

LEGISLATIVE BILL 429

Approved by the Governor June 10, 1993

Introduced by Moore, 24

AN ACT relating to optometry; to amend sections 71-1,133, 71-1,135.01, 71-1,135.04, and 71-1,135.05, Reissue Revised Statutes of Nebraska, 1943, and section 71-101, Revised Statutes Supplement, 1992; to redefine terms; to change provisions relating to the use of pharmaceutical agents; to require a certain standard of care by licensed optometrists; to harmonize provisions; to provide severability; and to repeal the original sections.

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

Section 1. That section 71-101, Revised Statutes Supplement, 1992, be amended to read as follows:

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,294, 71-1325 to 71-1354, and 71-2801 to 71-2822 and section 3 of this act shall be known and may be cited as the Uniform Licensing Law.

For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Board of examiners or board shall mean one of the boards appointed by the State Board of Health;

(2) Licensed, when applied to any licensee in any of the professions named in section 71-102, shall mean a person licensed under the Uniform Licensing Law;

(3) Profession or health profession shall mean and refer to any of the several groups named in section 71-102;

(4) Department shall mean the Department of Health;

(5) Whenever the masculine gender is used, it shall be construed to include the feminine, and the singular number shall include the plural when consistent with the intent of the Uniform Licensing Law;

(6) License, licensing, or licensure shall mean permission to engage in a health profession which would otherwise be unlawful in this state in the absence of such permission and which is granted to individuals who meet prerequisite qualifications and allows them to perform prescribed health professional tasks and use a particular title;

(7) Certificate, certify, or certification, with respect to professions, shall mean a voluntary process by which a statutory, regulatory entity grants recognition to an individual who has met certain prerequisite qualifications specified by such regulatory entity and who may assume or use the word certified in the title or designation to perform prescribed health professional tasks. When appropriate, certificate shall also mean a document issued by the department which designates particular credentials for an individual; and

(8) Lapse shall mean the termination of the right or privilege to represent oneself as a licensed, certified, or registered person and to practice the profession when a license, certificate, or registration is required to do so.

Sec. 2. That section 71-1,133, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,133. For purposes of the Uniform Licensing Law, the practice of optometry is defined as being one or a combination of the following, without the use of surgery:

(1) The examination of the human eye to diagnose, treat, or refer for consultation or treatment any abnormal condition of the human eye or lid;

(2) The employment of instruments, devices, ~~topical ocular~~ pharmaceutical agents, excluding antiglaucoma agents, and procedures intended for the purpose of investigating, examining, diagnosing, or correcting visual defects or abnormal conditions of the human eye or lid or for the removal of superficial eyelid, conjunctival, and corneal foreign bodies; or

(3) The prescribing and application of lenses, devices containing lenses, prisms, contact lenses, ophthalmic devices excluding laser surgery, orthoptics, vision training, ~~topical-ocular~~ pharmaceutical agents, ~~which treat eye infection, inflammation, and superficial abrasions;~~ and prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye or lid.

Sec. 3. A licensed optometrist who administers or prescribes pharmaceutical agents for examination or for treatment shall provide the same standard of care to patients as that provided by a physician licensed in this state to practice medicine and surgery utilizing the same pharmaceutical agents for examination or treatment.

Sec. 4. That section 71-1,135.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,135.01. For ~~the~~ purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Pharmaceutical agents, for diagnostic purposes, shall mean anesthetics, cycloplegics, and mydriatics; and

(2) Pharmaceutical agents, for therapeutic purposes, shall mean topical ophthalmic pharmaceutical agents which treat eye infection, inflammation, and superficial abrasions, or oral analgesics, including oral analgesics enumerated in Schedules III and IV of section 28-405 necessary to treat conditions of the eye and visual system, or oral pharmaceutical agents for the treatment of infections of the eye and visual system, or oral anti-inflammatory agents to treat conditions of the eye and visual system excluding steroids and immunosuppressive agents.

Sec. 5. That section 71-1,135.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,135.04. In issuing a license of renewal, the board shall state whether such person licensed in the practice of optometry has been certified to use ~~topical-ocular~~ pharmaceutical agents pursuant to section

71-1,135.02 and shall determine an appropriate means to further identify those persons who are certified in the diagnostic use of such agents as provided in subdivision (2) of section 71-1,133 or therapeutic use of such agents as provided in subdivision (3) of section 71-1,133.

Sec. 6. That section 71-1,135.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,135.05. The Legislature finds and declares:

(1) That the scope of teaching and practice of optometry has changed and that it is in the public interest that any person seeking initial licensure as an optometrist and having graduated from an accredited optometry school after August 25, 1989, in addition to any other requirements of the Uniform Licensing Law, demonstrate adequate knowledge and training in all areas of the practice of optometry as defined in section 71-1,133 and satisfactorily complete the educational requirements set forth in section 71-1,135.02; and

(2) That it is in the public interest that no optometrist licensed pursuant to the Uniform Licensing Law use ~~topical ocular~~ pharmaceutical agents for diagnostic or therapeutic purposes unless he or she has taken the examination prescribed in section 71-1,135 after August 25, 1989, or unless he or she is certified pursuant to section 71-1,135.02.

Sec. 7. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 8. That original sections 71-1,133, 71-1,135.01, 71-1,135.04, and 71-1,135.05, Reissue Revised Statutes of Nebraska, 1943, and section 71-101, Revised Statutes Supplement, 1992, are repealed.