

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 534

Introduced by Smith, 14; Nelson, 6; Schilz, 47.

Read first time January 18, 2011

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to health and human services; to adopt the

2 Phototherapy Practice Act.

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

1 Section 1. This act shall be known and may be cited as
2 the Phototherapy Practice Act.

3 Sec. 2. The Legislature declares that the Phototherapy
4 Practice Act (1) is enacted in the interest of the public health,
5 safety, and welfare and (2) is intended to regulate the trade of
6 phototherapy in the public interest.

7 Sec. 3. For purposes of the Phototherapy Practice Act:

8 (1) Board means the Board of Phototherapy;

9 (2) Phototherapist means a person engaging in the
10 practice of phototherapy subject to the act; and

11 (3) Phototherapy means the provision of ultraviolet light
12 to an individual for the treatment of a condition determined to be
13 treatable by exposing an individual to specific wavelengths of light,
14 either upon referral from a physician or other health care
15 professional with appropriate diagnostic capability or in the course
16 of direct treatment when no referral or diagnosis is required by law.

17 Sec. 4. An individual may provide ultraviolet light
18 treatment or service in accordance with existing law without being
19 registered under the Phototherapy Practice Act. An individual shall
20 not hold himself or herself out as a registered phototherapist
21 without being registered under the act. An individual registered as a
22 phototherapist pursuant to the act shall be considered a medical
23 professional in this state only for the sole and limited purpose of
24 providing phototherapy.

25 Sec. 5. In order to be eligible for registration as a

1 phototherapist under the Phototherapy Practice Act, an individual
2 shall be at least seventeen years of age and pass an examination
3 approved by the board.

4 Sec. 6. (1) The board shall approve an examination to
5 test the fitness of an individual to practice phototherapy and be
6 registered as a phototherapist. The board shall conduct the
7 examination at times and places determined by the board. The board
8 may conduct the examination by means of computerized electronic
9 communication.

10 (2) An individual may apply to the board to take the
11 examination on blank forms prepared and furnished by the board and
12 shall submit the examination fee to the board with the application.
13 The applicant shall not be entitled to the return of the fee by
14 reason of failure to complete the examination.

15 Sec. 7. The board shall issue a certificate of
16 registration as a phototherapist to an individual who meets the
17 requirements of section 5 of this act. The board shall keep a record
18 of proceedings relating to the issuance of certificates of
19 registration. The record shall contain the name, place of business,
20 and residence address of each registered phototherapist and the date
21 and number of his or her certificate of registration.

22 Sec. 8. A registered phototherapist who fails to renew
23 his or her registration on or before the expiration date of the
24 registration may renew the registration by payment of the renewal fee
25 and a late fee within sixty days after such date or such other time

1 period as established by the board.

2 Sec. 9. (1) The board shall set the fees under the
3 Phototherapy Practice Act for (a) examination under section 6 of this
4 act, (b) renewal of registration under section 8 of this act, (c) a
5 late fee under section 8 of this act, and (d) restoration of an
6 inactive registration.

7 (2) The board shall set the fees at a level sufficient to
8 provide for all actual and necessary expenses of the board and in
9 such a manner that any unnecessary surplus is avoided. The board
10 shall file an annual report on or before July 2 of each year with the
11 Attorney General and the Legislative Fiscal Analyst stating the
12 amount of the fees set by the board.

13 Sec. 10. The Board of Phototherapy is established. The
14 board shall consist of three members appointed by the Governor. Each
15 member shall be experienced in phototherapy and shall be actually
16 engaged in the practice of phototherapy during the term of his or her
17 appointment. The Governor in making the initial appointments shall
18 designate one member to serve for a one-year term, one member to
19 serve for a two-year term, and one member to serve for a three-year
20 term. Subsequent appointments shall be for three-year terms. The
21 Governor may remove a member for cause. The Governor shall appoint a
22 member to serve for the unexpired term in the case of a vacancy due
23 to death, resignation, or removal.

24 Sec. 11. (1) The board shall annually elect a president,
25 a vice president, and a secretary from the members of the board. The

1 secretary shall keep a record of all proceedings of the board and
2 shall make the records available to the public upon request. A
3 majority of the board, in a meeting duly assembled, may perform and
4 exercise all the duties and powers devolving upon the board.

5 (2) Each member of the board shall be reimbursed for his
6 or her actual and necessary expenses incurred in the discharge of his
7 or her duties as provided in sections 81-1174 to 81-1177, not to
8 exceed two thousand dollars per annum. Expenses shall be paid only
9 from the Phototherapy Practice Fund, and no other funds or state
10 money except as collected in the administration of the Phototherapy
11 Practice Act shall be drawn upon to pay the expense of
12 administration.

13 Sec. 12. The Phototherapy Practice Fund is created. The
14 board shall remit all fees collected in the administration of the
15 Phototherapy Practice Act to the State Treasurer for credit to the
16 Phototherapy Practice Fund. The fund shall be expended only for the
17 administration of the act, except that transfers may be made from the
18 fund to the General Fund at the direction of the Legislature. Any
19 money in the Phototherapy Practice Fund available for investment
20 shall be invested by the state investment officer pursuant to the
21 Nebraska Capital Expansion Act and the Nebraska State Funds
22 Investment Act.

23 Sec. 13. The board shall adopt, promulgate, and enforce
24 rules, regulations, and orders necessary to carry out the
25 Phototherapy Practice Act.