sections and the scope of authority of the department as provided by law;

(9) To provide comprehensive information to the Legislature and the Appropriations Committee of the Legislature relating to funding requests for programs and subprograms;

(10) To carry out the functions described in subdivision (1) of section 81-3007; and

(11) To adopt and promulgate confidentiality rules and regulations as provided in section 9 of this act; and

(12) To perform such other duties as are provided by law.

Sec. 11. Section 81-3202, Revised Statutes Supplement, 1996, is amended to read:

81-3202. The powers and duties of the Department of Health and Human Services Regulation and Licensure shall include, but are not limited to, the following:

(1) To operate as a member of the health and human services system in coordination with the Department of Health and Human Services and the Department of Health and Human Services Finance and Support;

(2) To consult and cooperate with other state agencies so as to coordinate its activities in an effective manner with related activities in other agencies;

(3) To adopt and promulgate necessary rules and regulations to implement its programs and activities as required by state law or under federal law or regulation governing grants or contracts administered by the Department of Health and Human Services Regulation and Licensure;

(4) Under the direction and guidance of the Adjutant General and the Nebraska Emergency Management Agency, to coordinate assistance programs established by the Adjutant General under section 81-829.72 with the programs of the department;

(5) To enter into such agreements as may be necessary or appropriate with the Department of Health and Human Services Finance and Support to provide services and manage funds as provided under the Nebraska Partnership for Health and Human Services Act and sections 81-3201 to 81-3207, including the administration of federal funds granted to the state in the furtherance of the activities of the Department of Health and Human Services Regulation and Licensure;

(6) To enter into such agreements with and among the Department of Health and Human Services and the Department of Health and Human Services Finance and Support as may be necessary or appropriate to carry out the intent and purposes of the act and sections, which may include, but are not limited to, agreements for the transfer of personnel, for the authority of such department or departments to act as its agent in carrying out services or functions, or a portion of them, or for the joint implementation of public or

private grants or performance of contracts;

(7) To seek grants and other funds from federal and other public and private sources to carry out the purposes of the act and sections and the missions and purposes of the Department of Health and Human Services Regulation and Licensure and to accept and administer programs or resources delegated, designated, assigned, or awarded by the Governor or by other public and private sources;

(8) To contract with and act as the agent of the federal government in matters of mutual concern in conformity with the act and sections and the scope of authority of the department as provided by law;

(9) To provide comprehensive information to the Legislature and the Appropriations Committee of the Legislature relating to funding requests for programs and subprograms;

(10) To carry out the responsibilities described in subdivision (2) of section 81-3007; ~~and~~

~~(11) To adopt and promulgate confidentiality rules and regulations as provided in section 9 of this act; and~~

~~(12) To perform such other duties as are provided by law.~~

Sec. 12. Section 81-3302, Revised Statutes Supplement, 1996, is amended to read:

81-3302. The powers and duties of the Department of Health and Human Services Finance and Support shall include, but are not limited to, the following:

(1) To operate as a member of the health and human services system in coordination with the Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure;

(2) To consult and cooperate with other state agencies so as to coordinate its activities in an effective manner with related activities in other agencies;

(3) To adopt and promulgate necessary rules and regulations to implement its programs and activities as required by state law or under federal law or regulation governing grants or contracts administered by the Department of Health and Human Services Finance and Support;

(4) Under the direction and guidance of the Adjutant General and the Nebraska Emergency Management Agency, to coordinate assistance programs established by the Adjutant General under section 81-829.72 with the programs of the department;

(5) To enter into such agreements as may be necessary or appropriate for it to provide services and manage funds of the Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure as provided under the Nebraska Partnership for Health and Human Services Act and sections 81-3301 to 81-3307, including the administration of federal funds granted to the state in the furtherance of the activities of the Department of Health and Human Services Finance and Support;

(6) To enter into such agreements with and among the Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure as may be necessary or appropriate to carry out the intent and purposes of the act and sections, which may include, but are not limited to, agreements for the transfer of personnel, for the authority of such department or departments to act as its agent in carrying out services or functions, or a portion of them, or for the joint implementation of public or private grants or performance of contracts;

(7) To seek grants and other funds from federal and other public and private sources to carry out the purposes of the act and sections and the missions and purposes of the Department of Health and Human Services Finance and Support and to accept and administer programs or resources delegated, designated, assigned, or awarded by the Governor or by other public and private sources;

(8) To contract with and act as the agent of the federal government in matters of mutual concern in conformity with the act and sections and the scope of authority of the department as provided by law;

(9) To provide comprehensive information to the Legislature and the Appropriations Committee of the Legislature relating to funding requests for programs and subprograms;

(10) To carry out the responsibilities described in subdivision (3) of section 81-3007; ~~and~~

~~(11) To adopt and promulgate confidentiality rules and regulations as provided in section 9 of this act; and~~

~~(12) To perform such other duties as are provided by law.~~

Sec. 13. Original sections 71-110, 71-501, 71-502.04, 71-503.01, and 71-504, Reissue Revised Statutes of Nebraska, and sections 81-3001, 81-3007, 81-3102, 81-3202, and 81-3302, Revised Statutes Supplement, 1996, are

repealed.