

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.