REQ 0001
MMM-9/12/2006

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL

Introduced by

Read first time

Committee:

A BILL

FOR AN ACT relating to public health and welfare; to amend sections 25-12,123, 25-21,247, 27-504, 43-129, 43-146.03, 44-792, 44-2804, 44-2902, 44-32,170, 44-4110, 46-604, 46-1201, 46-1202, 46-1203, 46-1204.01, 46-1205, 46-1205.01, 46-1207.01, 46-1209, 46-1210, 46-1213, 46-1214, 46-1214.01, 46-1218, 46-1219, 46-1223, 46-1223.01, 46-1224, 46-1225, 46-1227, 46-1229, 46-1230, 46-1231, 46-1233, 46-1235, 46-1240, 46-1241, 54-311, 60-4,118.02, 60-6,261, 69-302, 71-103, 71-105, 71-108, 71-111, 71-112.03, 71-115.01, 71-117, 71-118, 71-120, 71-122, 71-124, 71-124.01, 71-125, 71-128, 71-129, 71-133, 71-138, 71-139, 71-145, 71-147.01, 71-147.02, 71-148, 71-149, 71-150, 71-152, 71-153, 71-154, 71-155, 71-155.01, 71-155.03, 71-156, 71-157, 71-158, 71-159, 71-161.01, 71-161.02, 71-161.03, 71-161.04, 71-161.06, 71-161.09, 71-161.10, 71-161.11, 71-161.13, 71-161.14, 71-161.15, 71-161.16, 71-161.19, 71-162.01, 71-162.03,

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71-1,387, 71-1,388, 71-340, 71-341, 71-342, 71-343, 71-346.01, 71-346.02, 71-346.03, 71-346.04, 71-356.04, 71-358.01, 71-362.01, 71-363.01, 71-364, 71-365.01, 71-368, 71-370.01, 71-370.02, 71-371, 71-374, 71-385.01, 71-385.02, 71-386, 71-387, 71-389, 71-396, 71-398, 71-3,100, 71-3,102, 71-3,105, 71-3,106, 71-3,106.01, 71-3,119.02, 71-3,119.03, 71-3,137, 71-3,139, 71-3,140, 71-3,141, 71-3,147, 71-3,150, 71-3,169, 71-3,170, 71-3,177, 71-3,236, 71-3,237, 71-3,238, 71-448, 71-507, 71-605, 71-906, 71-1704, 71-1706, 71-1707, 71-1709.02, 71-1714, 71-1716, 71-1716.02, 71-1716.03, 71-1716.05, 71-1717, 71-1721, 71-1722, 71-1723.01, 71-1723.02, 71-1723.03, 71-1723.04, 71-1724, 71-1724.01, 71-1725.01, 71-1726.01, 71-1728, 71-1729, 71-1730, 71-1731, 71-1735, 71-1736.02, 71-1738, 71-1743, 71-1747, 71-1749, 71-1750, 71-1753, 71-1754, 71-1755, 71-1757, 71-1758, 71-17,113, 71-17,117, 71-17,118, 71-17,119, 71-17,120, 71-17,121, 71-17,126, 71-17,128, 71-17,131, 71-17,132, 71-17,133, 71-17,134, 71-17,135, 71-17,136, 71-17,137, 71-17,138, 71-2423, 71-2431, 71-2437, 71-2610.01, 71-3503, 71-3512, 71-3515.01, 71-3515.02, 71-3519, 71-5176, 71-5191, 71-51,102, 71-5301, 71-5402, 71-5654, 71-5662, 71-6038, 71-6039, 71-6040, 71-6041, 71-6042, 71-6054, 71-6101, 71-6103, 71-6104, 71-6113, 71-6115, 71-6117, 71-6118, 71-6119, 71-6120, 71-6121, 71-6122, 71-6123, 71-6721, 71-7427, 71-7436, 71-7454, 71-7457, 71-8709, 77-2704.09, 80-325, 81-657, and 81-3201, Revised

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Statutes Cumulative Supplement, 2006, and section 71-1,190, Reissue Revised Statutes of Nebraska, as amended by section 1186 of this legislative bill; to transfer, rename, and change and eliminate provisions of the Uniform Licensing Law; to transfer, rename, and change and eliminate provisions relating to the State Board of Health, advanced practice registered nurses, alcohol and drug counseling, asbestos, athletic training, audiology and speech-language pathology, certified nurse midwifery, certified registered nurse anesthetists, chiropractic, clinical nurse specialists, cosmetology, electrology, esthetics, nail technology, and body art, dentistry, emergency medical services, environmental health specialists, funeral directing and embalming, hearing aid instrument dispensers and fitters, licensed practical nurses-certified, massage therapy, medical nutrition therapy, medical radiographers and limited radiographers, medication aides, medicine and surgery, mental health practice, nurse assistants and paid dining assistants, nurse practice, nurse practitioners, nursing home administrators, occupational therapy, optometry, pharmacy, physical therapy, podiatry, psychology, radiation control, residential lead-based paint, respiratory care, veterinary medicine and surgery, water operators, and water wells; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal

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sections 46-1208.01, 46-1219.01, 46-1220, 46-1222, 46-1226, 46-1232, 46-1235.01, 46-1235.02, 46-1236, 46-1237, 46-1237.01, 46-1237.02, 46-1237.03, 46-1240.02, 46-1240.03, 46-1240.04, 46-1240.05, 71-101.01, 71-104, 71-106, 71-112.01, 71-119, 71-123, 71-132, 71-139.01, 71-140, 71-141, 71-142, 71-143, 71-144, 71-151, 71-160, 71-161.05, 71-161.07, 71-161.12, 71-161.17, 71-161.18, 71-161.20, 71-165, 71-172, 71-172.02, 71-174.01, 71-175.01, 71-176.03, 71-179.01, 71-184, 71-186, 71-193.05, 71-193.16, 71-193.21, 71-193.22, 71-193.24, 71-1,104.06, 71-1,106, 71-1,107, 71-1,107.02, 71-1,107.04, 71-1,107.05, 71-1,107.10, 71-1,107.12, 71-1,107.24, 71-1,107.26, 71-1,107.27, 71-1,132.09, 71-1,132.10, 71-1,132.12, 71-1,132.20, 71-1,132.21, 71-1,132.29, 71-1,132.35, 71-1,132.36, 71-1,132.48, 71-1,132.53, 71-1,136.03, 71-1,136.09, 71-1,144.01, 71-1,147.16, 71-1,147.17, 71-1,151, 71-1,154, 71-1,157, 71-1,160, 71-1,162, 71-1,186.01, 71-1,190.01, 71-1,191, 71-1,192, 71-1,193, 71-1,195.03, 71-1,203, 71-1,206.05, 71-1,206.11, 71-1,206.12, 71-1,206.17, 71-1,206.19, 71-1,206.28, 71-1,206.31, 71-1,288, 71-1,234, 71-1,242, 71-1,282, 71-1,290, 71-1,291, 71-1,291.01, 71-1,292, 71-1,294, 71-1,313, 71-1,315, 71-1,316, 71-1,320, 71-1,321, 71-1,322, 71-1,324, 71-1,326, 71-1,327, 71-1,328, 71-1,330, 71-1,331, 71-1,333, 71-1,338, 71-1,340, 71-1,341, 71-1,342, 71-1,349, 71-354, 71-355, 71-363, 71-373, 71-378, 71-379, 71-380, 71-391, 71-392,

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

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Section 1. Section 71-101, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-101 Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,338, 71-1,343 to 71-1,361, and 71-1301 to 71-1354 and the Physical Therapy Practice Act~~Sections 1 to 142 of this act and the following practice acts shall be known and may be cited as the Uniform ~~Licensing Law.~~Credentialing Act:

(1) The Advanced Practice Registered Nurse Practice Act;

(2) The Alcohol and Drug Counseling Practice Act;

(3) The Athletic Training Practice Act;

(4) The Audiology and Speech-Language Pathology Practice Act;

(5) The Certified Nurse Midwifery Practice Act;

(6) The Certified Registered Nurse Anesthetist Practice Act;

(7) The Chiropractic Practice Act;

(8) The Clinical Nurse Specialist Practice Act;

(9) The Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act;

(10) The Dentistry Practice Act;

(11) The Emergency Medical Services Practice Act;

(12) The Environmental Health Specialists Practice Act;

(13) The Funeral Directing and Embalming Practice Act;

(14) The Hearing Aid Instrument Dispensers and Fitters Practice Act;

(15) The Licensed Practical Nurse-Certified Practice Act;

(16) The Massage Therapy Practice Act;

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(17) The Medical Nutrition Therapy Practice Act;

(18) The Medical Radiography Practice Act;

(19) The Medicine and Surgery Practice Act;

(20) The Mental Health Practice Act;

(21) The Nurse Practice Act;

(22) The Nurse Practitioner Practice Act;

(23) The Nursing Home Administrator Practice Act;

(24) The Occupational Therapy Practice Act;

(25) The Optometry Practice Act;

(26) The Pharmacy Practice Act;

(27) The Physical Therapy Practice Act;

(28) The Podiatry Practice Act;

(29) The Psychology Practice Act;

(30) The Respiratory Care Practice Act;

(31) The Veterinary Medicine and Surgery Practice Act; and

(32) The Water Well Standards and Contractors' Practice Act.

The Revisor of Statutes shall assign the Uniform Credentialing Act, including the practice acts enumerated in subdivisions (1) through (31) of this section, to consecutive articles within Chapter 38.

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

~~(1) Board or professional board means one of the boards appointed by the State Board of Health pursuant to sections 71-111 and 71-112;~~

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

~~(3) Profession or health profession means any of the several groups named in section 71-102;~~

~~(4) Department means the Department of Health and Human Services Regulation and Licensure;~~

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

~~(6) License, licensing, or licensure means 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, means 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 means a document issued by the department which designates particular credentials for an individual;~~

~~(8) Lapse means the termination of the right or privilege to represent oneself as a licensed, certified, or registered person~~

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~~and to practice the profession when a license, certificate, or registration is required to do so;~~

~~(9) Credentialing means the totality of the process associated with obtaining state approval to provide health care services or human services or changing aspects of a current approval. Credentialing grants permission to use a protected title that signifies that a person is qualified to provide the services of a certain profession. Credential includes a license, certificate, or registration; and~~

~~(10) Dependence means a compulsive or chronic need for or an active addiction to alcohol or any controlled substance or narcotic drug.~~

Sec. 2. The Legislature recognizes the need for regulation of persons and businesses providing health and health-related services and environmental services. It is the intent of the Legislature to provide for such regulation through the Uniform Credentialing Act.

Sec. 3. The purposes of the Uniform Credentialing Act are (1) to protect the public health, safety, and welfare by (a) providing for the credentialing of persons and businesses that provide health and health-related services and environmental services which are made subject to the act and (b) the development, establishment, and enforcement of standards for such services and (2) to provide for the efficient, adequate, and safe practice of such persons and businesses.

Sec. 4. (1) All rules and regulations adopted prior to the operative date of this section under the Uniform Licensing

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Law or other statutes amended or repealed by this legislative bill shall continue to be effective under the Uniform Credentialing Act to the extent not in conflict with the act until revised, amended, repealed, or nullified pursuant to law.

(2) All licenses, certificates, registrations, permits, seals, practice agreements, or other forms of approval issued prior to the operative date of this section in accordance with the Uniform Licensing Law or other statutes amended or repealed by this legislative bill shall remain valid as issued for purposes of the Uniform Credentialing Act unless revoked or their effectiveness is otherwise terminated pursuant to law.

(3) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to the operative date of this section under the Uniform Licensing Law or other statutes amended or repealed by this legislative bill shall be subject to the provisions of the Uniform Licensing Law or such other statutes as they existed prior to the operative date of this section.

Sec. 5. For purposes of the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 6 to 22 of this act apply.

Sec. 6. Active addiction means current physical or psychological dependence on alcohol or a substance, which dependence develops following the use of alcohol or a substance on a periodic or continuing basis.

Sec. 7. Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to clinically

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significant impairment or distress as manifested by one or more of the following occurring at any time during the same twelve-month period:

(1) Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;

(2) Recurrent alcohol or substance use in situations in which it is physically hazardous;

(3) Recurrent legal problems related to alcohol or substance use; or

(4) Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Sec. 8. Board means one of the boards appointed by the State Board of Health pursuant to section 61 of this act or appointed by the Governor pursuant to the Emergency Medical Services Practice Act or the Water Well Standards and Contractors' Practice Act. For professions for which there is no board established by statute, the duties normally carried out by a board are the responsibility of the department.

Sec. 9. Business means a person engaged in providing services listed in subsection (3) of section 23 of this act.

Sec. 10. Certificate means an authorization issued by the department that gives a person the right to use a protected title that only a person who has met specific requirements may use.

Sec. 11. Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar

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designation.

Sec. 12. Course of study means a program of instruction necessary to obtain a credential meeting the requirements set out for each profession in the appropriate practice act and rules and regulations and includes a college, a professional school, a vocational school, hours of training, or a program of instruction with a similar designation.

Sec. 13. Credential means a license, certificate, or registration.

Sec. 14. Department means the Department of Health and Human Services Regulation and Licensure.

Sec. 15. Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same twelve-month period:

(1) Tolerance as defined by either of the following:

(a) A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or

(b) A markedly diminished effect with continued use of the same amount of alcohol or the substance;

(2) Withdrawal as manifested by either of the following:

(a) The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders -- Fourth Edition, published by the American Psychiatric Association; or

(b) Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;

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(3) Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;

(4) A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;

(5) A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance, or to recover from the effects of use of alcohol or the substance;

(6) Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or

(7) Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.

Sec. 16. Director means the Director of Regulation and Licensure or his or her designee.

Sec. 17. Endorsement means the process of obtaining a credential in Nebraska by showing that an individual has a credential in another state or territory or the District of Columbia and meets the competency requirements for a credential established pursuant to the Uniform Credentialing Act.

Sec. 18. Inactive credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent himself or herself as having an active credential.

Sec. 19. License means an authorization issued by the

department to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.

Sec. 20. Person means any individual, corporation, partnership, limited liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision or governmental unit of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency thereof.

Sec. 21. Profession means any profession or occupation named in subsection (1) or (2) of section 23 of this act.

Sec. 22. Registry means a list of persons who offer a specified service or activity.

Sec. 23. Section 71-102, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-102~~ (1) No ~~person~~ individual shall engage in the practice of ~~medicine and surgery, athletic training, respiratory care, osteopathic medicine, chiropractic, dentistry, dental hygiene, pharmacy, podiatry, optometry, massage therapy, physical therapy, audiology, speech-language pathology, embalming, funeral directing, psychology, veterinary medicine and surgery, medical nutrition therapy, acupuncture, mental health practice, or alcohol and drug counseling~~ acupuncture; advanced practice nursing; alcohol and drug counseling; asbestos abatement, inspection, project design, and training; athletic training; audiology; speech-language pathology; body art; chiropractic; cosmetology; dentistry; dental hygiene; electrology; emergency medical services; esthetics;

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funeral directing and embalming; hearing aid instrument dispensing and fitting; lead-based paint abatement, inspection, project design, and training; licensed practical nurse-certified; massage therapy; medical nutrition therapy; medical radiography; medicine and surgery; mental health practice; nail technology; nursing; nursing home administration; occupational therapy; optometry; osteopathy; pharmacy; physical therapy; podiatry; psychology; radon detection, measurement, and mitigation; respiratory care; veterinary medicine and surgery; public water system operation; and constructing or decommissioning water wells and installing water well pumps and pumping equipment unless such person has obtained a ~~license from the Department of Health and Human Services Regulation and Licensure for that purpose~~credential under the Uniform Credentialing Act.

(2) No individual shall hold himself or herself out as a registered environmental health specialist, certified marriage and family therapist, certified professional counselor, or social worker until such individual has obtained a credential under the Uniform Credentialing Act for that purpose.

(3) No business shall operate for the provision of services in body art; cosmetology; emergency medical services; esthetics; funeral directing and embalming; massage therapy; or nail technology unless such business has obtained a credential under the Uniform Credentialing Act.~~No person shall hold himself or herself out as a certified social worker or certified master social worker unless such person has obtained a certificate from the department for that purpose.~~

~~(3) No person shall hold himself or herself out as a certified professional counselor unless such person has obtained a certificate from the department for such purpose.~~

~~(4) No person shall hold himself or herself out as a certified marriage and family therapist unless such person has obtained a certificate from the department for such purpose.~~

Sec. 24. Section 71-105, Reissue Revised Statutes of Nebraska, is amended to read:

71-105 Every initial credential to practice a profession or engage in a business shall be in the form of a document under the name ~~and seal~~ of the department and signed by the ~~Director of Regulation and Licensure and~~ director, the Governor, and the officers~~. It shall also be countersigned by the members~~ of the appropriate ~~professional~~ board, if any.~~except that all credentials granted without examination may be issued by the department under its name and seal and signed by its director and the Governor. A copy of all credentials shall be retained in the department and given the same number as has been assigned to the credentialed person in the other records of the department.~~

Sec. 25. (1) The department shall establish and maintain a record of all credentials issued pursuant to the Uniform Credentialing Act. The record shall contain identifying information for each credential holder and the credential issued pursuant to the act.

(2) For individual credential holders engaged in a profession:

(a) The record information shall include:

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(i) The name, date and place of birth, and social security number;

(ii) The street, rural route, or post office address;

(iii) The school and date of graduation;

(iv) The name of examination, date of examination, and ratings or grades received, if any;

(v) The type of credential issued, the date the credential was issued, the identifying name and number assigned to the credential, and the basis on which the credential was issued;

(vi) The status of the credential; and

(vii) A description of any disciplinary action against the credential, including, but not limited to, the type of disciplinary action, the effective date of the disciplinary action, and a description of the basis for any such disciplinary action;

(b) The record may contain any additional information the department deems appropriate to advance or support the purpose of the Uniform Credentialing Act;

(c) The record may be maintained in computer files or paper copies and may be stored on microfilm or in similar form; and

(d) The record is a public record, except that social security numbers shall not be public information but may be shared as specified in subsection (5) of section 32 of this act.

(3) For credential holders engaged in a business:

(a) The record information shall include:

(i) The full name and address of the business;

(ii) The type of credential issued, the date the credential was issued, the identifying name and number assigned

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to the credential, and the basis on which the credential was issued;

(iii) The status of the credential; and

(iv) A description of any disciplinary action against the credential, including, but not limited to, the type of disciplinary action, the effective date of the disciplinary action, and a description of the basis for any such disciplinary action;

(b) The record may contain any additional information the department deems appropriate to advance or support the purpose of the Uniform Credentialing Act;

(c) The record may be maintained in computer files or paper copies and may be stored on microfilm or in similar form; and

(d) The record is a public record.

(4) If the department is required to provide notice or notify an applicant or credential holder under the Uniform Credentialing Act, such requirements shall be satisfied by mailing a written notice to such applicant or credential holder at his or her last address of record.

Sec. 26. Section 71-107, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-107~~ Every person credentialed under the Uniform ~~Licensing Law to practice a profession shall keep the credential available in an office or place in which he or she practices and shall show such proof of credentialing~~ Credentialing Act shall make the person's current credential available upon request. The department, with the recommendation of the appropriate board, if any, shall determine how a consumer will be able to identify a

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credential holder. The method of identification shall be clear and easily accessed and used by the consumer.

~~On all~~ All signs, announcements, stationery, and advertisements of persons credentialed ~~to practice osteopathic medicine, chiropractic, podiatry, optometry, audiology, speech-language pathology, medical nutrition therapy, professional counseling, social work, marriage and family therapy, mental health practice, massage therapy, physical therapy, or alcohol and drug counseling shall be placed the word Osteopathic Physician, Chiropractor, Podiatrist, Optometrist, Audiologist, Speech-Language Pathologist, Medical Nutrition Therapist, Professional Counselor, Social Worker, Master Social Worker, Marriage and Family Therapist, Mental Health Practitioner, Massage Therapist, Physical Therapist, or Alcohol and Drug Counselor, as the case may be~~under the act shall identify the profession or business for which the credential is held.

Sec. 27. Section 71-145, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-145~~ (1) Upon request and payment of the required fee, the department shall provide certification of a credential which shall include a certified statement that provides information regarding the basis on which a credential was issued, the date of issuance, and whether disciplinary action has been taken against the credential. ~~The certification shall be issued under the name and seal of the department.~~

(2) Upon request and payment of the required fee, the department shall provide verification of a credential which shall

include written confirmation as to whether a credential is valid at the time the request is made.

Sec. 28. Section 71-169, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-169 The Department of Health and Human Services Regulation and Licensure shall promulgate necessary rules and regulations and forms for carrying out the provisions of the Uniform Licensing Law. It may also adopt rules and regulations supplementing any of the provisions herein contained but not inconsistent therewith.~~To protect the health, safety, and welfare of the public and to insure to the greatest extent possible the efficient, adequate, and safe practice of health services, health-related services, and environmental services:

(1)(a) The appropriate board may adopt rules and regulations to:

(i) Specify minimum standards required for a credential, including education, experience, and eligibility for taking the credentialing examination;

(ii) Designate the credentialing examinations and the passing score on credentialing examinations;

(iii) Set continuing competency requirements in conformance with section 48 of this act;

(iv) Set standards for waiver of continuing competency requirements in conformance with section 49 of this act;

(v) Set standards for courses of study; and

(vi) Specify acts in addition to those set out in section 82 of this act that constitute unprofessional conduct; and

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(b) The department shall promulgate and enforce such rules and regulations;

(2) For professions or businesses that do not have a board created by statute:

(a) The department may adopt, promulgate, and enforce such rules and regulations; and

(b) The department shall carry out any statutory powers and duties of the board;

(3) The department, with the recommendation of the appropriate board, if any, may adopt, promulgate, and enforce rules and regulations for the respective profession, other than those specified in subdivision (1) of this section, to carry out the Uniform Credentialing Act; and

(4) The department may adopt, promulgate, and enforce rules and regulations with general applicability to carry out the Uniform Credentialing Act.

Sec. 29. Section 71-170, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-170~~ The department shall have ~~printed in pamphlet form~~ available for each profession and business regulated under the Uniform Credentialing Act the applicable statutes, rules, and regulations relative to the credentials for the appropriate profession or business.~~the following matter which is pertinent to the particular profession for which such pamphlet is published: (1) The law regulating the practice of the profession; (2) the rules of the department relative to credentials; and (3) the rules relating to examinations adopted by the department on the recommendation of~~

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~~the professional board.~~

Sec. 30. Section 71-1,343, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,343~~ (1) It is the intent of the Legislature that quality health care services and human services be provided to ~~all citizens of the state~~ the public and basic standards be developed to protect the public health and safety and that professions be regulated by the state only when it is demonstrated that such regulation is in the best interests of the public.

(2) The department shall periodically review each credentialed profession and business to determine if continued credentialing is needed to protect the public.

Sec. 31. Section 71-103, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-103~~ No ~~person~~individual shall be ~~licensed, certified, or registered to practice a profession~~ issued a credential under the Uniform ~~Licensing Law~~ Credentialing Act until he or she has furnished satisfactory evidence to the department that he or she is of good character and has attained the age of ~~majority and is of good moral character~~nineteen years except as otherwise specifically provided by statute, rule, or regulation. A credential may only be issued to a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a professional or commercial license under 42 U.S.C. 1621, or a nonimmigrant whose visa for entry is related to such employment in the United States.

Sec. 32. Section 71-108, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-108 The name, date and place of birth, location or post office address, school and date of graduation, date of examination and ratings or grades received, and date of a credential if one is issued of all applicants for examination in the several professions regulated by the Uniform Licensing Law shall be entered in a record kept in the office of the department to be known as the registry record. A separate registry record shall be kept for each profession, the names of applicants in that profession shall be given consecutive numbers, and all other records relating to that application or the credential granted pursuant to that application shall be given the same number. A list shall also be kept of those granted credentials in the several professions. Applications for a credential shall be upon forms prepared by the department, and the completed applications shall be kept as a part of the permanent files of the department. If the applicant is an individual, the application shall include the applicant's social security number. All applications based on credentials granted in other states shall be received upon forms prepared by the department and entered in the registry records as nearly as may be in the same form as are those applying for examinations. In addition, the date of credentialing and the length of time of practice in the other state shall be given and entered. An applicant for credentialing in this state shall not be required to resubmit information previously submitted in connection with an application for credentialing made in this state or another jurisdiction unless requested by the department. The data in any or all of such records may be maintained in computer files, placed~~

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~~upon microfilm, or stored in a similar form. All such records, in whatever form, shall be available for public inspection, as defined by rules and regulations of the department. Investigational records, reports, and files pertaining to an application shall not be a public record until action is taken to grant or deny the application and may be withheld from disclosure thereafter under section 84-712.05.~~ (1) An individual shall file an application for a credential to practice a profession with the department accompanied by the fee set pursuant to the Uniform Credentialing Act. The application shall contain:

(a) The legal name of the applicant;

(b) The date and place of birth of the applicant;

(c) The address of the applicant;

(d) The social security number of the applicant; and

(e) Any other information required by the department.

(2) A business shall file an application for a credential with the department accompanied by the fee set pursuant to the Uniform Credentialing Act. The application shall contain:

(a) The full name and address of the business;

(b) The full name and address of the owner of the business;

(c) The name of each person in control of the business;

(d) The social security number of the business if the applicant is a sole proprietorship; and

(e) Any other information required by the department.

(3) The applicant shall sign the application. If the applicant is a business, the application shall be signed by:

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(a) The owner or owners if the applicant is a sole proprietorship, a partnership, or a limited liability company that has only one member;

(b) Two of its members if the applicant is a limited liability company that has more than one member;

(c) Two of its officers if the applicant is a corporation;

(d) The head of the governmental unit having jurisdiction over the business if the applicant is a governmental unit; or

(e) If the applicant is not an entity described in subdivisions (a) through (d) of this subsection, the owner or owners or, if there is no owner, the chief executive officer or comparable official.

(4) Each credential holder under the Uniform Credentialing Act shall notify the department as soon as possible of any change to the address of record so that the department can update the record of the credential holder under section 25 of this act.

(5) Social security numbers obtained under this section shall not be public information but may be shared by the department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to such information.

Sec. 33. Section 71-104.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-104.01~~ An applicant for an initial license to practice a profession which is authorized to prescribe controlled substances

shall be subject to a criminal background check. The applicant shall submit with the application a full set of fingerprints which shall be forwarded to the Nebraska State Patrol to be submitted to the Federal Bureau of Investigation for a national criminal history record information check. The applicant shall authorize release of the results of the national criminal history record information check to the department. The applicant shall pay the actual cost of the fingerprinting and criminal background check. This section shall not apply to dentists who are applicants for temporary practice rights under subdivision (5) of section ~~71-183.01~~455 of this act or to physicians and surgeons who are applicants for temporary practice rights under subdivision (9) of section ~~71-1,103~~689 of this act.

Sec. 34. Section 71-125, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-125~~ Any person desiring to take ~~the~~ an examination for ~~licensure or certification to practice a profession~~ credentialing purposes shall make application to the department or to the organization specified by the department prior to examination on a form provided by the department or such organization. Such application shall be accompanied by the examination fee and such documents and affidavits as are necessary to show the eligibility of the candidate to take such examination. All applications shall be in accordance with the rules and regulations of the department or such organization. When a national or standardized examination is required, the department may direct the applicant to apply directly to the organization administering the examination to take

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the examination.

Sec. 35. Section 71-128, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-128~~ The department shall ~~prepare and keep up to date a list of accredited colleges in which are taught~~ maintain a list of approved courses of study for the professions which are regulated by the Uniform ~~Licensing Law~~Credentialing Act. The appropriate ~~professional~~ board shall make recommendations relative thereto and shall approve the list for ~~the~~ its profession. The department shall approve the list for a profession if there is no appropriate board.~~for which it gives examinations.~~ No ~~school~~ course of study shall be ~~accredited~~ approved without the formal action of the department ~~and~~ or the appropriate board. Any ~~professional school or college~~ course of study whose graduates or students desire to take the Nebraska ~~state board~~ examination shall supply the department with the necessary data to allow the board and the department to determine whether that ~~school~~ course of study should be ~~accredited~~approved. ~~The department may adopt any national examination to constitute part of or all of the licensure or certification examination for any of the professions which are regulated by the Uniform Licensing Law. Such examination shall be approved by the board as being a part of or all of the examination for licensure or certification.~~

Sec. 36. Section 71-133, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-133~~ (1) The oral or practical work portion of any examination for ~~licensure or certification~~ a credential under the

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Uniform ~~Licensing Law shall~~ Credentialing Act may be given by ~~a majority of~~ the members of the appropriate ~~professional~~ board, the department, or an organization approved by the appropriate board or the department if there is no board. ~~except in dentistry.~~ The oral examination questions shall be limited to the practice of the profession. ~~The members of the board need not be present at the examination given to applicants when a national examination or any other written examination is utilized. Such board may delegate the administration of such examination to the department. The department may designate an organization to administer a national or written examination.~~

(2) The appropriate board may approve any national or other examination to constitute part or all of the credentialing examination for any of the professions which are regulated by the Uniform Credentialing Act.~~In dentistry, the final practical examination in clinical dentistry may be given at each of the dental colleges, schools, or departments legally conducted in the State of Nebraska. The Central Regional Dental Testing Service practical examination or any other regional or state practical examination that the Board of Dentistry determines to be comparable to the Central Regional Dental Testing Service practical examination may be used to meet the requirement of a final practical examination for dentists and for dental hygienists. Any person who applies for a license to practice dentistry or dental hygiene who has failed on one occasion to pass the oral examination administered by the board shall be required to subsequently take and pass the practical examination before the department shall~~

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~~consider the applicant's qualifications for a license to practice dentistry or dental hygiene in the State of Nebraska. Any person who applies for a license to practice dentistry or dental hygiene who has failed on two occasions to pass any part of the examination shall be required to complete a course in clinical dentistry approved by the board before the department shall consider the results of a third examination as a valid qualification for a license to practice dentistry or dental hygiene in the State of Nebraska.~~

Sec. 37. Section 71-129, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-129~~ Examinations for ~~licensure or certification~~ credentialing shall be held on such dates and at such times and places as set by the department or the organization ~~specified by~~ approved by the appropriate board or the department. ~~may set. Such dates, times, and places as set by the department shall not exceed four in any one year except (1) as provided in section 71-133 for dentistry or (2) in those professions when nonpractical examinations are available for administration by either computers or in written form on a more frequent basis. Examinations may be held in any college or program or at any other location as determined by the department or the organization specified by the department. Any examination may be held concurrently in two or more places to accommodate the applicants therefor.~~ Special examinations may be given at the expense of the applicant and administered by the department~~,~~ or the organization specified by the department.~~, or the appropriate professional board.~~

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Sec. 38. Section 71-131, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-131~~ (1) In the absence of any specific requirement or provision relating to any particular profession:

(a) The ~~department may, upon the recommendation of the designated professional~~ appropriate board~~, adopt and promulgate rules and regulations to~~ may specify the passing ~~grade on licensure or certification~~ score on credentialing examinations;~~. In the absence of such rules and regulations, an examinee shall be required to obtain an average grade of seventy-five and shall be required to obtain a grade of sixty in each subject examined;~~

~~(b) A person who desires to take a licensure or certification examination but does not wish to receive a license or certification may take such examination by meeting the examination eligibility requirements and paying the cost of the examination; and~~

~~(c)~~ (b) An examinee who fails a ~~licensure or certification~~ credentialing examination may retake the entire examination or the part failed upon payment of the ~~licensure or certification fee each time he or she is examined.~~ cost of retaking the examination; and

(c) The department shall withhold from the ~~licensure or certification~~ credentialing fee submitted by an examinee the cost of any national examination used when an examinee fails a ~~licensure or certification~~ credentialing examination and shall return to the examinee the remainder of the ~~licensure or certification~~ credentialing fee collected subject to section ~~71-162.05~~59 of this

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act, except that:

(i) If ~~the~~ ~~state-developed~~ a state-administered jurisprudence portion of the ~~licensure~~ ~~or~~ ~~certification~~ credentialing examination was failed, the examinee may retake that portion without charge; and

(ii) If any component of a national examination was failed, the examinee shall be charged the cost for ~~purchasing~~ retaking such examination.

(2) A person who desires to take an examination but does not wish to receive a credential may take such examination by meeting the examination eligibility requirements and paying the cost of the examination.~~In pharmacy, all applicants shall be required to attain a grade to be determined by the Board of Pharmacy in an examination in pharmacy and a grade of seventy-five in an examination in jurisprudence of pharmacy.~~

~~(3) In social work, the passing criterion for such examination shall be established and may be changed by the Board of Mental Health Practice by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all the requirements for certification without examination pursuant to section 71-1,319 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.~~

~~(4) In professional counseling, the passing criterion for such examination shall be established and may be changed by the Board of Mental Health Practice by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all of the requirements for certification without examination~~

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~~pursuant to rules and regulations adopted and promulgated by the department pursuant to section 71-139.~~

~~(5) In marriage and family therapy, the passing criterion for such examination shall be established and may be changed by the Board of Mental Health Practice by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all of the requirements for certification without examination pursuant to section 71-1,329 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.~~

~~(6) Applicants for licensure in medicine and surgery and osteopathic medicine and surgery shall pass the licensing examination. An applicant who fails to pass any part of the licensing examination within four attempts shall complete one additional year of postgraduate medical education at an accredited school or college of medicine or osteopathic medicine. All parts of the licensing examination shall be successfully completed within seven years, except that if the applicant has been enrolled in a combined doctorate of medicine and doctorate of philosophy degree program in an accredited school or college of medicine, all parts of the licensing examination shall be successfully completed within ten years. An applicant who fails to successfully complete the licensing examination within the time allowed shall retake that part of the examination which was not completed within the time allowed.~~

~~(7) In medical nutrition therapy, the passing criterion for such examination shall be established and may be changed by the Board of Medical Nutrition Therapy by rule and regulation. Such~~

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~~examination shall test for the essential clinical elements of the field of medical nutrition therapy. The board shall base all of its actions on broad categorical parameters derived from the essential elements of the field of medical nutrition therapy and shall not endorse nor restrict its assessment to any particular nutritional school of thought. The board may exempt an applicant from the written examination if he or she meets all of the requirements for licensure without examination pursuant to section 71-1,291 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.~~

~~(8) In alcohol and drug counseling, the Board of Alcohol and Drug Counseling shall approve a licensing examination and establish the passing criterion for such examination, which meets or exceeds the minimum international standards for alcohol and drug counselors established by the International Certification and Reciprocity Consortium, Alcohol and Other Drug Abuse, Inc. or its successor.~~

Sec. 39. Section 71-138, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-138~~ (1) All ~~question and answer sheets~~ questions, the answer key, and the examinees' answers connected with any examination for ~~licensure or certification~~ credentialing shall be maintained by the department, national organization, or testing service for a period of two years from the date of administration of the examination.

(2) When national examinations ~~that are governed by security considerations are utilized, they shall be available from~~

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~~the developing testing service for a period of two years, during which time such question and answer sheets shall be open to inspection by an applicant or his or her designee. Question and answer sheets for any national machine-graded or computer-scored examination which are protected by security agreements, copyright provisions, or departmental or state contractual agreements for use shall not be required to be on file with the department but shall be available for a period of two years, upon demand, from any testing service utilized, at the discretion of the department or upon order of a court of competent jurisdiction~~are accepted for credentialing, the department shall obtain from the national organization or testing service documentation that the examination development and maintenance process meets generally accepted standards for test development and maintenance.

~~(2)~~ (3) The department, ~~upon~~ with the recommendation of the ~~professional~~ appropriate board, may: ~~adopt and promulgate rules and regulations:~~

~~(a) To specify eligibility for taking the licensure or certification examination. In determining such eligibility, the department and the board shall consider the practices of other states and the promotion of reciprocal relations but shall determine such eligibility standards based on the extent to which completion of a course of study prior to examination is necessary to assure that applicants for licensure or certification meet minimum standards of proficiency and competency for the protection of the health and safety of the public;~~

~~(b) To specify licensure or certification~~ (a) Specify

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credentialing examination application procedures;~~,~~ ~~including the date, time, and place of examination and the deadline for making such application;~~

~~(c) To provide~~ (b) Provide for the review of procedures for the development of examinations;

~~(d) To govern~~ (c) Provide for the administration of all or separate components of examinations; and~~for licensure or certification;~~

~~(e) To protect~~ (d) Protect the security of the content of examination questions and answers.~~; and~~

~~(f) To provide for the review of the examination question and answer sheets by examinees who fail the licensure or certification examinations or their designees.~~

~~The department shall not enter into an agreement to adopt an examination from a national testing service without first obtaining from that service detailed documentation of the process of examination development and maintenance.~~

(4) The appropriate board may specify eligibility for taking the credentialing examination. In determining such eligibility, the board shall consider the practices of other states but shall determine such eligibility standards based on the extent to which completion of a course of study prior to examination is necessary to assure that applicants for credentials meet minimum standards of proficiency and competency for the protection of the health and safety of the public.

Sec. 40. The department may inspect or provide for the inspection of any business credentialed or applying for a

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credential under the Uniform Credentialing Act. The department shall issue an inspection report and provide a copy of the report to the business within ten working days after the completion of an inspection.

Sec. 41. The department may request the State Fire Marshal to inspect any business credentialed or applying for a credential under the Uniform Credentialing Act for fire safety pursuant to section 81-502. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01 payable by such business. The State Fire Marshal may delegate such authority to make such inspections to qualified local fire prevention personnel pursuant to section 81-502.

Sec. 42. Every business credentialed under the Uniform Credentialing Act shall report to the department the name of every person without a credential that he or she has reason to believe is engaged in practicing any profession or operating any business for which a credential is required by the Uniform Credentialing Act. The department may, along with other law enforcement agencies, investigate such reports or other complaints of unauthorized practice or unauthorized operation of a business. The appropriate board may issue an order to cease and desist the unauthorized practice of such profession or unauthorized operation of such business as a measure to obtain compliance with the applicable credentialing requirements by the person or business prior to referral of the matter to the Attorney General for action. For businesses that do not have a board, the department may issue such cease and desist orders. Practice of such profession or operation

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of such business without a credential after receiving a cease and desist order is a Class III felony.

Sec. 43. Section 71-124.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-124.01~~ Whenever the department deems it necessary to appoint an inspector or investigator to assist it in performing its duty, the department may appoint a person who ~~is actively engaged in such~~ holds an active credential in the appropriate profession or any other qualified person who has been trained in investigational procedures and techniques to serve as such inspector or investigator. ~~with the consent and approval of the appropriate professional board when applicable, except that only a licensed pharmacist who is or who has been engaged in the active practice of pharmacy as defined in subdivision (1) of section 71-1,142 shall be appointed by the department to serve as a pharmacy inspector with the consent and approval of the Board of Pharmacy.~~

Sec. 44. Section 71-139, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-139 (1)~~ The department may, ~~without examination, except when a practical examination is required~~with the recommendation of the appropriate board, issue a ~~license~~ credential by endorsement to practice any profession~~, except pharmacy, podiatry, dentistry, medicine and surgery, optometry, osteopathic medicine and surgery or as an osteopathic physician, and audiology and speech-language pathology,~~ to a person who has been ~~in the active practice of such profession in~~ credentialed by another state

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or territory of the United States or the District of Columbia upon ~~(a)~~ (1) certification by the proper ~~licensing~~ credentialing authority of the state, territory, or District of Columbia ~~that (i)~~ (a) that the applicant is duly ~~licensed, (ii) his or her license has never been suspended or revoked, and (iii) so far as the records of such authority are concerned, the applicant is entitled to its endorsement and (b) proof of the following:(v) That~~ credentialed or has been duly credentialed and (b) whether the credential has ever been disciplined, (2) the person having met the requirements for obtaining a credential for the appropriate profession as provided in the applicable practice act and rules and regulations governing the profession, and (3) proof that the applicant is of good ~~moral~~ character and standing in his or her profession. ~~as evidenced by completing under oath an application from the department containing such a statement; and~~

~~(vi) That the applicant has been in the active and continuous practice of such profession under license by examination in such state, territory, or District of Columbia for at least one year.~~

~~(2) An applicant for reciprocal registration coming from any state may be licensed by reciprocity if his or her individual qualifications meet the Nebraska legal requirements.~~

~~(3) The department may issue certificates or registrations on a reciprocal basis to persons who are required to be certified or registered pursuant to the Uniform Licensing Law. The department may adopt and promulgate rules and regulations for reciprocity pursuant to this section.~~

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~~(4) Persons who graduate from schools or colleges of osteopathic medicine accredited by the department on recommendation of the Board of Examiners in Osteopathy since January 1, 1963, and prior to May 23, 1981, and after May 23, 1981, persons who graduate from schools or colleges of osteopathic medicine accredited by the department on recommendation of the Board of Medicine and Surgery who meet the requirements of this section and who have passed a written examination which is equivalent to that required in section 71-1,104 as determined by the Board of Medicine and Surgery and who meet the requirements of section 71-1,137 for the practice of osteopathic medicine and surgery as evidenced by a certificate of the Board of Medicine and Surgery may be granted a license to practice osteopathic medicine and surgery as defined in section 71-1,137 if such person has been actively engaged in the practice under such license or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for license by reciprocity. Graduates of an accredited school or college of osteopathic medicine since January 1, 1963, who meet the requirements of this section and who meet the applicable requirements of section 71-1,139.01 as certified by the Board of Medicine and Surgery may be granted a special license as doctor of osteopathic medicine and surgery.~~

~~(5) The department may approve without examination any person who has been duly licensed to practice optometry in another state or territory of the United States or the District of Columbia under conditions and circumstances which the Board of Optometry shall find to be comparable to the requirements of the State of~~

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~~Nebraska for obtaining a license to practice optometry if such person has been actively engaged in the practice under such license for at least one of the three years immediately preceding the application for license by reciprocity. The applicant shall produce evidence satisfactory to the board that he or she has had the required secondary and professional education and training. The applicant shall provide certification from the proper licensing authority of the state, territory, or District of Columbia where he or she is licensed to practice such profession that he or she is duly licensed, that his or her license has not been suspended or revoked, and that so far as the records of such authority are concerned he or she is entitled to its endorsement. If the applicant is found to meet the requirements provided in this section and is qualified to be licensed to practice the profession of optometry in the State of Nebraska, the board shall issue a license to practice optometry in the State of Nebraska to such applicant.~~

~~(6) The Board of Dentistry may approve any person who has been duly licensed to practice dentistry or dental hygiene in another state or territory of the United States or the District of Columbia under conditions and circumstances which the board finds to be comparable to the requirements of the State of Nebraska for obtaining a license to practice dentistry or dental hygiene if such person has been actively engaged in the practice under such license or in an accepted residency or graduate training program for at least three years, one of which shall be within the three years immediately preceding the application for license by reciprocity.~~

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~~The applicant shall produce evidence satisfactory to the board that he or she has had the required secondary and professional education and training and is possessed of good character and morals as required by the laws of the State of Nebraska. The applicant shall provide certification from the proper licensing authority of the state, territory, or District of Columbia where he or she is licensed to practice such profession that he or she is duly licensed, that his or her license has not been suspended or revoked, and that so far as the records of such authority are concerned he or she is entitled to its endorsement. The applicant shall submit evidence of completion during the twelve-month period preceding the application of continuing competency requirements comparable to the requirements of this state. The board may administer an oral examination to all applicants for licensure by reciprocity to assess their knowledge of basic clinical aspects of dentistry or dental hygiene. If the applicant is found by the board to meet the requirements provided in this section, the board shall certify such fact to the department, and the department upon receipt of such certification shall issue a license to practice dentistry or dental hygiene in the State of Nebraska to such applicant. If the board finds that the applicant does not satisfy the requirements of this section, the board shall certify its findings to the department. The Director of Regulation and Licensure shall review the findings, and if he or she agrees with the findings, the director shall deny the application.~~

Sec. 45. Section 71-110, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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~~71-110~~ (1) The credential to practice a profession shall be renewed biennially ~~without examination~~ upon request of the credentialed person and upon documentation of continuing competency pursuant to sections ~~71-161.09 and 71-161.10~~48 and 49 of this act. The ~~biennial credential~~ renewals provided for in this section shall be accomplished in such manner and on such date as the department, with the ~~approval of the designated professional~~ recommendation of the appropriate board, ~~shall~~ may 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 and acupuncture;~~

~~(f) June, respiratory care;~~

~~(g) August, chiropractic and optometry;~~

~~(h) September, alcohol and drug counseling, 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~~ shall include all information required by the department and shall be accompanied by the renewal fee. Such fee shall be paid not later than the date of the expiration of such credential, except

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that ~~while~~ persons actively engaged in the military service of the United States, as defined in the ~~Soldiers' and Sailors' Civil Relief Act of 1940~~Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as the act existed on January 1, ~~2002~~2007, ~~persons credentialed to practice the professions listed in this subsection~~ shall not be required to pay the renewal fee.

(2) ~~When a person credentialed pursuant to the Uniform Licensing Law desires to have his or her credential lapse upon expiration, he or she shall notify the department of such desire in writing. The department shall notify the credentialed person in writing of the acceptance or denial of the request to allow the credential to lapse. When the lapsed status becomes effective~~At least thirty days before the expiration of a credential, the department shall notify each credentialed person at his or her last address of record. If a credentialed person fails to notify the department of his or her desire to have his or her credential placed on inactive status upon its expiration, fails to meet the requirements for renewal on or before the date of expiration of his or her credential, or otherwise fails to renew his or her credential, it shall expire. When a person's credential expires, the right to represent himself or herself as a credentialed person and to practice the profession in which a ~~license~~ credential is required shall terminate. Any credentialed person who fails to renew the credential by the expiration date and desires to resume practice of the profession shall apply to the department for reinstatement of the credential.~~To restore the credential from lapsed to active status, such person shall be required to meet the~~

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~~requirements for initial credentialing which are in effect at the time that he or she wishes to restore the credential.~~

(3) When a person credentialed pursuant to the Uniform ~~Licensing Law~~ Credentialing Act desires to have his or her credential placed on inactive status, ~~upon its expiration,~~ he or she shall notify the department of such desire in writing. ~~and pay the inactive status fee.~~ The department shall notify the credentialed person in writing of the acceptance or denial of the request to allow the credential to be placed on inactive status. When the credential is placed on inactive status, the credentialed person shall not engage in the practice of such profession, but he or she may represent himself or herself as having an inactive credential. A credential may remain on inactive status for an indefinite period of time. ~~In order to move a credential from inactive to active status, a person shall be required to meet the requirements for renewal which are in effect at the time he or she wishes to regain active status.~~

~~(4) At least thirty days before the expiration of a credential, the department shall notify each credentialed person by a letter addressed to him or her at his or her last place of residence as noted upon its records. Any credentialed person who fails to notify the department of his or her desire to let his or her credential lapse or be placed on inactive status upon its expiration or who fails to meet the requirements for renewal on or before the date of expiration of his or her credential shall be given a second notice in the same manner as the first notice advising him or her (a) of the failure to meet the requirements for~~

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~~renewal, (b) that the credential has expired, (c) that the person is subject to an administrative penalty under section 71-164.01 if he or she practices after the expiration date and prior to renewal of the credential, (d) that upon the receipt of the renewal fee and the required late fee within thirty days after the expiration date, no order of revocation will be entered, and (e) that upon the failure to comply with subdivision (d) of this subsection within such time, the credential will be revoked in the manner prescribed in section 71-149.~~

~~(5) Any credentialed person who desires to reinstate the credential not more than one year after the date of revocation for failure to meet the renewal requirements shall apply to the department for reinstatement. The credential may be reinstated upon the recommendation of the board for his or her profession and the receipt of evidence of meeting the renewal requirements and paying the required late fee.~~

~~(6) Any credentialed person who desires to reinstate the credential more than one year after the date of revocation for failure to meet the renewal requirements shall petition the board to recommend reinstatement as prescribed in section 71-161.05. The credential may be reinstated upon the recommendation of the board for his or her profession and the receipt of evidence of meeting the renewal requirements and paying the required late fee.~~

Sec. 46. Section 71-110.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-110.01~~ (1) The ~~department may provide for the renewal of a~~ credential to engage in a business ~~as an apprentice training~~

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~~salon; a body art facility; a cosmetic establishment; a cosmetology salon; an electrology establishment; an emergency medical service; an emergency medical training program; an esthetics salon; a funeral establishment or branch establishment; a massage therapy establishment; a massage therapy school; a nail technology salon; a nail technology school; a satellite cosmetology classroom; a school of cosmetology; or a school of esthetics upon request of the credentialed entity as provided in this section~~shall be renewed biennially upon request of the credentialed business and completion of the renewal requirements. The ~~credential~~ renewals provided for in this section shall be accomplished in such manner and on such date as the department, with the ~~approval~~ recommendation of the appropriate ~~professional~~ board, ~~shall~~ may establish. ~~by rule and regulation.~~ The request for renewal ~~need not be in any particular form~~ shall include all information required by the department and shall be accompanied by the renewal fee.~~,~~ ~~if applicable.~~ Such fee shall be paid not later than the date of the expiration of such credential.

(2) At least thirty days before the expiration of a credential, the department shall notify each credentialed ~~entity by a letter addressed to the place of business as noted upon the department's records. Any credentialed entity which fails to pay the renewal fee~~ business at its last address of record. If a credentialed business fails to meet the renewal requirements on or before the date of expiration of the credential, the credential shall expire. When a credential expires, the right to operate the business shall terminate. A business which fails to renew

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its credential by the expiration date shall apply for and obtain another credential prior to operating the business. ~~shall be given a second notice in the same manner as the first notice advising the entity (a) of the failure to pay the renewal fee, (b) that the credential has expired, (c) that the entity is subject to an administrative penalty under section 71-164.01 if the entity engages in business after the expiration date and prior to renewal, reinstatement, or issuance of a credential, (d) that upon the receipt of the renewal fee and the required late fee within thirty days after the expiration date, no order of revocation will be entered, and (e) that upon the failure to receive the fees, the credential will be revoked in the manner prescribed in section 71-149.~~

Sec. 47. Section 71-149, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-149~~ (1) The ~~department shall automatically revoke, without further notice or hearing, the~~ credential of any person who fails, ~~within thirty days after~~ by the expiration date of such credential, to pay the required renewal fee~~,~~ or to submit documentation of continuing competency~~, or to pay the required late fee, and the department shall make proper record of such revocation~~ shall automatically expire without further notice or hearing.

(2) The department shall ~~revoke~~refuse to renew, after notice and opportunity for hearing, the credential of any person who fails, ~~within thirty days after~~ by the expiration date of such credential, to meet the applicable continuing competency requirement for renewal.

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(3) Subsections (1) and (2) of this section shall not apply when the ~~credentialed~~ ~~person~~ credential holder has given notification to the department that he or she desires to have his or her credential ~~lapse~~ expire or be placed on inactive status upon expiration. ~~and, for placement on inactive status, has paid the inactive status fee.~~

Sec. 48. Section 71-161.09, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-161.09~~ (1) ~~Each~~ ~~professional~~ The appropriate board shall establish continuing competency requirements for persons ~~engaged in the active practice of the health care profession or occupation for which the board was designated~~seeking renewal of a credential.

(2) The purposes of continuing competency requirements are to ensure (a) the maintenance by a ~~credentialed~~ ~~person~~ credential holder of knowledge and skills necessary to competently practice his or her profession, ~~or occupation,~~ (b) the utilization of new techniques based on scientific and clinical advances, and (c) the promotion of research to assure expansive and comprehensive services to the public.

(3) ~~The~~ Each board shall consult with the department and the appropriate professional academies, professional societies, and professional associations in the development of such requirements. ~~The requirements shall be established in rules and regulations approved by the board and adopted and promulgated by the department.~~

(4)(a) For a profession ~~or occupation~~ for which there

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are no continuing education requirements on December 31, 2002, the requirements may include, but not be limited to, any one or a combination of the continuing competency activities listed in subsection (5) of this section.

(b) For a profession ~~or occupation~~ for which there are continuing education requirements on December 31, 2002, continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, any one or a combination of the continuing competency activities listed in subdivisions (5)(b) through ~~(5)(o)~~ (5)(p) of this section which a ~~credentialed person~~ credential holder may select as an alternative to continuing education.

(5) Continuing competency activities may include, but not be limited to, any one or a combination of the following:

(a) Continuing education;

(b) Clinical privileging in an ambulatory surgical center or hospital as defined in section 71-405 or 71-419;

(c) Board certification in a clinical specialty area;

(d) Professional certification;

(e) Self-assessment;

(f) Peer review or evaluation;

(g) Professional portfolio;

(h) Practical demonstration;

(i) Audit;

(j) Exit interviews with consumers;

(k) Outcome documentation;

(l) Testing;

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(m) Refresher courses;

(n) Inservice training;

(o) Practice requirement; or

~~(o)~~ (p) Any other similar modalities.

Sec. 49. Section 71-161.10, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-161.10~~ (1) Each ~~credentialed~~ person ~~in active practice~~ holding an active credential within the state shall, on or before the date of expiration of his or her credential, ~~complete the requirements to document compliance~~ comply with continuing competency requirements for his or her profession. ~~or occupation as specified by rules and regulations approved by the designated professional board and adopted and promulgated by the department pursuant to section 71-161.09.~~ Except as otherwise provided in this section, the department shall not renew the credential of any person who has not complied with such requirements. ~~Procedures for nonrenewal of the credential due to failure to document compliance with continuing competency requirements shall be identical to those for nonpayment of renewal fees as provided in sections 71-110 and 71-149, as well as procedures for reinstatement of the same. In cases other than nonrenewal, the procedures in sections 71-149 and 71-150 for refusal to renew shall apply.~~

(2) The department~~, on the recommendation of the designated professional board,~~ may waive continuing competency requirements, in whole or in part, upon submission by a ~~credentialed person~~ credential holder of documentation that circumstances beyond his or her control have prevented completion

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of such requirements. Such circumstances shall include, but not be limited to: ~~situations in which:~~

~~(a) The credentialed person holds a Nebraska credential but is not practicing his or her profession or occupation in Nebraska;~~

~~(b)~~ (a) The ~~credentialed person~~ credential holder has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date;

~~(c) The credentialed person has suffered from a serious or disabling illness or physical disability during the credentialing period immediately preceding the renewal date which prevented completion of the continuing competency requirements; and~~

~~(d)~~ (b) The ~~credentialed person~~ credential holder was first credentialed within the credentialing period immediately preceding the renewal date; or~~.~~

(c) Other circumstances prescribed by rules and regulations adopted and promulgated under the appropriate practice act.

~~The department, with the consent of the designated professional board, may adopt and promulgate rules and regulations not inconsistent with this section pertaining to waiver of continuing competency requirements.~~

~~(2)~~ (3) Each ~~credentialed person~~ credential holder shall be responsible for maintaining ~~in his or her personal files such~~ certificates or records of continuing competency activities. ~~received from approved providers.~~

The ~~designated professional~~ department or appropriate

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board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each ~~credentialed~~ ~~person~~ credential holder selected for audit shall be required to produce documentation of the continuing competency activities. The credential of any person who fails to comply with the conditions of the audit shall expire thirty days after notice and an opportunity for a hearing.~~listed~~ ~~on~~ ~~his~~ ~~or~~ ~~her~~ ~~renewal~~ ~~application.~~

Sec. 50. (1) Any person who desires to reinstate a credential after the date of expiration or from inactive to active status shall apply to the department for reinstatement. The credential may be reinstated upon the receipt of evidence of meeting the renewal requirements, or the requirements specified under the practice act for the appropriate profession, which are in effect at the time the credential holder applies to regain active status and payment of reinstatement and renewal fees if applicable.

(2) The department, with the recommendation of the appropriate board, may deny an application for reinstatement or may issue the credential subject to any of the terms of section 99 of this act if the applicant has committed any of the acts set out in section 81 of this act.

(3) A credential holder who elected to have his or her credential placed on lapsed status prior to the operative date of this section may have the credential reinstated in accordance with this section.

Sec. 51. Section 71-161.04, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-161.04 (1)~~ A person ~~credentialed by the department~~ whose credential has been suspended or has had limitations placed thereon for any reason specified in sections ~~71-147 and 71-148 may petition the appropriate professional board to recommend the~~ 81 and 82 of this act may apply for reinstatement of the credential at any time. The application shall include such information as may be required by the department.

~~(2) A person credentialed by the department whose credential has been revoked for any reason specified in such sections may petition the board to recommend reinstatement after a period of two years has elapsed from the date of revocation.~~

Sec. 52. Section 71-161.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-161.06 A petition for reinstatement of a license, certificate, or registration shall be considered at the next meeting of the board that is held not earlier than thirty days after the petition was filed. No public hearing need be held on the petition if the board recommends reinstatement of the license, certificate, or registration. Opportunity for a formal public hearing on the petition shall be granted by the board, if formally requested by the petitioner, prior to any recommendation by the board against reinstatement. Any petition for reinstatement accompanied by the requisite information and necessary documents shall be conclusively acted upon by the board within one hundred eighty days after the filing of the properly prepared petition and necessary accompanying documents with the board. If the petitioner formally requests opportunity for a formal public hearing thereon~~

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~~or if the board otherwise holds such a hearing, the petitioner shall be given at least thirty days' prior notice thereof by sending a copy of the notice of hearing by means of certified or registered mail directed to the petitioner at his or her last-known residence or business post office address as shown by the files or records of the Department of Health and Human Services Regulation and Licensure or as otherwise known or by means of personal service by being personally served by any sheriff or constable or by any person especially appointed by the board. The hearing may be continued from time to time as the board finds necessary.~~

(1) Upon receipt of an application under section 51 of this act for reinstatement of a credential in a profession that has a board, the application shall be sent to the board for consideration. Any application for reinstatement, accompanied by the required information and documentation, shall be acted upon by the board within one hundred eighty days after the filing of the completed application.

(2) The department, with the recommendation of the appropriate board, may:

(a) Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by section 81 of this act;

(b) Require the applicant to submit to a complete diagnostic examination at the expense of the applicant by one or more physicians or other qualified professionals appointed by the board, the applicant being free also to consult a physician or physicians or other professionals of his or her own choice for an

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evaluation or diagnostic examination and to make available a report or reports thereof to the department and the appropriate board;

(c) Require the applicant to pass a written, oral, or practical examination or any combination of such examinations at the expense of the applicant;

(d) Require the applicant to successfully complete additional education at the expense of the applicant;

(e) Require the applicant to successfully pass an inspection of his or her practice site; or

(f) Take any combination of the actions in this subsection.

(3) On the basis of material submitted by the applicant, the results of any inspection or investigation by the department, and the completion of any requirements imposed under subsection (2) of this section, the board shall (a) deny the application for reinstatement or (b) recommend to the department (i) full reinstatement of the credential, (ii) modification of the suspension or limitation, or (iii) reinstatement of the credential subject to limitations or subject to probation with terms and conditions.

(4) The decision of the board shall become final thirty days after mailing the decision to the applicant unless the applicant requests a hearing within such thirty-day period. If the applicant requests a hearing before the board, the department shall mail notice of the date, time, and location of the hearing to the applicant at least thirty days prior to the hearing. If the applicant has been afforded a hearing or an opportunity for a

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hearing on an application for reinstatement within two years prior to filing the current application, the department may grant or deny such application without another hearing before the board. The affirmative vote of a majority of the members of the board shall be necessary to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

(5)(a) The department may only consider applications for reinstatement with an affirmative recommendation of the appropriate board. If the board recommends (i) full reinstatement of the credential, (ii) modification of the suspension or limitation, or (iii) reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the board's recommendation shall be sent to the applicant by certified mail and forwarded to the director for a decision.

(b) The director shall receive (i) the written recommendation of the board, including any finding of fact or order of the board, (ii) the application for reinstatement, (iii) the record of hearing if any, and (iv) any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the board and the applicant.

(c) The director shall then review the application and other documents and may affirm the recommendation of the board and grant reinstatement or may reverse or modify the recommendation if the board's recommendation is (i) in excess of statutory authority, (ii) made upon unlawful procedure, (iii) unsupported by competent, material, and substantial evidence in view of the entire record, or (iv) arbitrary or capricious.

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(6) The director's decision may be appealed by any party to the decision. The appeal shall be in accordance with the Administrative Procedure Act.

(7) Denial by a board of an application for reinstatement may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

Sec. 53. (1) Upon receipt of an application for reinstatement of a credential in a profession that does not have a board, the application shall be considered by the department.

(2) The department may:

(a) Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by section 81 of this act;

(b) Require the applicant to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the department, the applicant being free also to consult a physician or physicians or other professionals of his or her own choice for an evaluation or diagnostic examination and to make available a report or reports thereof to the department;

(c) Require the applicant to pass a written, oral, or practical examination or any combination of such examinations;

(d) Require the applicant to successfully complete additional education;

(e) Require the applicant, if a business, to successfully complete an inspection; or

(f) Take any combination of the actions in this

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subsection.

(3) On the basis of material submitted by the applicant, the results of any inspection or investigation by the department, and the completion of any requirements imposed under subsection (2) of this section, the department shall (a) deny the application for reinstatement, (b) grant the application for reinstatement, (c) modify the probation, suspension, or limitation, or (d) reinstate the credential subject to limitations or subject to probation with terms and conditions.

(4) The decision of the department shall become final thirty days after mailing the decision to the applicant unless the applicant requests a hearing within such thirty-day period. If the applicant requests a hearing, the department shall mail notice of the date, time, and location of the hearing to the applicant at least thirty days prior to the hearing. Any requested hearing shall be held according to rules and regulations of the department for administrative hearings in contested cases. Any party to the decision shall have a right to appeal. Such appeal shall be in accordance with the Administrative Procedure Act.

(5) If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years prior to filing the current application, the department may grant or deny such application without another hearing.

Sec. 54. Section 71-162, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-162~~ (1) It is the intent of the Legislature that the

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revenue to cover the cost of the credentialing system administered by the department is to be derived from General Funds, cash funds, federal funds, gifts, grants, or fees from individuals or ~~entities~~businesses seeking credentials. The credentialing system includes the totality of the credentialing infrastructure and the process of issuance and renewal of credentials, examinations, inspections, investigations, continuing competency, compliance assurance, and the credentialing review process for ~~the following~~ individuals and ~~entities~~businesses that provide health services, ~~and~~ health-related services, and environmental services.~~:~~

~~(a) Individuals in the practice of acupuncture; advanced practice nursing; alcohol and drug counseling; asbestos abatement, inspection, project design, and training; athletic training; audiology; speech-language pathology; chiropractic; dentistry; dental hygiene; environmental health; hearing aid instrument dispensing and fitting; lead-based paint abatement, inspection, project design, and training; medical nutrition therapy; medical radiography; medication aide services; medicine and surgery; mental health practice; nursing; nursing assistant or paid dining assistant services; nursing home administration; occupational therapy; optometry; osteopathic medicine; pharmacy; physical therapy; podiatry; psychology; radon detection, measurement, and mitigation; respiratory care; social work; swimming pool operation; veterinary medicine and surgery; water system operation; constructing or decommissioning water wells and installing water well pumps and pumping equipment; and~~

~~(b) Individuals in the practice of and entities in the~~

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~~business of body art; cosmetology; electrology; emergency medical services; esthetics; funeral directing and embalming; massage therapy; and nail technology.~~

(2) The department shall determine the cost of the credentialing system for such individuals and ~~entities~~businesses by calculating the total of the base costs, the variable costs, and any adjustments as provided in sections ~~71-162.01 to 71-162.03~~55 to 57 of this act.

(3) When fees are to be established pursuant to section ~~71-162.04~~58 of this act for individuals or ~~entities~~businesses other than individuals in the practice of constructing or decommissioning water wells and installing water well pumps and pumping equipment, the department, ~~upon~~with the recommendation of the appropriate board if applicable, shall base the fees on the cost of the credentialing system and shall include usual and customary cost increases, a reasonable reserve, and the cost of any new or additional credentialing activities. For individuals in the practice of constructing or decommissioning water wells and installing water well pumps and pumping equipment, the Water Well Standards and Contractors' Licensing Board shall establish the fees as otherwise provided in this subsection. All such fees shall be ~~collected~~used as provided in section ~~71-163~~60 of this act.

Sec. 55. Section 71-162.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-162.01~~ Base costs of credentialing are the costs that are common to all professions and ~~occupations~~ businesses listed in section ~~71-162~~ 23 of this act and include the following:

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(1) Salaries and benefits for employees of the department who work with credentialing activities;

(2) Shared operating costs for credentialing activities that are not specific to a particular profession or ~~occupation~~ business such as indirect costs, rent, and utilities;

(3) Costs related to compliance assurance, including investigative costs, contested case costs, and compliance monitoring;

(4) Costs of the Licensee Assistance Program under sections ~~71-172.01~~ ~~and~~ ~~71-172.02~~section 78 of this act;

(5) Capital costs, including office equipment and computer hardware or software, which are not specific to a particular profession or ~~occupation~~business; and

(6) Other reasonable and necessary costs as determined by the department.

Sec. 56. Section 71-162.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-162.02~~ Variable costs of credentialing are the costs that are unique to a specific profession or ~~occupation~~ business listed in section ~~71-162~~ 23 of this act and include the following:

(1) Per diems which are paid to members of the appropriate board;

(2) Operating costs that are specific to a particular profession or ~~occupation~~business, including publications, conference registrations, and subscriptions;

(3) Costs for travel by members of the appropriate board and employees of the department related to a particular profession

or ~~occupation~~business, including car rental, gas, and mileage charges but not salaries;

(4) Costs to operate and administer the Nebraska Center for Nursing, which costs shall be derived from credentialing fees of registered and practical nurses in accordance with section 71-1798.01; and

(5) Other reasonable and necessary costs as determined by the appropriate board or the department.

Sec. 57. Section 71-162.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-162.03~~ Adjustments to the cost of credentialing include, but are not limited to:

(1) Revenue from sources that include, but are not limited to:

(a) Interest earned on the Professional and Occupational Credentialing Cash Fund, if any;

(b) Certification and verification of credentials;

~~(c) Late fees;~~

~~(d)~~ (c) Administrative fees;

~~(e)~~ (d) Reinstatement fees;

~~(f)~~ (e) General Funds and federal funds;

~~(g)~~ (f) Fees for miscellaneous services, such as production of photocopies, lists, labels, and diskettes;

~~(h)~~ (g) Gifts; and

~~(i)~~ (h) Grants; and

(2) Transfers to other funds for costs related to the Nebraska Regulation of Health Professions Act and section

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~~71-1,343~~30 of this act.

Sec. 58. Section 71-162.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-162.04~~ (1) The department, ~~upon~~with the recommendation of the appropriate board if applicable, or the Water Well Standards and Contractors' Licensing Board as provided in section ~~71-162~~54 of this act, shall adopt and promulgate rules and regulations to establish and collect the fees for the following credentials:

(a) Initial credentials, which include, but are not limited to:

(i) Licensure, certification, or registration;

(ii) Add-on or specialty credentials;

(iii) Temporary, provisional, or training credentials; and

(iv) Supervisory or collaborative relationship credentials;

(b) Applications to renew licenses, certifications, and registrations;

(c) Approval of continuing education courses and other methods of continuing competency; and

(d) Inspections and reinspections.

(2) When a credential will expire within one hundred eighty days after its initial issuance date and the initial credentialing fee is twenty-five dollars or more, the department shall collect twenty-five dollars or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential shall be valid until the next

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subsequent renewal date.

Sec. 59. Section 71-162.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-162.05~~ (1) The department shall retain a twenty-five-dollar administrative fee from each credentialing fee established under section ~~71-162.04~~ 58 of this act for a denied credential or a withdrawn application, except that (a) if the credentialing fee is less than twenty-five dollars, the fee shall be forfeited and (b) an examination fee shall not be returned.

(2) The department shall collect fees for services as follows:

(a) Ten dollars for a duplicate original or reissued credential;

(b) Twenty-five dollars for certification of a credential pursuant to section ~~71-145~~27 of this act;

(c) Five dollars for verification of a credential pursuant to section ~~71-145~~27 of this act; and

~~(d) A late fee of twenty-five dollars in addition to the renewal fee to renew a credential (i) within thirty days after the credential's expiration date for professions and occupations listed in section 71-162 other than individuals in the practice of constructing or decommissioning water wells and installing water well pumps and pumping equipment and (ii) within sixty days after the credential's expiration date for individuals in the practice of constructing or decommissioning water wells and installing water well pumps and pumping equipment;~~

~~(e)~~ (d) A ~~late~~ reinstatement fee of thirty-five dollars

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in addition to the renewal fee to reinstate ~~a~~ an expired or inactive credential for professions ~~and occupations~~ specified in section 23 of this act.~~71-102 or regulated under the Nebraska Cosmetology Act, the Occupational Therapy Practice Act, or sections 71-4701 to 71-4719 or 71-6053 to 71-6068 not more than one year after the date of revocation for failure to meet the renewal requirements;~~

~~(f) A late fee of seventy-five dollars in addition to the renewal fee to reinstate a credential for professions and occupations specified in section 71-102 or regulated under the Nebraska Cosmetology Act, the Occupational Therapy Practice Act, or sections 71-4701 to 71-4719 or 71-6053 to 71-6068 more than one year after the date of revocation for failure to meet the renewal requirements; and~~

~~(g) Twenty-five dollars for placing a credential on inactive status.~~

Sec. 60. Section 71-163, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-163~~ (1) The Professional and Occupational Credentialing Cash Fund is created. Except as provided in ~~sections 71-172.02 and~~ section 71-17,113, the fund shall consist of all fees, gifts, grants, and other money, excluding fines and civil penalties, received or collected by the department under sections ~~71-162 to 71-162.05~~54 to 59 of this act.

(2) The department shall use the fund for the administration and enforcement of such laws regulating the individuals and ~~entities~~ businesses listed in section ~~71-162~~ 23

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of this act except for a percentage of the fees credited to the Nebraska Regulation of Health Professions Fund pursuant to section 71-6228.

(3) Any money in the Professional and Occupational Credentialing Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(4) Any money in the Licensee Assistance Cash Fund on the operative date of this section shall be transferred to the Professional and Occupational Credentialing Cash Fund.

Sec. 61. Section 71-111, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-111~~ (1) The State Board of Health shall appoint members to the ~~professional~~ boards designated in section ~~71-112 for each of the professions under the Uniform Licensing Law~~70 of this act except the Board of Emergency Medical Services and the Water Well Standards and Contractors' Licensing Board.

(2) Any vacancy in the membership of a board caused by death, resignation, removal, or otherwise shall be filled for the unexpired term in the same manner as original appointments are made.

Sec. 62. Section 71-117, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-117 The regular~~ (1) Any person who desires to be considered for an appointment to a board appointed by the State Board of Health and who possesses the necessary qualifications for such appointment may apply in a manner specified by the State

Board of Health. The State Board of Health shall consider such applications and may appoint any qualified person so applying to the appropriate board.

(2) A state association or society, or its managing board, for each profession may submit ~~each year~~ to the State Board of Health a list of ~~five~~ persons of recognized ability in such profession who have the qualifications prescribed for professional members of the ~~professional~~ board for that particular profession. ~~Each professional member of the Board of Pharmacy shall be the recipient of a diploma of graduation from an accredited school or college of pharmacy.~~ If such a list is submitted, the State Board of Health shall consider the names on such list and may appoint one of the persons so named. ~~Any person who desires to be considered for an appointment to a professional board and who possesses the necessary qualifications for such appointment may apply on a form provided by the State Board of Health any time prior to October 1 of each year. The State Board of Health shall consider such applications and may appoint any qualified person so applying to the professional board, even though such person is not named on a list submitted by the association or society.~~

Sec. 63. Section 71-118, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-118~~ The State Board of Health shall have power to remove from office at any time any member of a ~~professional~~ board for which it appoints the membership, after a public hearing pursuant to ~~the provisions of~~ the Administrative Procedure Act, for physical or mental incapacity to carry out the duties of a board

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member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for not maintaining the qualifications established in sections 67 and 68 of this act, for any cause for which a credential in the profession or business involved may be suspended or revoked under section ~~71-147 or 71-148~~81 or 82 of this act, or for a lack of a credential in the profession or business involved.

Sec. 64. Section 71-112.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-112.03~~ (1) The purpose of each ~~professional~~ board is to~~:~~ ~~(1) Provide for the health, safety, and welfare of the citizens; (2) insure that licensees or certificate holders serving the public meet minimum standards of proficiency and competency; and (3) control the profession in the interest of consumer protection~~ protect the health, safety, and welfare of the public as prescribed in the Uniform Credentialing Act.

(2) The duties of each board include, but are not limited to, (a) setting the minimum standards of proficiency and competency in accordance with section 28 of this act, (b) providing recommendations in accordance with section 52 of this act, (c) providing recommendations related to the issuance or denial of credentials, disciplinary action, and changes in legislation, and (d) providing the department with recommendations on regulations to carry out the Uniform Credentialing Act in accordance with section 28 of this act.

(3) Each board may appoint advisory committees or other advisory bodies as necessary for specific purposes. At least one

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board member shall serve on each advisory committee or body, and other members may be appointed from outside the board.

Sec. 65. Section 71-113, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-113 (1)~~ Each ~~professional~~ board shall consist of four members. Each board shall have at least one public member~~, including one public member,~~ except as otherwise provided in the Uniform Credentialing Act. If a board has eleven or more members, it shall have at least three public members.~~this section. A public member of a professional board (a) shall be a resident of this state who has attained the age of majority, (b) shall represent the interests and viewpoints of consumers, and (c) shall not be a present or former member of a credentialed profession, an employee of a member of a credentialed profession, or an immediate family or household member of any person presently regulated by such board.~~

~~(2)(a) In audiology and speech-language pathology the board shall consist of five members, including at least one public member, (b) in dentistry the board shall consist of ten members, including at least two public members, (c) in medicine and surgery the board shall consist of eight members, including at least two public members, (d) in pharmacy the board shall consist of five members, including at least one public member, (e) in psychology the board shall consist of seven members, including at least two public members, (f) in medical nutrition therapy the board shall consist of five members, including at least one public member, (g) in mental health practice the board shall consist of not more than ten members, including at least two public members, (h)~~

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~~in alcohol and drug counseling the board shall consist of nine members, including two public members, (i) in veterinary medicine and surgery the board shall consist of five members, including at least one public member, and (j) boards with eleven or more members shall have at least three public members.~~

~~(3) Membership on the Board of Audiology and Speech-Language Pathology shall consist of two members who are audiologists, two members who are speech-language pathologists, and at least one public member.~~

~~(4) Membership on the Board of Athletic Training shall consist of three athletic trainers and at least one public member.~~

~~(5) Membership on the Board of Respiratory Care Practice shall consist of two respiratory care practitioners, one physician, and at least one public member.~~

~~(6) Two of the six professional members of the Board of Medicine and Surgery shall be officials or members of the instructional staff of an accredited medical school in this state.~~

~~(7) Two of the eight professional members of the Board of Dentistry shall be dentists who are officials or members of the instructional staff of an accredited school or college of dentistry in this state, and two of the members of the board shall be dental hygienists licensed under the Uniform Licensing Law.~~

~~(8) Membership on the Board of Medical Nutrition Therapy shall consist of two medical nutrition therapists, one physician, and at least one public member.~~

~~(9) Membership on the Board of Mental Health Practice shall consist of not more than two certified master social workers,~~

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~~not more than two certified professional counselors, not more than two certified marriage and family therapists, and at least two public members. At least one professional member of the board shall be a member of a racial or ethnic minority. When ten or more persons hold licenses as mental health practitioners without holding an associated certificate, not more than two such licensed mental health practitioners shall be added to the board.~~

~~(10) Membership on the Board of Alcohol and Drug Counseling shall consist of six alcohol and drug counselors three of whom may be licensed as psychologists or mental health practitioners and three of whom are not licensed as psychologists or mental health practitioners, one person who is a psychiatrist, psychologist, or mental health practitioner, and two public members.~~

~~(11) Membership on the Board of Veterinary Medicine and Surgery shall consist of three veterinarians, one veterinary technician, and one public member.~~

Sec. 66. Section 71-116, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-116~~ (1) The members of each ~~professional~~ board shall be ~~residents of the State of Nebraska and shall be~~ appointed for terms of five years except as otherwise provided in the Uniform Credentialing Act. No member shall be appointed for or serve for more than two consecutive full five-year terms except as otherwise specifically provided in the act.

~~(2) The members of the Board of Dentistry shall be appointed as follows: As of December 1, 1971, one member shall~~

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~~be appointed for a term of five years and one member shall be appointed for a term of three years; as of December 1, 1972, one member shall be appointed for a term of three years; as of December 1, 1973, one member shall be appointed for a term of three years; as of December 1 of each year thereafter, two members shall be appointed for terms of five years; as of December 1, 1979, one member who is a dental hygienist licensed under the Uniform Licensing Law and who complies with section 71-114 shall be appointed for a term of five years; as of December 1, 1984, one public member shall be appointed for a term of five years; and as of December 1, 1994, a second member who is a dental hygienist licensed under the Uniform Licensing Law and who complies with section 71-114 and a second public member shall be appointed for terms of five years. Thereafter successors with like qualifications shall be appointed for five-year terms.~~

~~(3) The members of the Board of Medicine and Surgery shall be appointed as follows: Within thirty days after May 25, 1943, five members shall be appointed, one of whom shall hold office until December 1, 1944, one until December 1, 1945, one until December 1, 1946, one until December 1, 1947, and one until December 1, 1948; upon the expiration of such terms, successors shall be appointed for terms of five years each. Within thirty days after October 19, 1963, a sixth member, who shall be a person eligible for appointment to the Board of Examiners in Osteopathy who also has a license to practice medicine and surgery in the State of Nebraska, shall be appointed for a term expiring on December 1, 1968. As of December 1, 1984, one public member shall~~

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~~be appointed for a term of five years, and as of December 1, 1994, a second public member shall be appointed for a term of five years. Thereafter successors with like qualifications shall be appointed for five-year terms. Upon the expiration of the five-year term of such sixth member of the board after April 19, 1986, his or her eligible successor shall be a person who has a license to practice osteopathic medicine or osteopathic medicine and surgery in the State of Nebraska.~~

~~(4) The members of the Board of Audiology and Speech-Language Pathology shall be appointed as follows: Within sixty days after July 22, 1978, four members shall be appointed, two of whom shall hold office until December 1, 1979, and two until December 1, 1980. As of December 1, 1984, one public member shall be appointed for a term of five years. Upon the expiration of such terms, the successors shall be appointed for terms of five years each.~~

~~(5) The Board of Pharmacy shall be composed of five members, including four actively practicing pharmacists, one of whom practices within the confines of a hospital, and a public member who is interested in the health of the people of Nebraska. The members of the Board of Pharmacy shall be appointed as follows: As of December 1, 1983, the hospital pharmacist member shall be appointed for a term of five years and the public member shall be appointed for a term of three years. Upon the expiration of such terms and the terms of existing members, the successors shall be appointed for terms of five years each.~~

~~(6) The members of the Board of Psychologists appointed~~

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~~as successors to the members serving on February 25, 1984, shall be appointed for terms of five years. The terms of members serving on February 25, 1984, are hereby extended to December 1 of the year in which they would otherwise expire.~~

~~(7) The three members serving on the Board of Examiners in Massage on August 1, 1988, shall be appointed as members of the Board of Massage Therapy. Successors shall be massage therapists and shall be appointed for terms of five years each. One public member shall be appointed on December 1, 1988, for a term of five years. Upon the expiration of the public member's term, each subsequent public member shall be appointed for a five-year term.~~

~~(8) The initial members of the Board of Mental Health Practice appointed from the Board of Examiners in Social Work and the Board of Examiners in Professional Counseling, as such boards existed immediately prior to September 1, 1994, shall serve until the expiration of the terms they would have served on their respective boards. One initial public member and one initial marriage and family therapist shall hold office until December 1 of the fourth year following September 1, 1994, and one initial public member and one initial marriage and family therapist shall hold office until December 1 of the fifth year following September 1, 1994.~~

~~(9) The initial members of the Board of Alcohol and Drug Counseling shall be appointed within ninety days after July 1, 2004, to hold office as follows: Of the six alcohol and drug counselors, one shall hold office until April 1, 2006, two until April 1, 2007, one until April 1, 2008, one until April 1,~~

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~~2009, and one until April 1, 2010, as designated at the time of appointment; the person who is a psychiatrist, psychologist, or mental health practitioner shall hold office until April 1, 2008; and of the two public members, one shall hold office until April 1, 2009, and one until April 1, 2010, as designated at the time of appointment.~~

~~(10) Except as otherwise specifically provided, the~~ (2) The term of each member ~~provided for in this section~~ shall commence on the first day of December following the expiration of the term of the member whom such person succeeds except as otherwise provided in the act.~~and shall be rotated in such a manner that no more than one professional member shall retire during any year in which a term expires unless the number of members on a board makes it impractical to do so.~~

~~(11) Except as otherwise specifically provided, the members of boards for professions coming under the scope of the Uniform Licensing Law for the first time shall be appointed within thirty days after the effective or operative date, whichever is later, of the act providing for credentialing of the profession, the terms of the initial board members to be as follows: One member shall hold office until December 1 of the third year, one until December 1 of the fourth year, and two, including the public member, until December 1 of the fifth year following the year in which the act providing for credentialing of the profession became effective.~~

Sec. 67. Section 71-114, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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~~71-114~~ (1) A professional member of a board appointed under the Uniform Licensing Law prior to the operative date of this section shall remain subject to the requirements of the original appointment until reappointed under the Uniform Credentialing Act. Except as otherwise provided in ~~subsections (3) and (5) of this section~~the Uniform Credentialing Act, every professional member of a ~~professional~~ board appointed after the operative date of this section shall have held and maintained an active credential and be and have been actively engaged in the practice of his or her profession ~~in the State of Nebraska, under a credential issued in this state,~~ for a period of five years just preceding his or her appointment and shall maintain such credential and practice while serving as a board member. For purposes of this section, active practice means devoting a substantial portion of time to rendering professional services.~~, except for the members of professional boards for professions coming within the scope of the Uniform Licensing Law for the first time and for a period of five years thereafter. Members appointed during such period shall be required to meet the minimum qualifications for credentialing in the profession in this state and shall, insofar as possible, meet the requirements as to years of practice in this state otherwise provided by this section.~~

(2) Each professional member of a board shall have been a resident of Nebraska for one year and shall remain a resident of Nebraska while serving as a board member.~~the Board of Audiology and Speech-Language Pathology shall have been a resident of the State of Nebraska for at least one year immediately prior to appointment~~

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~~and shall also have been engaged in rendering services to the public in audiology or speech-language pathology for at least three years immediately prior to appointment.~~

~~(3) The requirement of five years of experience shall apply to professional members of the Board of Psychologists, except that up to two of the five years may have been served in teaching or research.~~

~~(4) All professional members of professional boards appointed to an initial board shall be credentialed within six months after being appointed to the board or within six months after the date by which members of the profession are required to be credentialed, whichever is later. If for any reason a professional member is not credentialed within such time period, a new professional member shall be appointed.~~

~~(5) Each alcohol and drug counselor first appointed to the Board of Alcohol and Drug Counseling shall be a person who is a certified alcohol and drug abuse counselor on July 1, 2004, and who is and has been actively engaged in the practice of alcohol and drug counseling for at least two years immediately preceding his or her appointment to the board.~~

Sec. 68. A public member of a board appointed under the Uniform Licensing Law prior to the operative date of this section shall remain subject to the requirements of the original appointment until reappointed under the Uniform Credentialing Act. At the time of appointment and while serving as a board member, a public member appointed to a board after the operative date of this section shall:

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(1) Have been a resident of this state for one year;

(2) Remain a resident of Nebraska while serving as a board member;

(3) Have attained the age of nineteen years;

(4) Represent the interests and viewpoints of the public;

(5) Not hold an active credential in any profession or business which is subject to the Uniform Credentialing Act, issued in Nebraska or in any other jurisdiction, at any time during the five years prior to appointment;

(6) Not be eligible for appointment to a board which regulates a profession or business in which that person has ever held a credential;

(7) Not be or not have been, at any time during the year prior to appointment, an employee of a member of a profession credentialed by the department, of a facility credentialed pursuant to the Health Care Facility Licensure Act, or of a business credentialed pursuant to the Uniform Credentialing Act;

(8) Not be the parent, child, spouse, or household member of any person presently regulated by the board to which the appointment is being made;

(9) Have no material financial interest in the profession or business regulated by such board; and

(10) Not be a member or employee of the legislative or judicial branch of state government.

Sec. 69. For professions coming within the scope of the Uniform Credentialing Act for the first time:

(1) A professional member of a board shall not be

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required to have held and maintained an active credential for a period of five years just preceding his or her appointment. Members appointed during the first five years after a profession comes within the scope of the act shall be required to meet the minimum qualifications for credentialing and shall, insofar as possible, meet the requirements as to years of practice in this state otherwise provided by section 67 of this act;

(2) All professional members appointed to an initial board shall be credentialed within six months after being appointed to the board or within six months after the date by which members of the profession are required to be credentialed, whichever is later. If for any reason a professional member is not credentialed within such time period, a new professional member shall be appointed to take his or her place;

(3) Members shall be appointed to the initial board within thirty days after the effective or operative date, whichever is later, of the legislation providing for credentialing of the profession; and

(4) The terms of the initial board members shall be as follows: One member shall hold office until December 1 of the third year following the year in which the legislation providing for credentialing of the profession became effective; two, including one public member, until December 1 of the fourth year; and two, including one public member, until December 1 of the fifth year.

Sec. 70. Section 71-112, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-112~~ (1) ~~Professional boards under the Uniform~~

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~~Licensing~~ ~~Law~~ Boards shall be designated as follows:

(a) Board of Advanced Practice Registered Nurses;

(b) Board of Alcohol and Drug Counseling;

(c) Board of Athletic Training;

(d) Board of Audiology and Speech-Language Pathology;

(e) Board of Chiropractic;

(f) Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art;

(g) Board of Dentistry;

(h) Board of Emergency Medical Services;

(i) Board of Registered Environmental Health Specialists;

(j) Board of Funeral Directing and Embalming;

(k) Board of Hearing Aid Instrument Dispensers and Fitters;

(l) Board of Massage Therapy;

(m) Board of Medical Nutrition Therapy;

(n) Board of Medical Radiography;

(o) Board of Medicine and Surgery;

(p) Board of Mental Health Practice;

(q) Board of Nursing;

(r) Board of Nursing Home Administration;

(s) Board of Occupational Therapy Practice;

(t) Board of Optometry;

(u) Board of Pharmacy;

(v) Board of Physical Therapy;

(w) Board of Podiatry;

(x) Board of Psychology;

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(y) Board of Respiratory Care Practice;

(z) Board of Veterinary Medicine and Surgery; and

(aa) Water Well Standards and Contractors' Licensing Board.

~~(a) For medicine and surgery, acupuncture, and osteopathic medicine and surgery, Board of Medicine and Surgery;~~

~~(b) For athletic training, Board of Athletic Training;~~

~~(c) For respiratory care, Board of Respiratory Care Practice;~~

~~(d) For chiropractic, Board of Chiropractic;~~

~~(e) For dentistry and dental hygiene, Board of Dentistry;~~

~~(f) For optometry, Board of Optometry;~~

~~(g) For massage therapy, Board of Massage Therapy;~~

~~(h) For physical therapy, Board of Physical Therapy;~~

~~(i) For pharmacy, Board of Pharmacy;~~

~~(j) For audiology and speech-language pathology, Board of Audiology and Speech-Language Pathology;~~

~~(k) For medical nutrition therapy, Board of Medical Nutrition Therapy;~~

~~(l) For funeral directing and embalming, Board of Funeral Directing and Embalming;~~

~~(m) For podiatry, Board of Podiatry;~~

~~(n) For psychology, Board of Psychologists;~~

~~(o) For veterinary medicine and surgery, Board of Veterinary Medicine and Surgery;~~

~~(p) For mental health practice, Board of Mental Health Practice; and~~

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~~(q) For alcohol and drug counseling, Board of Alcohol and Drug Counseling.~~

(2) Any change made by the Legislature of the names of boards listed in this section shall not change the membership of such boards or affect the validity of any action taken by or the status of any action pending before any of such boards. Any such board newly named by the Legislature shall be the direct and only successor to the board as previously named.

Sec. 71. Section 71-115.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-115.01~~ The department ~~shall adopt and promulgate rules and regulations which~~ may establish definitions of conflicts of interest for members of the ~~professional~~ boards ~~specified in section 71-112~~ and ~~which~~ may establish procedures in the case such a conflict arises. For purposes of this section, conflict of interest includes financial, professional, or personal obligations that may compromise or present the appearance of compromising the judgment of a member in the performance of his or her duties.

Sec. 72. Section 71-120, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-120~~ Each ~~professional~~ board shall organize annually at its first meeting subsequent to December 1 and shall select a chairperson, a vice-chairperson, and a secretary from its own membership.

Sec. 73. Section 71-121, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-121~~ The department shall, as far as practicable,

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provide for the conducting of the business of the ~~professional~~ boards by mail and may hold meetings by teleconference or videoconference subject to the Open Meetings Act. Any official action or vote of the members of a ~~professional~~ board taken by mail shall be preserved in the records of the department and shall be ~~embodied in the proper minute book~~ recorded in the board's minutes by the department.

Sec. 74. Section 71-122, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-122~~ Each member of a ~~professional~~ board shall, in addition to necessary traveling and lodging expenses, receive a per diem for each day actually engaged in the discharge of his or her duties, including compensation for the time spent in traveling to and from the place of conducting ~~the examination, and, with the exception of board members who are public members, for a reasonable number of days for the preparation of examination questions and the reading of the answer papers, in addition to the time actually spent in conducting the examination~~business. Traveling and lodging expenses shall be on the same basis as provided in sections 81-1174 to 81-1177. The compensation per day shall not exceed ~~thirty~~ fifty dollars and shall be determined by each board with the approval of the department. Persons serving on an advisory committee or body under section 64 of this act shall receive remuneration of expenses as provided in sections 81-1174 to 81-1177, including compensation for time spent in traveling to and from the place of conducting business, and a per diem of fifty dollars.~~, except that there shall not be paid for members' compensation and expenses a greater sum~~

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~~than is received in fees from the applicants for credentials in any particular profession.~~

Sec. 75. Section 71-124, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-124~~ Each ~~professional~~ board may select one or more of its members to attend the annual meeting of the national organization of state ~~examining~~ boards of such profession or other related meetings. Any member so selected shall receive his or her necessary traveling and lodging expenses in attending such ~~meeting~~ meetings on the same basis as provided in sections 81-1174 to 81-1177. ~~if there are funds available belonging to that board.~~

Sec. 76. Section 71-161.19, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-161.19~~ No member of a ~~professional~~ board, ~~for any profession or occupation credentialed by the department pursuant to Chapter 71,~~ no expert retained by ~~such board~~the department, and no member of ~~such~~ a profession ~~or occupation~~ who provides consultation to or testimony for the department shall be liable in damages to any person for slander, libel, defamation of character, breach of any privileged communication, or otherwise for any action taken or recommendation made within the scope of the functions of such board or expert or the consultation or testimony given by such person, if such board member, expert, or person acts without malice and in the reasonable belief that such action, recommendation, consultation, or testimony is warranted by the facts known to him or her after a reasonable effort is made to obtain the facts on which such action is taken, recommendation is made, or consultation or testimony is

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provided.

Sec. 77. Section 71-121.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-121.01~~ The department shall be responsible for the general administration of the activities of each of the boards. ~~as defined in the Advanced Practice Registered Nurse Licensure Act, the Certified Registered Nurse Anesthetist Act, the Clinical Nurse Specialist Practice Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse Practice Act, the Nurse Practitioner Act, the Occupational Therapy Practice Act, and sections 71-4701 to 71-4719 and 71-6053 to 71-6068 and the boards covered by the scope of the Uniform Licensing Law and named in section 71-102.~~ The cost of operation and administration of the boards shall be paid from ~~fees, gifts, grants, and other money credited to~~ the General Fund and the Professional and Occupational Credentialing Cash Fund. ~~The Director of Regulation and Licensure shall determine the proportionate share of this cost to be paid from the fees of the respective boards, except that no fees shall be paid for such purpose from the fund without the prior approval of the boards concerned. The director's determinations shall become final when approved by the respective boards and the department and shall be valid for one fiscal year only.~~

Sec. 78. Section 71-172.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-172.01~~ (1) The ~~Department of Health and Human Services Regulation and Licensure~~ department may contract ~~with the Department of Health and Human Services~~ to provide a

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Licensee Assistance Program to credential holders regulated by the ~~Department of Health and Human Services Regulation and Licensure~~department. The program shall be limited to providing education, referral assistance, and monitoring of compliance with treatment ~~of habitual intoxication or dependence~~ for abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance and shall be limited to voluntary participation by credential holders.

(2)(a) Participation in the program shall be confidential, except that if any evaluation by the program determines that the ~~intoxication or~~ abuse, dependence, or active addiction may be of a nature which constitutes a danger to the public health and safety by the person's continued practice or if the person fails to comply with any term or condition of a treatment plan, the program shall report the same to the ~~Director of Regulation and Licensure~~director.

(b) Participation in the program shall not preclude the investigation of alleged statutory violations which could result in disciplinary action against the person's credential or criminal action against the person.

(3) Any report from any person or from the program to the ~~Department of Health and Human Services Regulation and Licensure~~ department indicating that a credential holder is suffering from ~~habitual intoxication or dependence~~ abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance that impairs the ability to practice the profession shall be treated as a complaint against such credential

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and shall subject such credential holder to discipline under sections ~~71-150 to 71-155~~89 to 103 of this act.

~~(3)~~ (4) No person who makes such a report ~~of intoxication or dependence~~ to the program or from the program to the department shall be liable in damages to any person for slander, libel, defamation of character, breach of any privileged communication, or other criminal or civil action of any nature, whether direct or derivative, for making such report or providing information to the program or department in accordance with this section.

~~(4)~~ (5) Any person who contacts the department for information on or assistance in obtaining referral or treatment of himself or herself or any other person credentialed by the department for ~~habitual intoxication or dependence~~ abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance that impairs the ability to practice the profession shall be referred to the program. Such inquiries shall not be used by the department as the basis for investigation for disciplinary action, except that such limitation shall not apply to complaints or any other reports or inquiries made to the department concerning persons who may be suffering from ~~habitual intoxication or dependence~~ abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance that impairs the ability to practice the profession or when a complaint has been filed or an investigation or disciplinary or other administrative proceeding is in process.

Sec. 79. (1) Except as otherwise provided in section 122 of this act, if an applicant for an initial credential to

practice a profession does not meet all of the requirements for the credential, the department shall deny issuance of the credential.

(2) A credential may be denied issuance or refused renewal or may be subject to any of the terms imposed under section 99 of this act in order to protect the public if an applicant for an initial credential to practice a profession or a credential holder applying for renewal of the credential to practice a profession has committed any of the acts set out in section 81 of this act except as otherwise provided in section 89 or 122 of this act.

Sec. 80. Section 71-161.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-161.01~~ For purposes of sections 81, 82, and 87 of this act:

(1) Confidential information means information protected as privileged under applicable law;

(2) Conviction means a~~A~~ plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge ~~shall be deemed to be a conviction within the meaning of sections 28-409, 71-147, 71-3,174, 71-3,175, and 71-6054. The term conviction within the meaning of such sections shall mean~~ or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof and ~~shall include~~ includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation; and

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(3) Pattern of incompetent or negligent conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession. ~~Pursuant to such sections, a license, permit, certificate, or registration, including one of a temporary nature, may be denied, refused renewal, limited, suspended, or revoked or have other disciplinary measures taken against it in accordance with section 71-155 when the time for appeal of the conviction has elapsed or the conviction has been affirmed on appeal or an order granting probation is made suspending the imposition or the execution of sentence, irrespective of any subsequent order under any statute allowing such person to withdraw his or her plea of guilty, nolo contendere, or non vult contendere and to enter a plea of not guilty, or setting aside the verdict of guilty or the conviction, or releasing the person from probation, or dismissing the accusation, information, or indictment.~~

Sec. 81. Section 71-147, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-147~~ A ~~license, certificate, or registration~~ credential to practice a profession may be denied, refused renewal, ~~limited, revoked, or suspended~~ or have ~~other~~ disciplinary measures taken against it in accordance with ~~section 71-155 when the applicant, licensee, certificate holder, or registrant is guilty of any of the following acts or offenses~~the Uniform Credentialing Act on any of the following grounds:

(1) ~~Fraud, forgery, or misrepresentation~~ Misrepresentation of material facts in procuring or attempting to procure a ~~license, certificate, or registration~~credential;

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(2) ~~Grossly~~ ~~immoral~~ Immoral or dishonorable conduct evidencing unfitness ~~or~~ ~~lack~~ ~~of~~ ~~proficiency~~ ~~sufficient~~ ~~to~~ ~~meet~~ ~~the~~ ~~standards~~ ~~required~~ ~~for~~ to practice ~~of~~ the profession in this state;

(3) ~~Habitual~~ ~~intoxication~~ ~~or~~ ~~dependence~~ ~~or~~ ~~failure~~ Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;

(4) Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to section ~~71-172.01~~78 of this act;

~~(4)~~ (5) Conviction of (a) a misdemeanor or felony under ~~state~~ ~~law,~~ Nebraska law or federal law, ~~or~~ ~~the~~ ~~law~~ ~~of~~ ~~another~~ or (b) a crime in any jurisdiction ~~and~~ which, if committed within this state, would have constituted a misdemeanor or felony under ~~state~~Nebraska law and which has a rational connection with the ~~applicant's,~~ ~~licensee's,~~ ~~certificate~~ ~~holder's,~~ ~~or~~ ~~registrant's~~ fitness or capacity of the applicant or credential holder to practice the profession;

~~(5)~~ (6) Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with ~~manifest~~ ~~incapacity,~~ ~~(d)~~ ~~with~~ gross incompetence or gross negligence, or ~~(e)~~ (d) in a pattern of incompetent or negligent conduct;~~.~~ ~~Pattern~~ ~~of~~ ~~negligent~~ ~~conduct~~ ~~shall~~ ~~mean~~ ~~a~~ ~~continued~~ ~~course~~ ~~of~~ ~~negligent~~ ~~conduct~~ ~~in~~ ~~performing~~ ~~the~~ ~~duties~~ ~~of~~ ~~the~~ ~~profession;~~

~~(6)~~ (7) Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, ~~narcotic~~

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drugs, mind-altering substances, physical disability, mental disability, or emotional disability;

~~(7)~~ (8) Physical or mental incapacity to practice the profession as evidenced by a legal ~~adjudication~~ judgment or a determination ~~thereof~~ by other lawful means;

~~(8)~~ (9) Illness, deterioration, or disability that impairs the ability to practice the profession;

(10) Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a ~~license, certificate, or registration~~ credential by a person not ~~licensed, certified, or registered~~ credentialed to do so;

~~(9)~~ (11) Having had his or her ~~license, certificate, or registration~~ credential denied, refused renewal, limited, suspended, ~~or~~ revoked, or ~~having had such license, certificate, or registration~~ disciplined in any ~~other~~ manner ~~in accordance with section 71-155~~ similar to section 99 of this act by another state or jurisdiction ~~to practice the particular profession involved,~~ based upon acts by the applicant~~,~~ ~~licensee, certificate holder, or registrant~~ or credential holder similar to acts described in this section;~~.~~ ~~A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, or registration or the taking of other disciplinary measures against it by another state or jurisdiction shall be conclusive evidence;~~

~~(10) Unprofessional conduct;~~

~~(11)~~ (12) Use of untruthful, deceptive, or misleading statements~~or improbable statements or flamboyant, exaggerated,~~

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~~or extravagant claims, concerning such licensee's, certificate holder's, or registrant's professional excellence or abilities,~~ in advertisements;

~~(12)~~ (13) Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;

~~(13)~~(14) Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;

~~(14) Willful or repeated violations of the Uniform Licensing Law~~ (15) Violations of the Uniform Credentialing Act or the rules and regulations ~~of the department~~ relating to the ~~licensee's, certificate holder's, or registrant's profession, sanitation, quarantine, or school inspection~~particular profession;

~~(15)~~ (16) Unlawful invasion of the field of practice of any profession ~~mentioned in the Uniform Licensing Law which the licensee, certificate holder, or registrant is not licensed, certified, or registered~~ regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;

~~(16) Failure to comply with sections 71-603.01, 71-604, 71-605, and 71-606 relating to the signing of birth and death certificates;~~

(17) Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;

~~(18) Purchasing or receiving any prescription drug from any source in violation of the Wholesale Drug Distributor Licensing Act;~~

~~(19) Violation of the Emergency Box Drug Act;~~

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~~(20) Failure to file a report required by section 71-168;~~

~~(21) Failure to disclose the information required by section 71-1,314.01;~~

~~(22) Failure to disclose the information required by section 71-1,319.01; or~~

~~(23) Failure to disclose the information required by section 71-1,206.34.~~

~~A license, certificate, or registration to practice a profession may also be refused renewal or revoked when the licensee, certificate holder, or registrant is guilty of practicing such profession while his or her license, certificate, or registration to do so is suspended or is guilty of practicing such profession in contravention of any limitation placed upon his or her license, certificate, or registration.~~

~~This section shall not apply to revocation for nonrenewal as set out in subsection (1) of section 71-149 and sections 71-110 and 71-161.10.~~

(18) Failure to maintain the requirements necessary to obtain a credential;

(19) Violation of an order issued by the department;

(20) Violation of an assurance of compliance entered into under section 111 of this act;

(21) Failure to pay an administrative penalty; or

(22) Unprofessional conduct as defined in section 82 of this act.

Sec. 82. Section 71-148, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-148~~ For purposes of section ~~71-147~~81 of this act, unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession ~~or occupation~~ or the ethics of the profession, ~~or occupation,~~ regardless of whether a person, ~~patient~~consumer, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including, but not limited to:

~~(1) Solicitation of professional patronage by agents or persons, popularly known as cappers or steerers, or profiting by the acts of those representing themselves to be agents of the licensee, certificate holder, or registrant;~~

~~(2)~~ (1) Receipt of fees on the assurance that ~~a manifestly~~ an incurable disease can be permanently cured;

~~(3)~~ (2) Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a ~~patient~~consumer other than with (a) a partner or employee of the applicant or credential holder or his or her office or clinic, (b) a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts, or (c) a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement;

~~(4)~~ (3) Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;

~~(5)~~ (4) Cheating on or attempting to subvert the

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~~licensing or certification~~ credentialing examination;

~~(6)~~ (5) Assisting in the care or treatment of a ~~patient~~ consumer without the consent of such ~~patient~~ consumer or his or her legal representative;

~~(7)~~ (6) Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that such person is entitled to practice a ~~system or mode of healing~~ profession for which he or she is not ~~licensed, certified, or registered~~credentialed;

~~(8)~~ (7) Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;

~~(9) Willful betrayal of a professional secret~~ (8) Knowingly disclosing confidential information except as otherwise ~~provided~~ permitted by law;

~~(10) Making use of any advertising statements of a character tending to deceive or mislead the public;~~

~~(11) Advertising professional superiority or the performance of professional services in a superior manner;~~

~~(12) Advertising to guarantee any professional service or to perform any operations painlessly;~~

~~(13) Performance by a physician of an abortion as defined in subdivision (1) of section 28-326 under circumstances when he or she will not be available for a period of at least forty-eight hours for postoperative care unless such postoperative care is delegated to and accepted by another physician;~~

~~(14) Performing an abortion upon a minor without having satisfied the notice requirements of sections 71-6901 to 71-6908;~~

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~~(15) The intentional and knowing performance of a partial-birth abortion as defined in subdivision (9) of section 28-326, unless such procedure is necessary to save the life of the mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself;~~

~~(16) The providing by a massage therapist of sexual stimulation as part of massage therapy;~~

~~(17) Violating an assurance of compliance entered into under section 71-171.02;~~

~~(18)~~ (9) Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession ~~or occupation~~ of the applicant~~, licensee, certificate holder, or registrant~~ or credential holder;

~~(19)~~ (10) Failure to keep and maintain adequate records of treatment or service;

~~(20)~~ (11) Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;

~~(21)~~ (12) Prescribing any controlled substance to ~~oneself or, except in the case of a medical emergency, to one's spouse or child~~(a) oneself or (b) except in the case of a medical emergency (i) one's spouse, (ii) one's child, (iii) one's parent, (iv) one's sibling, or (v) any other person living in the same household as the prescriber;

(13) Failure to comply with any federal, state, or

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municipal law, ordinance, rule, or regulation that pertains to the applicable profession;

(14) Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with such care; and

~~(22)~~ (15) Such other acts as may be defined in rules and regulations. ~~adopted and promulgated by the board of examiners in the profession of the applicant, licensee, certificate holder, or registrant with the approval of the department.~~

Nothing in this section shall be construed to exclude determination of additional conduct that is unprofessional by adjudication in individual contested cases.

Sec. 83. For purposes of subdivision (11) of section 81 of this act, a certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, registration, or other similar credential or the taking of other disciplinary measures against it by another state or jurisdiction shall be conclusive evidence of a violation.

Sec. 84. If an applicant for an initial credential to operate a business does not meet all of the requirements for the credential, the department shall deny issuance of the credential. If an applicant for an initial credential to operate a business or a credential holder applying for renewal of the credential to operate a business has committed any of the acts set out in section 85 of this act, the department may deny issuance or refuse renewal of the credential or may issue or renew the credential subject to any of the terms imposed under section 99 of this act in order to

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protect the public.

Sec. 85. A credential to operate a business may be denied, refused renewal, or have disciplinary measures taken against it in accordance with section 99 of this act on any of the following grounds:

(1) Violation of the Uniform Credentialing Act or the rules and regulations adopted and promulgated under such act relating to the applicable business;

(2) Committing or permitting, aiding, or abetting the commission of any unlawful act;

(3) Conduct or practices detrimental to the health or safety of an individual served or employed by the business;

(4) Failure to allow an agent or employee of the department access to the business for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of the department; or

(5) Discrimination or retaliation against an individual served or employed by the business who has submitted a complaint or information to the department or is perceived to have submitted a complaint or information to the department.

Sec. 86. Section 71-147.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-147.02~~ (1) The department may temporarily suspend or temporarily limit ~~the license of any licensee, the certificate of any certificate holder, or the registration of any registrant~~any credential issued by the department without notice or a hearing if the director determines that there is reasonable cause to

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believe that grounds exist under section ~~71-147~~ 81 or 85 of this act for the revocation, suspension, or limitation of the ~~license, certificate, or registration~~ credential and that the ~~licensee's, certificate holder's, or registrant's~~ credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with any such action, the department shall institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the ~~license, certificate, or registration~~credential. Such hearing shall be held no later than fifteen days from the date of such temporary suspension or temporary limitation of the ~~license, certificate, or registration~~credential.

(2) A continuance of the hearing shall be granted by the department upon the written request of the ~~licensee, certificate holder, or registrant~~credential holder, and such a continuance shall not exceed thirty days unless waived by the credential holder. A temporary suspension or temporary limitation order by the director shall take effect when served upon the ~~licensee, certificate holder, or registrant~~credential holder.

(3) In no case shall a temporary suspension or temporary limitation of a ~~license, certificate, or registration~~ credential under this section be in effect for a period of time in excess of ninety days unless waived by the credential holder. If a decision is not reached within ninety days, the ~~licensee, certificate holder, or registrant~~ credential shall be reinstated ~~to full licensure, certification, or registration~~ unless and until the department reaches a decision to revoke, suspend,

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or limit the ~~license,~~ ~~certificate,~~ ~~or~~ ~~registration~~ credential or otherwise discipline the ~~licensee,~~ ~~certificate~~ ~~holder,~~ ~~or~~ ~~registrant~~credential holder.

Sec. 87. If an applicant for a credential or a credential holder is convicted of an offense for which the credential may be denied or refused renewal or have other disciplinary measures taken against it in accordance with section 99 of this act, such denial, refusal of renewal, or disciplinary measures may be taken when the time for appeal of the conviction has elapsed or the conviction has been affirmed on appeal or an order granting probation is made suspending the imposition or the execution of sentence, irrespective of any subsequent order under any statute allowing such person to withdraw his or her plea of guilty, nolo contendere, or non vult contendere and to enter a plea of not guilty, or setting aside the verdict of guilty or the conviction, or releasing the person from probation, or dismissing the accusation, information, or indictment.

Sec. 88. Section 71-150, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-150 (1) The Director of Regulation and Licensure shall have jurisdiction of proceedings (a) to deny the issuance of a license, certificate, or registration, (b) to refuse renewal of a license, certificate, or registration, and (c) to discipline a licensee, certificate holder, or registrant.~~

~~(2)~~ To deny or refuse renewal of a ~~license,~~ ~~certificate,~~ ~~or~~ ~~registration~~credential, the department shall ~~send~~ notify the applicant~~,~~ ~~licensee,~~ ~~certificate~~ ~~holder,~~ ~~or~~ ~~registrant,~~ ~~by~~

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~~registered or certified mail, notice setting forth~~ or credential holder in writing of the action taken and the reasons for the determination. The denial or refusal to renew shall become final thirty days after mailing the notice unless the applicant~~, licensee, certificate holder, or registrant~~ or credential holder, within such thirty-day period, ~~gives written notice of his or her desire for~~ requests a hearing in writing. The hearing shall be conducted in accordance with the Administrative Procedure Act.

~~(3) In order for the director to discipline a licensee, certificate holder, or registrant, a petition shall be filed by the Attorney General in all cases. The petition shall be filed in the office of the director. The department may withhold a petition for discipline or a final decision from public access for a period of five days from the date of filing the petition or the date the decision is entered or until service is made, whichever is earliest.~~

Sec. 89. (1) A petition shall be filed by the Attorney General in order for the director to discipline a credential obtained under the Uniform Credentialing Act to:

(a) Practice or represent oneself as being certified under any of the practice acts enumerated in subdivisions (1) through (17) and (19) through (31) of section 1 of this act; or

(b) Operate as a business for the provision of services in body art; cosmetology; emergency medical services; esthetics; funeral directing and embalming; massage therapy; and nail technology in accordance with subsection (3) of section 23 of this act.

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(2) The petition shall be filed in the office of the director. The department may withhold a petition for discipline or a final decision from public access for a period of five days from the date of filing the petition or the date the decision is entered or until service is made, whichever is earliest.

(3) The proceeding shall be summary in its nature and triable as an equity action and shall be heard by the director or by a hearing officer designated by the director under rules and regulations of the department. Affidavits may be received in evidence in the discretion of the director or hearing officer. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party.

Sec. 90. Section 71-152, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-152~~ The following rules shall govern the form of the petition in cases brought pursuant to section ~~71-150~~89 of this act:

(1) The state shall be named as plaintiff and the ~~licensee, certificate holder, or registrant~~ credential holder as defendant;

(2) The charges against the ~~licensee, certificate holder, or registrant~~ credential holder shall be stated with reasonable definiteness;

(3) Amendments may be made as in ordinary actions in the district court; and

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(4) All allegations shall be deemed denied, but the ~~licensee, certificate holder, or registrant~~ credential holder may plead thereto if he or she desires.

Sec. 91. Section 71-153, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-153~~ Upon ~~the~~ presentation of the petition to the ~~Director of Regulation and Licensure~~director, he or she shall make an order fixing the time and place for the hearing, which shall not be less than thirty nor more than sixty days thereafter.

Sec. 92. Section 71-154, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-154~~ Notice of the filing of a petition pursuant to section ~~71-150~~ 89 of this act and of the time and place of hearing shall be served upon the ~~licensee, certificate holder, or registrant~~ credential holder at least ten days before the hearing. The notice may be served by any method specified in section 25-505.01, or the director may permit substitute or constructive service as provided in section 25-517.02 when service cannot be made with reasonable diligence by any of the methods specified in section 25-505.01.

Sec. 93. Section 71-161.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-161.03~~ (1) Any petition filed ~~with the Director of Regulation and Licensure~~ pursuant to section ~~71-150~~ 89 of this act may, at any time prior to the entry of any order by the director, be disposed of by stipulation, agreed settlement, consent order, or similar method as agreed to between the parties. A

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proposed settlement shall be submitted and considered in camera and shall not be a public record unless accepted by the director. The director may review the input provided to the Attorney General by the board pursuant to subsection (2) of this section. If the settlement is acceptable to the director, he or she shall make it the sole basis of any order he or she enters in the matter, and it may be modified or added to by the director only upon the mutual consent of both of the parties thereto. If the settlement is not acceptable to the director, it shall not be admissible in any subsequent hearing and it shall not be considered in any manner as an admission.

(2) The Attorney General shall not enter into any agreed settlement or dismiss any petition without first having given notice of the proposed action and an opportunity to the appropriate ~~professional~~ board to provide input into the terms of the settlement or on dismissal. The board shall have fifteen days from the date of the Attorney General's request to respond, but the recommendation of the board, if any, shall not be binding on the Attorney General. Meetings of the board for such purpose shall be in closed session, and any recommendation by the board to the Attorney General shall not be a public record until the pending action is complete, except that if the director reviews the input provided to the Attorney General by the board as provided in subsection (1) of this section, the ~~licensee or certificate~~ credential holder shall also be provided a copy of the input and opportunity to respond in such manner as the director determines.

Sec. 94. Section 71-156, Reissue Revised Statutes of

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Nebraska, is amended to read:

~~71-156 In case the licensee, certificate holder, or registrant~~ If a credential holder fails to appear, either in person or by counsel, at the time and place designated in the notice required by section ~~71-154~~92 of this act, the ~~Director of Regulation and Licensure~~ director, after receiving satisfactory evidence of the truth of the charges, shall order the ~~license, certificate, or registration~~ credential revoked or suspended or shall order any or all of the other appropriate disciplinary measures authorized by section ~~71-155~~ 99 of this act to be taken against the ~~licensee, certificate holder, or registrant~~credential.

Sec. 95. If the director determines upon completion of a hearing under section 89 of this act that a violation has occurred, the director may, at his or her discretion, consult with the appropriate board concerning sanctions to be imposed or terms and conditions of the sanctions. When the director consults with a board, the credential holder and the Attorney General shall be provided with a copy of the director's request, the recommendation of the board, and an opportunity to respond in such manner as the director determines. The director shall have the authority through entry of an order to exercise in his or her discretion any or all of the sanctions authorized under section 99 of this act.

Sec. 96. If the petition is brought with respect to subdivision (3) of section 685 of this act, the director shall make findings as to whether the licensee's conduct was necessary to save the life of a mother whose life was endangered by a physical disorder, physical illness, or physical injury, including

a life-endangering physical condition caused by or arising from the pregnancy itself. The director shall have the authority through entry of an order to exercise in his or her discretion any or all of the sanctions authorized under section 99 of this act, irrespective of the petition.

Sec. 97. Section 71-157, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-157~~ If the order issued ~~pursuant to section 71-156~~ regarding discipline of a credential is adverse to the credential holder, the costs shall be charged to him or her as in ordinary civil actions in the district court, but if the state is the unsuccessful party, the costs shall be paid out of any money in the Professional and Occupational Credentialing Cash Fund available for that purpose. Witness fees and costs may be taxed according to the rules prevailing in the district court.

Sec. 98. Section 71-158, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-158~~ All costs accrued at the instance of the state when it is the successful party in a proceeding to discipline a credential, which the Attorney General certifies cannot be collected from the defendant, shall be paid out of any available funds in the Professional and Occupational Credentialing Cash Fund.

Sec. 99. Section 71-155, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-155 (1) The proceeding under section 71-150 shall be summary in its nature and triable as an equity action and shall be heard by the Director of Regulation and Licensure or by a hearing~~

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~~officer designated by the director under rules and regulations of the department. Affidavits may be received in evidence in the discretion of the director or hearing officer. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party. Upon the completion of any hearing held under this section, the director shall, if the petition is brought with respect to subdivision (15) of section 71-148, make findings as to whether the licensee's conduct was necessary to save the life of a mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, and shall have the authority through entry of an order to exercise in his or her discretion any or all of the following powers, irrespective of the petition:~~

~~(a) Issue a censure against the credentialed person;~~

~~(b) Place the credentialed person on probation;~~

~~(c) Place a limitation or limitations on the credential and upon the right of the credentialed person to practice the profession to such extent, scope, or type of practice, for such time, and under such conditions as are found necessary and proper;~~

~~(d) Impose a civil penalty not to exceed twenty thousand dollars. The amount of the penalty shall be based on the severity of the violation;~~

~~(e) Enter an order of suspension of the credential;~~

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~~(f) Enter an order of revocation of the credential; and~~

~~(g) Dismiss the action.~~

~~(2) If the director determines that guilt has been established, the director may, at his or her discretion, consult with the professional board for the profession involved concerning sanctions to be imposed or terms and conditions of the sanctions. When the director consults with a professional board, the credentialed person shall be provided with a copy of the director's request, the recommendation of the board, and an opportunity to respond in such manner as the director determines.~~

~~(3) The credentialed person shall not engage in the practice of a profession after a credential to practice such profession is revoked or during the time for which it is suspended. If a credential is suspended, the suspension shall be for a definite period of time to be set by the director. The director may provide that the credential shall be automatically reinstated upon expiration of such period, reinstated if the terms and conditions as set by the director are satisfied, or reinstated subject to probation or limitations or conditions upon the practice of the credentialed person. If such credential is revoked, such revocation shall be for all times, except that at any time after the expiration of two years, application may be made for reinstatement pursuant to section 71-161.04.~~ Upon the completion of any hearing held regarding discipline of a credential, the director may dismiss the action or impose any of the following sanctions:

(1) Censure;

(2) Probation;

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(3) Limitation;

(4) Civil penalty;

(5) Suspension; or

(6) Revocation.

Sec. 100. Section 71-161.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-161.02 The authority of the Director of Regulation and Licensure to discipline a licensee, certificate holder, or registrant by placing him or her on probation pursuant to section 71-155 shall include, but not be limited to, the following~~If any discipline is imposed pursuant to section 99 of this act, the director may, in addition to any other terms and conditions of that discipline:

(1) ~~To require the licensee, certificate holder, or registrant~~ Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of such combinations of written, oral, practical, and clinical, at the option of the director;

(2) ~~To require the licensee, certificate holder, or registrant~~ Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the director. If the director requires the ~~licensee, certificate holder, or registrant~~ credential holder to submit to such an examination, the director shall receive and consider any other report of a complete diagnostic examination

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given by one or more physicians or other qualified professionals of the ~~licensee's, certificate holder's, or registrant's~~ credential holder's choice if the ~~licensee, certificate holder, or registrant~~ credential holder chooses to make available such a report or reports by his or her physician or physicians or other qualified professionals; and

(3) ~~To limit~~ Limit the extent, scope, or type of practice of the ~~licensee, certificate holder, or registrant~~credential holder.

Sec. 101. Section 71-155.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-155.03~~ If a civil penalty is imposed pursuant to section 99 of this act, it shall not exceed twenty thousand dollars. Any civil penalty assessed and unpaid ~~under section 71-155~~ shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. The department may also collect in such action attorney's fees and costs incurred in the collection of the civil penalty. The department shall, within thirty days from receipt, ~~transmit~~ remit any collected civil penalty to the State Treasurer ~~for deposit in the permanent school fund~~to be disposed of in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 102. If suspension is imposed pursuant to section 99 of this act, the credential holder shall not engage in the

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practice of a profession during the time for which the credential is suspended. The suspension shall be for a definite period of time to be set by the director. The director may provide that the credential shall be (1) automatically reinstated upon expiration of such period, (2) reinstated if the terms and conditions as set by the director are satisfied, or (3) reinstated subject to probation or limitations or conditions upon the practice of the credential holder.

Sec. 103. If revocation is imposed pursuant to section 99 of this act, the credential holder shall not engage in the practice of the profession after a credential to practice such profession is revoked. Such revocation shall be for all times.

Sec. 104. Section 71-155.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-155.01~~ If a chief medical officer is appointed pursuant to section 81-3201, he or she shall perform the duties of the ~~Director of Regulation and Licensure~~ director for decisions in contested cases under ~~sections 71-150, 71-153 to 71-155, 71-156, 71-161.02, 71-161.03, 71-161.07, 71-161.11 to 71-161.15, 71-161.17, 71-161.18, 71-161.20, 71-1,104, 71-1,142, 71-1,147.31, 71-1,147.44, and 71-1,147.45~~the Uniform Credentialing Act other than contested cases under sections 122 to 126 of this act.

Sec. 105. Section 71-159, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-159~~ Both parties to disciplinary proceedings under the Uniform Credentialing Act shall have the right of appeal, and the appeal shall be in accordance with the Administrative Procedure

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Act. The cause shall be heard at a time fixed by the district court. It shall be advanced and take precedence over all other cases upon the court calendar except worker's compensation and criminal cases.

Sec. 106. A board may designate one of its professional members to serve as a consultant to the department in reviewing complaints and on issues of professional practice that may arise during the course of an investigation. Such consultation shall not be required for the department to evaluate a complaint or to proceed with an investigation. A board may also recommend or confer with a consultant member of its profession to assist the board or department on issues of professional practice.

Sec. 107. (1) If the department determines that a complaint will not be investigated, the department shall notify the complainant of such determination. At the request of the complainant, the appropriate board may review the complaint and provide its recommendation to the department on whether the complaint merits investigation.

(2) The department may notify the credential holder that a complaint has been filed and that an investigation will be conducted except when the department determines that such notice may prejudice an investigation.

Sec. 108. (1) The department shall advise the appropriate board on the progress of investigations. If requested by the complainant, the identity of the complainant shall not be released to the board.

(2) When the department determines that an investigation

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is complete, the department shall consult with the board to obtain its recommendation for submission to the Attorney General. In making a recommendation, the board may review all investigative reports and have full access to the investigational file of the department and any previous investigational information in the files of the department on the credential holder that may be relevant to the investigation, except that (a) reports or other documents of any law enforcement agency provided to the department shall not be available for board review except to the extent such law enforcement agency gives permission for release to the board and (b) reports provided by any other agency or public or private entity, which reports are confidential in that agency's or entity's possession and are provided with the express expectation that the report will not be disclosed, may be withheld from board review.

(3) The recommendation of the board shall be made part of the completed investigational report of the department and submitted to the Attorney General. The recommendation of the board shall include, but not be limited to:

(a) The specific violations of any statute, rule, or regulation that the board finds substantiated based upon the investigation;

(b) Matters which the board believes require additional investigation; and

(c) The disposition or possible dispositions that the board believes appropriate under the circumstances.

(4) If the department and the board disagree on the basis for investigation or if the board recommends additional

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investigation and the department and board disagree on the necessity of additional investigation, the matter shall be forwarded to the Attorney General for review and determination.

(5) All meetings of the boards or between a board and staff of the department or the Attorney General on investigatory matters shall be held in closed session, including the voting of the board on any matter pertaining to the investigation or recommendation.

Sec. 109. (1) Reports under sections 132 to 139 of this act, complaints, and investigational records of the department shall not be public records, shall not be subject to subpoena or discovery, and shall be inadmissible in evidence in any legal proceeding of any kind or character except a contested case before the department. Such reports, complaints, or records shall be a public record if made part of the record of a contested case before the department. No person, including, but not limited to, department employees and members of a board, having access to such reports, complaints, or investigational records shall disclose such information in violation of this section, except that the department may exchange such information with law enforcement and other state licensing agencies as necessary and appropriate in the discharge of the department's duties and only under circumstances to ensure against unauthorized access to such information. Violation of this subsection is a Class I misdemeanor.

(2) Investigational records, reports, and files pertaining to an application for a credential shall not be a public record until action is taken to grant or deny the application and

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may be withheld from disclosure thereafter under section 84-712.05.

Sec. 110. Section 71-171.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-171.01~~ ~~The~~ (1) Except as provided in subsection (2) of this section, the department shall provide the Attorney General with a copy of all complaints it receives and advise the Attorney General of investigations it makes which may involve any possible violation of statutes or rules and regulations by ~~the~~ ~~credentialed~~ ~~person~~a credential holder. The Attorney General shall then determine which, if any, statutes, rules, or regulations the ~~credentialed~~ ~~person~~ credential holder has violated and the appropriate legal action to take. The Attorney General may~~:~~ ~~(1)~~ ~~Elect~~ (a) elect to file a petition under section ~~71-150~~ 89 of this act or not to file a petition, (b)~~;~~ ~~(2)~~ negotiate a voluntary surrender or voluntary limitation pursuant to section ~~71-161.11;~~ ~~or~~ ~~(3)~~ 112 of this act, or (c) in cases involving a ~~technical~~ minor or insubstantial violation, refer the matter to the appropriate ~~professional~~ board for the opportunity to resolve the matter by ~~issuance~~ ~~of~~ ~~a~~ ~~letter~~ ~~of~~ ~~concern~~ ~~or~~ ~~to~~ ~~recommend~~ recommending to the Attorney General that he or she enter into an assurance of compliance with the ~~credentialed~~ ~~person~~ credential holder in lieu of filing a petition. ~~Neither~~ ~~a~~ ~~letter~~ ~~of~~ ~~concern~~ ~~nor~~ ~~an~~ An assurance of compliance shall not constitute discipline against a ~~credentialed~~ ~~person~~credential holder.

(2) This section does not apply to the following professions or businesses: Asbestos abatement, inspection, project design, and training; lead-based paint abatement, inspection,

project design, and training; medical radiography; radon detection, measurement, and mitigation; water system operation; and constructing or decommissioning water wells and installing water well pumps and pumping equipment.

Sec. 111. Section 71-171.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-171.02~~ Upon referral of a matter under section ~~71-171.01~~ 110 of this act by the Attorney General, the ~~professional~~ board may:

~~(1) Send to the credentialed person a letter of concern, approved by the Attorney General, which includes a statement of the statute, rule, or regulation in question and a statement advising the credentialed person of the conduct that would violate such statute, rule, or regulation. Such letter shall be signed by the board and shall become a part of the public record of the credentialed person;~~

~~(2)~~ (1) Advise the Attorney General on the content of an agreement to serve as the basis of an assurance of compliance. The Attorney General may contact the ~~credentialed person~~ credential holder to reach, by voluntary agreement, an assurance of compliance. The assurance shall include a statement of the statute, rule, or regulation in question, a description of the conduct that would violate such statute, rule, or regulation, the assurance of the ~~credentialed person~~ credential holder that he or she will not engage in such conduct, and acknowledgment by the ~~credentialed person~~ credential holder that violation of the assurance constitutes unprofessional conduct. ~~as provided by~~

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~~subdivision (17) of section 71-148.~~ Such assurance shall be signed by the ~~credentialed person~~ credential holder and shall become a part of the public record of the ~~credentialed person~~credential holder. The ~~credentialed person~~ credential holder shall not be required to admit to any violation of the law, and the assurance shall not be construed as such an admission; or

~~(3)~~ (2) Recommend that the Attorney General file a petition under section ~~71-150~~89 of this act.

Sec. 112. Section 71-161.11, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-161.11 Any license, permit, certificate, or registration issued by the department pursuant to Chapter 28, article 4, or Chapter 71 may be voluntarily surrendered to the department by the holder permanently, for an indefinite period of time to be restored at the discretion of the department, or for a specific and definite period of time as agreed to between the holder and the department with such license, permit, certificate, or registration to be automatically restored upon the expiration of such period of time. Such former holder shall not engage in any of the practices or activities for which such license, permit, certificate, or registration is required during the period of time for which it has been surrendered, shall be considered as unlicensed during such period of time, and shall not be required to pay any fees during such period of time. Any holder of a license, permit, certificate, or registration issued by the department pursuant to Chapter 28, article 4, or Chapter 71 may agree to a voluntary limitation of such license, permit, certificate, or~~

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~~registration. Such limitation may be placed upon the right of the licensee to practice the profession to such extent, for such time, and under such conditions as agreed to by the director and the licensee. All requirements and procedures relative to the validity of a voluntary limitation of practice statement shall be identical to those outlined in this section for a voluntary surrender statement. Violation of any of the conditions of the voluntary limitation of practice statement by the holder shall be due cause for the refusal of renewal of or the suspension or revocation of the license, permit, certificate, or registration by the department.~~(1) A credential holder may submit to the department an offer to voluntarily surrender or limit any credential issued by the department pursuant to the Uniform Credentialing Act. Any such offer may be made to surrender or limit the credential permanently, for an indefinite period of time, or for a specific or definite period of time. The offer shall be made in writing and shall include (a) the reason for the offer of voluntary surrender or limitation, (b) whether the offer is for a permanent, indefinite, or definite period of time, and (c) any terms and conditions that the credential holder wishes to have the department consider and apply to the voluntary surrender or limitation of the credential.

(2) The department may accept an offer of voluntary surrender or limitation of a credential (a) based on an offer made by the credential holder on his or her own volition, (b) based on an offer made with the agreement of the Attorney General for cases brought under section 110 of this act or the legal counsel of the department for cases brought under sections 122 to 126 of this act

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to resolve a pending disciplinary matter, (c) in lieu of filing a petition for disciplinary action, or (d) in response to a notice of disciplinary action.

(3) The department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when such credential (a) is under investigation, (b) has a disciplinary action pending but a disposition has not been rendered, or (c) has had a disciplinary action taken against it.

(4) In all instances, the decision shall be issued in the form of a written order by the director. The order shall be issued within thirty days after receipt of the offer of voluntary surrender or limitation and shall specify (a) whether the department accepts or rejects the offer of voluntary surrender and (b)(i) the terms and conditions under which the voluntary surrender is accepted or (ii) the basis for a rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender shall include, but not be limited to, the duration of the surrender, whether the credential holder may apply to have the credential reinstated, and any terms and conditions for any such reinstatement.

(5) A limitation may be placed upon the right of the credential holder to practice a profession or operate a business to such extent, for such time, and under such conditions as imposed by the director.

(6) Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder shall

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be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

Sec. 113. Section 71-161.13, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-161.13~~ (1) When ~~any complaint has been filed with~~ the department has received a complaint or report by any person or any report has been made to the ~~Director of Regulation and Licensure~~ director by the Licensee Assistance Program under section ~~71-172.01~~ 78 of this act alleging that an applicant for a credential or a person credentialed to practice any profession ~~or occupation in the state regulated by the department pursuant to Chapter 71~~ is suffering from ~~habitual intoxication or dependence, physical or mental~~ abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance that impairs the ability to practice the profession or illness, ~~or physical or mental~~ deterioration, or disability that impairs the ability to practice the profession, the ~~Director of Regulation and Licensure~~ director shall investigate such complaint to determine if any reasonable cause exists to question the qualification of the applicant or ~~credentialed person~~ credential holder to practice or to continue to practice such profession.

(2) ~~or occupation.~~ If the director on the basis of such investigation or, in the absence of such complaint, upon the basis of his or her own independent knowledge finds that reasonable cause exists to question the qualification of the applicant or ~~credentialed person~~ credential holder to practice such profession

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~~or occupation~~ because of ~~habitual intoxication or dependence, physical or mental~~abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance that impairs the ability to practice the profession or illness, ~~or physical or mental~~ deterioration, or disability that impairs the ability to practice the profession, the director shall report such finding and evidence supporting it to the appropriate ~~professional~~ board.

(3) If ~~and if~~ such board agrees that reasonable cause exists to question the qualification of such applicant or ~~credentialed person~~credential holder, the board shall appoint a committee of three qualified physicians or other qualified professionals to examine the applicant or ~~credentialed person~~ credential holder and to report their findings and conclusions to the board. The cost of the examination shall be treated as a base cost of credentialing under section 55 of this act. The board shall then consider the findings and the conclusions of the physicians or other qualified professionals and any other evidence or material which may be submitted to that board by the applicant or ~~credentialed person~~credential holder, by the director, or by any other person and shall then determine if the applicant or ~~credentialed person~~ credential holder is qualified to practice or to continue to practice such profession ~~or occupation~~ in the State of Nebraska.

(4) If such board finds the applicant or ~~credentialed person~~ credential holder to be not qualified to practice or to continue to practice such profession ~~or occupation~~ because of

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~~habitual~~ ~~intoxication~~ ~~or~~ ~~dependence,~~ ~~physical~~ ~~or~~ ~~mental~~ abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance that impairs the ability to practice the profession or illness, ~~or~~ ~~physical~~ ~~or~~ ~~mental~~ deterioration, or disability that impairs the ability to practice the profession, the board shall so certify that fact to the director with a recommendation for the denial, refusal of renewal, limitation, suspension, or revocation of such credential. The director shall thereupon deny, refuse renewal of, suspend, or revoke the credential or limit the ~~credential~~ ability of the ~~credentialed~~ ~~person~~ credential holder to practice such profession ~~or~~ ~~occupation~~ in the state in such manner and to such extent as the director determines to be necessary for the protection of the public.

Sec. 114. Section 71-161.14, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-161.14~~ (1) The denial, refusal of renewal, limitation, suspension, or revocation of a credential as provided in section ~~71-161.13~~ 113 of this act shall continue in effect until reversed on appeal or until the cause of such denial, refusal of renewal, limitation, suspension, or revocation no longer exists and the appropriate ~~professional~~ board finds, upon competent ~~medical~~ examination or evaluation by a qualified physician or ~~physicians~~other qualified professional selected or approved by the department, that the applicant~~,~~ ~~former~~ ~~credentialed~~ ~~person,~~ or ~~credentialed~~ ~~person~~ credential holder is qualified to engage in the practice of the profession. The cost of the examination or

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evaluation shall be paid by the applicant or credential holder.~~or occupation for which he or she made application, for which he or she was formerly credentialed, or for which he or she was credentialed subject to limitation and certifies that fact to the Director of Regulation and Licensure.~~

(2) Upon such finding the director, notwithstanding the provision of any other statute, shall issue, return, or reinstate such credential or remove any limitation on such credential if the ~~person~~ applicant or credential holder is otherwise qualified as determined by the appropriate ~~professional~~ board to practice or to continue in the practice of the profession. ~~or occupation.~~

Sec. 115. Section 71-161.15, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-161.15~~ Refusal of an applicant or ~~credentialed person~~ credential holder to submit to a physical or mental examination or chemical dependency evaluation requested by the appropriate ~~professional~~ board or the department pursuant to ~~sections 71-161.12 to 71-161.16~~ section 113 or 114 of this act to determine his or her qualifications to practice or to continue in the practice of the profession ~~or occupation~~ for which application was made or for which he or she is credentialed by the department ~~pursuant to the provisions of Chapter 71~~ shall be just cause for denial of the application or for refusal of renewal or suspension of his or her credential automatically by the director until such examination or evaluation has been made.

Sec. 116. Section 71-161.16, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-161.16~~ Any applicant~~,~~ ~~licensee,~~ ~~certificate~~ ~~holder,~~ ~~or~~ ~~registrant~~ or credential holder shall have the right to ~~appeal~~ ~~from~~ request a hearing on an order denying, refusing renewal of, limiting, suspending, or revoking a ~~license,~~ ~~certificate,~~ ~~or~~ ~~registration~~ credential to practice a profession ~~or~~ ~~occupation~~ ~~regulated~~ ~~by~~ ~~the~~ ~~Department~~ ~~of~~ ~~Health~~ ~~and~~ ~~Human~~ ~~Services~~ ~~Regulation~~ ~~and~~ ~~Licensure~~ ~~pursuant~~ ~~to~~ ~~Chapter~~ ~~71~~ because of ~~habitual~~ ~~intoxication~~ ~~or~~ ~~dependence,~~ ~~physical~~ ~~or~~ ~~mental~~ abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance that impairs the ability to practice the profession or illness, ~~or~~ ~~physical~~ ~~or~~ ~~mental~~ deterioration, or disability that impairs the ability to practice the profession. Such ~~appeal~~ hearing shall be conducted in accordance with the Administrative Procedure Act.

Sec. 117. Section 71-164, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-164~~ Any person engaging in the practice of any profession~~,~~ ~~for~~ ~~which~~ ~~a~~ ~~license,~~ ~~certificate,~~ ~~or~~ ~~registration~~ ~~is~~ ~~required~~ ~~by~~ ~~the~~ ~~Uniform~~ ~~Licensing~~ ~~Law,~~ or business without ~~such~~ ~~license,~~ ~~certificate,~~ ~~or~~ ~~registration~~ the appropriate credential may be restrained by temporary and permanent injunctions.

Sec. 118. It shall be prima facie evidence of practice without being credentialed when any of the following conditions exist:

(1) The person admits to engaging in practice;

(2) Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;

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(3) Billing or payment records document the provision of service, care, or treatment by the person;

(4) Service, care, or treatment records document the provision of service, care, or treatment by the person;

(5) Appointment records indicate that the person was engaged in practice;

(6) Water well registrations or other government records indicate that the person was engaged in practice; and

(7) The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

Sec. 119. Section 71-164.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-164.01~~ (1) The department may assess an administrative penalty of ten dollars per day for each day that evidence exists of practice prior to issuance, renewal after expiration, or reinstatement of a credential ~~of an individual or entity listed in section 71-162~~to practice a profession or operate a business. The total penalty shall not exceed one thousand dollars.

~~(2) It shall be prima facie evidence of practice without being credentialed when any of the following conditions exist:~~

~~(a) The person admits to engaging in practice;~~

~~(b) Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;~~

~~(c) Billing or payment records document the provision of service, care, or treatment by the person;~~

~~(d) Service, care, or treatment records document the~~

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~~provision of service, care, or treatment by the person;~~

~~(e) Appointment records indicate that the person was engaged in practice;~~

~~(f) Water well registrations or other government records indicate that the person was engaged in practice; and~~

~~(g) The person or entity opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.~~

~~(3)~~ (2) When the department assesses an administrative penalty, the department shall provide written notice of the assessment to the person. The notice shall be delivered in the manner prescribed by the department and shall include notice of the opportunity for a hearing.

~~(4)~~ (3) The department shall, within thirty days after receipt, ~~transmit~~ remit an administrative penalty to the State Treasurer ~~for credit to the permanent school fund~~to be disposed of in accordance with Article VII, section 5, of the Constitution of Nebraska. An administrative penalty assessed and unpaid under this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. The department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty.

Sec. 120. Section 71-166, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-166~~ Any person who (1) presents to the department a ~~diploma or certificate~~ document which is false or of which he or she is not the rightful owner for the purpose of procuring a ~~license, certificate, or registration, who~~ credential, (2) falsely impersonates anyone to whom a ~~license, certificate, or registration~~ credential has been issued by the department, ~~who~~ (3) falsely holds himself or herself out to be a person ~~licensed, certified, or registered~~ credentialed by the department, ~~or who~~ (4) aids and abets another who is not ~~licensed, certified, or registered~~ credentialed to practice ~~that profession in practicing a licensed, certified, or registered profession~~ a profession that requires a credential, or (5) files or attempts to file with the department any false or forged diploma, certificate, or affidavit of identification or qualification shall be guilty of a Class IV felony.

Sec. 121. Section 71-167, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-167~~ Any person violating any of the provisions of the Uniform ~~Licensing Law~~Credentialing Act, except as specific penalties are ~~herein~~ otherwise imposed in the act, shall be guilty of a Class III misdemeanor. Any person for a second violation of any of the provisions of the ~~Uniform Licensing Law wherein~~ act, for which another specific penalty is not expressly imposed, shall be guilty of a Class II misdemeanor.

Sec. 122. (1) Sections 122 to 126 of this act apply to the following professions and businesses: Asbestos abatement, inspection, project design, and training; lead-based paint

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abatement, inspection, project design, and training; medical radiography; radon detention, measurement, and mitigation; water system operation; and constructing or decommissioning water wells and installing water well pumps and pumping equipment.

(2) If an applicant for an initial credential to practice a profession or operate a business does not meet all of the requirements for the credential, the department shall deny issuance of the credential. If an applicant for an initial credential or a credential holder applying for renewal of the credential has committed any of the acts set out in section 81 or 85 of this act, as applicable, the department may deny issuance or refuse renewal of the credential or may issue or renew the credential subject to any of the terms imposed under section 99 of this act in order to protect the public.

Sec. 123. (1) A credential to practice a profession or operate a business subject to section 122 of this act may be denied, refused renewal, or have disciplinary measures taken against it in accordance with section 99 of this act on any of the grounds set out in section 81 or 85 of this act, as applicable. The department shall obtain the advice of the appropriate board in carrying out these duties. If the department determines to deny, refuse renewal of, or take disciplinary action against a credential, the department shall send to the applicant or credential holder a notice to the last address of record. The notice shall state the determination of the department, the reasons for the determination, a description of the nature of the violation and the statute, rule, or regulation violated, and the nature

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of the action being taken. The denial, refusal to renew, or disciplinary action shall become final thirty days after the mailing of the notice unless the applicant or credential holder, during such thirty-day period, makes a written request for a hearing.

(2) The hearing shall be held according to rules and regulations of the department for administrative hearings in contested cases. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by rule and regulation. On the basis of such hearing, the director shall affirm, modify, or rescind the determination of the department. Any party to the decision shall have a right to judicial review under the Administrative Procedure Act.

Sec. 124. A complaint submitted to the department regarding a credential holder subject to section 122 of this act shall be confidential. A person making such a complaint shall be immune from criminal or civil liability of any nature, whether direct or derivative, for filing a complaint or for disclosure of documents, records, or other information to the department.

Sec. 125. (1) If the department determines that an emergency exists requiring immediate action against a credential subject to section 122 of this act, the department may, without notice or hearing, issue an order reciting the existence of such emergency and requiring such action be taken as the department deems necessary to meet the emergency, including, but not limited to, suspension or limitation of the credential. Such order shall become effective immediately. Any credential holder to whom such

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order is directed shall comply immediately. Such order shall become final ten days after mailing of the order unless the credential holder, during such period, makes a written request for a hearing.

(2) The hearing shall be held as soon as possible and not later than fifteen days after the request for hearing. The hearing shall be held according to rules and regulations of the department for administrative hearings in contested cases. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by rule and regulation. On the basis of such hearing, the director shall affirm, modify, or rescind the order. Any party to the decision shall have a right to judicial review under the Administrative Procedure Act.

Sec. 126. If an order issued after a hearing under section 123 or 125 of this act is adverse to the credential holder, the costs shall be charged to him or her as in ordinary civil actions in the district court, but if the department is the unsuccessful party, the department shall pay the costs. Witness fees and costs may be taxed according to the rules prevailing in the district court. All costs accrued at the instance of the department when it is the successful party, which the department certifies cannot be collected from the other party, shall be paid out of any available funds in the Professional and Occupational Credentialing Cash Fund.

Sec. 127. Section 71-168, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-168~~ (1) The department shall enforce the Uniform ~~Licensing~~ ~~Law~~Credentialing Act and for that purpose shall make

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necessary investigations. Every ~~credentialed person listed under subsection (4) of this section~~ credential holder and every member of a ~~professional~~ board shall furnish the department such evidence as he or she may have relative to any alleged violation which is being investigated.

(2) Every ~~credentialed person listed under subsection (4) of this section~~ credential holder shall report to the department the name of every person without a credential that he or she has reason to believe is engaged in practicing any profession or operating any business for which a credential is required by the Uniform ~~Licensing Law~~Credentialing Act. The department may, along with the Attorney General and other law enforcement agencies, investigate such reports or other complaints of unauthorized practice. The ~~professional~~ appropriate board may issue an order to cease and desist the unauthorized practice of such profession or the unauthorized operation of such business as a measure to obtain compliance with the applicable credentialing requirements by the person prior to referral of the matter to the Attorney General for action. Practice of such profession or operation of such business without a credential after receiving a cease and desist order is a Class III felony.

(3) Any ~~credentialed person listed under subsection (4) of this section~~ credential holder who is required to file a report of loss or theft of a controlled substance to the federal Drug Enforcement Administration shall provide a copy of such report to the department.

~~(4) Every credentialed person regulated under the~~

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~~Advanced Practice Registered Nurse Licensure Act, the Certified Registered Nurse Anesthetist Act, the Clinical Nurse Specialist Practice Act, the Emergency Medical Services Act, the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse Practice Act, the Nurse Practitioner Act, the Occupational Therapy Practice Act, the Uniform Controlled Substances Act, the Uniform Licensing Law except pharmacist interns, the Wholesale Drug Distributor Licensing Act, or sections 71-3702 to 71-3715, 71-4701 to 71-4719, or 71-6053 to 71-6068 shall, within thirty days of an occurrence described in this subsection, report to the department in such manner and form as the department may require by rule and regulation whenever he or she:~~

~~(a) Has first-hand knowledge of facts giving him or her reason to believe that any person in his or her profession has committed acts indicative of gross incompetence, a pattern of negligent conduct as defined in subdivision (5)(c) of section 71-147, or unprofessional conduct, may be practicing while his or her ability to practice is impaired by alcohol, controlled substances, narcotic drugs, or physical, mental, or emotional disability, or has otherwise violated such regulatory provisions governing the practice of the profession;~~

~~(b) Has first-hand knowledge of facts giving him or her reason to believe that any person in another profession regulated under such regulatory provisions has committed acts indicative of gross incompetence or may be practicing while his or her ability to practice is impaired by alcohol, controlled substances,~~

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~~narcotic drugs, or physical, mental, or emotional disability. The requirement to file a report under subdivision (a) or (b) of this subsection shall not apply (i) to the spouse of the person, (ii) to a practitioner who is providing treatment to such person in a practitioner-patient relationship concerning information obtained or discovered in the course of treatment unless the treating practitioner determines that the condition of the person may be of a nature which constitutes a danger to the public health and safety by the person's continued practice, or (iii) when a credentialed person who is chemically impaired enters the Licensee Assistance Program authorized by section 71-172.01 except as provided in such section; or~~

~~(c) Has been the subject of any of the following actions:~~

~~(i) Loss of privileges in a hospital or other health care facility due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment or the voluntary limitation of privileges or resignation from staff of any health care facility when that occurred while under formal or informal investigation or evaluation by the facility or a committee of the facility for issues of clinical competence, unprofessional conduct, or physical, mental, or chemical impairment;~~

~~(ii) Loss of employment due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment;~~

~~(iii) Adverse judgments, settlements, or awards arising out of professional liability claims, including settlements made~~

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~~prior to suit in which the patient releases any professional liability claim against the credentialed person, or adverse action by an insurance company affecting professional liability coverage. The department may define by rule and regulation what constitutes a settlement that would be reportable when a credentialed person refunds or reduces a fee or makes no charge for reasons related to a patient or client complaint other than costs;~~

~~(iv) Denial of a credential or other form of authorization to practice by any state, territory, or jurisdiction, including any military or federal jurisdiction, due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment;~~

~~(v) Disciplinary action against any credential or other form of permit he or she holds taken by another state, territory, or jurisdiction, including any federal or military jurisdiction, the settlement of such action, or any voluntary surrender of or limitation on any such credential or other form of permit;~~

~~(vi) Loss of membership in a professional organization due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment; or~~

~~(vii) Conviction of any misdemeanor or felony in this or any other state, territory, or jurisdiction, including any federal or military jurisdiction.~~

~~(5) A report submitted by a professional liability insurance company on behalf of a credentialed person shall be sufficient to satisfy the credentialed person's reporting~~

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~~requirement under subsection (4) of this section.~~

~~(6) A report made to the department under this section shall be confidential and treated in the same manner as complaints and investigative files under subsection (7) of section 71-168.01. Any person making a report to the department under this section except those self-reporting shall be completely immune from criminal or civil liability of any nature, whether direct or derivative, for filing a report or for disclosure of documents, records, or other information to the department under this section. Persons who are members of committees established under the Patient Safety Improvement Act and sections 25-12,123, 71-2046 to 71-2048, and 71-7901 to 71-7903 or witnesses before such committees shall not be required to report such activities. Any person who is a witness before a committee established under such sections shall not be excused from reporting matters of first-hand knowledge that would otherwise be reportable under this section only because he or she attended or testified before such committee. Documents from original sources shall not be construed as immune from discovery or use in actions under subsection (4) of this section.~~

Sec. 128. (1) Every credential holder except pharmacist interns shall, within thirty days of an occurrence described in this subsection, report to the department in such manner and form as the department may require whenever he or she:

(a) Has first-hand knowledge of facts giving him or her reason to believe that any person in his or her profession:

(i) Has acted with gross incompetence or gross negligence;

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(ii) Has engaged in a pattern of incompetent or negligent conduct as defined in section 80 of this act;

(iii) Has engaged in unprofessional conduct as defined in section 82 of this act;

(iv) Has been practicing while his or her ability to practice is impaired by alcohol, controlled substances, mind-altering substances, or physical, mental, or emotional disability; or

(v) Has otherwise violated the regulatory provisions governing the practice of the profession;

(b) Has first-hand knowledge of facts giving him or her reason to believe that any person in another profession:

(i) Has acted with gross incompetence or gross negligence; or

(ii) Has been practicing while his or her ability to practice is impaired by alcohol, controlled substances, mind-altering substances, or physical, mental, or emotional disability; or

(c) Has been the subject of any of the following actions:

(i) Loss of privileges in a hospital or other health care facility due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment or the voluntary limitation of privileges or resignation from the staff of any health care facility when that occurred while under formal or informal investigation or evaluation by the facility or a committee of the facility for issues of clinical competence, unprofessional conduct, or physical, mental, or

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chemical impairment;

(ii) Loss of employment due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment;

(iii) An adverse judgment, settlement, or award arising out of a professional liability claim, including a settlement made prior to suit in which the consumer releases any professional liability claim against the credentialed person, or adverse action by an insurance company affecting professional liability coverage. The department may define what constitutes a settlement that would be reportable when a credential holder refunds or reduces a fee or makes no charge for reasons related to a consumer complaint other than costs;

(iv) Denial of a credential or other form of authorization to practice by any jurisdiction due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment;

(v) Disciplinary action against any credential or other form of permit he or she holds taken by any jurisdiction, the settlement of such action, or any voluntary surrender of or limitation on any such credential or other form of permit;

(vi) Loss of membership in a professional organization due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment; or

(vii) Conviction of any misdemeanor or felony in this or any other jurisdiction.

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(2) The requirement to file a report under subdivision (1)(a) or (b) of this section shall not apply:

(a) To the spouse of the credential holder;

(b) To a practitioner who is providing treatment to such credential holder in a practitioner-consumer relationship concerning information obtained or discovered in the course of treatment unless the treating practitioner determines that the condition of the credential holder may be of a nature which constitutes a danger to the public health and safety by the credential holder's continued practice; or

(c) When a credential holder who is chemically impaired enters the Licensee Assistance Program authorized by section 78 of this act except as otherwise provided in such section.

(3) A report submitted by a professional liability insurance company on behalf of a credential holder within the thirty-day period prescribed in subsection (1) of this section shall be sufficient to satisfy the credential holder's reporting requirement under subsection (1) of this section.

Sec. 129. (1) A report made to the department under section 127 or 128 of this act shall be confidential.

(2) Any person making such a report to the department, except a person who is self-reporting, shall be completely immune from criminal or civil liability of any nature, whether direct or derivative, for filing a report or for disclosure of documents, records, or other information to the department under section 127 or 128 of this act.

(3) Persons who are members of committees established

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under the Patient Safety Improvement Act or sections 25-12,123, 71-2046 to 71-2048, and 71-7901 to 71-7903 or witnesses before such committees shall not be required to report under section 127 or 128 of this act. Any person who is a witness before such a committee shall not be excused from reporting matters of first-hand knowledge that would otherwise be reportable under section 127 or 128 of this act only because he or she attended or testified before such committee.

(4) Documents from original sources shall not be construed as immune from discovery or use in actions under section 128 of this act.

Sec. 130. Section 71-168.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-168.02~~ (1) A health care facility licensed under the Health Care Facility Licensure Act or a peer review organization or professional association of a ~~health care~~ profession regulated under the ~~Advanced Practice Registered Nurse Licensure Act, the Certified Registered Nurse Anesthetist Act, the Clinical Nurse Specialist Practice Act, the Emergency Medical Services Act, the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse Practice Act, the Nurse Practitioner Act, the Occupational Therapy Practice Act, the Uniform Controlled Substances Act, the Uniform Licensing Law, the Wholesale Drug Distributor Licensing Act, or sections 71-3702 to 71-3715, 71-4701 to 71-4719, or 71-6053 to 71-6068~~Uniform Credentialing Act shall report to the department, on a form and in the manner specified by the department, ~~by rule~~

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~~and regulation,~~ any facts known to ~~them~~the facility, organization, or association, including, but not limited to, the identity of the ~~practitioner~~ credential holder and ~~patient~~consumer, when the facility, organization, or association:

(a) Has made payment due to adverse judgment, settlement, or award of a professional liability claim against it or a ~~licensee, certificate holder, or registrant~~credential holder, including settlements made prior to suit, arising out of the acts or omissions of the ~~licensee, certificate holder, or registrant~~credential holder; or

(b) Takes action adversely affecting the privileges or membership of a ~~licensee, certificate holder, or registrant~~ credential holder in such facility, organization, or association due to alleged incompetence, professional negligence, unprofessional conduct, or physical, mental, or chemical impairment.

The report shall be made within thirty days after the date of the action or event.

(2) A report made to the department under this section shall be confidential. ~~and treated in the same manner as complaints and investigative files under subsection (7) of section 71-168.01.~~ The facility, organization, association, or person making such report shall be completely immune from criminal or civil liability of any nature, whether direct or derivative, for filing a report or for disclosure of documents, records, or other information to the department under this section. ~~The reports and information shall be subject to the investigatory and enforcement provisions of the~~

~~regulatory provisions listed in subsection (1) of this section.~~ Nothing in this subsection shall be construed to require production of records protected by section 25-12,123, 71-2048, or 71-7903 or patient safety work product under the Patient Safety Improvement Act except as otherwise provided in any of such sections or such act.

(3) Any health care facility, peer review organization, or professional association that fails or neglects to make a report or provide information as required under this section is subject to a civil penalty of five hundred dollars for the first offense and a civil penalty of up to one thousand dollars for a subsequent offense. Any civil penalty collected under this subsection shall be remitted to the State Treasurer to be disposed of in accordance with Article VII, section 5, of the Constitution of Nebraska.

(4) For purposes of this section, the department shall accept reports made to it under the Nebraska Hospital-Medical Liability Act or in accordance with national practitioner data bank requirements of the federal Health Care Quality Improvement Act of 1986, as ~~amended~~the act existed on January 1, 2007, and may require a supplemental report to the extent such reports do not contain the information required by ~~rules and regulations of~~ the department.

Sec. 131. Section 71-147.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-147.01~~ No member of a peer review committee of a state or local association or society composed of ~~health practitioners licensed pursuant to the provisions of Chapter 71, article 1,~~ persons credentialed under the Uniform Credentialing Act shall be

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liable in damages to any person for slander, libel, defamation of character, breach of any privileged communication, or otherwise for any action taken or recommendation made within the scope of the functions of such committee, if such committee member acts without malice and in the reasonable belief that such action or recommendation is warranted by the facts known to ~~him~~ such member after a reasonable effort is made to obtain the facts on which such action is taken or recommendation is made.

Sec. 132. Section 71-1,199, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,199~~ Unless such knowledge or information is based on confidential medical records protected by the confidentiality provisions of the federal Public Health Services Act, 42 U.S.C. 290dd-2, and federal administrative rules and regulations, as such act and rules and regulations existed on January 1, 2007:

(1) Any insurer having knowledge of any violation of any of the ~~regulatory provisions~~ Uniform Credentialing Act governing the profession of the ~~practitioner~~ person being reported whether or not such person is credentialed shall report the facts of such violation as known to such insurer to the department; and

(2) All insurers shall cooperate with the department and provide such information as requested by the department concerning any possible violations by any ~~practitioner~~person required to be credentialed whether or not such person is credentialed.

Sec. 133. Section 71-1,200, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,200~~ Any insurer shall report to the department, on

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a form and in the manner specified by the department by rule and regulation, any facts known to the insurer, including, but not limited to, the identity of the ~~practitioner~~ credential holder and ~~patient~~consumer, when the insurer:

(1) Has reasonable grounds to believe that a ~~practitioner~~ person required to be credentialed has committed a violation of the ~~regulatory~~ provisions of the Uniform Credentialing Act governing the profession of such ~~practitioner~~person whether or not such person is credentialed;

(2) Has made payment due to an adverse judgment, settlement, or award resulting from a professional liability claim against the insurer, a health care facility or health care service as defined in the Health Care Facility Licensure Act, or a ~~practitioner~~person required to be credentialed whether or not such person is credentialed, including settlements made prior to suit in which the consumer releases any professional liability claim against the credentialed person, arising out of the acts or omissions of ~~the~~ ~~practitioner~~such person;

(3) Takes an adverse action affecting the coverage provided by the insurer to a ~~practitioner~~ person required to be credentialed, whether or not such person is credentialed, due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment. For purposes of this section, adverse action ~~shall~~ does not include raising ~~a~~ ~~practitioner's~~ rates for professional liability coverage unless it is based upon grounds that would be reportable and no prior report has been made to the department; or

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(4) Has been requested by the department to provide information.

~~The report shall be made within thirty days after the date of the action, event, or request. Nothing in this section or section 71-1,199 shall be construed to require an insurer to report based on information gained due to the filing by a practitioner or on behalf of a practitioner of a claim for payment under his or her health insurance policy.~~

Sec. 134. A report made under section 132 or 133 of this act shall be made within thirty days after the date of the violation, action, event, or request. Nothing in such sections shall be construed to require an insurer to report based on information gained due to the filing of a claim for payment under a health insurance policy by or on behalf of a person required to be credentialed whether or not such person is credentialed.

Sec. 135. For purposes of sections 132 and 133 of this act, the department shall accept reports made to it under the Nebraska Hospital-Medical Liability Act or in accordance with national practitioner data bank requirements of the federal Health Care Quality Improvement Act of 1986, as such act existed on January 1, 2007, and may require a supplemental report to the extent such reports do not contain the information required by the department. For purposes of sections 132 and 133 of this act, the department shall accept a copy of a report made to any governmental agency charged by law with carrying out any of the provisions of the Uniform Credentialing Act or any person authorized by law to make arrests within the State of Nebraska and may require a

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supplemental report to the extent such copy does not contain the information required by the department.

Sec. 136. Section 71-1,201, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,201~~ Any insurer who fails or neglects to make a report to or provide such information as requested by the department pursuant to section ~~71-1,199~~ ~~or~~ ~~71-1,200~~ ~~within~~ ~~a~~ ~~reasonable~~ ~~time~~132 or 133 of this act within thirty days after the violation, action, event, or request is guilty of a Class ~~IV~~ III misdemeanor. Any insurer who violates this section a second or subsequent time is guilty of a Class II misdemeanor.~~,~~ ~~unless~~ ~~such~~ ~~insurer~~ ~~has~~ ~~reported~~ ~~the~~ ~~required~~ ~~facts~~ ~~to~~ ~~a~~ ~~law~~ ~~enforcement~~ ~~agency.~~

Sec. 137. Section 71-1,202, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,202~~ To the extent that ~~such~~ reports made under section 132 or 133 of this act contain or relate to privileged communications between ~~patient~~ consumer and ~~practitioner~~credential holder, such reports shall be treated by the department as privileged communications and shall be considered to be part of the investigational records of the department. Such reports may not be obtained by legal discovery proceedings or otherwise disclosed unless the privilege is waived by the ~~patient~~ consumer involved or the reports are made part of the record in a contested case under section ~~71-154~~89 of this act, in which case such reports shall only be disclosed to the extent they are made a part of such record.

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Sec. 138. Section 71-1,204, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,204~~ Any insurer or employee of an insurer making a report as required by section ~~71-1,199~~ ~~or~~ ~~71-1,200~~ 132 or 133 of this act shall be immune from criminal penalty of any kind or from civil liability or other penalty for slander, libel, defamation, breach of the privilege between ~~patient~~ consumer and physician or between ~~client~~ consumer and professional counselor, or violation of the laws of the State of Nebraska relating to the business of insurance that may be incurred or imposed on account of or in connection with the making of such report.

Sec. 139. Section 71-1,205, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,205~~ Nothing contained in sections ~~71-1,198~~ ~~to~~ ~~71-1,205~~132 to 139 of this act shall be construed so as to require any ~~practitioner~~ credential holder to violate a ~~practitioner-patient~~ privilege between a credential holder and a consumer.

Sec. 140. Section 71-1,339, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,339~~ The clerk of any county or district court in this state shall report to the ~~Department~~ ~~of~~ ~~Health~~ ~~and~~ ~~Human~~ ~~Services~~ ~~Regulation~~ ~~and~~ ~~Licensure~~ department the conviction of any person ~~licensed,~~ ~~certified,~~ ~~or~~ ~~registered~~ credentialed by the department under the ~~Advanced~~ ~~Practice~~ ~~Registered~~ ~~Nurse~~ ~~Licensure~~ ~~Act,~~ ~~the~~ ~~Certified~~ ~~Registered~~ ~~Nurse~~ ~~Anesthetist~~ ~~Act,~~ ~~the~~ ~~Clinical~~ ~~Nurse~~ ~~Specialist~~ ~~Practice~~ ~~Act,~~ ~~the~~ ~~Emergency~~ ~~Medical~~

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~~Services Act, the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse Practice Act, the Nurse Practitioner Act, the Occupational Therapy Practice Act, the Uniform Controlled Substances Act, the Uniform Licensing Law, the Wholesale Drug Distributor Licensing Act, or sections 71-3702 to 71-3715, 71-4701 to 71-4719, or 71-6053 to 71-6068~~ Uniform Credentialing Act of any felony or of any misdemeanor involving the use, sale, distribution, administration, or dispensing of a controlled substance, alcohol or chemical impairment, or substance abuse and shall also report a judgment against any such ~~licensee, certificate holder, or registrant~~ credential holder arising out of a claim of professional liability. The Attorney General or city or county prosecutor prosecuting any such criminal action and plaintiff in any such civil action shall provide the court with information concerning the ~~licensure, certification, or registration~~ credential of the defendant or party. Notice to the department shall be filed within thirty days after the date of conviction or judgment in a manner agreed to by the ~~Director of Regulation and Licensure~~ director and the State Court Administrator.

Sec. 141. Section 71-168.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-168.01~~ (1) Any person may make a complaint and request investigation of an alleged violation of the Uniform ~~Licensing Law~~ Credentialing Act or rules and regulations issued under such ~~law~~act. A complaint submitted to the department shall be confidential, and a person making a complaint shall be immune

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from criminal or civil liability of any nature, whether direct or derivative, for filing a complaint or for disclosure of documents, records, or other information to the department.

(2) The department shall review all complaints and determine whether to conduct an investigation and in making such determination may consider factors such as:

(a) Whether the complaint pertains to a matter within the authority of the department to enforce;

(b) Whether the circumstances indicate that a complaint is made in good faith and is not malicious, frivolous, or vexatious;

(c) Whether the complaint is timely or has been delayed too long to justify present evaluation of its merit;

(d) Whether the complainant may be a necessary witness if action is taken and is willing to identify himself or herself and come forward to testify; or

(e) Whether the information provided or within the knowledge of the complainant is sufficient to provide a reasonable basis to believe that a violation has occurred or to secure necessary evidence from other sources.

~~A complaint submitted to the department shall be confidential, and a person making a complaint shall be immune from criminal or civil liability of any nature, whether direct or derivative, for filing a complaint or for disclosure of documents, records, or other information to the department.~~

~~(2) If the department determines that a complaint will not be investigated, the department shall notify the complainant~~

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~~of such determination. At the request of the complainant, the appropriate professional board may review the complaint and provide its recommendation to the department on whether the complaint merits investigation.~~

~~(3) A professional board may designate one of its professional members to serve as a consultant to the department in reviewing complaints and on issues of professional practice that may arise during the course of an investigation. Such consultation shall not be required for the department to evaluate a complaint or to proceed with an investigation. A board may also recommend or confer with a consultant member of its profession to assist the board or department on issues of professional practice.~~

~~(4) The department may notify the credentialed person that a complaint has been filed and that an investigation will be conducted except when the department determines that such notice may prejudice an investigation.~~

~~(5) The department shall advise the appropriate professional board on the progress of investigations. If requested by the complainant, the identity of the complainant shall not be released to the board. When the department determines that an investigation is complete, the department shall consult with the board to obtain its recommendation for submission to the Attorney General. In making a recommendation, the board may review all investigative reports and have full access to the investigational file of the department and any previous investigational information in the files of the department on the credentialed person that may be relevant to the investigation, except that reports or other~~

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~~documents of any law enforcement agency provided to the department shall not be available for board review except to the extent such law enforcement agency gives permission for release to the board and reports provided by any other agency or public or private entity, which reports are confidential in that agency's or entity's possession and are provided with the express expectation that the report will not be disclosed, may be withheld from board review. The recommendation of the board shall be made part of the completed investigational report of the department and submitted to the Attorney General. The recommendation of the board shall include, but not be limited to:~~

~~(a) The specific violations of statute, regulation, or both that the board finds substantiated based upon the investigation;~~

~~(b) Matters which the board believes require additional investigation; and~~

~~(c) The disposition or possible dispositions that the board believes appropriate under the circumstances.~~

~~(6) If the department and the board disagree on the basis for investigation or if the board recommends additional investigation and the department and board disagree on the necessity of additional investigation, the matter shall be forwarded to the Attorney General for review and determination.~~

~~(7) Complaints or investigational records of the department shall not be public records, shall not be subject to subpoena or discovery, and shall be inadmissible in evidence in any legal proceeding of any kind or character except a contested~~

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~~case before the department. Such complaints or records shall be a public record if made part of the record of a contested case before the department. No person, including, but not limited to, department employees and members of a professional board, having access to such complaints or investigational records shall disclose such information in violation of this section, except that the department may exchange such information with law enforcement and other state licensing agencies as necessary and appropriate in the discharge of the department's duties and only under circumstances to ensure against unauthorized access to such information. Violation of this subsection is a Class I misdemeanor.~~

~~(8) All meetings of the professional boards or between a board and staff of the department or the Attorney General on investigatory matters shall be held in closed session, including the voting of the board on any matter pertaining to the investigation or recommendation.~~

Sec. 142. Section 71-171, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-171~~ Upon the request of the department, the Attorney General shall institute in the name of the state the proper civil or criminal proceedings against any person regarding whom a complaint has been made, charging him or her with violation of any of the provisions of the Uniform ~~Licensing Law~~Credentialing Act, and the county attorney, at the request of the Attorney General or of the department, shall appear and prosecute such action when brought in his or her county.

Sec. 143. Section 71-17,131, Revised Statutes Cumulative

Supplement, 2006, is amended to read:

~~71-17,131~~ Sections ~~71-17,131~~ ~~to~~ ~~71-17,141~~ 143 to 153 of this act shall be known and may be cited as the Advanced Practice Registered Nurse ~~Licensure~~ Practice Act.

Sec. 144. Section 71-17,132, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-17,132~~ The Legislature finds and declares that:

(1) Because of the geographic maldistribution of health care services in Nebraska, it is necessary to utilize the skills and proficiency of existing health professionals more efficiently;

(2) It is necessary to encourage the more effective utilization of the skills of registered nurses by enabling them to perform advanced roles in nursing; and

(3) The purpose of the Advanced Practice Registered Nurse ~~Licensure~~ Practice Act is ~~established~~ to encourage registered nurses to perform advanced roles in nursing.

Sec. 145. Section 71-17,133, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-17,133~~ For purposes of the Advanced Practice Registered Nurse ~~Licensure Act and except as provided in section 71-1708~~Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the ~~definitions~~ definition found in section ~~71-1,132.05 shall apply~~146 of this act applies.

Sec. 146. Board means the Board of Advanced Practice Registered Nurses.

Sec. 147. Section 71-17,134, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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~~71-17,134 (1) The Board of Advanced Practice Registered Nurses is established. The purpose of the board is to (a) provide for the health, safety, and welfare of the citizens, (b) ensure that licensees serving the public meet minimum standards of proficiency and competency, and (c) control the profession in the interest of consumer protection.~~

~~(2)(a)~~(1) Until July 1, 2007, the board shall consist of ~~(i)~~(a) five advanced practice registered nurses representing different advanced practice registered nurse specialties for which a license has been issued, ~~(ii)~~(b) five physicians licensed under the Uniform Licensing Law to practice medicine in Nebraska, at least three of whom shall have a current collaborating relationship with an advanced practice registered nurse, ~~(iii)~~(c) three consumer members, and ~~(iv)~~(d) one licensed pharmacist.

~~(b)~~(2) On and after July 1, 2007, the board shall consist of:

~~(i)~~(a) One nurse practitioner holding a ~~certificate~~ license under the Nurse Practitioner Practice Act, one certified nurse midwife holding a ~~certificate~~ license under the ~~Nebraska~~ Certified Nurse Midwifery Practice Act, one certified registered nurse anesthetist holding a ~~certificate~~ license under the Certified Registered Nurse Anesthetist Practice Act, and one clinical nurse specialist holding a ~~certificate~~ license under the Clinical Nurse Specialist Practice Act, except that the initial clinical nurse specialist appointee may be a clinical nurse specialist practicing pursuant to the Nurse Practice Act as such act existed prior to July 1, 2007. Of the initial appointments under this subdivision,

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one shall be for a ~~one-year~~ two-year term, one shall be for a ~~two-year~~ three-year term, one shall be for a ~~three-year~~ four-year term, and one shall be for a ~~four-year~~ five-year term. All subsequent appointments under this subdivision shall be for ~~four-year~~ five-year terms;

~~(ii)~~(b) Three physicians, one of whom shall have a professional relationship with a nurse practitioner, one of whom shall have a professional relationship with a certified nurse midwife, and one of whom shall have a professional relationship with a certified registered nurse anesthetist. Of the initial appointments under this subdivision, one shall be for a ~~two-year~~ three-year term, one shall be for a ~~three-year~~ four-year term, and one shall be for a ~~four-year~~ five-year term. All subsequent appointments under this subdivision shall be for ~~four-year~~ five-year terms; and

~~(iii)~~(c) Two public members. Of the initial appointments under this subdivision, one shall be for a three-year term, and one shall be for a four-year term. All subsequent appointments under this subdivision shall be for ~~four-year~~ five-year terms. ~~Public members of the board shall have the same qualifications as provided in subsection (1) of section 71-113.~~

~~(c)~~(3) Members of the board serving immediately before July 1, 2007, shall serve until members are appointed and qualified under ~~subdivision (2)(b)~~subsection (2) of this section.

~~(3) The members of the board shall be appointed by the State Board of Health. Members shall be appointed for terms of four years except as otherwise provided in subdivisions (2)(b)~~

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~~and (c) of this section. At the expiration of the term of any member, the State Board of Health may consult with appropriate professional organizations regarding candidates for appointment to the Board of Advanced Practice Registered Nurses. Upon expiration of terms, appointments or reappointments shall be made on or before December 1 of each year. Vacancies on the Board of Advanced Practice Registered Nurses shall be filled for the unexpired term by appointments made by the State Board of Health. No member shall serve more than two consecutive terms on the Board of Advanced Practice Registered Nurses.~~

~~(4) The State Board of Health has power to remove from office any member of the Board of Advanced Practice Registered Nurses, 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 incompetence, 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) Each member of the Board of Advanced Practice Registered Nurses shall receive a per diem of thirty dollars per day for each day the member is actually engaged in the discharge of his or her official duties and shall be reimbursed for travel, lodging, and other necessary expenses incurred as a member of the board pursuant to sections 81-1174 to 81-1177.~~

~~(6) The department shall adopt and promulgate rules and~~

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~~regulations which define conflicts of interest for members of the Board of Advanced Practice Registered Nurses and which establish procedures in case such a conflict arises.~~

Sec. 148. Section 71-17,135, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-17,135~~ The ~~Board of Advanced Practice Registered Nurses~~ board shall:

(1) Establish standards for integrated practice agreements between collaborating physicians and certified nurse midwives, and nurse practitioners;

(2) Monitor the scope of practice by certified nurse midwives, certified registered nurse anesthetists, clinical nurse specialists, and nurse practitioners;

~~(3) Administer and enforce the Advanced Practice Registered Nurse Licensure Act in order to (a) provide for the health, safety, and welfare of the citizens, (b) ensure that advanced practice registered nurses serving the public meet minimum standards of proficiency and competency, (c) control the profession in the interest of consumer protection, (d) regulate the scope of advanced practice nursing, (e) recommend disciplinary actions as provided in this section, and (f) enforce licensure requirements;~~

~~(4)~~(3) Recommend disciplinary action relating to licenses of advanced practice registered nurses, ~~and certificates of~~ certified nurse midwives, certified registered nurse anesthetists, clinical nurse specialists, and nurse practitioners;

~~(5)~~(4) Engage in other activities not inconsistent with the Advanced Practice Registered Nurse ~~Licensure~~ Practice Act, the

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Certified Nurse Midwifery Practice Act, the Certified Registered Nurse Anesthetist Practice Act, the Clinical Nurse Specialist Practice Act, ~~the Nebraska Certified Nurse Midwifery Practice Act,~~ and the Nurse Practitioner Practice Act; and

~~(6) Approve~~ (5) Adopt rules and regulations to implement the Advanced Practice Registered Nurse ~~Licensure~~ Practice Act, the Certified Nurse Midwifery Practice Act, the Certified Registered Nurse Anesthetist Practice Act, the Clinical Nurse Specialist Practice Act, ~~the Nebraska Certified Nurse Midwifery Practice Act,~~ and the Nurse Practitioner Practice Act, for ~~adoption and~~ promulgation by the department as provided in section 28 of this act. Such rules and regulations shall also include: (a) Approved certification organizations and approved certification programs; and (b) ~~continuing competency requirements. The requirements may include, but not be limited to, continuing education, continuing practice, national recertification, a reentry program, peer review including patient outcomes, examination, or other continuing competency activities listed in section 71-161.09; (c) grounds for discipline; (d) issuance, renewal, and reinstatement of licenses and certificates; (e) fees; (f)~~ professional liability insurance.~~; and (g) conflict of interest for board members.~~

Sec. 149. Section 71-17,136, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-17,136~~ The department shall issue a license as an advanced practice registered nurse to a registered nurse who meets the requirements of subsection (1) or (3) of section ~~71-17,137~~150 of this act. The department may issue a license

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as an advanced practice registered nurse to a registered nurse pursuant to subsection (2) of section ~~71-17,137~~150 of this act.

Sec. 150. Section 71-17,137, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-17,137~~ (1) An applicant for initial licensure as an advanced practice registered nurse shall:

(a) Be licensed as a registered nurse under the Nurse Practice Act or have authority based on the Nurse Licensure Compact to practice as a registered nurse in Nebraska;

(b) Be a graduate of or have completed a graduate-level advanced practice registered nurse program in a clinical specialty area of certified registered nurse anesthetist, clinical nurse specialist, certified nurse midwife, or nurse practitioner, which program is accredited by a national accrediting body;

(c) Be certified as a certified registered nurse anesthetist, a clinical nurse specialist, a certified nurse midwife, or a nurse practitioner, by an approved certifying body or an alternative method of competency assessment approved by the board, pursuant to the Certified Nurse Midwifery Practice Act, the Certified Registered Nurse Anesthetist Practice Act, the Clinical Nurse Specialist Practice Act, ~~the Nebraska Certified Nurse Midwifery Practice Act,~~ or the Nurse Practitioner Practice Act, as appropriate to the applicant's educational preparation;

~~(d) Submit a completed written application to the department which includes the applicant's social security number and appropriate fees established and collected as provided in section 71-162;~~

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~~(e)~~ (d) Provide evidence as required by rules and regulations; and~~approved by the board and adopted and promulgated by the department; and~~

~~(f)~~ (e) Have committed no acts or omissions which are grounds for disciplinary action in another jurisdiction or, if such acts have been committed and would be grounds for discipline under the Nurse Practice Act, the board has found after investigation that sufficient restitution has been made.

~~(2)(a) Except as provided in subdivisions (b) through (d) of this subsection, the~~(2) The department may issue a license by endorsement under this section to an applicant who holds a license from another jurisdiction if the licensure requirements of such other jurisdiction meet or exceed the requirements for licensure as an advanced practice registered nurse under the Advanced Practice Registered Nurse ~~Licensure~~ Practice Act.~~(b) The department may issue a license as an advanced practice registered nurse by endorsement to an applicant who holds a credential equivalent to a nurse practitioner issued by another jurisdiction if such applicant holds a certificate or degree described in subdivision (3) of section 71-1717.(c) The department may issue a license as an advanced practice registered nurse by endorsement to an applicant who holds a credential equivalent to a certified registered nurse anesthetist issued by another jurisdiction if such applicant meets the requirements of subdivision (4) of section 71-1730 as such subdivision existed on December 31, 1998.(d) The department may issue a license as an advanced practice registered nurse by endorsement to an applicant who holds a credential equivalent to~~

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~~a certified nurse midwife issued by another jurisdiction if such applicant meets the requirements of subsection (1) of section 71-1755 as such subsection existed immediately before July 1, 2007. (e)~~ An applicant under this subsection shall submit ~~a completed application to the department which includes the applicant's social security number, fees established and collected as provided in section 71-162, and other evidence as~~ documentation required by rules and regulations. ~~approved by the board and adopted and promulgated by the department.~~

(3) A person licensed as an advanced practice registered nurse or certified as a certified registered nurse anesthetist or a certified nurse midwife in this state on July 1, 2007, shall be issued a license by the department as an advanced practice registered nurse on such date.

~~(4) A person licensed as an advanced practice registered nurse in this state may use the title advanced practice registered nurse and the abbreviation APRN.~~

Sec. 151. Section 71-17,138, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-17,138 (1)~~ The license of each person licensed under the Advanced Practice Registered Nurse ~~Licensure~~Practice Act shall be renewed at the same time and in the same manner as renewal of ~~his or her certificate described in subdivision (c) of this subsection. Renewal of such~~ a license for a registered nurse and shall require that the applicant have (a) a license as a registered nurse issued by the state or have the authority based on the Nurse Licensure Compact to practice as a registered

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nurse in Nebraska, (b) documentation of continuing competency, either by reference, peer review, examination, or one or more of the continuing competency activities listed in section ~~71-161.09, as~~ 48 of this act and established by the board in rules and regulations, ~~approved by the board and adopted and promulgated by the department,~~ and (c) ~~a certificate issued~~met any specific requirements for renewal under the Certified Nurse Midwifery Practice Act, the Certified Registered Nurse Anesthetist Practice Act, the Clinical Nurse Specialist Practice Act, ~~the Nebraska Certified Nurse Midwifery Practice Act,~~ or the Nurse Practitioner Practice Act, as applicable.

~~(2) The department shall establish and collect fees for renewal as provided in section 71-162.~~

Sec. 152. The department shall establish and collect fees for initial licensure and renewal under the Advanced Practice Registered Nurse Practice Act as provided in sections 54 to 60 of this act.

Sec. 153. A person licensed as an advanced practice registered nurse in this state may use the title advanced practice registered nurse and the abbreviation APRN.

Sec. 154. Sections 154 to 174 of this act shall be known and may be cited as the Alcohol and Drug Counseling Practice Act.

Sec. 155. Section 71-1,351, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,351~~ For purposes of ~~sections 71-1,351 to 71-1,361~~ the Alcohol and Drug Counseling Practice Act and elsewhere in the Uniform ~~Licensing Law~~Credentialing Act, unless the context

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otherwise requires, the definitions found in sections 156 to 162 of this act apply.~~:~~

~~(1) Alcohol and drug counseling means providing or performing the core functions of an alcohol and drug counselor for remuneration;~~

~~(2) Alcohol and drug counselor means a person engaged in alcohol and drug counseling;~~

~~(3) Alcohol or drug abuse means the abuse of alcohol or other drugs which have significant mood or perception changing capacities, which are likely to be physiologically or psychologically addictive, and the use of which have negative physical, social, or psychological consequences;~~

~~(4) Alcohol or drug dependence means cognitive, behavioral, and psychological symptoms indicating the continued use of alcohol or other drugs despite significant alcohol or drug-related problems;~~

~~(5) Alcohol or drug disorder means a substance-related disorder as defined by the department in rules and regulations substantially similar with the definitions of the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders;~~

~~(6) Board means the Board of Alcohol and Drug Counseling; and~~

~~(7) Core functions means the following twelve activities an alcohol and drug counselor performs in the role of counselor: Screening, intake, orientation, assessment, treatment planning, counseling (individual, group, and significant others), case~~

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~~management, crisis intervention, client education, referral, reports and record keeping, and consultation with other professionals in regard to client treatment and services.~~

Sec. 156. Alcohol and drug counseling means providing or performing the core functions of an alcohol and drug counselor for remuneration.

Sec. 157. Alcohol and drug counselor means a person engaged in alcohol and drug counseling.

Sec. 158. Alcohol or drug abuse means the abuse of alcohol or other drugs which have significant mood or perception changing capacities, which are likely to be physiologically or psychologically addictive, and the use of which have negative physical, social, or psychological consequences.

Sec. 159. Alcohol or drug dependence means cognitive, behavioral, and psychological symptoms indicating the continued use of alcohol or other drugs despite significant alcohol or drug-related problems.

Sec. 160. Alcohol or drug disorder means a substance-related disorder as defined by the department in rules and regulations substantially similar with the definitions of the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders.

Sec. 161. Board means the Board of Alcohol and Drug Counseling.

Sec. 162. Core functions means the following twelve activities an alcohol and drug counselor performs in the role of counselor: Screening, intake, orientation, assessment,

treatment planning, counseling (individual, group, and significant others), case management, crisis intervention, client education, referral, reports and record keeping, and consultation with other professionals in regard to client treatment and services.

Sec. 163. Membership on the board shall consist of seven professional members and two public members appointed pursuant to section 61 of this act. The members shall meet the requirements of sections 67 and 68 of this act. Three of the professional members shall be licensed alcohol and drug counselors who may also be licensed as psychologists or mental health practitioners, three of the professional members shall be licensed alcohol and drug counselors who are not licensed as psychologists or mental health practitioners, and one of the professional members shall be licensed as a psychiatrist, psychologist, or mental health practitioner.

Sec. 164. Section 71-1,352, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,352~~ (1) The scope of practice for alcohol and drug counseling is the application of general counseling theories and treatment methods adapted to specific addiction theory and research for the express purpose of treating any alcohol or drug abuse, dependence, or disorder. The practice of alcohol and drug counseling consists of the following performance areas which encompass the twelve core functions: Clinical evaluation; treatment planning; counseling; education; documentation; and professional and ethical standards.

(2) The performance area of clinical evaluation consists

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of screening and assessment of alcohol and drug problems, screening of other presenting problems for which referral may be necessary, and diagnosis of alcohol and drug disorders. Clinical evaluation does not include mental health assessment or treatment. An alcohol and drug counselor shall refer a person with co-occurring mental disorders unless such person is under the care of, or previously assessed or diagnosed by, an appropriate practitioner within a reasonable amount of time.

(3) The performance area of treatment planning consists of case management, including implementing the treatment plan, consulting, and continuing assessment and treatment planning; referral; and client advocacy.

(4) The performance area of counseling consists of individual counseling, group counseling, and family or significant other counseling.

(5) The performance area of education consists of education for clients, family of clients, and the community.

Sec. 165. Section 71-1,353, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,353~~ No person shall engage in alcohol and drug counseling or hold himself or herself out as an alcohol and drug counselor unless he or she is licensed for such purpose pursuant to the Uniform ~~Licensing~~ ~~Law~~Credentialing Act, except that this section shall not be construed to prevent:

(1) Qualified members of other professions who are ~~licensed,~~ ~~certified,~~ ~~or~~ ~~registered~~ credentialed by this state from practice of any alcohol and drug counseling consistent with

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the scope of practice of their respective professions;

(2) Teaching or the conduct of research related to alcohol and drug counseling with organizations or institutions if such teaching, research, or consultation does not involve the delivery or supervision of alcohol and drug counseling to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services;

(3) The delivery of alcohol and drug counseling by:

(a) Students, interns, or residents whose activities constitute a part of the course of study for medicine, psychology, nursing, school psychology, social work, clinical social work, counseling, marriage and family therapy, alcohol and drug counseling, compulsive gambling counseling, or other health care or mental health service professions; or

(b) Individuals seeking to fulfill postgraduate requirements for licensure when those individuals are supervised by a licensed professional consistent with the applicable regulations of the appropriate professional board;

(4) Duly recognized members of the clergy from providing alcohol and drug counseling in the course of their ministerial duties and consistent with the codes of ethics of their profession if they do not represent themselves to be alcohol and drug counselors;

(5) The incidental exchange of advice or support by persons who do not represent themselves as engaging in alcohol and drug counseling, including participation in self-help groups when the leaders of such groups receive no compensation for their

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participation and do not represent themselves as alcohol and drug counselors or their services as alcohol and drug counseling;

(6) Any person providing emergency crisis intervention or referral services; or

(7) Staff employed in a program designated by an agency of state government to provide rehabilitation and support services to individuals with alcohol or drug disorders from completing a rehabilitation assessment or preparing, implementing, and evaluating an individual rehabilitation plan.

Sec. 166. Section 71-1,354, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,354~~ (1) A person may apply for a license as an alcohol and drug counselor if he or she meets the requirements provided in section ~~71-1,357~~169 of this act.

(2) A person may apply for a license as a provisional alcohol and drug counselor which permits such person to practice and acquire the supervised clinical work experience required for licensure as an alcohol and drug counselor. ~~A license for provisional status shall be eligible for renewal every two calendar years for a maximum of two renewals upon meeting the renewal requirements in section 71-1,360.~~ Provisional status may be granted once and held for a time period not to exceed six years, except that if an individual does not complete the supervised clinical work experience required for licensure within the specified six-year period due to unforeseen circumstances as determined by the department, with the recommendation of the board, the individual may apply for one additional provisional

license. An individual who is so licensed shall not render services without clinical supervision. An individual who holds provisional licensure shall inform all clients that he or she holds a provisional certification and is practicing under supervision and shall identify the supervisor. An applicant shall meet the requirements provided in section ~~71-1,355~~167 of this act.

~~(3) Any person certified as an alcohol and drug abuse counselor on July 1, 2004, shall be deemed to be licensed as an alcohol and drug counselor under the Uniform Licensing Law on such date. Any person certified as a provisional alcohol and drug abuse counselor on July 1, 2004, shall be deemed to be licensed as a provisional alcohol and drug counselor under the Uniform Licensing Law on such date. The certificate holder may continue to practice under such certificate as a license until September 1 after the next renewal date for his or her certificate under the rules and regulations governing counselors as provided in section 71-1,361. Renewals issued for such certificates extended to September 1, 2004, or September 1, 2005, shall be valid until September 1, 2006, and shall be issued with fees and continuing competency requirements prorated accordingly. Subsequent renewals shall be for two-year periods expiring September 1 of even-numbered years as provided in section 71-110.~~

Sec. 167. Section 71-1,355, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,355~~ To be licensed to practice as a provisional alcohol and drug counselor, an applicant shall:

(1) Have a high school diploma or its equivalent;

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(2) Have two hundred seventy hours of education related to the knowledge and skills of alcohol and drug counseling which shall include:

(a) A minimum of forty-five hours in counseling theories and techniques coursework;

(b) A minimum of forty-five hours in group counseling coursework;

(c) A minimum of thirty hours in human growth and development coursework;

(d) A minimum of fifteen hours in professional ethics and issues coursework;

(e) A minimum of thirty hours in alcohol and drug assessment, case planning, and management coursework;

(f) A minimum of thirty hours in multicultural counseling coursework;

(g) A minimum of forty-five hours in medical and psychosocial aspects of alcohol and drug use, abuse, and addiction coursework; and

(h) A minimum of thirty hours in clinical treatment issues in chemical dependency coursework; and

(3) Have supervised practical training which shall:

(a) Include performing a minimum of three hundred hours in the counselor core functions in a work setting where alcohol and drug counseling is provided;

(b) Be a formal, systematic process that focuses on skill development and integration of knowledge;

(c) Include training hours documented by performance date

and core function performance areas; and

(d) Include the performance of all counselor core functions with no single function performed less than ten hours.~~; and~~

~~(4) Have read and agreed to be bound by the standards of professional conduct and code of ethics established in the rules and regulations under section 71-1,361.~~

Sec. 168. Section 71-1,356, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,356~~ (1)(a) The practical training supervisor for supervised practical training required under section ~~71-1,355~~ 167 of this act shall hold one of the following credentials:

(i) Licensure as an alcohol and drug counselor;

(ii) ~~A~~ If the practical training is acquired outside of Nebraska, a reciprocity level alcohol and drug counselor credential issued by a member jurisdiction of the International Certification and Reciprocity Consortium, Alcohol and Other Drug Abuse, Inc., or its successor; or

(iii) Licensure as a physician or psychologist under the Uniform ~~Licensing Law~~Credentialing Act, or an equivalent credential from another jurisdiction, and sufficient training as determined by the Board of Medicine and Surgery for physicians or the Board of Psychologists for psychologists, in consultation with the Board of Alcohol and Drug Counseling, and adopted and promulgated by the department in rules and regulations.

(b) The practical training supervisor shall not be a family member.

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(c) The credential requirement of this subsection applies to the work setting supervisor and not to a practicum coordinator or instructor of a postsecondary educational institution.

(2) The practical training supervisor shall assume responsibility for the performance of the individual in training and shall be onsite at the work setting when core function activities are performed by the individual in training. A minimum of one hour of evaluative face-to-face supervision for each ten hours of core function performance shall be documented. Supervisory methods shall include, as a minimum, individual supervisory sessions, formal case staffings, and conjoint, cotherapy sessions. Supervision shall be directed towards teaching the knowledge and skills of professional alcohol and drug counseling.

Sec. 169. Section 71-1,357, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,357~~ (1) To be licensed to practice as an alcohol and drug counselor, an applicant shall meet the requirements for licensure as a provisional alcohol and drug counselor under section ~~71-1,355~~167 of this act, shall receive a passing score on an examination approved by the board, and shall have six thousand hours of supervised clinical work experience providing alcohol and drug counseling services to alcohol and other drug clients for remuneration. The experience shall be polydrug counseling experience.

(2) The experience shall include carrying a client caseload as the primary alcohol and drug counselor performing the core functions of assessment, treatment planning, counseling, case

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management, referral, reports and record keeping, and consultation with other professionals for those clients. The experience shall also include responsibility for performance of the five remaining core functions although these core functions need not be performed by the applicant with each client in their caseload.

(3) Experience that shall not count towards licensure shall include, but not be limited to:

(a) Providing services to individuals who do not have a diagnosis of alcohol and drug abuse or dependence such as prevention, intervention, and codependency services or other mental health disorder counseling services, except that this shall not exclude counseling services provided to a client's significant others when provided in the context of treatment for the diagnosed alcohol or drug client; and

(b) Providing services when the experience does not include primary case responsibility for alcohol or drug treatment or does not include responsibility for the performance of all of the core functions.

(4) The maximum number of hours of experience that may be accrued are forty hours per week or two thousand hours per year.

(5)(a) A postsecondary educational degree may be substituted for part of the supervised clinical work experience. The degree shall be from a regionally accredited postsecondary educational institution or the educational program shall be accredited by a nationally recognized accreditation agency.

(b) An associate's degree in addictions or chemical dependency may be substituted for one thousand hours of supervised

clinical work experience.

(c) A bachelor's degree with a major in counseling, addictions, social work, sociology, or psychology may be substituted for two thousand hours of supervised clinical work experience.

(d) A master's degree or higher in counseling, addictions, social work, sociology, or psychology may be substituted for four thousand hours of supervised clinical work experience.

(e) A substitution shall not be made for more than one degree.

Sec. 170. Section 71-1,358, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,358~~ (1)(a) The clinical supervisor for supervised clinical work experience under section ~~71-1,357~~ 169 of this act shall hold one of the following credentials:

(i) Licensure as an alcohol and drug counselor;

(ii) ~~A~~ If the clinical work is acquired outside of Nebraska, a reciprocity level alcohol and drug counselor credential issued by a member jurisdiction of the International Certification and Reciprocity Consortium, Alcohol and Other Drug Abuse, Inc., or its successor;

(iii) The highest level alcohol and drug counselor credential issued by a jurisdiction that is not a member of the International Certification and Reciprocity Consortium, Alcohol and Other Drug Abuse, Inc., or its successor if the credential is based on education, experience, and examination that is substantially

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similar to the license issued in this state as determined by the board; or

(iv) Licensure as a physician or psychologist under the Uniform ~~Licensing~~ ~~Law~~Credentialing Act, or an equivalent credential from another jurisdiction, and sufficient training as determined by the Board of Medicine and Surgery for physicians or the Board of Psychologists for psychologists, in consultation with the Board of Alcohol and Drug Counseling, and adopted and promulgated by the department in rules and regulations.

(b) The clinical supervisor shall be formally affiliated with the program or agency in which the work experience is gained.

(c) The clinical supervisor shall not be a family member.

(2) There shall be one hour of evaluative face-to-face clinical supervision for each forty hours of paid alcohol and drug counseling work experience. The format for supervision shall be either one-on-one or small group. Methods of supervision may include case review and discussion or direct observation of a counselor's clinical work.

Sec. 171. Section 71-1,359, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,359~~ (1) An individual who is licensed as a provisional alcohol and drug counselor at the time of application for licensure as an alcohol and drug counselor is deemed to have met the requirements of a high school diploma or its equivalent, the two hundred seventy hours of education related to alcohol and drug counseling, and the supervised practical training requirement.

(2) An applicant who is licensed as a provisional mental

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health practitioner or a mental health practitioner at the time of application for licensure is deemed to have met the requirements of subdivisions (2)(a), (b), (c), (d), and (f) of section ~~71-1,355~~167 of this act.

Sec. 172. The department, with the recommendation of the board, may issue a license by endorsement to an individual who meets the requirements of the Alcohol and Drug Counseling Practice Act or substantially equivalent requirements as determined by the department, with the recommendation of the board.

Sec. 173. The department shall establish and collect fees for initial licensure and renewal under the Alcohol and Drug Counseling Practice Act as provided in sections 54 to 60 of this act.

Sec. 174. Section 71-1,361, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,361~~ (1) The department, ~~upon~~with the ~~advice~~ recommendation of the board, shall adopt and promulgate rules and regulations to administer ~~sections 71-1,351 to 71-1,361~~the Alcohol and Drug Counseling Practice Act, including rules and regulations governing:

(a) Ways of clearly identifying students, interns, and other persons providing alcohol and drug counseling under supervision;

(b) The rights of persons receiving alcohol and drug counseling;

(c) The rights of clients to gain access to their records, except that records relating to substance abuse may be

withheld from a client if an alcohol and drug counselor determines, in his or her professional opinion, that release of the records to the client would not be in the best interest of the client or would pose a threat to another person, unless the release of the records is required by court order;

(d) The contents and methods of distribution of disclosure statements to clients of alcohol and drug counselors; and

(e) Standards of professional conduct and a code of ethics.

(2) The rules and regulations governing certified alcohol and drug counselors shall remain in effect to govern licensure until modified under this section, except that if there is any conflict with ~~sections 71-1,351 to 71-1,361~~the Alcohol and Drug Counseling Practice Act, the provisions of ~~such sections~~ the act shall prevail.

Sec. 175. Sections 175 to 188 of this act shall be known and may be cited as the Athletic Training Practice Act.

Sec. 176. Section 71-1,238, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,238~~ For purposes of ~~sections 71-1,238 to 71-1,242~~the Athletic Training Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 177 to 181 of this act apply.~~:~~

~~(1) Athletic trainer means a person who is responsible for the prevention, emergency care, first aid, treatment, and rehabilitation of athletic injuries under guidelines established~~

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~~with a licensed physician and who is licensed to perform the functions set out in section 71-1,240. When athletic training is provided in a hospital outpatient department or clinic or an outpatient-based medical facility, the athletic trainer will perform the functions described in section 71-1,240 with a referral from a licensed physician for athletic training;~~

~~(2) Athletic training means the prevention, evaluation, emergency care, first aid, treatment, and rehabilitation of athletic injuries utilizing the treatments set out in section 71-1,240;~~

~~(3) Athletic injuries means the types of musculoskeletal injury or common illness and conditions which athletic trainers are educated to treat or refer, incurred by athletes, which prevent or limit participation in sports or recreation;~~

~~(4) Board means the Board of Athletic Training;~~

~~(5) Department means the Department of Health and Human Services Regulation and Licensure; and~~

~~(6) Practice site means the location where the athletic trainer practices athletic training.~~

Sec. 177. Athletic injuries means the types of musculoskeletal injury or common illness and conditions which athletic trainers are educated to treat or refer, incurred by athletes, which prevent or limit participation in sports or recreation.

Sec. 178. Athletic trainer means a person who is responsible for the prevention, emergency care, first aid, treatment, and rehabilitation of athletic injuries under guidelines

established with a licensed physician and who is licensed to perform the functions set out in section 182 of this act. When athletic training is provided in a hospital outpatient department or clinic or an outpatient-based medical facility, the athletic trainer will perform the functions described in section 182 of this act with a referral from a licensed physician for athletic training.

Sec. 179. Athletic training means the prevention, evaluation, emergency care, first aid, treatment, and rehabilitation of athletic injuries utilizing the treatments set out in section 182 of this act.

Sec. 180. Board means the Board of Athletic Training.

Sec. 181. Practice site means the location where the athletic trainer practices athletic training.

Sec. 182. (1) Athletic trainers shall be authorized to use the following physical modalities in the treatment of athletic injuries under guidelines established with a licensed physician:

(a) Application of electrotherapy;

(b) Application of ultrasound;

(c) Use of medical diathermies;

(d) Application of infrared light; and

(e) Application of ultraviolet light.

(2) The application of heat, cold, air, water, or exercise shall not be restricted by the Athletic Training Practice Act.

Sec. 183. Section 71-1,240, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-1,240~~ ~~(1)~~ No person shall be authorized to perform the physical modalities set out in ~~subsection~~ ~~(2)~~ ~~of~~ ~~this~~ section 182 of this act on any person unless he or she first obtains a license as an athletic trainer or unless such person is licensed as a physician, osteopathic physician, chiropractor, nurse, physical therapist, or podiatrist. No person shall hold himself or herself out to be an athletic trainer unless licensed under ~~sections~~ ~~71-1,238~~ ~~to~~ ~~71-1,242~~the Athletic Training Practice Act.

~~(2)~~ ~~Athletic~~ ~~trainers~~ ~~shall~~ ~~be~~ ~~authorized~~ ~~to~~ ~~use~~ ~~the~~ ~~following~~ ~~physical~~ ~~modalities~~ ~~in~~ ~~the~~ ~~treatment~~ ~~of~~ ~~athletic~~ ~~injuries~~ ~~under~~ ~~guidelines~~ ~~established~~ ~~with~~ ~~a~~ ~~licensed~~ ~~physician:~~

~~(a)~~ ~~Application~~ ~~of~~ ~~electrotherapy;~~

~~(b)~~ ~~Application~~ ~~of~~ ~~ultrasound;~~

~~(c)~~ ~~Use~~ ~~of~~ ~~medical~~ ~~diathermies;~~

~~(d)~~ ~~Application~~ ~~of~~ ~~infrared~~ ~~light;~~ ~~and~~

~~(e)~~ ~~Application~~ ~~of~~ ~~ultraviolet~~ ~~light.~~

~~(3)~~ ~~The~~ ~~application~~ ~~of~~ ~~heat,~~ ~~cold,~~ ~~air,~~ ~~water,~~ ~~or~~ ~~exercise~~ ~~shall~~ ~~not~~ ~~be~~ ~~restricted~~ ~~by~~ ~~sections~~ ~~71-1,238~~ ~~to~~ ~~71-1,242.~~

Sec. 184. Section 71-1,239.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,239.01~~ (1) An individual who accompanies an athletic team or organization from another state or jurisdiction as the athletic trainer is exempt from the licensure requirements of ~~sections~~ ~~71-1,238~~ ~~to~~ ~~71-1,242~~the Athletic Training Practice Act.

(2) An individual who is a graduate student in athletic training and who is practicing under the supervision of a licensed athletic trainer is exempt from the licensure requirements of the

Athletic Training Practice Act.

Sec. 185. Section 71-1,241, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,241~~ (1) ~~Except as provided in section 71-1,242, an~~ An applicant for licensure as an athletic trainer shall at the time of application provide proof to the department that he or she meets one or more of the following qualifications:

(a) Graduation after successful completion of the athletic training curriculum requirements of an accredited college or university approved by the ~~department~~board; or

(b) Graduation with a four-year degree from an accredited college or university and completion of at least two consecutive years, military duty excepted, as a student athletic trainer under the supervision of an athletic trainer approved by the board.

(2) In order to be licensed as an athletic trainer, an applicant shall, in addition to the requirements of subsection (1) of this section, successfully complete an examination approved by ~~the department on the recommendation of~~ the board.

Sec. 186. An applicant for licensure as an athletic trainer who has met the education and examination requirements in section 185 of this act, who passed the examination more than three years prior to the time of application for licensure, and who is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 48 of this act.

Sec. 187. An applicant for licensure as an athletic trainer who has met the requirements for endorsement in section 44 of this act but is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 48 of this act.

Sec. 188. The department shall establish and collect fees for initial licensure and renewal under the Athletic Training Practice Act as provided in sections 54 to 60 of this act.

Sec. 189. Sections 189 to 214 of this act shall be known and may be cited as the Audiology and Speech-Language Pathology Practice Act.

Sec. 190. Section 71-1,186, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,186 As used in sections 71-1,186 to 71-1,196~~ For purposes of the Audiology and Speech-Language Pathology Practice Act and elsewhere in the Uniform ~~Licensing Law~~Credentialing Act, unless the context otherwise requires, the definitions found in sections 191 to 196 of this act apply.~~:~~

~~(1) Board shall mean the Board of Audiology and Speech-Language Pathology;~~

~~(2) Practice of audiology shall mean the application of principles, methods, and procedures for testing, measuring, and monitoring hearing, preparation of ear impressions and selection of hearing aids, aural rehabilitation, hearing conservation,~~

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~~vestibular testing of patients when vestibular testing is done as a result of a referral by a physician, and instruction related to hearing and disorders of hearing for the purpose of preventing, identifying, evaluating, and minimizing the effects of such disorders and conditions but shall not include the practice of medical diagnosis, medical treatment, or surgery;~~

~~(3) Audiologist shall mean an individual who practices audiology and who presents himself or herself to the public by any title or description of services incorporating the words audiologist, hearing clinician, hearing therapist, or any similar title or description of services;~~

~~(4) Practice of speech-language pathology shall mean the application of principles, methods, and procedures for the evaluation, monitoring, instruction, habilitation, or rehabilitation related to the development and disorders of speech, voice, or language for the purpose of preventing, identifying, evaluating, and minimizing the effects of such disorders and conditions but shall not include the practice of medical diagnosis, medical treatment, or surgery;~~

~~(5) Speech-language pathologist shall mean an individual who presents himself or herself to the public by any title or description of services incorporating the words speech-language pathologist, speech therapist, speech correctionist, speech clinician, language pathologist, language therapist, language clinician, logopedist, communicologist, aphasiologist, aphasia therapist, voice pathologist, voice therapist, voice clinician, phoniatrist, or any similar title, term, or description of~~

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~~services; and~~

~~(6) Communication assistant shall mean any person who, following specified training and receiving specified supervision, provides specified limited structured communication services, which are developed and supervised by a licensed audiologist or speech-language pathologist, in the areas in which the supervisor holds licenses.~~

Sec. 191. Audiologist means an individual who practices audiology and who presents himself or herself to the public by any title or description of services incorporating the words audiologist, hearing clinician, or hearing therapist or any similar title or description of services.

Sec. 192. Board means the Board of Audiology and Speech-Language Pathology.

Sec. 193. Communication assistant means any person who, following specified training and receiving specified supervision, provides specified limited structured communication services, which are developed and supervised by a licensed audiologist or speech-language pathologist, in the areas in which the supervisor holds licenses.

Sec. 194. Practice of audiology means the application of principles, methods, and procedures for testing, measuring, and monitoring hearing, preparation of ear impressions and selection of hearing aids, aural rehabilitation, hearing conservation, vestibular testing of patients when vestibular testing is done as a result of a referral by a physician, and instruction related to hearing and disorders of hearing for the purpose of preventing,

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identifying, evaluating, and minimizing the effects of such disorders and conditions but shall not include the practice of medical diagnosis, medical treatment, or surgery.

Sec. 195. Practice of speech-language pathology means the application of principles, methods, and procedures for the evaluation, monitoring, instruction, habilitation, or rehabilitation related to the development and disorders of speech, voice, or language for the purpose of preventing, identifying, evaluating, and minimizing the effects of such disorders and conditions but does not include the practice of medical diagnosis, medical treatment, or surgery.

Sec. 196. Speech-language pathologist means an individual who presents himself or herself to the public by any title or description of services incorporating the words speech-language pathologist, speech therapist, speech correctionist, speech clinician, language pathologist, language therapist, language clinician, logopedist, communicologist, aphasiologist, aphasia therapist, voice pathologist, voice therapist, voice clinician, phoniatrist, or any similar title, term, or description of services.

Sec. 197. Membership on the board shall consist of four professional members and one public member appointed pursuant to section 61 of this act. The members shall meet the requirements of sections 67 and 68 of this act. Two of the professional members shall be audiologists, and two of the professional members shall be speech-language pathologists.

Sec. 198. Section 71-1,187, Reissue Revised Statutes of

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Nebraska, is amended to read:

~~71-1,187~~ Nothing in the ~~Uniform~~ ~~Licensing~~ ~~Law~~Audiology and Speech-Language Pathology Practice Act shall be construed to prevent or restrict:

(1) The practice of audiology or speech-language pathology or the use of the official title of such practice by a person employed as a speech-language pathologist or audiologist by the federal government;

(2) A physician from engaging in the practice of medicine and surgery or any individual from carrying out any properly delegated responsibilities within the normal practice of medicine and surgery under the supervision of a physician;

(3) A person licensed as a hearing aid fitter and dealer in this state from engaging in the fitting, selling, and servicing of hearing aids or performing such other duties as defined in ~~sections~~ ~~71-4701~~ ~~to~~ ~~71-4719~~the Hearing Aid Instrument Dispensers and Fitters Practice Act;

(4) The practice of audiology or speech-language pathology or the use of the official title of such practice by a person who holds a valid and current credential as a speech or hearing specialist issued by the State Department of Education, if such person performs speech-language pathology or audiology services solely as a part of his or her duties within an agency, institution, or organization for which no fee is paid directly or indirectly by the recipient of such service and under the jurisdiction of the State Department of Education, but such person may elect to be within the jurisdiction of ~~sections~~ ~~71-1,186~~ ~~to~~

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~~71-1,196~~the Audiology and Speech-Language Pathology Practice Act; or

(5) The clinical practice in audiology or speech-language pathology required for students enrolled in an accredited college or university pursuing a major in audiology or speech-language pathology, if such clinical practices are supervised by a person licensed to practice audiology or speech-language pathology and if the student is designated by a title such as trainee or other title clearly indicating the training status.

Sec. 199. Section 71-1,196, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,196~~ Any audiologist who engages in the sale of hearing aids shall not be exempt from ~~sections 71-4706 to 71-4711~~the Hearing Aid Instrument Dispensers and Fitters Practice Act.

Sec. 200. Section 71-1,188, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,188~~ Nothing in ~~sections 71-1,186 to 71-1,196~~ the Audiology and Speech-Language Pathology Practice Act shall be construed to prevent or restrict (1) a qualified person licensed in this state from engaging in the profession for which he or she is licensed if he or she does not present himself or herself to be an audiologist or speech-language pathologist or (2) the performance of audiology or speech-language pathology services in this state by any person not a resident of this state who is not licensed under ~~such sections~~the act, if such services are performed for not more than thirty days in any calendar year, if such person meets

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the qualifications and requirements for application for licensure under ~~such sections~~the act, if such person is working under the supervision of a person licensed to practice speech-language pathology or audiology, and if such person registers with the board prior to initiation of professional services.

Sec. 201. Section 71-1,189, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,189~~ Before any audiologist initiates any aural rehabilitation for an individual, the audiologist shall have in his or her possession evidence of a current otologic examination performed by a physician or the audiologist shall issue a written statement that the individual has been informed that he or she may have a medically or surgically remediable hearing loss and should seek the advice of a physician. The audiologist and the individual receiving aural rehabilitation shall sign the statement and a copy of the statement shall be provided to the individual. All vestibular testing performed by an audiologist shall be done at the referral of a physician and, whenever possible, at the referral of an otolaryngologist or neurologist.

Sec. 202. Section 71-1,190, Reissue Revised Statutes of Nebraska, as amended by section 1186 of this legislative bill, is amended to read:

~~71-1,190~~ (1) Every applicant for a license to practice audiology shall (a)(i) for applicants graduating prior to the operative date of this section, present proof of a master's degree, a doctoral degree, or the equivalent of a master's degree or doctoral degree in audiology from an academic program approved by

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the board, and (ii) for applicants graduating on or after the operative date of this section, present proof of a doctoral degree or its equivalent in audiology, (b) present proof of no less than thirty-six weeks of full-time professional experience or equivalent half-time professional experience in audiology, supervised in the area in which licensure is sought, and (c) successfully complete an examination approved by the board.

(2) Every applicant for a license to practice speech-language pathology shall (a) present proof of a master's degree, a doctoral degree, or the equivalent of a master's degree or doctoral degree in speech-language pathology from an academic program approved by the board, (b) present proof of no less than thirty-six weeks of full-time professional experience or equivalent half-time professional experience in speech-language pathology, supervised in the area in which licensure is sought, and (c) successfully complete an examination approved by the board.

(3) Presentation of official documentation of certification by a nationwide professional accrediting organization approved by the board shall be deemed equivalent to the requirements of this section.

Sec. 203. <u>An applicant for licensure to practice audiology or speech-language pathology who has met the education, professional experience, and examination requirements in section 202 of this act, who passed the examination more than three years prior to the time of application for licensure, and who is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the</u>

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three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 48 of this act.

Sec. 204. An applicant for licensure to practice audiology or speech-language pathology who has met the requirements for endorsement in section 44 of this act but is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 48 of this act.

Sec. 205. Section 71-1,194, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,194 (1)~~ A temporary license to practice audiology or speech-language pathology may be granted to persons who establish residence in Nebraska and ~~(a)~~ (1) who meet all the requirements for a license except passage of the examination required by section ~~71-1,190~~202 of this act, which temporary license shall be valid only until the date on which the results of the next licensure examination are available to the department and shall not be renewed, or ~~(b)~~ (2) who meet all the requirements for a license except completion of the professional experience required by section ~~71-1,190~~202 of this act, which temporary license shall be valid only until the sooner of completion of such professional experience or eighteen months and shall not be renewed.

~~(2) The department shall have the power to deny, revoke, limit, suspend, or otherwise discipline a temporary license to~~

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~~practice audiology or speech-language pathology upon the grounds and in accordance with the Uniform Licensing Law.~~

Sec. 206. Section 71-1,195.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,195.01~~ (1) Upon application and payment of the registration fee, the department shall register to practice as a communication assistant any person who:

(a) Is a graduate of an accredited high school or its equivalent;

(b) Has successfully completed all required training pursuant to sections ~~71-1,195.04 and 71-1,195.05~~ 208 and 209 of this act and any inservice training required pursuant to section ~~71-1,195.09~~213 of this act; and

(c) Has demonstrated ability to reliably maintain records and provide treatment under the supervision of a licensed audiologist or speech-language pathologist.

(2) Such registration shall be valid for one year from the date of issuance.

~~(3) The board shall, with the approval of the department, adopt and promulgate rules and regulations necessary to administer sections 71-1,195.01 to 71-1,195.09.~~

Sec. 207. Section 71-1,195.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,195.02~~ (1) The department, ~~upon~~with the recommendation of the board, shall approve an application submitted by an audiologist or speech-language pathologist for supervision for a communication assistant when:

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(a) The communication assistant meets the requirements for registration pursuant to section ~~71-1,195.01~~206 of this act;

(b) The audiologist or speech-language pathologist has a valid Nebraska license; and

(c) The audiologist or speech-language pathologist practices in Nebraska.

(2) Any audiologist or speech-language pathologist seeking approval for supervision of a communication assistant shall submit an application which is signed by the communication assistant and the audiologist or speech-language pathologist with whom he or she is associated. Such application shall (a) identify the settings within which the communication assistant is authorized to practice and (b) describe the agreed-upon functions that the communication assistant may perform as provided in section ~~71-1,195.06~~210 of this act.

(3) If the supervision of a communication assistant is terminated by the audiologist, speech-language pathologist, or communication assistant, the audiologist or speech-language pathologist shall notify the department of such termination. An audiologist or speech-language pathologist who thereafter assumes the responsibility for such supervision shall obtain a certificate of approval to supervise a communication assistant from the department prior to the use of the communication assistant in the practice of audiology or speech-language pathology.

Sec. 208. Section 71-1,195.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,195.04~~ Initial training for communication assistant

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shall consist of at least twelve hours and shall include:

(1) An overview of speech and language and the practice of audiology and speech-language pathology;

(2) Ethical and legal responsibilities;

(3) Normal language, speech, and hearing functions;

(4) Observing and recording patient progress;

(5) Behavior management and modification; and

(6) Record keeping.

Sec. 209. Section 71-1,195.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,195.05~~ In addition to the initial training required by section ~~71-1,195.04~~208 of this act, any communication assistant assigned to provide aural rehabilitation programs shall have additional training which shall include, but not be limited to:

(1) Information concerning the nature of hearing loss;

(2) Purposes and principles of auditory and visual training;

(3) Maintenance and use of amplification devices; and

(4) Such other subjects as the department may deem appropriate.

Sec. 210. Section 71-1,195.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,195.06~~ A communication assistant may, under the supervision of a licensed audiologist or speech-language pathologist, perform the following duties and activities:

(1) Implement programs and procedures designed by a licensed audiologist or speech-language pathologist which

develop or refine receptive and expressive verbal and nonverbal communication skills;

(2) Maintain records of implemented procedures which document a patient's responses to treatment;

(3) Provide input for interdisciplinary treatment planning, inservice training, and other activities directed by a licensed audiologist or speech-language pathologist;

(4) Prepare instructional material to facilitate program implementation as directed by a licensed audiologist or speech-language pathologist;

(5) Recommend speech, language, and hearing referrals for evaluation by a licensed audiologist or speech-language pathologist;

(6) Follow plans, developed by the licensed audiologist or speech-language pathologist, that provide specific sequences of treatment to individuals with communicative disorders; and

(7) Chart or log patient responses to the treatment plan.

Sec. 211. Section 71-1,195.07, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,195.07~~ A communication assistant shall not:

(1) Evaluate or diagnose any type of communication disorder;

(2) Interpret evaluation results or treatment progress;

(3) Consult or counsel, independent of the licensed audiologist or speech-language pathologist, with a patient, a patient's family, or staff regarding the nature or degree of communication disorders;

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(4) Plan patient treatment programs;

(5) Represent himself or herself as an audiologist or speech-language pathologist or as a provider of speech, language, or hearing treatment or assessment services; or

(6) Independently initiate, modify, or terminate any treatment program.

Sec. 212. Section 71-1,195.08, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,195.08~~ (1) When supervising the communication assistant, the supervising audiologist or speech-language pathologist shall:

(a) Provide direct onsite supervision for the first treatment session;

(b) Provide direct onsite supervision of at least twenty percent of all subsequent treatment sessions per quarter;

(c) Provide regular and frequent inservice training, either formal or informal, which is directly related to the particular services provided by the communication assistant; and

(d) Prepare semiannual performance evaluations of the communication assistant.

(2) The supervising audiologist or speech-language pathologist shall be responsible for all aspects of patient treatment.

Sec. 213. Section 71-1,195.09, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,195.09~~ The supervising audiologist or speech-language pathologist shall provide the communication

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assistant with an evaluation, supervision, and training, including at least ten hours each year of inservice training in areas related to the services provided by the communication assistant pursuant to section ~~71-1,195.08~~212 of this act. Such training shall be verified by annual reports to the department. The audiologist or speech-language pathologist shall keep accurate records of such evaluation, supervision, and training.

Sec. 214. The department shall establish and collect fees for initial licensure and registration and renewal of licensure and registration under the Audiology and Speech-Language Pathology Practice Act as provided in sections 54 to 60 of this act.

Sec. 215. Section 71-1738, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1738~~ Sections ~~71-1738~~ ~~to~~ ~~71-1765~~ 215 to 234 of this act shall be known and may be cited as the ~~Nebraska~~ Certified Nurse Midwifery Practice Act.

Sec. 216. Section 71-1739, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1739~~ The Legislature hereby finds and declares that the ~~Nebraska~~ Certified Nurse Midwifery Practice Act is necessary to safeguard public life, health, safety, and welfare, to assure the highest degree of professional conduct by practitioners of certified nurse midwifery, and to insure the availability of high quality midwifery services to persons desiring such services.

Sec. 217. Section 71-1740, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1740~~ For purposes of the ~~Nebraska~~ Certified Nurse

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Midwifery Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections ~~71-1743~~ ~~to~~ ~~71-1751~~ ~~shall~~ 218 to 224 of this act apply.

Sec. 218. Section 71-1749, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1749~~ Approved certified nurse midwifery education program ~~shall~~ ~~mean~~ means a certified nurse midwifery education program approved by the board. The board may ~~allow~~require such program to be accredited by the American College of Nurse-Midwives.

Sec. 219. Section 71-1743, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1743~~ Board ~~shall~~ ~~mean~~ means the Board of Advanced Practice Registered Nurses.

Sec. 220. Section 71-1748, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1748~~ Certified nurse midwife ~~shall~~ ~~mean~~ means a person certified ~~under~~ ~~the~~ ~~Nebraska~~ ~~Certified~~ ~~Nurse~~ ~~Midwifery~~by a board-approved certifying body and licensed under the Advanced Practice Registered Nurse Practice Act to practice certified nurse midwifery in the State of Nebraska. Nothing in the ~~act~~Certified Nurse Midwifery Practice Act is intended to restrict the practice of registered nurses.

Sec. 221. Section 71-1747, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1747~~ Collaboration ~~shall~~ ~~mean~~ means a process and relationship in which a certified nurse midwife works together with other health professionals to deliver health care within the

scope of practice of certified nurse midwifery as provided in the ~~Nebraska~~ Certified Nurse Midwifery Practice Act. The collaborative relationship between the physician and the nurse midwife shall be subject to the control and regulation of the board.

Sec. 222. Section 71-1746, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1746~~ Licensed practitioner ~~shall~~ ~~mean~~ means any physician licensed to practice pursuant to ~~section~~ ~~71-1,104~~the Medicine and Surgery Practice Act, whose practice includes obstetrics.

Sec. 223. Section 71-1750, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1750~~ Practice agreement ~~shall~~ ~~mean~~ means the written agreement authored and signed by the certified nurse midwife and the licensed practitioner with whom he or she is associated which:

(1) Identifies the settings within which the certified nurse midwife is authorized to practice;

(2) Names the collaborating licensed practitioner or, if more than one licensed practitioner is a party to such practice agreement, names all of the collaborating licensed practitioners;

(3) Defines or describes the medical functions to be performed by the certified nurse midwife, which are not inconsistent with the ~~Nebraska~~ Certified Nurse Midwifery Practice Act, as agreed to by the nurse midwife and the collaborating licensed practitioner; and

(4) Contains such other information as required by the board.

Sec. 224. Section 71-1751, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1751~~ Supervision ~~shall~~ ~~mean~~ means the ready availability of a collaborating licensed practitioner for consultation and direction of the activities of the certified nurse midwife related to delegated medical functions as outlined in the practice agreement.

Sec. 225. Section 71-1752, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1752~~ ~~The~~ ~~certificate~~ ~~to~~ ~~practice~~ ~~certified~~ ~~nurse~~ ~~midwifery~~ ~~shall~~ ~~authorize~~ ~~the~~ ~~holder~~A certified nurse midwife may, under the provisions of a practice agreement, ~~to~~ (1) attend cases of normal childbirth, (2) provide prenatal, intrapartum, and postpartum care, (3) provide normal obstetrical and gynecological services for women, and (4) provide care for the newborn immediately following birth. The conditions under which a certified nurse midwife ~~shall~~ is required to refer cases to a collaborating licensed practitioner shall be specified in the practice agreement.

Sec. 226. Section 71-1765, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1765~~ The ~~Nebraska~~ Certified Nurse Midwifery Practice Act shall not prohibit the performance of the functions of a certified nurse midwife by an ~~uncertified~~ unlicensed person if performed:

(1) In an emergency situation;

(2) By a legally qualified person from another state employed by the United States Government and performing official

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duties in this state; or

(3) By a person enrolled in an approved program for the preparation of certified nurse midwives as part of such approved program.

Sec. 227. Section 71-1753, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1753~~ (1) The specific medical functions to be performed by a certified nurse midwife within the scope of permitted practice ~~defined by section 71-1752~~ prescribed by section 225 of this act shall be described in the practice agreement which shall be reviewed and approved by the board. A copy of the agreement shall be maintained on file with the board as a condition of lawful practice under the ~~Nebraska~~ Certified Nurse Midwifery Practice Act.

(2) A certified nurse midwife shall perform the functions detailed in the practice agreement only under the supervision of the licensed practitioner responsible for the medical care of the patients described in the practice agreement. If the collaborating licensed practitioner named in the practice agreement becomes temporarily unavailable, the certified nurse midwife may perform the authorized medical functions only under the supervision of another licensed practitioner designated as a temporary substitute for that purpose by the collaborating licensed practitioner.

(3) A certified nurse midwife may perform authorized medical functions only in the following settings:

(a) In a licensed or certified health care facility as an employee or as a person granted privileges by the facility;

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(b) In the primary office of a licensed practitioner or in any setting authorized by the collaborating licensed practitioner, except that a certified nurse midwife shall not attend a home delivery; or

(c) Within an organized public health agency.

(4) The department shall, after consultations with the board, adopt and promulgate rules and regulations to carry out the ~~Nebraska~~ Certified Nurse Midwifery Practice Act.

Sec. 228. Section 71-1754, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1754~~ If a certified nurse midwife intends to alter his or her practice status by reason of a change in the setting, supervision by a different licensed practitioner, modification of the authorized medical functions, or for any other reason, he or she shall submit a new or amended practice agreement to the board for approval before any change may be permitted.

Sec. 229. Section 71-1755, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1755~~ (1) An applicant for ~~certification~~ licensure under the Advanced Practice Registered Nurse Practice Act as a certified nurse midwife shall submit ~~to the board a written application, which includes the applicant's social security number, and~~ such evidence as the board ~~shall require~~ requires showing that the applicant is currently licensed as a registered nurse by the state or has the authority based on the Nurse Licensure Compact to practice as a registered nurse in Nebraska, has successfully completed an approved certified nurse midwifery education program,

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and ~~has passed a nationally recognized nurse midwifery examination adopted by the board~~is certified as a nurse midwife by a board-certifying body.

(2) The department may, with the approval of the board, grant temporary ~~certification~~ licensure as a certified nurse midwife for up to one hundred twenty days upon application (a) to graduates of an approved nurse midwifery program pending results of the first certifying examination following graduation and (b) ~~for one hundred twenty days~~ to nurse midwives currently licensed in another state pending completion of the application for a Nebraska ~~certification~~license. A temporary ~~permit~~ license issued pursuant to this section may be extended for up to one year with the approval of the board.

(3) ~~The board shall adopt an examination to be used pursuant to subsection (1) of this section~~An individual holding a temporary certificate or permit as a nurse midwife on December 1, 2008, shall be deemed to be holding a temporary license under this section on such date. The permitholder may continue to practice under such temporary certificate or permit as a temporary license until it would have expired under its terms.

(4) If more than five years have elapsed since the completion of the nurse midwifery program or since the applicant has practiced as a nurse midwife, the applicant shall meet the requirements in subsection (1) of this section and provide evidence of continuing competency, as may be determined by the board, either by means of a reentry program, references, supervised practice, examination, or one or more of the continuing competency activities

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listed in section ~~71-161.09~~48 of this act.

Sec. 230. Section 71-1757, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1757 (1) The certificate of each person certified under the Nebraska Certified Nurse Midwifery Practice Act shall be renewed at the same time and in the same manner as renewal of a license for a registered nurse. Renewal of such a certificate shall require that~~To renew a license as a certified nurse midwife, the applicant shall have ~~(a)~~ a current certification by a board-approved certifying body to practice nurse midwifery.~~license as a registered nurse issued by the state or the authority based on the Nurse Licensure Compact to practice as a registered nurse in Nebraska and (b) documentation of continuing competency, either by reference, peer review, examination, or one or more of the continuing competency activities listed in section 71-161.09, as established by the board in rules and regulations approved by the board and adopted and promulgated by the department.~~

~~(2) The department shall establish and collect fees for renewal as provided in section 71-162.~~

Sec. 231. Section 71-1758, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1758 (1)~~ A certified nurse midwife's ~~certificate lapses~~ license expires if he or she ~~(a)~~ does not ~~have a current~~renew his or her license to practice as a registered nurse or is not authorized to practice as a registered nurse in this state under the Nurse Licensure Compact.~~an advanced practice registered nurse or has had his or her license to practice as a~~

~~registered nurse or an advanced practice registered nurse denied, refused renewal, suspended, or revoked or (b) renews such licenses to practice but does not renew his or her certified nurse midwife's certificate.~~

~~(2) When a certificate to practice as a certified nurse midwife lapses, the right of the person whose certificate has lapsed to represent himself or herself as a certified nurse midwife and to practice the activities for which a certificate is required terminates. To restore the certificate to active status, the person shall meet the requirements for renewal which are in effect at the time that he or she wishes to restore the certificate and shall pay the renewal fee and the late fee established and collected as provided in section 71-162.~~

Sec. 232. INTENTIONALLY LEFT BLANK

Sec. 233. Section 71-1756, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1756~~ Any person who holds a ~~certificate~~ license to practice nurse midwifery in this state shall have the right to use the title certified nurse midwife and the abbreviation CNM. No other person shall use such title or abbreviation to indicate that he or she is ~~certified under the Nebraska Certified Nurse Midwifery Practice Act~~licensed under the Advanced Practice Registered Nurse Practice Act to practice certified nurse midwifery.

Sec. 234. Section 71-1763, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1763~~ Nothing in the ~~Nebraska~~ Certified Nurse Midwifery Practice Act shall be interpreted to permit independent practice.

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Sec. 235. Section 71-1728, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1728 This section and sections 71-1729 to 71-1737~~ Sections 235 to 246 of this act shall be known and may be cited as the Certified Registered Nurse Anesthetist Practice Act.

Sec. 236. For purposes of the Certified Registered Nurse Anesthetist Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 237 to 240 of this act apply.

Sec. 237. Board means the Board of Advanced Practice Registered Nurses.

Sec. 238. Certified registered nurse anesthetist means a licensed registered nurse certified by a board-approved certifying body and licensed under the Advanced Practice Registered Nurse Practice Act to practice as a certified registered nurse anesthetist in the State of Nebraska.

Sec. 239. Licensed practitioner means any physician or osteopathic physician licensed to prescribe, diagnose, and treat as prescribed in the Medicine and Surgery Practice Act.

Sec. 240. Section 71-1729, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1729 For purposes of the Certified Registered Nurse Anesthetist Act, unless the context otherwise requires:~~

~~(1) Board means the Board of Advanced Practice Registered Nurses;~~

~~(2) Certified registered nurse anesthetist means a licensed registered nurse holding a certificate issued under the~~

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~~act;~~

~~(3) Department means the Department of Health and Human Services Regulation and Licensure;~~

~~(4) Licensed practitioner means any physician or osteopathic physician licensed to prescribe, diagnose, and treat as prescribed in sections 71-1,102 and 71-1,137; and~~

~~(5)~~ (1) Practice of anesthesia means (a) the performance of or the assistance in any act involving the determination, preparation, administration, or monitoring of any drug used to render an individual insensible to pain for procedures requiring the presence of persons educated in the administration of anesthetics or (b) the performance of any act commonly the responsibility of educated anesthesia personnel. Practice of anesthesia includes the use of those techniques which are deemed necessary for adequacy in performance of anesthesia administration.

(2) Nothing in the Certified Registered Nurse Anesthetist Practice Act (a) prohibits routine administration of a drug by a duly licensed registered nurse, licensed practical nurse, or other duly authorized person for the alleviation of pain or (b) prohibits the practice of anesthesia by students enrolled in an accredited school of nurse anesthesia when the services performed are a part of the course of study and are under the supervision of a licensed practitioner or certified registered nurse anesthetist.

Sec. 241. Section 71-1730, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1730 In order to obtain a certificate from the department~~(1) An applicant for a license under the Advanced

Practice Registered Nurse Practice Act as a certified registered nurse anesthetist ~~an applicant~~ shall:

~~(1)~~ (a) Hold a license as a registered nurse in the State of Nebraska or have the authority based on the Nurse Licensure Compact to practice as a registered nurse in Nebraska;

~~(2) Submit a completed application verified by oath which includes the applicant's social security number;~~

~~(3) Pay the required fee established and collected as provided in section 71-162;~~

~~(4)~~ (b) Submit evidence of successful completion of a course of study in anesthesia in a school of nurse anesthesia accredited or approved by or under the auspices of the department or the Council on Accreditation of Nurse Anesthesia and Educational Programs; and

~~(5) Take and successfully pass a certifying examination approved by the department after prior approval of such examination by the board. Such examination may include (a) the National Qualifying Examination for Certified Registered Nurse Anesthetists or (b) any other approved recognized national qualifying examination for nurse anesthetists~~Submit evidence of current certification by the Council on Certification of Nurse Anesthetists.

(2) If more than five years have elapsed since the applicant completed the nurse anesthetist program or since the applicant has practiced as a nurse anesthetist, he or she shall meet the requirements of ~~subdivisions (1) through (5)~~ subsection (1) of this section and shall provide evidence of continuing

competency as determined by the board, including, but not limited to, a reentry program, supervised practice, examination, or one or more of the continuing competency activities listed in section ~~71-161.09~~48 of this act.

Sec. 242. Section 71-1731, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1731~~ The department may, with the ~~prior~~ approval of the board, ~~may~~ grant a temporary ~~certification~~ license in the practice of anesthesia for ~~a period of not to exceed one year and under such conditions as the board with the approval of the department determines for~~up to one hundred twenty days upon application (a) to graduates of an accredited school of nurse anesthesia~~.~~ ~~The permit may be issued upon application by the graduate for~~ pending results of the first certifying examination following ~~his or her~~ graduation ~~and shall be valid pending the results of such examination. Temporary certification may also be granted for a period not to exceed one year~~and (b) to registered nurse anesthetists currently licensed in another state pending completion of the application for a Nebraska ~~certification~~license. A temporary ~~permit~~ license issued pursuant to this section may be extended at the discretion of the board with the approval of the department. An individual holding a temporary permit as a registered nurse anesthetist on December 1, 2008, shall be deemed to be holding a temporary license under this section on such date. The permitholder may continue to practice under such temporary permit as a temporary license until it would have expired under its terms.

Sec. 243. Section 71-1735, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1735 The procedure for biennial certification renewal~~To renew a license as a certified registered nurse anesthetist, the applicant shall have current certification by a board-approved certifying body in the practice of anesthesia. ~~shall be at the same time and in the same manner as renewal of a license as a registered nurse and shall require:(1) A license as a registered nurse in the State of Nebraska or the authority based on the Nurse Licensure Compact to practice as a registered nurse in Nebraska;~~

~~(2) Documentation of continuing competency as required by the board in rules and regulations approved by the board and adopted and promulgated by the department. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a person may select as an alternative to continuing education; and~~

~~(3) Payment of the required fee established and collected as provided in section 71-162.~~

Sec. 244. Section 71-1736.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1736.02 (1)~~ A certified registered nurse anesthetist's ~~certificate lapses~~ license expires if he or she ~~(a)~~ does not ~~have a~~renew his or her license to practice as a registered nurse or is not authorized to practice as a registered nurse in this state

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under the Nurse Licensure Compact.~~an advanced practice registered nurse or has had such license denied, refused renewal, suspended, or revoked or (b) renews his or her license to practice as a registered nurse or an advanced practice registered nurse but does not renew his or her certified registered nurse anesthetist's certificate.~~

~~(2) When a certified registered nurse anesthetist's certificate lapses, the right of the person whose certificate has lapsed to represent himself or herself as a certified registered nurse anesthetist and to practice the activities for which a certificate is required terminates. To restore the certificate to active status, the person shall meet the requirements for renewal which are in effect at the time that he or she wishes to restore the certificate and shall pay the renewal fee and the late fee established and collected as provided in section 71-162.~~

Sec. 245. INTENTIONALLY LEFT BLANK

Sec. 246. Section 71-1734, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1734~~ (1) The determination and administration of total anesthesia care shall be performed by the certified registered nurse anesthetist or a nurse anesthetist temporarily ~~certified~~ licensed pursuant to section ~~71-1731~~ 242 of this act in consultation and collaboration with and with the consent of the licensed practitioner.

(2) The following duties and functions shall be considered as specific expanded role functions of the certified registered nurse anesthetist:

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(a) Preanesthesia evaluation including physiological studies to determine proper anesthetic management and obtaining informed consent;

(b) Selection and application of appropriate monitoring devices;

(c) Selection and administration of anesthetic techniques;

(d) Evaluation and direction of proper postanesthesia management and dismissal from postanesthesia care; and

(e) Evaluation and recording of postanesthesia course of patients.

(3) The determination of other duties that are normally considered medically delegated duties to the certified registered nurse anesthetist or to a nurse anesthetist temporarily ~~certified~~ licensed pursuant to section ~~71-1731~~ 242 of this act shall be the joint responsibility of the governing board of the hospital, medical staff, and nurse anesthetist personnel of any duly licensed hospital or, if in an office or clinic, the joint responsibility of the duly licensed practitioner and nurse anesthetist. All such duties, except in cases of emergency, shall be in writing in the form prescribed by hospital or office policy.

Sec. 247. Sections 247 to 257 of this act shall be known and may be cited as the Chiropractic Practice Act.

Sec. 248. For purposes of the Chiropractic Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 249 to 251 of this act apply.

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Sec. 249. Section 71-180, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-180~~ An accredited college of chiropractic ~~within the meaning of the Uniform Licensing Law shall be~~ means (1) one which is ~~recognized by the department upon the recommendation of the Board of Chiropractic~~approved by the board, (2) ~~a legally chartered college of chiropractic requiring for admission a diploma from an accredited high school or its equivalent and, beginning with students entering a college of chiropractic on or after January 1, 1974, at least two years credit from an accredited college or university of this or some other state, which requirement shall be regularly published in each prospectus or catalog issued by such institution, (3)~~ one which conducts a clinic for patients in which its students are required to regularly participate in the care and adjustment of patients, ~~(4)~~(3) one giving instruction in anatomy, orthopedics, physiology, embryology, chemistry, pathology, health ecology, bacteriology, symptomatology, histology, spinal analysis, diagnosis, roentgenology, neurology, and principles and practice of chiropractic, and ~~(5)~~(4) one requiring an actual attendance for four college years totaling not less than four thousand hours.

Sec. 250. Board means the Board of Chiropractic.

Sec. 251. Section 71-177, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-177 For purposes of the Uniform Licensing Law, the practice of chiropractic is defined as being~~ (1) Practice of chiropractic means one or a combination of the following, without the use of drugs or surgery: ~~(1)~~

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(a) The diagnosis and analysis of the living human body for the purpose of detecting ailments, disorders, and disease by the use of diagnostic X-ray, physical and clinical examination, and routine procedures including urine analysis; or ~~(2) the~~

(b) The science and art of treating human ailments, disorders, and disease by locating and removing any interference with the transmission and expression of nerve energy in the human body by chiropractic adjustment, chiropractic physiotherapy, and the use of exercise, nutrition, dietary guidance, and colonic irrigation.

(2) The use of X-rays beyond the axial skeleton as described in subdivision (1)(a) of this section shall be solely for diagnostic purposes and shall not expand the practice of chiropractic to include the treatment of human ailments, disorders, and disease not permitted when the use of X-rays was limited to the axial skeleton.

Sec. 252. Section 71-178, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-178 Section 71-177~~ The Chiropractic Practice Act shall not be construed to include the following classes of persons:

(1) Licensed physicians and surgeons and licensed osteopathic physicians who are exclusively engaged in the practice of their respective professions;

(2) ~~physicians~~ Physicians of the United States Army, Navy, or Public Health Service when acting in the line of duty in this state;

(3) ~~chiropractors~~ Chiropractors licensed in another state

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when incidentally called into this state in consultation with a chiropractor licensed in this state; or

(4) ~~students~~ Students enrolled in an accredited college of chiropractic when the services performed are a part of the course of study and are under the direct supervision of a licensed chiropractor.

Sec. 253. Section 71-179, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-179~~ Every applicant for a license to practice chiropractic shall ~~(1)~~ present proof of graduation from an accredited college of chiropractic and ~~(2)~~ (1) pass an examination ~~which consists of the following components: (a) Parts I and II of the examination given by the National Board of Chiropractic Examiners; (b) the written Clinical Competency Test~~ given by the National Board of Chiropractic Examiners~~;~~ ~~and (c) the practical examination given~~ which consists of Parts I, II, III, IV, and physiotherapy or (2) pass an examination approved by the Board of Chiropractic.

Sec. 254. An applicant for licensure to practice chiropractic who has met the education and examination requirements in section 253 of this act, who passed the examination more than three years prior to the time of application for licensure, and who is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 48 of this act.

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Sec. 255. Section 71-181, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-181 The Department of Health and Human Services Regulation and Licensure may in its discretion dispense with the examination in case of a chiropractor duly authorized to practice chiropractic in any other state, territory, or the District of Columbia, maintaining standards established by law or by duly authorized rules, equal to those of Nebraska, and who presents a certificate or license based on written examination issued by the proper authority of such other state, territory, or the District of Columbia.~~The board may adopt rules and regulations that set out the standards to obtain a license by endorsement when an applicant has not practiced for more than two years.

Sec. 256. The department shall establish and collect fees for initial licensure and renewal under the Chiropractic Practice Act as provided in sections 54 to 60 of this act.

Sec. 257. Section 71-182, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-182~~ Chiropractic practitioners shall observe and be subject to all state and municipal laws and regulations relative to the control of contagious and infectious diseases, and all matters pertaining to public health. They shall report to the proper health officers the same as other practitioners. Chiropractic practitioners may sign death certificates. When performing acupuncture, a chiropractor licensed under the Uniform ~~Licensing Law~~ Credentialing Act shall provide the same standard of care to patients as that provided by a person licensed under the

Uniform ~~Licensing~~ ~~Law~~ Credentialing Act to practice medicine and surgery, osteopathy, or osteopathic medicine and surgery when such person performs acupuncture.

Sec. 258. Section 71-17,117, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-17,117~~ Sections ~~71-17,117~~ ~~to~~ ~~71-17,130~~ 258 to 268 of this act shall be known and may be cited as the Clinical Nurse Specialist Practice Act.

Sec. 259. For purposes of the Clinical Nurse Specialist Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 260 to 262 of this act apply.

Sec. 260. Section 71-17,118, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-17,118~~ ~~For~~ ~~purposes~~ ~~of~~ ~~the~~ ~~Clinical~~ ~~Nurse~~ ~~Specialist~~ ~~Practice~~ ~~Act:~~

~~(1)~~ Approved certifying body means a national certification organization which ~~(a)~~ (1) is approved by the board, ~~(b)~~ (2) certifies qualified licensed registered nurses for advanced practice, ~~(c)~~ (3) has eligibility requirements related to education and practice, and ~~(d)~~ (4) offers an examination in an area of practice which meets psychometric guidelines and tests approved by the board.~~;~~

~~(2)~~ ~~Board~~ ~~means~~ ~~the~~ ~~Board~~ ~~of~~ ~~Advanced~~ ~~Practice~~ ~~Registered~~ ~~Nurses;~~

~~(3)~~ ~~Clinical~~ ~~nurse~~ ~~specialist~~ ~~means~~ ~~a~~ ~~registered~~ ~~nurse~~ ~~who~~ ~~meets~~ ~~the~~ ~~requirements~~ ~~of~~ ~~section~~ ~~71-17,119~~ ~~and~~ ~~who~~ ~~holds~~ ~~a~~

~~certificate issued under the Clinical Nurse Specialist Practice Act; and~~

~~(4) Department means the Department of Health and Human Services Regulation and Licensure.~~

Sec. 261. Board means the Board of Advanced Practice Registered Nurses.

Sec. 262. Clinical nurse specialist means a registered nurse certified as described in section 265 of this act and licensed under the Advanced Practice Registered Nurse Practice Act to practice as a clinical nurse specialist in the State of Nebraska.

Sec. 263. Section 71-17,120, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-17,120~~ The practice of a clinical nurse specialist includes health promotion, health supervision, illness prevention, and disease management, including assessing patients, synthesizing and analyzing data, and applying advanced nursing practice. A clinical nurse specialist conducts and applies research, advocates, serves as an agent of change, engages in systems management, and assesses and intervenes in complex health care problems within the selected clinical specialty.

Sec. 264. Section 71-17,128, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-17,128~~ The Clinical Nurse Specialist Practice Act does not prohibit the performance of the professional activities of a clinical nurse specialist by a person not holding a ~~certificate~~license issued under the act if performed:

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(1) In an emergency situation;

(2) By a legally qualified person from another state employed by the United States and performing official duties in this state; or

(3) By a person enrolled in an approved clinical nurse specialist program for the education of clinical nurse specialists as part of that approved program.

Sec. 265. Section 71-17,119, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-17,119~~ An applicant for ~~certification~~ licensure under the Advanced Practice Registered Nurse Practice Act as a clinical nurse specialist shall be licensed as a registered nurse under the Nurse Practice Act or have the authority based on the Nurse Licensure Compact to practice as a registered nurse in Nebraska and shall submit to the department the following:

~~(1) A completed application, including, but not limited to, the applicant's social security number and such other information as the department requires pursuant to rules and regulations, accompanied by the fee established pursuant to section 71-17,130;~~

~~(2)~~ (1) Evidence that the applicant holds a ~~master's degree or a doctoral~~ graduate degree in a nursing clinical specialty area or has a ~~master's~~ graduate degree in nursing and has successfully completed a graduate-level clinical nurse specialist education program; and

~~(3) Except as provided in section 71-17,121, evidence~~ (2) Evidence of ~~passage of a board-approved examination~~

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~~issued~~certification by an approved certifying body or, when such ~~examination~~certification is not available, an alternative method of competency assessment by any means ~~permitted under section 71-17,124 and~~ approved by the board.

Sec. 266. To renew a license as a clinical nurse specialist, the applicant shall have current certification by an approved certifying body as a clinical nurse specialist.

Sec. 267. Section 71-17,126, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-17,126 (1)~~ A ~~certificate~~ license issued under the Clinical Nurse Specialist Practice Act ~~lapses if the certificate holder (a)~~ expires if the licensee does not ~~have a current~~ renew his or her license to practice as a registered nurse or ~~an advanced practice registered nurse or the authority~~ is not authorized to practice as a registered nurse in this state based on the Nurse Licensure Compact. ~~or has had either license or such authority to practice denied, refused renewal, suspended, or revoked or (b) renews his or her license to practice as a registered nurse or an advanced practice registered nurse but does not renew his or her clinical nurse specialist's certificate.~~

~~(2) When a certificate issued under the act lapses, the right of the person whose certificate has lapsed to represent himself or herself as a clinical nurse specialist and to practice the activities for which a certificate is required terminates. To restore the certificate to active status, the person shall meet the requirements for renewal which are in effect at the time that he or she wishes to restore the certificate and shall pay the renewal fee~~

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~~and the late fee established and collected as provided in section 71-162.~~

Sec. 268. Section 71-17,121, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-17,121 (1) An applicant who meets the requirements for certification in section 71-17,119 shall be certified by the department as a clinical nurse specialist, except that a person practicing as a clinical nurse specialist pursuant to the Nurse Practice Act on July 1, 2007, who applies on or after such date and before September 1, 2007, shall be certified as a clinical nurse specialist under this section without complying with subdivision (3) of section 71-17,119.~~

~~(2)~~ A person ~~certified~~licensed as a clinical nurse specialist has the right to use the title Clinical Nurse Specialist and the abbreviation CNS.

Sec. 269. Section 71-340, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-340~~ Sections ~~71-340 to 71-3,238~~ 269 to 439 of this act shall be known and may be cited as the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act.

Sec. 270. Section 71-341, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-341~~ The Legislature finds that: (1) A great number of Nebraska citizens regularly demand and receive cosmetology, nail technology, esthetics, electrology, and body art services; (2) the practices of cosmetology, nail technology, esthetics, electrology, and body art involve the use of implements and

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chemicals that, if used or applied improperly, can be hazardous to human health and safety; (3) inadequate sanitation in the practice of cosmetology, nail technology, esthetics, electrology, or body art can encourage the spread of contagious diseases, infections, and infestations to the detriment of the health and safety of the public; (4) the knowledge of proper sanitation techniques and the proper use of implements and chemicals can best be gained by rigorous and extensive training in cosmetology, nail technology, and esthetics at institutions operated exclusively for such purposes; (5) the need of the public to be served by well-trained persons and the need of cosmetology, nail technology, and esthetics students to receive an appropriate education can best be met through the enactment of standards for the approval of schools of cosmetology, nail technology schools, and schools of esthetics; (6) the effectiveness of cosmetology, nail technology, esthetics, or electrology training and the competency to practice can best be demonstrated by the passage of an impartially administered examination before a person is permitted to practice; (7) continuing competency can best be demonstrated by participation in continuing competency activities; (8) the establishment and maintenance of a safe environment in places where cosmetology, nail technology, esthetics, electrology, or body art is practiced can best be ensured through the establishment of operating and sanitary requirements for the safe and sanitary operation of such places; (9) the protection of the health and safety of its citizens is a principal concern and duty of the State of Nebraska; and (10) the reasonable regulation and limitation of a field of practice or

occupation for the purpose of protecting the health and safety of the public is a legitimate and justified exercise of the police power of the state.

Sec. 271. Section 71-342, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-342~~ The Legislature declares its intent to implement the findings specified in section ~~71-341~~ 270 of this act through the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, to regulate the practices and professions of cosmetology, nail technology, esthetics, electrology, and body art and cosmetology, nail technology, esthetics, and body art education in all forms, to limit the practice and teaching of cosmetology, nail technology, esthetics, or body art to persons and institutions as stipulated in the ~~Nebraska Cosmetology Act~~act, and to penalize persons violating ~~such~~ the act. The Legislature directs that all interpretations of the act be made with full cognizance of the findings and intentions expressed in this section and section ~~71-341~~270 of this act.

Sec. 272. Section 71-343, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-343~~ For purposes of the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections ~~71-344 to 71-372 shall be used~~273 to 324 of this act apply.

Sec. 273. Section 71-344, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-344~~ Apprentice ~~shall~~ ~~mean~~ means a person registered under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to engage in the study of any or all of the practices of cosmetology under the supervision of an instructor in an apprentice salon.

Sec. 274. Section 71-345, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-345~~ Apprentice salon ~~shall~~ ~~mean~~ means a cosmetology salon licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to serve as the site for the teaching of any or all of the practices of cosmetology to apprentices.

Sec. 275. Section 71-346, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-346~~ Board ~~shall~~ ~~mean~~ means the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art.~~Examiners.~~

Sec. 276. Section 71-346.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-346.01~~ Body art means body piercing, branding, permanent color technology, and tattooing.

Sec. 277. Section 71-346.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-346.02~~ Body art facility means any room or space or any part thereof where body art is performed or where the business of body art is conducted.

Sec. 278. Section 71-346.03, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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~~71-346.03~~ Body piercing means puncturing the skin of a person by aid of needles or other instruments designed or used to puncture the skin for the purpose of inserting removable jewelry or other objects through the human body, except that body piercing does not include puncturing the external part of the human earlobe.

Sec. 279. Section 71-346.04, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-346.04~~ Branding means a permanent mark made on human tissue by burning with a hot iron or other instrument.

Sec. 280. Section 71-347, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-347~~ Charitable administration means the performance of any or all of the practices of cosmetology or nail technology without compensation for the benefit of charitable purposes or organizations.

Sec. 281. Section 71-348, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-348~~ Cosmetic establishment means a fixed structure or part thereof licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to serve as the site for the retail sale of cosmetics or other esthetics products when such activity includes any application of the products to customers other than self-application.

Sec. 282. Section 71-349, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-349~~ Cosmetician ~~shall~~ ~~mean~~means a person registered under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail

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Technology, and Body Art Practice Act to apply cosmetics.

Sec. 283. Section 71-350, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-350~~ Cosmetologist ~~shall~~ ~~mean~~ means a person licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to perform all of the practices of cosmetology.

Sec. 284. Section 71-351, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-351~~ Cosmetology means the practice of performing for compensation any or all (1) of the acts of arranging, dressing, curling, waving, cleansing, cutting, bleaching, coloring, styling, or similar work upon the hair, wig, wiglet, or hairpiece of any person, by any means, with hands or a mechanical or electrical apparatus or appliance; (2) esthetics; (3) nail technology; and (4) other similar practices upon the hair, scalp, face, neck, arms, hands, feet, or nails of any person when performed for the purpose of beautifying or enhancing physical appearance or the teaching of any practice specified in this section for occupational purposes.

Sec. 285. Section 71-352, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-352~~ Cosmetology establishment means a cosmetology salon, esthetics salon, school of cosmetology, school of esthetics, apprentice salon, cosmetic establishment, or any other place in which any or all of the practices of cosmetology are performed on members of the general public for compensation or in which instruction or training in any or all of the practices of

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cosmetology is given, except when such practices constitute nonvocational training.

Sec. 286. Section 71-353, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-353~~ Cosmetology salon ~~shall~~ ~~mean~~means a fixed structure or part thereof licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to serve as the site for the performance of any or all of the practices of cosmetology by persons licensed or registered under such act.

Sec. 287. Section 71-356, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-356~~ Domestic administration means the performance of any or all of the practices of cosmetology or nail technology upon members of a person's immediate family.

Sec. 288. Section 71-356.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-356.01~~ Electrologist ~~shall~~ ~~mean~~means a person who engages in the practice of electrolysis for permanent hair removal.

Sec. 289. Section 71-356.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-356.02~~ Electrology ~~shall~~ ~~mean~~ means the art and practice relating to the removal of hair from normal skin of the human body by electrolysis.

Sec. 290. Section 71-356.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-356.03~~ Electrology establishment ~~shall~~ ~~mean~~ means a

fixed structure or part thereof or any other place in which any or all of the practices of electrology are performed on members of the general public for compensation or where instruction or training in electrology is performed except when such training is nonvocational training.

Sec. 291. Section 71-356.04, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-356.04~~ Electrology instructor means a person licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to teach any or all of the practices of electrology.

Sec. 292. Section 71-356.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-356.05~~ Electrolysis ~~shall~~ ~~mean~~means the permanent removal of hair by the application of an electrical current to the dermal papilla by a filament to cause decomposition, coagulation, or dehydration within the hair follicle by means of short wave or galvanic current or the blend, as approved by the federal Food and Drug Administration.

Sec. 293. Section 71-357, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-357~~ Esthetician means a person licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to perform all of the practices of esthetics.

Sec. 294. Section 71-357.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-357.01~~ Esthetics means the practice for compensation

of using an electrical or mechanical apparatus or appliance or applying and using cosmetic preparations, antiseptics, chemicals, tonics, lotions, creams, or other similar products upon the skin for personal beauty care.

Sec. 295. Section 71-357.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-357.02~~ Esthetics instructor means a person licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to teach any or all of the practices of esthetics in a school of cosmetology or a school of esthetics.

Sec. 296. Section 71-357.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-357.03~~ Esthetics salon means a fixed structure or part thereof licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to serve as the site for the performance of any or all of the practices of esthetics by persons licensed or registered under such act.

Sec. 297. Section 71-358, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-358~~ Guest artist ~~shall~~ ~~mean~~ means a person registered under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to demonstrate cosmetology products or procedures for the purpose of imparting professional knowledge and information to persons licensed or registered under the ~~Nebraska~~ ~~Cosmetology~~ ~~Act~~the act or to persons owning or operating licensed cosmetology establishments under the sponsorship

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of a licensed cosmetology establishment or a cosmetologist licensed in Nebraska.

Sec. 298. Section 71-358.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-358.01~~ Guest body artist means a person registered under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to demonstrate body art products or procedures for the purpose of imparting professional knowledge and information to persons licensed in this state to perform body art or to persons owning or operating a licensed body art facility under the sponsorship of a licensed body art facility or a person licensed in this state to perform body art.

Sec. 299. Section 71-359, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-359~~ Instructor ~~shall~~ ~~mean~~ means a person licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to teach any or all of the practices of cosmetology in a school of cosmetology or an apprentice salon.

Sec. 300. Section 71-360, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-360~~ Jurisdiction ~~shall~~ ~~mean~~ means the District of Columbia and any state, territory, or possession of the United States of America.

Sec. 301. Section 71-360.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-360.01~~ Manicuring means the practice of performing

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any or all of the acts of cutting, shaping, trimming, polishing, coloring, tinting, cleansing, reshaping, or other similar cosmetic or sanitary acts on the natural fingernails or toenails of a person but does not include the practice of nail technology.

Sec. 302. Section 71-361.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-361.01~~ Nail technician means a person licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to perform the practices of nail technology.

Sec. 303. Section 71-361.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-361.02~~ Nail technology means (1) attaching, applying, fitting, shaping, or adjusting artificial nails using acrylic, resin, fabric, or gel application systems, (2) sanitizing of the nail bed by brushing on or spraying material in preparation for attaching, fitting, shaping, or adjusting artificial nails using acrylic, resin, fabric, or gel application systems, (3) cutting, filing, buffing, shaping, trimming, polishing, coloring, tinting, cleansing, reshaping, or other cosmetic acts on the nails of a person when done in conjunction with the activities described in subdivisions (1) and (2) of this section, (4) the ability to detect infection, fungus, or nail disorders that contraindicate the application of artificial nails, and (5) cleansing, stimulating, manipulating, exercising, or similar acts on the hands or feet of any person when done in conjunction with the activities described in subdivisions (1) and (2) of this section. Nail technology

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does not include cutting nail beds, corns, or calluses or medical treatment involving the feet, hands, or nails.

Sec. 304. Section 71-361.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-361.03~~ Nail technology establishment means a nail technology salon, nail technology school, or any other place in which the practices of nail technology are performed on members of the general public for compensation or in which instruction or training in the practices of nail technology is given, except when such practices constitute nonvocational training.

Sec. 305. Section 71-361.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-361.04~~ Nail technology instructor means a person licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to teach the practices of nail technology in a nail technology school.

Sec. 306. Section 71-361.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-361.05~~ Nail technology salon means a fixed structure or part thereof licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to serve as the site for the performance of the practices of nail technology by persons licensed or registered under the act.

Sec. 307. Section 71-361.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-361.06~~ Nail technology school means a fixed structure or part thereof licensed under the ~~Nebraska~~ Cosmetology,

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Electrology, Esthetics, Nail Technology, and Body Art Practice Act to serve as the site for teaching the practices of nail technology to nail technology students.

Sec. 308. Section 71-361.07, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-361.07~~ Nail technology student means a person engaged in the study of the practices of nail technology under the supervision of a nail technology instructor in a nail technology school.

Sec. 309. Section 71-361.08, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-361.08~~ Nail technology student instructor means a person engaged in nail technology instructor's training in a nail technology school to teach nail technology students in a nail technology school under the supervision of a nail technology instructor.

Sec. 310. Section 71-361.09, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-361.09~~ Nail technology temporary practitioner means a person registered under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to perform the practices of nail technology for a limited time under the supervision of a licensed nail technician or nail technology instructor.

Sec. 311. Section 71-362, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-362~~ Nonvocational training means the act of imparting

knowledge of or skills in any or all of the practices of cosmetology, nail technology, esthetics, or electrology to persons not licensed or registered under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act for the purpose of noncommercial use by those receiving such training.

Sec. 312. Section 71-362.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-362.01~~ Permanent color technology means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for cosmetic purposes.

Sec. 313. Section 71-363.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-363.01~~ Practices regulated under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act means body art, cosmetology, electrology, esthetics, and nail technology.

Sec. 314. Section 71-364, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-364~~ Practitioner means a person who performs any or all of the practices of cosmetology, nail technology, esthetics, or electrology for compensation or who performs any or all of the practices of body art.

Sec. 315. Section 71-365, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-365~~ School of cosmetology ~~shall~~ ~~mean~~ means a fixed structure or part thereof licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to serve as the site for the teaching of any or all of the practices of cosmetology to students.

Sec. 316. Section 71-365.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-365.01~~ School of electrolysis means a school for the education and training of electrologists.

Sec. 317. Section 71-365.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-365.02~~ School of esthetics means a fixed structure or part thereof licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to serve as the site for teaching the practices of esthetics to esthetics students.

Sec. 318. Section 71-368, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-368~~ Student means a person ~~registered~~ ~~under~~ ~~the~~ ~~Nebraska~~ ~~Cosmetology~~ ~~Act~~ ~~to~~ ~~engage~~engaged in the study of any or all of the practices of cosmetology or esthetics under the supervision of an instructor or esthetics instructor in a school of cosmetology or school of esthetics.

Sec. 319. Section 71-369, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-369~~ Student instructor means a person ~~registered~~ ~~under~~ ~~the~~ ~~Nebraska~~ ~~Cosmetology~~ ~~Act~~ ~~to~~ ~~engage~~ engaged in instructor's

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or esthetics instructor's training in a school of cosmetology or school of esthetics and to teach students in a school of cosmetology or school of esthetics under the supervision of an instructor.

Sec. 320. Section 71-370, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-370~~ Supervision ~~shall~~ ~~mean~~ means direct day-to-day knowledge of and control over the actions of one individual by another.

Sec. 321. Section 71-370.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-370.01~~ Tattoo means the indelible decorative mark, figure, or design introduced by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being.

Sec. 322. Section 71-370.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-370.02~~ Tattooing means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for decorative or figurative purposes.

Sec. 323. Section 71-371, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-371~~ Teaching means the act of imparting and demonstrating knowledge of cosmetology, nail technology, esthetics, or electrology theory and practices to students, nail technology

students, or apprentices in an apprentice salon, a school of cosmetology, a nail technology school, or a school of esthetics by an instructor, an esthetics instructor, a nail technology instructor, a nail technology student instructor, or a student instructor for the purpose of preparing the students, nail technology students, nail technology student instructors, or apprentices to engage in the occupations of cosmetology, nail technology, esthetics, or electrology.

Sec. 324. Section 71-372, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-372~~ Temporary practitioner ~~shall~~ ~~mean~~ means a person ~~registered~~ licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to perform any or all of the practices of cosmetology for a limited time under the supervision ~~of a person licensed under such act~~at all times of a designated supervisor.

Sec. 325. Section 71-374, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-374~~ (1) ~~Until October 1, 2005, the board shall be composed of eleven members. On and after October 1, 2005, the board shall be composed of twelve members. The board shall include two school owners, one esthetician, one licensed instructor, two laypersons, one cosmetologist who is a salon owner and who is not a school owner, one electrologist who is not a licensed cosmetologist, one nail technician, two cosmetologists who are not school owners, and one practitioner of body art as provided in this section. The professional members shall be licensed in Nebraska and~~

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~~maintain such license as well as their establishment licenses in good standing.~~ The board shall consist of nine professional members and three public members appointed pursuant to section 61 of this act. The members shall meet the requirements of sections 67 and 68 of this act.

(2) The professional members shall include:

(a) One school owner who is also licensed as either a cosmetologist, nail technician, or esthetician;

(b) One salon owner who is also licensed as either a cosmetologist, nail technician, or esthetician;

(c) One cosmetologist who is not a school owner;

(d) One nail technician who is not a school owner;

(e) One esthetician who is not a school owner;

(f) One electrologist;

(g) One body artist;

(h) One nail technology instructor who is not a school owner; and

(i) One cosmetology instructor who is not a school owner.

(3) No members of the board who are school owners, salon owners, electrologists, nail technicians, instructors, cosmetologists, or practitioners of body art may be affiliated with the same establishment.

(4) As the terms of the members serving on December 1, 2008, expire, successors shall be appointed in accordance with subsection (2) of this section.

~~(2) By October 1, 2005, the State Board of Health shall appoint one practitioner of body art for a five-year term.~~

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~~(3) Members of the board shall be appointed by the State Board of Health from among nominees submitted by professional associations and other interested parties. A person may nominate himself or herself.~~

~~(4) The State Board of Health may remove a member of the board 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 professional license in the profession involved may be suspended or revoked under the Nebraska Cosmetology Act, or for a lack of licensure in the profession involved.~~

~~(5) Vacancies on the board shall be filled in the same manner as original appointments for the remainder of the unexpired term only.~~

~~(6) Members of the board, unless otherwise specifically provided, shall serve for five-year terms, and no member shall serve for more than two consecutive terms excluding any partial term for which he or she may have been appointed.~~

Sec. 326. Section 71-385, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-385 Commencing on July 17, 1986, it~~ It shall be unlawful for any person, group, company, or other entity to engage in any of the following acts without being duly licensed or registered as required by the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, unless specifically excepted by such act:

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(1) To engage in or follow or to advertise or hold oneself out as engaging in or following any of the practices of cosmetology or to act as a practitioner;

(2) To engage in or advertise or hold oneself out as engaging in the teaching of any of the practices of cosmetology; or

(3) To operate or advertise or hold oneself out as operating a cosmetology establishment in which any of the practices of cosmetology or the teaching of any of the practices of cosmetology are carried out.

Sec. 327. Section 71-385.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-385.01~~ No person, group, company, limited liability company, or other entity shall engage in any of the following acts without being duly licensed as required by the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, unless specifically excepted by such act:

(1) To engage in or follow or to advertise or hold oneself out as engaging in or following any of the practices of electrology; or

(2) To engage in or advertise or hold oneself out as engaging in the teaching of any of the practices of electrology.~~; or~~

~~(3) To operate or advertise or hold oneself out as operating an establishment in which any of the practices of electrology are carried out.~~

Sec. 328. Section 71-385.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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~~71-385.02~~ (1) ~~On or after April 1, 2005, no~~ No person shall perform any of the practices of body art or display a sign to, or in any other way, advertise or purport to be engaged in the business of practicing body art unless such person is licensed by the department.

(2) An applicant for licensure in any of the practices of body art shall show to the satisfaction of the department that the applicant:

(a) Has complied with the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and the applicable rules and regulations adopted and promulgated under the act;

(b) Is at least eighteen years of age;

(c) Has ~~a high school diploma or GED~~completed formal education equivalent to a United States high school education;

(d) Has submitted evidence of training or experience prescribed or approved by the board to ensure the protection of the public in performing the practices of body art for which the applicant is seeking licensure; and

(e) Has successfully completed an examination prescribed or approved by the board to test the applicant's knowledge of safety, sanitation, and sterilization techniques and infection control practices and requirements.~~, except that the department may waive all or a portion of the examination for persons engaged in the practice of body art prior to April 1, 2005, upon submission of evidence satisfactory to the department.~~

Sec. 329. Section 71-386, Revised Statutes Cumulative

Supplement, 2006, is amended to read:

~~71-386~~ (1) All practitioners shall be licensed or registered by the department under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act in a category or categories appropriate to their practice.

(2) Licensure shall be required before any person may engage in the full, unsupervised practice or teaching of cosmetology, electrology, esthetics, nail technology, or ~~on or after April 1, 2005,~~ body art, and no person may assume the title of cosmetologist, electrologist, esthetician, instructor, nail technician, nail technology instructor, esthetics instructor, ~~or on or after April 1, 2005,~~ permanent color technician, tattoo artist, body piercer, or body brander without first being licensed by the department.

(3) All licensed practitioners shall practice in an appropriate licensed establishment or facility.~~under the Nebraska Cosmetology Act.~~

Sec. 330. Section 71-387, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-387~~ In order to be licensed by the department by examination, an individual shall meet, and present to the department evidence of meeting, the following requirements:

(1) Has attained the age of seventeen years on or before the beginning date of the examination for which application is being made;~~, as evidenced by a birth certificate, baptismal certificate, or other equivalent document as determined by the department;~~

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(2) Has completed formal education equivalent to a United States high school education;~~, as evidenced by a high school diploma, general educational development certificate, or equivalent document as determined by the department;~~

~~(3) Possesses the ability to identify and respond to emergency situations that could occur in the practice of cosmetology, esthetics, or electrology, as evidenced by successful completion of a basic first-aid course;~~

~~(4) Makes complete and proper application to the department which includes the individual's social security number, accompanied by the appropriate fee;~~

~~(5)~~ (3) Possesses a minimum competency in the knowledge and skills necessary to perform the practices for which licensure is sought, as evidenced by successful completion of an examination in the appropriate practices approved by the board and administered by the department;

~~(6)~~ (4) Possesses sufficient ability to read the English language to permit the applicant to practice in a safe manner, as evidenced by successful completion of the written examination; and

~~(7)~~ (5) Has graduated from a school of cosmetology or an apprentice salon in or outside of Nebraska, a school of esthetics in or outside of Nebraska, or a school of electrolysis upon completion of a program of studies appropriate to the practices for which licensure is being sought, as evidenced by a diploma or certificate from the school or apprentice salon to the effect that the applicant has complied with the following:

(a) For licensure as a cosmetologist, the program of

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studies shall consist of a minimum of two thousand one hundred hours and two thousand credits;

(b) For licensure as an esthetician, the program of studies shall consist of a minimum of six hundred hours and six hundred credits;

(c) For licensure as a cosmetology instructor, the program of studies shall consist of a minimum of nine hundred twenty-five hours beyond the program of studies required for licensure as a cosmetologist earned in a period of not less than six months;

(d) For licensure as a cosmetology instructor, be currently licensed as a cosmetologist in Nebraska, as evidenced by possession of a valid Nebraska cosmetology license;

(e) For licensure as an electrologist, the program of studies shall consist of a minimum of six hundred hours and six hundred credits;

(f) For licensure as an electrology instructor, be currently licensed as an electrologist in Nebraska and have practiced electrology actively for at least ~~five~~ two years immediately before the application; and

(g) For licensure as an esthetics instructor, completion of a program of studies consisting of a minimum of three hundred hours beyond the program of studies required for licensure as an esthetician and current licensure as an esthetician in Nebraska.

~~If any lapse in training of two years or longer occurs, all hours and credits earned shall be forfeited. Hours and credits shall be earned exclusively in either a school of cosmetology,~~

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~~school of esthetics, school of electrolysis, or apprentice salon. No hours or credits earned in one type of establishment may be transferred to an establishment of another type. The department shall grant a license in the appropriate category to any person meeting the requirements specified in this section.~~

Sec. 331. Section 71-388, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-388 Application for any type of licensure or registration shall be made on forms and in the manner prescribed by the department with the approval of the board.~~ A complete application for examination shall be postmarked no later than fifteen days before the beginning of the examination for which application is being made. Applications received after such date shall be considered as applications for the next scheduled examination. No application for any type of licensure or registration shall be considered complete unless all information requested in the application has been supplied, all seals and signatures required have been obtained, and all supporting and documentary evidence has been received by the department.~~, and the application is accompanied by the appropriate fee established and collected as provided in section 71-162.~~

Sec. 332. Section 71-389, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-389~~ (1) The board shall approve and the department shall cause examinations to be administered as required for licensure under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act for the purpose of

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establishing the possession of minimum competency in the knowledge and skills required on the part of the applicant.

(2) No person shall be permitted to take an examination for licensure unless he or she has met all the requirements of subdivisions (1), ~~through~~ ~~(4)~~ (2), and ~~(7)~~ (5) of section ~~71-387~~ 330 of this act except for persons taking the examination under section ~~71-395~~335 of this act.

~~(3) The department shall provide at least one year's notice of future examination dates to schools of cosmetology and apprentice salons. Such establishments shall be responsible for notifying their students and apprentices of upcoming examination dates.~~

Sec. 333. Section 71-390, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-390~~ (1) Examinations approved by the board may be national standardized examinations, but in all cases the examinations shall be related to the knowledge and skills necessary to perform the practices being examined and shall be related to the curricula required to be taught in schools of cosmetology, schools of esthetics, or schools of electrolysis.

(2) ~~The board shall fix the time and place of each examination no less than one year in advance.~~ At least two examinations shall be given annually. ~~All examinations shall be conducted in the city of Lincoln unless ordered otherwise by the department.~~

~~(3) If examinations are administered directly by the department, the examination shall be administered by a chief~~

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~~examiner who shall be an employee of the department. Persons serving as examiners for practical examinations administered directly by the department shall hold current licenses in the field of practice being examined or in cosmetology, except that examiners for instructors' examinations shall each hold an instructor's license, either active or inactive.~~

~~(4)~~ (3) Practical examinations may be offered as either written or hands-on and shall be conducted in such a manner that the identity of the applicant is not disclosed to the examiners in any way.

~~(5)~~ (4) In order to successfully complete the examination, an applicant shall obtain an average grade of seventy-five percent on ~~the written examination and an average grade of seventy-five percent with no individual subject grade below sixty-five percent on the practical examination~~all examinations.

~~(6) For practical examinations administered directly by the department, examination grades shall be approved by the board and the department before they become official. Any disagreements regarding a grade to be given among the examiners shall be settled by the chief examiner. An examiner may appeal such a decision to the Director of Regulation and Licensure or his or her designee.~~

~~(7) The department shall keep a permanent record of all grades received in examinations and shall provide any individual a copy of his or her grades upon request without charge.~~

~~(8) The department may adopt and promulgate rules and regulations to provide for procedures, development, administration,~~

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~~scoring, and reviewing of examinations and to protect the security of the contents of examination questions and answers in the examination review. The department shall not enter into an agreement to adopt an examination from a national testing service without first obtaining from such service detailed documentation of the process of examination development and maintenance.~~

Sec. 334. Section 71-394, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-394~~ The department may ~~waive the requirement for examination and~~ grant a license through endorsement to any person who meets the requirements of subdivisions (1) ~~through (4)~~and (2) of section ~~71-387~~330 of this act and who presents proof of the following:

(1) That he or she is currently licensed in the appropriate category in another jurisdiction, that he or she has never been disciplined or had his or her license revoked, and that, so far as the records of the licensing authority of the jurisdiction are concerned, the applicant is entitled to its endorsement. An applicant seeking licensure as an instructor in the manner provided in this section shall be licensed as an instructor in another jurisdiction. An applicant seeking licensure as a cosmetologist in the manner provided in this section shall be licensed as a cosmetologist in another jurisdiction. An applicant seeking licensure as an esthetician in the manner provided in this section shall be licensed as a cosmetologist, an esthetician, or an equivalent title in another jurisdiction. An applicant seeking licensure as an esthetics instructor in the manner provided in this

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section shall be licensed as a cosmetology instructor, esthetics instructor, or the equivalent in another jurisdiction. An applicant seeking licensure as an electrologist or an electrology instructor in the manner provided in this section shall be licensed as an electrologist or an electrology instructor, respectively, in another jurisdiction;

(2) That such license was issued on the basis of ~~a written and practical~~ an examination and the results of the ~~examinations, except that a practical examination shall not be required for an electrologist's or electrology instructor's license~~examination. If an examination was not required for licensure in the other jurisdiction, the applicant shall take the Nebraska examination; and

(3) That the applicant complies with the hour requirements of subdivision ~~(7)~~ (5) of section ~~71-387~~ 330 of this act through any combination of hours earned as a student or apprentice in a cosmetology establishment or an electrology establishment licensed or approved by the jurisdiction in which it was located and hour-equivalents granted for recent work experience, with hour-equivalents recognized as follows:

(a) Each month of full-time practice as an instructor within the five years immediately preceding application shall be valued as one hundred hour-equivalents toward an instructor's license or a cosmetology license and ~~fifty~~ one hundred hour-equivalents toward an esthetician's license;

(b) Each month of full-time practice as a cosmetologist within the five years immediately preceding application shall be

valued as one hundred hour-equivalents toward a cosmetology license and ~~fifty~~ one hundred hour-equivalents toward an esthetician's license;

(c) Each month of full-time practice as an esthetician within the five years immediately preceding application shall be valued as ~~fifty~~ one hundred hour-equivalents toward an esthetician's license;

(d) Each month of full-time practice as an esthetics instructor within the five years immediately preceding application shall be valued as one hundred hour-equivalents toward an esthetics instructor's license; and

(e) Each month of full-time practice as an electrologist within the five years immediately preceding application shall be valued as ~~fifty~~ one hundred hour-equivalents toward an electrologist's license.

Sec. 335. Section 71-395, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-395~~ (1) Applicants for Nebraska licensure who received their training in foreign countries may not be licensed by waiver of examination. In order to be considered eligible to take the examination, they shall meet the requirements of subdivisions (1) ~~through (4)~~and (2) of section ~~71-387~~ 330 of this act and, in order to establish equivalency with subdivision ~~(7)~~ (5) of section ~~71-387~~330 of this act, shall present proof satisfactory to the department of one of the following:

~~(1)~~ (a) Current licensure or equivalent official recognition of the right to practice in a foreign country; or

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~~(2)~~ (b) At least five years of practice within the eight years immediately preceding the application.

(2) In all cases such applicants shall take the examination for licensure in the State of Nebraska.

Sec. 336. Section 71-396, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-396~~ Every person holding a license ~~or registration~~ issued by the department under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act shall display it in a conspicuous place in his or her principal place of employment, and every cosmetology establishment~~, electrology establishment,~~ and body art facility shall so display the then current licenses ~~and registrations~~ of all practitioners there employed.

Sec. 337. Section 71-398, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-398~~ Registration shall be required before any person may act as a guest artist, guest body artist, cosmetician, student, apprentice, or student instructor, ~~or temporary practitioner,~~ and no person shall assume any title indicative of any of such areas of activity without first being registered or licensed by the department under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. A license as a temporary practitioner shall be required before any person may act as a temporary practitioner, and no person shall assume any title indicative of being a temporary practitioner without first being so licensed by the department under the act.

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Sec. 338. Section 71-399, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-399 In order to become registered by the department, an~~ An individual ~~shall make complete and proper~~making application~~, including the appropriate fee, to the department and~~ for registration or a temporary license shall meet, and present to the department evidence of meeting, the requirements for the specific type of registration or license applied for.

Sec. 339. Section 71-3,100, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,100~~ Applicants for registration as guest artists ~~or guest body artists~~ shall show evidence of licensure in another jurisdiction or other evidence as directed by the ~~board~~ department sufficient to demonstrate that they possess education or experience of benefit to licensed or registered practitioners and are under the sponsorship of a licensed cosmetology establishment or cosmetologist for guest artists or a licensed ~~body art facility or person licensed to practice body art for guest body artists~~esthetician for guest artists only performing esthetics.

Sec. 340. Section 71-3,101, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,101~~ An applicant for registration as a cosmetician shall show evidence that he or she is or intends to become employed as a cosmetician and has received instruction in the chemical properties of, and potential reactions to, the cosmetics he or she intends to apply from his or her employers or from the manufacturers or distributors of the cosmetic products and is aware

of actions to take in the event of such a reaction.

Sec. 341. Section 71-3,104, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,104~~ An applicant for ~~registration~~ licensure as a temporary practitioner shall show evidence that his or her completed application for regular licensure has been accepted by the department, that he or she has not failed any portion of the licensure examination, and that he or she has been accepted for work in a licensed cosmetology establishment under the supervision of a licensed practitioner. An individual registered as a temporary practitioner on December 1, 2008, shall be deemed to be licensed as a temporary practitioner under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act on such date. The temporary practitioner may continue to practice under such registration as a temporary license until it would have expired under its terms.

Sec. 342. Section 71-3,105, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,105~~ (1) Registration and temporary licensure shall be granted for a set period of time and cannot be renewed.

(2) Registration as a guest artist ~~or guest body artist~~ shall expire two years following the initial date of issuance.

(3) Registration as a cosmetician shall expire two years following the initial date of issuance.

(4) Registration as a student, apprentice, or student instructor shall expire upon successful completion of the licensing examination or termination of enrollment in a school

of cosmetology, a school of esthetics, or an apprentice salon. ~~Registration~~

(5) Licensure as a temporary practitioner shall expire ~~six~~ eight weeks following the ~~written~~ ~~examination~~ date of issuance or upon receipt of examination results, whichever occurs first, except that the ~~registration~~ license of a temporary practitioner who fails to take the first ~~regularly~~ scheduled examination shall expire immediately ~~after~~ ~~the~~ ~~beginning~~ ~~of~~ ~~the~~ ~~examination~~ unless the ~~board~~ department finds that the temporary practitioner was unable to attend the examination due to an emergency or other valid circumstances, in which case the ~~board~~ department may extend the ~~registration~~ ~~until~~ ~~six~~ ~~weeks~~ ~~after~~ ~~the~~ ~~date~~ ~~of~~ ~~the~~ ~~next~~ ~~regularly~~ ~~scheduled~~ ~~written~~ ~~examination~~ ~~or~~ ~~upon~~ license an additional eight weeks or until receipt of the examination results, whichever occurs first. No ~~registration~~ license may be extended in such manner more than once.

Sec. 343. Section 71-3,106, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,106~~ The ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act does not apply to or restrict the activities of the following:

(1) Any person holding a current license or certificate issued pursuant to ~~Chapter~~ ~~71~~ the Uniform Credentialing Act when engaged in the usual and customary practice of his or her profession or occupation;

(2) Any person engaging solely in earlobe piercing;

(3) Any person when engaged in domestic or charitable

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administration;

(4) Any person performing any of the practices of cosmetology or nail technology solely for theatrical presentations or other entertainment functions;

(5) Any person practicing cosmetology, electrology, esthetics, or nail technology within the confines of a hospital, nursing home, massage therapy establishment, funeral establishment, or other similar establishment or facility licensed or otherwise regulated by the department, except that no unlicensed or unregistered person may accept compensation for such practice;

(6) Any person providing services during a bona fide emergency;

(7) Any retail or wholesale establishment or any person engaged in the sale of cosmetics, nail technology products, or other beauty products when the products are applied by the customer or when the application of the products is in direct connection with the sale or attempted sale of such products at retail;

(8) Any person when engaged in nonvocational training;

(9) A person demonstrating on behalf of a manufacturer or distributor any cosmetology, nail technology, electrolysis, or body art equipment or supplies if such demonstration is performed without charge;

(10) Any person or licensee engaged in the practice or teaching of manicuring; and

(11) Any person or licensee engaged in the practice of airbrush tanning or temporary, nonpermanent airbrush tattooing.

Sec. 344. Section 71-3,106.01, Revised Statutes

Cumulative Supplement, 2006, is amended to read:

~~71-3,106.01~~ All epilators used ~~in an electrology establishment~~ by an electrologist shall be approved by the federal Food and Drug Administration.

Sec. 345. Section 71-3,117, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,117 The following classes of persons shall have a limited exemption from the continuing competency requirements established by the board pursuant to section 71-377:~~

~~(1) Any licensee submitting proof that he or she was suffering from a serious or disabling illness or disability that prevented him or her from completing the continuing competency requirements shall be exempt for the biennium if, by the renewal date, he or she is able to practice effectively and to attend continuing competency activities. Any licensee who remains unable to practice effectively at his or her regularly scheduled renewal date shall be placed on inactive status. A physician's statement shall be submitted in support of any request for a continuing competency exemption based on an illness or disability;~~

~~(2) Any licensee submitting proof of service in the regular armed forces of the United States during any part of the immediately preceding biennium shall be exempt for that biennium;~~

~~(3) Any person receiving an initial license in Nebraska during the second year of the biennium shall be exempt from the continuing competency requirement for that biennium only;~~

~~(4) Any licensee submitting proof that he or she has not lived in Nebraska at any time during the six months immediately~~

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~~preceding the date of license renewal and who has not worked in Nebraska at any time during such period shall be exempt for that biennium and shall be placed on inactive status;~~

~~(5)~~ The department, with the recommendation of the board, may waive continuing competency requirements, in part or in total, for any two-year licensing period when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements as provided in section 49 of this act. In addition to circumstances determined by the department to be beyond the licensee's control pursuant to such section, the following exemptions shall apply:

(1) An instructor who meets the continuing competency requirements for the instructor's license shall be exempt from meeting the continuing competency requirements for his or her cosmetologist license for that biennium;

~~(6)~~ (2) An electrology instructor who meets the continuing competency requirements for the electrology instructor's license shall be exempt from meeting the continuing competency requirements for his or her electrologist license for that biennium; and

~~(7)~~ (3) An esthetics instructor who meets the continuing education requirements for the esthetics instructor's license shall be exempt from meeting the continuing education requirements for his or her esthetician license for that biennium.

Sec. 346. Section 71-3,119, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,119~~ No person shall operate or profess or attempt

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to operate a cosmetology establishment unless such establishment is licensed by the department under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. The department shall not issue or renew a license for a cosmetology establishment until all requirements of the ~~Nebraska Cosmetology Act~~ act have been complied with. No person shall engage in any of the practices of cosmetology in any location or premises other than a licensed cosmetology establishment except as specifically permitted in the ~~Nebraska Cosmetology Act~~act.

Sec. 347. Section 71-3,119.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,119.01~~ A licensed cosmetology establishment is not required to be licensed as a nail technology salon to provide nail technology services by either a licensed cosmetologist or by a licensed nail technologist.

Sec. 348. Section 71-3,119.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,119.02~~ (1) ~~On or after April 1, 2005, no~~No person shall establish or operate a body art facility in this state unless such facility is licensed by the department under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. The department shall not issue or renew a license for a body art facility until all applicable requirements of the ~~Nebraska Cosmetology Act~~ act have been complied with and the facility has been inspected by the department. No person shall engage in any of the practices of body art in any location or premises other than a licensed body art facility except as

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specifically permitted in the ~~Nebraska Cosmetology Act~~act. The department shall issue a license to operate a body art facility to each qualified applicant.

(2) ~~Each body art facility license shall expire and be subject to renewal on March 31 of each odd-numbered year.~~ The procedure for renewing a body art facility license shall be in accordance with section ~~71-110.01~~46 of this act, except that in addition to all other requirements, no body art facility license may be renewed unless the facility has attained a rating of satisfactory on its most recent operation inspection. The license of any facility not attaining such rating shall be placed on inactive status and shall not be open to the public until all deficiencies have been corrected.

(3) The license of a body art facility that has been revoked for any reason shall not be reinstated. An original application for licensure shall be submitted and approved before such facility can reopen for business.

(4) Each body art facility license shall be in effect solely for the owner or owners and premises named thereon and shall lapse automatically upon any change of ownership or location. An original application for licensure shall be submitted and approved before such facility may reopen for business.

Sec. 349. Section 71-3,119.03, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,119.03~~ (1) In order to maintain a license in good standing, each body art facility or the owner of such facility or his or her agent shall:

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(a) At all times comply with all applicable provisions of the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and all rules and regulations adopted and promulgated under such act;

(b) Notify the department at least thirty days prior to any change of ownership, name, or address, and within one week after a facility is permanently closed, except in emergency circumstances as determined by the department;

(c) Permit any duly authorized agent of the department to conduct an operation inspection or investigation at any time during normal operating hours, without prior notice, and the owner and manager shall assist the inspector by providing access to all areas, personnel, and records requested by the inspector; and

(d) Display in a conspicuous place near the place where body art is performed the following records:

(i) The then current license to operate the body art facility;

(ii) The then current license of each person performing body art; and

(iii) The inspection report from the most recent operation inspection.

(2) The owner of each body art facility shall have full responsibility for ensuring that the facility is operated in compliance with all applicable laws, rules, and regulations and shall be liable for any and all violations occurring in the facility.

Sec. 350. Section 71-3,120, Reissue Revised Statutes of

Nebraska, is amended to read:

~~71-3,120~~ For ~~the~~ purposes of sections ~~71-3,120 to 71-3,128~~351 to 358 of this act, salon means cosmetology salon and esthetics salon.

Sec. 351. Section 71-3,121, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,121~~ In order to be licensed as a salon by the department, an applicant shall meet, and present to the department evidence of meeting, the following requirements:

(1) The proposed salon shall be a fixed, permanent structure or part of one;

(2) The proposed salon shall be physically separated from all other business or residential activities except barbering, manicuring, pedicuring, and retail sales;

(3) The separation required in subdivision (2) of this section shall be by fixed walls or by partitions not less than six feet high;

(4) Areas of the salon used for barbering, manicuring, or pedicuring shall be clearly identified as such to the public by a sign and shall be visually distinct from other areas of the salon;

(5) All areas of the salon, including those used for manicures, pedicures, or retail sales, shall comply with the sanitary requirements of the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act;

(6) A salon located in a residence shall be entirely distinct and separate from any living quarters, except that there may be one connecting door to the living portion of the dwelling as

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an access entrance to the salon for the owner or operator, but such entrance shall not be for the use of the general public;

(7) The entrance into the proposed salon used by the general public shall lead directly from the outside to the salon, except that a salon located in a commercial building may have its entrance open from a public area such as a foyer, hallway, mall, concourse, or retail sales floor. Any salon in existence and licensed on August 30, 1987, shall not be required to comply with this subdivision;

(8) The proposed salon shall have at least one hundred fifty square feet of floor space. If more than one practitioner is to be employed in the salon at the same time, the salon shall contain an additional space of at least fifty square feet for each additional practitioner, except that a salon employing a licensee exclusively to perform home services need not provide additional space for such employee;

(9) The proposed salon shall include toilet facilities unless the salon is located in a commercial building in which public toilet facilities are available that open directly off of a public area; and

(10) The proposed salon shall meet all state or local building code and fire code requirements.

Sec. 352. Section 71-3,122, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,122~~ Any person seeking a license to operate a salon shall submit ~~an application to the department. The application shall be on such forms and shall include such information as the~~

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~~department and the board may require.~~ ~~A~~a completed application ~~shall be received by the department~~ at least thirty days before construction or remodeling of the building proposed for use is scheduled to begin. If no construction or remodeling is planned, the application shall be submitted at least thirty days before the proposed opening of the salon for operation. Along with the application the applicant shall submit:

(1) A detailed floor plan or blueprint of the proposed salon sufficient to demonstrate compliance with the requirements of section ~~71-3,121~~351 of this act; and

(2) ~~A statement confirming application for~~ Evidence of minimal property damage, bodily injury, and liability insurance coverage for the proposed salon.

Sec. 353. Section 71-3,123, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,123~~ Each application for a license to operate a salon shall be reviewed by the department for compliance with the requirements of the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. In the event an application is denied, the applicant shall be informed in writing of the grounds for denial, and such denial shall not prejudice future applications by the applicant. In the event an application is approved, the department shall issue the applicant a certificate of consideration to operate a salon pending an operation inspection. The department shall conduct an operation inspection of each salon issued a certificate of consideration within six months of the issuance of such certificate. Salons

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passing the inspection shall be issued a permanent license. Salons failing the inspection shall submit within fifteen days evidence of corrective action taken to improve those aspects of operation found deficient. If evidence is not submitted within fifteen days or if after a second inspection the salon does not receive a satisfactory rating, it shall immediately relinquish its certificate of consideration and cease operation.

Sec. 354. Section 71-3,124, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,124~~ In order to maintain its license in good standing, each salon shall operate in accordance with the following requirements:

(1) The salon shall at all times comply with all applicable provisions of the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and all rules and regulations adopted and promulgated under such act;

(2) The salon owner or his or her agent shall notify the department at least thirty days prior to any change of ownership, name, or address, and within one week if a salon is permanently closed, except in emergency circumstances as determined by the department;

(3) No salon shall permit any unlicensed or unregistered person to perform any of the practices of cosmetology within its confines or employment;

(4) The salon shall display a name upon, over, or near the entrance door distinguishing it as a salon;

(5) The salon shall permit any duly authorized agent of

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the department to conduct an operation inspection or investigation at any time during the normal operating hours of the salon, without prior notice, and the owner and manager shall assist the inspector by providing access to all areas of the salon, all personnel, and all records requested by the inspector;

~~(6) The salon shall be open to the public for business at least four hundred hours during each full calendar year for which the salon is licensed. Appointment records, employee time sheets, or similar records shall constitute evidence of being open;~~

~~(7)~~ (6) The salon shall display in a conspicuous place the following records:

(a) The current license or certificate of consideration to operate a salon;

(b) The current licenses or registrations of all persons employed by or working in the salon; and

(c) The rating sheet from the most recent operation inspection;

~~(8)~~ (7) At no time shall a salon employ more employees than permitted by the square footage requirements of the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act; and

~~(9)~~ (8) The salon shall not knowingly permit its employees or clients to use, consume, serve, or in any manner possess or distribute intoxicating beverages or controlled substances upon its premises. ~~during the hours the salon is open to the public.~~

Sec. 355. Section 71-3,125, Reissue Revised Statutes of

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Nebraska, is amended to read:

~~71-3,125 Each salon license issued under the Nebraska Cosmetology Act shall expire and be subject to renewal on September 30 of each odd-numbered year.~~ The procedure for renewing a salon license shall be in accordance with section ~~71-110.01~~46 of this act, except that in addition to all other requirements, ~~no salon license may be renewed unless the salon has attained a rating of satisfactory on its most recent operation inspection. Any salon not able to meet such requirement shall have its license placed on inactive status until all deficiencies of operation have been corrected, and the salon shall not be open to the public during the time its license is inactive~~the salon shall submit evidence of minimal property damage, bodily injury, and liability insurance coverage for the salon.

Sec. 356. Section 71-3,126, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,126~~ The license of a salon that has been revoked or expired for any reason shall not be reinstated. An original application for licensure shall be submitted and approved before such salon may reopen for business.

Sec. 357. Section 71-3,127, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,127~~ Each salon license issued shall be in effect solely for the owner or owners and premises named thereon and shall ~~lapse~~expire automatically upon any change of ownership or location. An original application for licensure shall be submitted and approved before such salon may reopen for business.

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Sec. 358. Section 71-3,128, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,128~~ The owner of each salon shall have full responsibility for ensuring that the salon is operated in compliance with all applicable laws, rules, and regulations and shall be liable for any and all violations occurring in the salon.

Sec. 359. Section 71-3,129, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,129~~ In order to be licensed as a cosmetic establishment by the department, an applicant shall meet, and present to the department evidence of meeting, the following requirements:

(1) The proposed cosmetic establishment shall be a fixed permanent structure or part of one;

(2) The proposed cosmetic establishment need not consist of a separate room or rooms, but may be a counter or other clearly identifiable portion of a room or floor;

(3) The proposed cosmetic establishment shall have, or have convenient access to, handwashing facilities; and

(4) The proposed cosmetic establishment, if located in a private dwelling, shall be located in a room or rooms separate from the living quarters and having a private entrance. Such room or rooms shall not be used for any residential purpose during the hours the cosmetic establishment is being used, and all doors and windows connecting to residential quarters shall be closed at such times.

Sec. 360. Section 71-3,130, Reissue Revised Statutes of

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Nebraska, is amended to read:

~~71-3,130~~ (1) Any person seeking a license to operate a cosmetic establishment shall submit ~~an application to the department. The application shall be on such forms and shall include such information as the department and the board may require.~~ ~~A~~a completed application ~~shall be received by the department~~ at least thirty days before the proposed opening of the cosmetic establishment for operation. Along with the application the applicant shall submit:

~~(1)~~ (a) A floor plan or blueprint sufficient to identify the location of the proposed cosmetic establishment within any larger structure and the location of handwashing facilities; and

~~(2)~~ (b) The names of all persons registered or proposed to be registered as cosmeticians to be employed in the cosmetic establishment.

(2) In the event that more than one counter or area within a larger commercial establishment will be used as a cosmetic establishment, only one license is required for all such counters or areas if all are identified on the floor plan or blueprint accompanying the application.

(3) Each application shall be reviewed by the department for compliance with the requirements of the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. In the event an application is denied, the applicant shall be informed in writing of the grounds for denial and such denial shall not prejudice future applications by the applicant. In the event an application is approved, the department shall issue the applicant

a certificate of consideration to operate a cosmetic establishment pending an operation inspection. The department shall conduct an operation inspection of each cosmetic establishment issued a certificate of consideration within six months of the issuance of such certificate. Cosmetic establishments passing the inspection shall be issued a permanent license. Cosmetic establishments failing the inspection shall submit, within fifteen days, evidence of corrective action taken to improve those aspects of operation found deficient. If evidence is not submitted within fifteen days or if after a second inspection the cosmetic establishment does not receive a satisfactory rating, it shall immediately relinquish its certificate of consideration and cease operation.

Sec. 361. Section 71-3,131, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,131~~ In order to maintain its license in good standing, each cosmetic establishment shall operate in accordance with the following requirements:

(1) The cosmetic establishment shall at all times comply with all applicable provisions of the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and all rules and regulations adopted and promulgated under such act;

(2) The owner of the cosmetic establishment or his or her agent shall notify the department at least thirty days prior to any change of ownership, name, or address, and within one week after a cosmetic establishment is permanently closed, except in emergency circumstances as determined by the department;

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(3) No cosmetic establishment shall permit anyone other than a cosmetician, cosmetologist, or esthetician to apply cosmetics to members of the general public upon its premises;

(4) The cosmetic establishment shall display a sign at each counter or area used for such purposes indicating that it is a licensed cosmetic establishment and that all persons applying cosmetics are registered cosmeticians or licensed cosmetologists or estheticians;

(5) The cosmetic establishment shall permit any duly authorized agent of the department to conduct an operation inspection or investigation at any time during normal operating hours, without prior notice, and the owner and manager shall assist the inspector by providing access to all areas, personnel, and records requested by the inspector; and

(6) The cosmetic establishment shall display in a conspicuous place near the place where cosmetics are applied the following records:

(a) The current license or certificate of consideration to operate a cosmetic establishment;

(b) The current licenses or registrations of all persons applying cosmetics; and

(c) The rating sheet from the most recent operation inspection.

Sec. 362. Section 71-3,133, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,133~~ The license of a cosmetic establishment that has been revoked or expired for any reason may not be reinstated. An

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original application for licensure shall be submitted and approved before such cosmetic establishment may reopen for business.

Sec. 363. Section 71-3,134, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,134~~ Each cosmetic establishment license issued shall be in effect solely for the owner or owners and premises named thereon and shall ~~lapse~~ expire automatically upon any change of ownership or location. An original application for licensure shall be submitted and approved before such cosmetic establishment may reopen for business. Nothing in sections ~~71-3,129~~ ~~to~~ ~~71-3,134~~ 359 to 363 of this act shall be construed to prevent the creation, alteration, removal, or movement of specific counters or areas within a commercial enterprise holding a license as a cosmetic establishment.

Sec. 364. Section 71-3,135, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,135~~ The owner of each cosmetic establishment shall have full responsibility for ensuring that the cosmetic establishment is operated in compliance with all applicable laws, rules, and regulations and shall be liable for any and all violations occurring in the cosmetic establishment.

Sec. 365. Section 71-3,136, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,136~~ In order to be licensed as a school of cosmetology by the department, an applicant shall meet and present to the department evidence of meeting the following requirements:

(1) The proposed school shall be a fixed permanent

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structure or part of one;

(2) The proposed school shall have a contracted enrollment of at least fifteen full-time students;

(3) The proposed school shall contain at least three thousand five hundred square feet of floor space and facilities, staff, apparatus, and equipment appropriate to its projected enrollment in accordance with the standards established ~~by the board and the department~~ by rule and regulation; and

(4) The proposed school shall not have the same entrance as or direct access to a cosmetology salon, esthetics salon, or nail technology salon.

A school of cosmetology is not required to be licensed as a school of esthetics in order to provide an esthetics training program or as a school of nail technology in order to provide a nail technology training program.

Sec. 366. Section 71-3,137, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,137~~ Any person seeking a license to operate a school of cosmetology or school of esthetics shall submit ~~an application to the department. The application shall be on such forms and shall include such information as the department and the board may require. A~~a completed application ~~shall be received by the department~~ at least thirty days before construction or remodeling of the building proposed for use is scheduled to begin. If no construction or remodeling is planned, the application shall be received at least thirty days before the proposed opening of the school. ~~If the applicant is an individual, the application shall~~

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~~include the applicant's social security number.~~

Sec. 367. Section 71-3,138, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,138~~ Along with the application the applicant for a license to operate a school of cosmetology or school of esthetics shall submit:

(1) A detailed floor plan or blueprint of the proposed school building sufficient to show compliance with the relevant rules and regulations;

(2) ~~A statement confirming application for~~ Evidence of minimal property damage, personal injury, and liability insurance coverage for the proposed school;

(3) A copy of the curriculum to be taught for all courses;

(4) A copy of the school rules and the student contract;

(5) A list of the names and credentials of all licensees to be employed by the school and the name and qualifications of the school manager;

(6) Complete student entrance notifications and contracts for all persons proposed as students or student instructors, which shall be submitted fifteen days prior to opening;

(7) A completed cosmetology education or esthetics education evaluation scale, as applicable; and

(8) A schedule of proposed hours of operation and class and course scheduling. ~~; and~~

~~(9) Evidence of a surety bond issued for at least one year in the amount of five thousand dollars for each twenty~~

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~~students or fraction thereof enrolled, running in favor of the State of Nebraska with surety by a corporate bonding company authorized to do business in this state and conditioned that the school shall remain open during the period for which the bond is in effect.~~

Sec. 368. Section 71-3,138.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,138.02~~ In order to be licensed as a school of esthetics by the department, an applicant shall meet and present to the department evidence of meeting the following requirements:

(1) The proposed school shall be a fixed permanent structure or part of one;

(2) The proposed school shall have a contracted enrollment of at least four but not more than six students for each licensed esthetics instructor on the staff of the proposed school;

(3) The proposed school shall contain at least one thousand square feet of floor space and facilities, staff, apparatus, and equipment appropriate to its projected enrollment in accordance with the standards established ~~by the board and the department~~ by rule and regulation; and

(4) The proposed school shall not have the same entrance as or direct access to a cosmetology salon, an esthetics salon, or a nail technology salon.

Sec. 369. Section 71-3,139, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,139~~ Each application for a license to operate a school of cosmetology or school of esthetics shall be reviewed

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by the department for compliance with the requirements of the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. If an application is denied, the applicant shall be informed in writing of the grounds for denial and such denial shall not prejudice future applications by the applicant. If an application is accepted, ~~the board and~~ the department shall immediately conduct an accreditation inspection of the proposed school. A school passing the inspection shall be issued a license and may begin operation as soon as the inspection results are received. If the proposed school fails the inspection, the applicant shall submit, within fifteen days, evidence of corrective action taken to improve those aspects of operation found deficient. If, after a second inspection to be conducted within thirty days of receipt of evidence, the school does not receive a satisfactory rating, or if evidence is not received within fifteen days, the application may be denied.

Sec. 370. Section 71-3,140, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,140~~ In order to maintain its license in good standing, each school of cosmetology or school of esthetics shall operate in accordance with the following requirements:

(1) The school shall at all times comply with all applicable provisions of the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and all rules and regulations adopted and promulgated under such act;

(2) The school owner or owners or the authorized agent thereof shall notify the department at least thirty days prior to

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any change of ownership, name, or address, and at least sixty days prior to closure, except in emergency circumstances as determined by the department;

(3) No school shall permit anyone other than a student, student instructor, instructor, or guest artist to perform any of the practices of cosmetology or esthetics within its confines or employ, except that such restriction shall not prevent a school from inviting guest teachers who are not licensed or registered to provide lectures to students or student instructors if the guest lecturer does not perform any of the practices of cosmetology or esthetics;

(4) The school shall display a name upon or near the entrance door designating it as a school of cosmetology or a school of esthetics;

(5) The school shall display in a conspicuous place within the clinic area a sign reading: All services in this school are performed by students who are training in cosmetology or esthetics, as applicable. A notice to such effect shall also appear in all advertising conducted by the school for its clinic services;

(6) The school shall permit any duly authorized agent of the department to conduct an operation inspection or investigation at any time during the normal operating hours of the school without prior notice, and the owner or manager shall assist the inspector by providing access to all areas of the school, all personnel, and all records requested by the inspector;

(7) The school shall display in a conspicuous place the following records:

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(a) The current license to operate a school of cosmetology or school of esthetics;

(b) The current licenses or registrations of all persons, except students, employed by or working in the school; and

(c) The rating sheet from the most recent accreditation inspection;

(8) At no time shall a school enroll more students than permitted by the ~~Nebraska Cosmetology Act~~ act or the rules and regulations adopted and promulgated under ~~such~~ the act;

(9) The school shall not knowingly permit its students, employees, or clients to use, consume, serve, or in any other manner possess or distribute intoxicating beverages or controlled substances upon its premises; ~~during the hours the school is in operation;~~

~~(10) Food shall not be consumed in any area where cosmetology or esthetics services are being taught or performed or stored in the same area where chemical supplies or used equipment are stored;~~

~~(11)~~ (10) No instructor or student instructor shall perform, and no school shall permit such person to perform, any of the practices of cosmetology or esthetics on the public in a school of cosmetology or school of esthetics other than that part of the practical work which pertains directly to the teaching of practical subjects to students or student instructors and in no instance shall complete cosmetology or esthetics services be provided for a client unless done in a demonstration class of theoretical or practical studies;

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~~(12)~~ (11) The school shall maintain space, staff, library, teaching apparatus, and equipment as established by rules and regulations adopted and promulgated under the ~~Nebraska Cosmetology Act~~act;

~~(13)~~ (12) The school shall keep a daily record of the attendance and clinical performance of each student and student instructor;

~~(14)~~ (13) The school shall maintain regular class and instructor hours and shall require the minimum curriculum;

~~(15)~~ (14) The school shall establish and maintain criteria and standards for student grading, evaluation, and performance and shall award a certificate or diploma to a student only upon completing a full course of study in compliance with such standards, except that no student shall receive such certificate or diploma until he or she has satisfied or made an agreement with the school to satisfy all outstanding financial obligations to the school;

~~(16)~~ (15) The school shall maintain on file the ~~registrations~~ enrollment of each student;

~~(17)~~ (16) The school shall ~~submit a monthly~~ maintain a report ~~to the department, on forms established by the department,~~ indicating the students and student instructors enrolled, the hours and credits earned, the instructors employed, the hours of operation, and such other pertinent information as ~~the board and the department shall require~~required by the department. No hours or credits shall be allowed for any student unless such student is duly registered and the hours and credits are reported by the

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school; and

~~(18)~~ (17) The school shall print and provide to each student a copy of the school rules, which shall not be inconsistent with the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, the Uniform Credentialing Act, or ~~with~~ the rules and regulations adopted and promulgated under ~~such~~ either act and which shall include policies of the school with respect to tuition, reimbursement, conduct, attendance, grading, earning of hours and credits, demerits, penalties, dismissal, graduation requirements, dress, and other information sufficient to advise the student of the standards he or she will be required to maintain. The ~~board~~ department may review any school's rules to determine their consistency with the intent and content of the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and ~~its~~ the rules and regulations and may overturn any school rules found not to be in accord.

Sec. 371. Section 71-3,102, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,102 (1) An applicant for registration~~ In order to maintain a school or salon license in good standing, each school or salon shall operate in accordance with the following:

(1) Every person accepted for enrollment as a standard student or apprentice shall show evidence that he or she attained the age of seventeen years on or before the date of his or her enrollment in a school of cosmetology, a school of esthetics, or an apprentice salon, has completed the equivalent of a high school education, has been accepted for enrollment at a school of

cosmetology, a school of esthetics, or an apprentice salon, and has not undertaken any training in cosmetology or esthetics without being ~~registered~~ enrolled as a student or apprentice; ~~.~~

~~(2) An applicant for registration~~ (2)(a) Every person accepted for enrollment as a special study student or apprentice shall show evidence that he or she:

~~(a)~~ (i) Has attained the age of seventeen years on or before the date of enrollment in a school of cosmetology, a school of esthetics, or an apprentice salon;

~~(b)~~ (ii) Has completed the tenth grade;

~~(c)~~ (iii) Has been accepted for enrollment at a school of cosmetology, a school of esthetics, or an apprentice salon; and

~~(d)~~ (iv) Is actively continuing his or her formal high school education on a full-time basis as determined by the department.

(b) An applicant for ~~registration~~ enrollment as a special study student or apprentice shall not have undertaken any training in cosmetology or esthetics without being ~~registered~~ enrolled as a student or apprentice.

(c) Special study students shall be limited to attending a school of cosmetology, a school of esthetics, or an apprentice salon for no more than eight hours per week during the school year; ~~.~~

(3) Every person accepted for enrollment as a student instructor shall show evidence of current licensure as a cosmetologist or esthetician in Nebraska and completion of formal education equivalent to a United States high school education; and

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(4) No school of cosmetology, school of esthetics, or apprentice salon shall accept an individual for enrollment who does not provide evidence of meeting the age and education requirements. Proof of age shall consist of a birth certificate, baptismal certificate, or other equivalent document as determined by the department. Evidence of education shall consist of a high school diploma, general educational development certificate, transcript from a college or university, or equivalent document as determined by the department. ~~No school of cosmetology, school of esthetics, or apprentice salon shall accept an individual for enrollment who does not provide evidence of meeting the age and education requirements for registration. Each school of cosmetology, school of esthetics, or apprentice salon shall submit a complete registration within five days following the first day of courses. No school of cosmetology, school of esthetics, or apprentice salon shall continue training an individual for whom the establishment has not submitted a complete registration application within such five-day period. No school of cosmetology, school of esthetics, or apprentice salon shall continue to train or enroll a person who has not received his or her registration within thirty days of its submission without the permission of the department.~~

Sec. 372. Section 71-3,141, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,141~~ In order to maintain its license in good standing, each school of cosmetology or school of esthetics shall operate in accordance with the following requirements:

(1) All persons accepted for enrollment as students shall

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meet the qualifications established in section ~~71-3,102~~371 of this act;

~~(2) The school shall submit a completed student entrance notification, including the student registration fee, on forms prescribed by the department, for each person enrolling in the school before such person may begin training;~~

~~(3)~~ (2) The school shall, at all times the school is in operation, have at least one instructor in the school for each ~~six~~ twenty students or fraction thereof enrolled in the school, except (a) that freshman and advanced students shall be taught by different instructors in separate classes and (b) as provided in section ~~71-3,138.02~~368 of this act;

~~(4)~~ (3) The school shall not permit any student to render clinical services on members of the public with or without fees until such student has satisfactorily completed the freshman curriculum, except that the board may establish guidelines by which it may approve such practices as part of the freshman curriculum;

~~(5)~~ (4) No school shall pay direct compensation to any of its students. Student instructors may be paid as determined by the school;

~~(6)~~ (5) All students and student instructors shall be under the supervision of an instructor at all times, except that students shall be under the direct supervision of an instructor or student instructor at all times when cosmetology or esthetics services are being taught or performed and student instructors may independently supervise students after successfully completing at least one-half of the required instructor program;

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~~(7)~~ (6) Students shall be classified for reporting purposes as follows:

(a) A full-time student shall mean one who regularly trains at least eight hours a day during the normal school week, including normal excused absences as defined in the school rules; and

(b) A part-time student shall mean any student not classified as a full-time student;

~~(8)~~ (7) Students no longer attending the school shall be classified for reporting purposes as follows:

(a) A graduate shall mean a student who has completed his or her hours and credits, has satisfied all school requirements, and has been granted a certificate or diploma by the school;

(b) A transfer shall mean a student who has transferred to another school in Nebraska or in another state;

(c) A temporary drop shall mean a student who has stopped attending school for a period of less than three months and has given no indication that he or she intends to drop permanently; and

(d) A permanent drop shall mean a student who has stopped attending school for a period of three months or more or one who has stopped attending for a shorter time but has informed the school in writing of his or her intention to drop permanently;

~~(9)~~ (8) Once a student has been classified as a permanent drop, the ~~department~~ school shall keep a record of his or her hours and credits for a period of two years from the last date upon which the student attended school; ~~. If, after two years, the student has not reenrolled in a school of cosmetology or school of esthetics in~~

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~~Nebraska or transferred his or her hours and credits to a school in another state, all hours and credits earned by the student shall be declared void;~~

~~(10)~~ (9) No student shall be permitted by the school to train or work in a school in any manner for more than ten hours a day; and

~~(11)~~ (10) The school shall not credit a student or student instructor with hours and credits except when such hours and credits were earned in the study or practice of cosmetology or esthetics in accordance with the required curriculum. Hours and credits shall be credited on a daily basis. Once credited, hours or credits cannot be removed or disallowed except by the department upon a finding that the hours or credits have been wrongfully allowed.

Sec. 373. Section 71-3,142, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,142 Students~~A student may transfer from one school of cosmetology in Nebraska to another at any time without penalty if all tuition obligations to the school from which the student is transferring have been honored~~, upon fulfillment of the following requirements:(1) The student shall secure~~ and if the student secures a letter from the school from which he or she is transferring stating that the student has not left any unfulfilled tuition obligations and stating the number of hours and credits earned by the student at such school, including any hours and credits the student transferred into that school, and the dates of attendance of the student at that school. ~~;(2) The school to which~~

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~~the student is transferring shall submit a copy of such letter to the department along with a completed student entrance notification and fee. Documents already on file with the department with the original notification need not be resubmitted; and(3)~~ The student may not begin training at the new school until ~~the requirements of subdivisions (1) and (2) of this section have been met~~such conditions have been fulfilled. The school to which the student is transferring shall be entitled to receive from the student's previous school, upon request, credit books and any and all records pertaining to the student.

Sec. 374. Section 71-3,143, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,143~~ Students may transfer into a school of cosmetology in Nebraska from a school in another state if:

(1) The school in the other state meets all requirements of section ~~71-3,141~~372 of this act; and

(2) The student submits to the department evidence that the school from which he or she is transferring was fully accredited by the appropriate body in that state at the time the student attended.

~~In order to be honored in Nebraska, some portion of the student's hours shall have been earned within the two years immediately prior to the transfer. The board and the department shall adopt and promulgate rules and regulations for determining the manner in which hours and credits shall be awarded to students transferring from such schools.~~

Sec. 375. Section 71-3,144, Reissue Revised Statutes of

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Nebraska, is amended to read:

~~71-3,144~~ Any person holding a current barbering license issued by the appropriate authority in Nebraska shall be entitled to waive one thousand hours upon enrolling in a complete course of cosmetology training in a school of cosmetology. The school shall determine, based upon the knowledge and experience of the student, which one thousand hours of training shall be waived for the student. The school shall determine, based upon the knowledge and experience of the student, how many credits to waive and which credits are to be waived for the student, except that no fewer than five hundred credits and no more than one thousand credits may be waived for any such student. No hours shall be waived for a licensed barber enrolling in an esthetician training course or program.

Sec. 376. Section 71-3,146, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,146~~ No school of cosmetology shall at any time enroll more than ~~one student instructor~~ two student instructors for each full-time instructor actively working in and employed by the school.

Sec. 377. Section 71-3,147, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,147~~ (1) ~~Each school license issued under the Nebraska Cosmetology Act shall expire and be subject to renewal on December 31 of each odd-numbered year.~~ The procedure for renewing a school license shall be in accordance with section ~~71-110.01~~46 of this act, except that in addition to all other requirements,

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the school of cosmetology or school of esthetics shall provide evidence of minimal property damage, bodily injury, and liability insurance coverage and shall receive a satisfactory rating on an accreditation inspection conducted by the ~~board and the~~ department~~, in consultation with the State Department of Education,~~ within the six months immediately prior to the date of license renewal.

(2) Any school of cosmetology or school of esthetics which has current accreditation from a national accrediting organization approved by the board shall be considered to satisfy the accreditation requirements outlined in this section, except that successful completion of an operation inspection shall be required. Each school of cosmetology or school of esthetics, whether or not it is nationally accredited, shall satisfy all curriculum and sanitation requirements outlined in the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to maintain its license.

(3) Any school not able to meet the requirements for license renewal shall have its license placed on inactive status until all deficiencies have been corrected, and the school shall not operate in any manner during the time its license is inactive. If the deficiencies are not corrected within six months of the date of license renewal, the license may be revoked unless the ~~board~~ department approves an extension of the time limit. The license of a school that has been revoked or ~~lapsed~~ expired for any reason shall not be reinstated. An original application for licensure shall be submitted and approved before such school may reopen.

Sec. 378. Section 71-3,148, Reissue Revised Statutes of

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Nebraska, is amended to read:

~~71-3,148~~ Each school license issued shall be in effect solely for the owner or owners and premises named thereon and shall ~~lapse~~ expire automatically upon any change of ownership or change in the county of location. An original application for licensure shall be submitted and approved before such school may reopen, except that a school moving to a new location within the same county may do so by filing an application as required by the department, paying the required fee, submitting a new floor plan, and passing an operation inspection. Materials shall be received by the department no less than thirty days prior to the move, and all provisions of this section shall be complied with before the school may begin operation at its new location.

Sec. 379. Section 71-3,149, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,149~~ Any school of cosmetology may apply to the department for a license to operate a satellite classroom. A satellite classroom shall be subject to all requirements of the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and rules and regulations adopted and promulgated under such act, except as follows:

(1) A satellite classroom shall consist of classroom facilities only, and no clinical activities may be performed thereat. A satellite classroom shall contain a minimum of four hundred square feet of floor space;

(2) Students located at a satellite classroom may move to the home school, or vice versa, without being considered transfer

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students;

(3) Students in a satellite classroom shall be ~~reported~~ maintained on the same monthly report form as students in the home school; and

(4) No satellite classroom may operate in any manner unless the home school is at the time operating and possesses a full active license, except a satellite classroom may keep different days and hours of operation from those of its home school. The license to operate a satellite classroom shall be revoked or shall ~~lapse~~ expire at the same time as that for its home school.

The ~~board and the department may by~~ department, with the recommendation of the board, may adopt and promulgate rules and regulations to modify or waive any of the operating or student requirements of a school of cosmetology for a satellite classroom if the ~~board and the~~ department ~~determine~~ determines that such requirements are not applicable or appropriate to a satellite classroom.

Sec. 380. Section 71-3,150, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,150~~ The owner of each school of cosmetology or school of esthetics shall have full responsibility for ensuring that the school is operated in compliance with all applicable laws and rules and regulations and shall be liable for any and all violations occurring in the school. Each school of cosmetology shall be operated by a manager who shall hold an active instructor's license and who shall be present on the

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premises of the school no less than thirty-five hours each week. Each manager of a school of esthetics shall hold an active esthetics instructor's license and shall be present on the premises of the school no less than thirty-five hours each week. The manager may have responsibility for the daily operation of the school or satellite classroom and, if so, shall share with the owner liability for any and all violations occurring in the school or satellite classroom.

Sec. 381. Section 71-3,151, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,151~~ In order to be licensed as an apprentice salon by the department, an applicant shall meet and present to the department evidence of meeting the following requirements:

(1) The proposed apprentice salon shall hold a current active license as a cosmetology salon or esthetics salon;

(2) The proposed apprentice salon shall employ or plan to employ one active instructor for each two apprentices or fraction thereof it enrolls; and

(3) The proposed apprentice salon shall provide an area of not less than one hundred square feet to be used solely for educational purposes.

Sec. 382. Section 71-3,152, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,152~~ Any person seeking a license to operate an apprentice salon shall submit ~~an application to the department. The application shall be on such forms and shall include such information as the department and the board may require. If~~

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~~the applicant is an individual, the application shall include the applicant's social security number. A~~a complete application ~~shall be received by the department~~ at least thirty days before construction or remodeling of the building proposed for use is scheduled to begin. If no construction or remodeling is planned, the application shall be received at least thirty days before training of apprentices is scheduled to begin. Along with the application the applicant shall submit:

(1) A detailed floor plan or blueprint of the proposed apprentice salon sufficient to demonstrate compliance with the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act;

(2) ~~A statement confirming application for a surety bond in the amount of one thousand dollars for each apprentice planned to be enrolled conforming to the requirements of the bond required for schools of cosmetology~~Evidence of minimal property damage, bodily injury, and liability insurance coverage;

(3) A list of the names and qualifications of all instructors employed or proposed to be employed;

(4) Completed ~~student entrance notifications~~ enrollment forms for all apprentices proposed to be enrolled;

(5) A copy of the rules the salon proposes to use for its apprentices;

(6) A copy of the apprentice contract;

(7) A copy of the curriculum proposed to be used;

(8) A proposed schedule of training for each apprentice; and

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(9) A completed cosmetology education evaluation scale.

Sec. 383. Section 71-3,153, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,153~~ Each application for a license to operate an apprentice salon shall be reviewed by the department for compliance with the requirements of the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. In the event an application is denied, the applicant shall be informed in writing of the grounds for denial and such denial shall not prejudice further applications by the applicant. In the event an application is approved, the department shall immediately conduct an operation inspection of the proposed apprentice salon. A salon passing the inspection shall be issued a license to operate and may begin training apprentices upon receipt of notification to such effect. A salon failing the operation inspection shall submit, within fifteen days, evidence of corrective action to improve those aspects of operation found deficient. If, after a second inspection to be conducted within thirty days of receipt of evidence, the salon does not receive a satisfactory rating, or if evidence is not submitted within fifteen days, the application may be denied.

Sec. 384. Section 71-3,154, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,154~~ In order to maintain and renew its license in good standing, each apprentice salon shall operate in accordance with the following requirements:

(1) The apprentice salon shall at all times comply with all applicable provisions of the ~~Nebraska~~ Cosmetology, Electrology,

Esthetics, Nail Technology, and Body Art Practice Act and all rules and regulations adopted and promulgated under such act;

(2) The salon shall maintain its salon license in good standing; and

(3) The salon shall operate in accordance with all operating requirements and all student requirements of a school of cosmetology or school of esthetics, except that the ~~board and the department may by rule and regulation~~ department, with the recommendation of the board, may adopt and promulgate rules and regulations to modify or waive any such requirements that are deemed not applicable to an apprentice salon.

Sec. 385. Section 71-3,156, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,156~~ The license of an apprentice salon that has been revoked or ~~lapsed~~ expired for any reason may not be reinstated. An original application for licensure shall be submitted and approved before such apprentice salon may accept apprentices for training.

Sec. 386. Section 71-3,157, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,157~~ Each apprentice salon license issued shall be in effect solely for the owner or owners and premises named thereon and shall ~~lapse~~ expire automatically upon any change of ownership or location. An original application for licensure shall be submitted and approved before such apprentice salon may accept apprentices for training.

Sec. 387. Section 71-3,158, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-3,158~~ The owner of each apprentice salon shall have full responsibility for ensuring that the apprentice salon is operated in compliance with all applicable laws, rules, and regulations and shall be liable for any and all violations occurring in the apprentice salon.

Sec. 388. Section 71-3,159, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,159~~ (1) Practice outside a licensed cosmetology establishment shall be permitted in the following circumstances:

(a) A registered cosmetician may apply cosmetics or esthetics products within the scope of such activity permitted a cosmetician in the home of a client or customer; and

(b) A licensed cosmetology salon or esthetics salon may employ licensed cosmetologists and estheticians, according to the licensed activities of the salon, to perform home services by meeting the following requirements:

(i) In order to be issued a home services permit by the department, an applicant shall hold a current active salon license; and

(ii) Any person seeking a home services permit shall submit ~~an application to the department. The application shall be on such forms and shall contain such information as the department and the board may require. A~~a complete application ~~shall be received by the department~~ at least ten days before the proposed date for beginning home services. Along with the application the applicant shall submit evidence of ~~application for~~ liability insurance or bonding.

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(2) The department shall issue a home services permit to each applicant meeting the requirements set forth in ~~subsection (1) of~~ this section.

~~(3) Any licensed electrology establishment may have its licensed electrologist make calls outside of its establishment if the licensed establishment holds a home services permit for electrology from the department to do so. Any establishment seeking such a permit shall submit an application to the department on a form supplied by the department. Such application shall contain such information as the department may require. A complete application shall be received by the department at least ten days before the proposed date for beginning home services.~~

Sec. 389. Section 71-3,160, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,160~~ In order to maintain in good standing or renew its home services permit, ~~or home services permit for electrology,~~ a salon ~~or electrology establishment~~ shall at all times operate in accordance with all requirements for operation, maintain its license in good standing, and comply with the following requirements:

(1) Clients receiving home services shall be in emergency circumstances which shall generally be defined as any condition sufficiently immobilizing to prevent the client from leaving his or her residence regularly to conduct routine affairs of daily living such as grocery shopping, visiting friends and relatives, attending social events, attending worship services, and other similar activities. Emergency circumstances may include such conditions

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or situations as:

(a) Chronic illness or injury leaving the client bedridden or with severely restricted mobility;

(b) Extreme general infirmity such as that associated with the aging process;

(c) Temporary conditions including, but not limited to, immobilizing injury and recuperation from serious illness or surgery;

(d) Having sole responsibility for the care of an invalid dependent requiring constant attention; or

(e) Any other conditions that, in the opinion of the ~~board~~department, meet the general definition of emergency circumstances;

(2) The salon ~~or electrology establishment~~ shall determine that each person receiving home services meets the requirements of subdivision (1) of this section and shall:

(a) Complete a client information form supplied by the department before home services may be provided to any client; and

(b) Keep on file the client information forms of all clients it is currently providing with home services or to whom it has provided such services within the past two years;

(3) The salon ~~or electrology establishment~~ shall employ or contract with persons licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to provide home services and shall not permit any person to perform any home services under its authority for which he or she is not licensed;

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~~(4) Each salon or electrology establishment holding a home services permit or home services permit for electrology shall report to the department every six months, as directed by the department, on the current status of each home services client;~~

~~(5)~~ (4) No client shall be left unattended while any chemical service is in progress or while any electrical appliance is in use; and

~~(6)~~ (5) Each salon ~~or electrology establishment~~ providing home services shall post a daily itinerary for each licensee providing home services. The kit for each licensee shall be available for inspection at the salon or at the home of the client receiving services.

Sec. 390. Section 71-3,161, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,161~~ Agents of the department may make operation inspections in the homes of clients if such inspections are limited to the activities, procedures, and materials of the licensee providing home services.

Sec. 391. Section 71-3,162, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,162~~ No licensee may perform home services except when employed by or under contract to a salon ~~or electrology establishment~~ holding a valid home services permit. ~~or a valid home services permit for electrology.~~

Sec. 392. Section 71-3,163, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,163~~ Each home services permit ~~or home services~~

~~permit for electrology~~ shall be subject to renewal at the same time as the salon ~~or electrology establishment~~ license and shall be renewed upon request of the permitholder if the salon ~~or electrology establishment~~ is operating its home services in compliance with the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and if the salon ~~or electrology establishment~~ license is renewed. No permit that has been revoked or ~~lapsed~~expired may be reinstated or transferred to another owner or location.

Sec. 393. Section 71-3,164, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,164~~ The owner of each salon ~~or electrology establishment~~ holding a home services permit ~~or home services permit for electrology~~ shall have full responsibility for ensuring that the home services are provided in compliance with all applicable laws and rules and regulations and shall be liable for any violations which occur.

Sec. 394. Section 71-3,180, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,180 On and after January 1, 2000, (1) licensure~~ Licensure shall be required before any person may engage in the full, unsupervised practice of nail technology. No~~,~~ ~~(2) no~~ person may assume the title of nail technician or nail technology instructor without first being licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. No~~,~~ ~~and (3) no~~ person, group, company, or other entity shall operate, advertise, or hold

himself, herself, or itself out as operating a nail technology establishment in which any of the practices of nail technology are carried out unless such nail technology establishment is licensed under the ~~Nebraska Cosmetology Act~~act. No person shall provide nail technology services unless he or she practices in a currently licensed cosmetology establishment or nail technology establishment.

Sec. 395. Section 71-3,181, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,181 On and after January 1, 2000, no~~ No person, group, company, limited liability company, or other entity shall engage in any of the following acts without being licensed as required by the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, unless specifically excepted by the act:

(1) Performing or advertising or holding oneself out as performing or qualified to perform any of the practices of nail technology;

(2) Teaching or advertising or holding oneself out as teaching or qualified to teach any of the practices of nail technology; or

(3) Operating or advertising or holding oneself out as operating an establishment in which any of the practices of nail technology are performed or taught.

Sec. 396. Section 71-3,183, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,183~~ In order to be licensed as a nail technician

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or nail technology instructor by examination, an individual shall meet, and present to the department evidence of meeting, the following requirements:

(1) He or she has attained the age of seventeen years on or before the beginning date of the examination for which application is being made;~~, as evidenced by a birth certificate, baptismal certificate, or other equivalent document as determined by the department;~~

(2) He or she has completed formal education equivalent to a United States high school education;~~, as evidenced by a high school diploma, general educational development certificate, or equivalent document as determined by the department;~~

~~(3) He or she possesses the ability to identify and respond to emergency situations that could occur in the practice of nail technology, as evidenced by successful completion of a basic first-aid course;~~

~~(4) He or she files a complete and proper application with the department which includes the individual's social security number, accompanied by the appropriate fee;~~

~~(5)~~ (3) He or she possesses sufficient ability to read the English language to permit the applicant to practice in a safe manner, as evidenced by successful completion of the written examination; and

~~(6)~~ (4) He or she has graduated from a school of cosmetology or nail technology school providing a nail technology program. Evidence of graduation shall include documentation of the total number of hours of training earned and a diploma or

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certificate from the school to the effect that the applicant has complied with the following:

(a) For licensure as a nail technician, the program of studies shall consist of a minimum of not less than one hundred fifty hours and not more than three hundred hours, as set by the board;~~,~~ ~~sixteen hours of which shall include instruction on operating a nail drill;~~ and

(b) For licensure as a nail technology instructor, the program of studies shall consist of a minimum of not less than one hundred fifty hours and not more than three hundred hours, as set by the board, beyond the program of studies required for licensure as a nail technician and the individual shall be currently licensed as a nail technician in Nebraska as evidenced by possession of a valid Nebraska nail technician license.

The department shall grant a license in the appropriate category to any person meeting the requirements specified in this section.

Sec. 397. Section 71-3,184, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,184 An application for any type of nail technology licensure or registration shall be made on forms and in the manner prescribed by the department with the approval of the board.~~ No application for any type of licensure or registration shall be considered complete unless all information requested on the application form has been supplied, all seals and signatures required have been obtained, and all supporting and documentary evidence has been received by the department.~~, and the application~~

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~~is accompanied by the appropriate fee.~~

Sec. 398. Section 71-3,186, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,186~~ The board shall approve and the department shall cause examinations to be administered as required for licensure in nail technology under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act for the purpose of establishing the possession of minimum competency in the knowledge and skills required on the part of the applicant.

~~The department shall provide at least one year's notice of future examination dates to nail technology schools and schools of cosmetology. Such schools shall be responsible for notifying their students of upcoming examination dates.~~

Sec. 399. Section 71-3,187, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,187~~ (1) Examinations approved by the board may be national standardized examinations, but in all cases the examinations shall be related to the knowledge and skills necessary to perform the practices being examined and shall be related to the curricula required to be taught in nail technology programs.

(2) ~~The board shall fix the time and place of each examination no less than one year in advance.~~ At least two examinations shall be given annually. ~~All examinations shall be conducted in the city of Lincoln unless ordered otherwise by the department.~~

~~(3) If examinations are administered directly by the department, the examination shall be administered by a chief~~

~~examiner who shall be an employee of the department.~~

~~(4)~~ (3) In order to successfully complete the examination, an applicant shall obtain an average grade of seventy-five percent on the written examination.

~~(5) The department shall keep a permanent record of all grades received in examinations and shall provide any individual a copy of his or her grades upon request without charge.~~

~~(6) The department may adopt and promulgate rules and regulations to provide for procedures, development, administration, scoring, and reviewing of examinations and to protect the security of the contents of examination questions and answers in the examination review. The department shall not enter into an agreement to adopt an examination from a national testing service without first obtaining from such service detailed documentation of the process of examination development and maintenance.~~

Sec. 400. Section 71-3,191, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,191~~ The department may grant a license through endorsement to a nail technician or nail technology instructor who presents proof of the following:

(1) He or she has attained the age of seventeen years;~~, as evidenced by a birth certificate, baptismal certificate, or other equivalent document as determined by the department;~~

(2) He or she has completed formal education equivalent to a United States high school education;~~, as evidenced by a high school diploma, general educational development certificate, or equivalent document as determined by the department;~~

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~~(3) He or she has filed a complete and proper application with the department which includes the individual's social security number, accompanied by the appropriate fee;~~

~~(4)~~(3) He or she is currently licensed as a nail technician or its equivalent or as a nail technology instructor or its equivalent in another jurisdiction, that he or she has never been disciplined or had his or her license revoked, and that, so far as the records of the licensing authority of the jurisdiction are concerned, the applicant is entitled to its endorsement;

~~(5)~~(4) For licensure as a nail technician, evidence of:

(a) Completion of a program of nail technician studies consisting of a minimum of not less than one hundred fifty hours and not more than three hundred hours, as set by the board, ~~sixteen hours of which shall include instruction on operating a nail drill,~~ and successful passage of a written examination. If a written examination was not required for licensure in another jurisdiction, the applicant must take the Nebraska written examination; or

(b) At least twelve months of practice as a nail technician following issuance of such license in another jurisdiction; and

~~(6)~~(5) For licensure as a nail technology instructor, evidence of:

(a) Completion of a program of studies consisting of a minimum of not less than one hundred fifty hours and not more than three hundred hours, as set by the board, beyond the program of studies required for licensure in another jurisdiction as a nail technician, successful passage of a written examination, and

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current licensure as a nail technician in Nebraska as evidenced by possessing a valid Nebraska nail technician license. If a written examination was not required for licensure as a nail technology instructor, the applicant must take the Nebraska written examination; or

(b) At least twelve months of practice as a nail technology instructor following issuance of such license in another jurisdiction.

Sec. 401. Section 71-3,192, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,192~~ Every person holding a license or registration in nail technology issued by the department under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act shall display it in a conspicuous place in his or her principal place of employment, and every nail technology establishment shall so display the then current licenses and registrations of all practitioners there employed.

Sec. 402. Section 71-3,193, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,193 On and after January 1, 2000, registration~~ Licensure shall be required before any person may act as a nail technology temporary practitioner, and no person shall assume such title without first being ~~registered~~ licensed by the department under section ~~71-3,194~~403 of this act.

Sec. 403. Section 71-3,194, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,194~~ An applicant for ~~registration~~ licensure as a

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nail technology temporary practitioner ~~shall file a complete and proper application with the department and~~ shall show evidence that his or her completed application for regular licensure has been accepted by the department, that he or she has not failed any portion of the licensure examination, and that he or she has been accepted for work in a licensed nail technology or cosmetology establishment under the supervision of a licensed nail technician or licensed cosmetologist. An individual registered as a temporary practitioner on December 1, 2008, shall be deemed to be licensed as a temporary practitioner under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act on such date. The temporary practitioner may continue to practice under such registration as a license until it would have expired under its terms.

Sec. 404. Section 71-3,195, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,195 Registration~~ A license as a nail technology temporary practitioner shall be granted for a set period of time and cannot be renewed. ~~Registration shall expire six weeks following the written examination date~~ The license shall expire eight weeks following the date of issuance or upon receipt of examination results, whichever occurs first. The ~~registration~~ license of a temporary practitioner who fails to take the first ~~regularly~~ scheduled examination shall expire immediately ~~after the beginning of the examination~~ unless the ~~board~~ department finds that the temporary practitioner was unable to attend the examination due to an emergency or other valid circumstances. If the ~~board~~

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department so finds, it may extend the ~~registration until six weeks after the date of the next regularly scheduled written examination~~ license for an additional eight weeks or until receipt of the examination results, whichever occurs first. No ~~registration~~ license may be extended in such manner more than once for each temporary practitioner.

Sec. 405. Section 71-3,206, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,206 The following classes of persons have a limited exemption from the nail technology continuing competency requirements established by the board pursuant to section 71-377:~~

~~(1) Any licensee submitting proof that he or she was suffering from a serious or disabling illness or disability that prevented him or her from completing the continuing competency requirements shall be exempt for the biennium if, by the renewal date, he or she is able to practice effectively and to attend continuing competency activities. Any licensee who remains unable to practice effectively at his or her regularly scheduled renewal date shall be placed on inactive status. A physician's statement shall be submitted in support of any request for a continuing competency exemption based on an illness or disability;~~

~~(2) Any licensee submitting proof of service in the regular armed forces of the United States during any part of the immediately preceding biennium shall be exempt for that biennium;~~

~~(3) Any person receiving an initial nail technology license in Nebraska during the second year of the biennium shall be exempt for that biennium only;~~

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~~(4) Any licensee submitting proof that he or she has not lived in Nebraska at any time during the twenty-four months immediately preceding the date of license renewal and who has not provided nail technology services in Nebraska at any time during such period shall be exempt for that biennium; and~~

~~(5) A~~ The department, with the recommendation of the board, may waive continuing competency requirements, in part or in total, for any two-year licensing period when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements as provided in section 49 of this act. In addition to circumstances determined by the department to be beyond the licensee's control pursuant to such section, a nail technology instructor who meets the continuing competency requirements for the nail technology instructor's license shall be exempt from meeting the continuing competency requirements for his or her nail technician license for that biennium.

Sec. 406. Section 71-3,208, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,208 On and after January 1, 2000, no~~ No person shall operate or profess or attempt to operate a nail technology establishment unless such establishment is licensed by the department under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. The department shall not issue or renew a license for a nail technology establishment until all requirements of the ~~Nebraska Cosmetology Act~~ act have been complied with. No person shall engage in any of the practices

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of nail technology in any location or premises other than a licensed nail technology or cosmetology establishment except as specifically permitted in the ~~Nebraska Cosmetology Act~~act.

Sec. 407. Section 71-3,210, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,210~~ In order to be licensed as a nail technology salon by the department, an applicant shall meet, and present to the department evidence of meeting, the following requirements:

(1) The proposed nail technology salon shall be a fixed, permanent structure or part of one;

(2) The proposed nail technology salon shall be physically separated from all other business or residential activities except cosmetology, barbering, manicuring, pedicuring, and retail sales;

(3) The separation required in subdivision (2) of this section shall be by fixed walls or by partitions not less than six feet high;

(4) All areas of the nail technology salon, including those used for manicuring, pedicuring, or retail sales, shall comply with the sanitary requirements of the ~~Nebraska Cosmetology Act~~act;

(5) A nail technology salon located in a residence shall be entirely distinct and separate from any living quarters, except that there may be one connecting door to the living portion of the dwelling as an access entrance to the salon for the owner or operator, but such entrance shall not be for the use of the general public;

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(6) The entrance into the proposed nail technology salon used by the general public shall lead directly from the outside to the salon, except that a salon located in a commercial building may have its entrance open from a public area such as a foyer, hallway, mall, concourse, or retail sales floor. The requirements of this subdivision do not apply to nail salons located within licensed cosmetology salons;

(7) The proposed nail technology salon shall have at least one hundred fifty square feet of floor space. If more than one practitioner is to be employed in the salon at the same time, the salon shall contain an additional space of at least fifty square feet for each additional practitioner, except that a salon employing a licensee exclusively to perform home services need not provide additional space for such employee;

(8) The proposed nail technology salon shall include toilet facilities unless the salon is located in a commercial building in which public toilet facilities are available that open directly off of a public area;

(9) The proposed nail technology salon shall have handwashing facilities within the salon; and

(10) The proposed nail technology salon shall meet all state or local building code and fire code requirements.

Sec. 408. Section 71-3,211, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,211~~ Any person seeking a license to operate a nail technology salon shall submit ~~an application to the department. The application shall be on such forms and shall include such~~

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~~information as the department and the board may require. A~~a completed application ~~shall be received by the department~~ at least thirty days before construction or remodeling of the building proposed for use is scheduled to begin. ~~If the applicant is an individual, the application shall include the applicant's social security number.~~ If no construction or remodeling is planned, the application shall be submitted at least thirty days before the proposed opening of the salon for operation. Along with the application the applicant shall submit:

(1) A detailed floor plan or blueprint of the proposed salon sufficient to demonstrate compliance with the requirements of section ~~71-3,210~~407 of this act; and

(2) ~~A statement confirming application for~~ Evidence of minimal property damage, bodily injury, and liability insurance coverage for the proposed salon.

Sec. 409. Section 71-3,212, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,212~~ Each application for a license to operate a nail technology salon shall be reviewed by the department for compliance with the requirements of the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. If an application is denied, the applicant shall be informed in writing of the grounds for denial and such denial shall not prejudice future applications by the applicant. If an application is approved, the department shall issue the applicant a certificate of consideration to operate a salon pending an operation inspection. The department shall conduct an operation inspection of each salon

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issued a certificate of consideration within six months after the issuance of such certificate. Salons passing the inspection shall be issued a permanent license. Salons failing the inspection shall submit within fifteen days evidence of corrective action taken to improve those aspects of operation found deficient. If evidence is not submitted within fifteen days or if after a second inspection the salon does not receive a satisfactory rating, it shall immediately relinquish its certificate of consideration and cease operation.

Sec. 410. Section 71-3,213, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,213~~ In order to maintain its license in good standing, each nail technology salon shall operate in accordance with the following requirements:

(1) The nail technology salon shall at all times comply with all applicable provisions of the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and all rules and regulations adopted and promulgated under such act;

(2) The nail technology salon owner or his or her agent shall notify the department at least thirty days prior to any change of ownership, name, or address, and at least one week prior to closure, except in emergency circumstances as determined by the department;

(3) No nail technology salon shall permit any unlicensed or unregistered person to perform any of the practices of nail technology within its confines or employment;

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(4) The nail technology salon shall display a name upon, over, or near the entrance door distinguishing it as a nail technology salon;

(5) The nail technology salon shall permit any duly authorized agent of the department to conduct an operation inspection or investigation at any time during the normal operating hours of the nail technology salon, without prior notice, and the owner and manager shall assist the inspector by providing access to all areas of the nail technology salon, all personnel, and all records requested by the inspector;

(6) The nail technology salon shall display in a conspicuous place the following records:

(a) The current license or certificate of consideration to operate a nail technology salon;

(b) The current licenses or registrations of all persons employed by or working in the nail technology salon; and

(c) The rating sheet from the most recent operation inspection;

(7) At no time shall a nail technology salon employ more employees than permitted by the square footage requirements of the ~~Nebraska Cosmetology Act~~act; and

(8) The nail technology salon shall not knowingly permit its employees or clients to use, consume, serve, or in any manner possess or distribute intoxicating beverages or controlled substances upon its premises. ~~during the hours the nail technology salon is open to the public.~~

Sec. 411. Section 71-3,214, Reissue Revised Statutes of

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Nebraska, is amended to read:

~~71-3,214 Each nail technology salon license issued under the Nebraska Cosmetology Act shall expire and be subject to renewal on September 30 of each odd-numbered year.~~ The procedure for renewing a nail technology salon license shall be in accordance with section ~~71-110.01~~46 of this act, except that in addition to all other requirements, ~~no salon license may be renewed unless the nail technology salon has attained a rating of satisfactory on its most recent operation inspection. Any nail technology salon not able to meet such requirement shall have its license placed on inactive status until all deficiencies of operation have been corrected, and the nail technology salon shall not be open to the public during the time its license is inactive~~the salon shall submit evidence of minimal property damage, bodily injury, and liability insurance coverage.

Sec. 412. Section 71-3,215, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,215~~ A nail technology salon license that has been revoked or expired for any reason shall not be reinstated. An original application for licensure shall be submitted and approved before such salon may reopen for business.

Sec. 413. Section 71-3,216, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,216~~ Each nail technology salon license issued shall be in effect solely for the owner or owners and premises named on the license and shall ~~lapse~~ expire automatically upon any change of ownership or location. An original application for licensure

shall be submitted and approved before such salon may reopen for business.

Sec. 414. Section 71-3,217, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,217~~ The owner of each nail technology salon shall have full responsibility for ensuring that the salon is operated in compliance with all applicable laws, rules, and regulations and shall be liable for any and all violations occurring in the salon.

Sec. 415. Section 71-3,218, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,218~~ In order to be licensed as a nail technology school by the department, an applicant shall meet, and present to the department evidence of meeting, the following requirements:

(1) The proposed school shall be a fixed, permanent structure or part of one;

(2) The proposed school shall have a contracted enrollment of students;

(3) The proposed school shall contain at least five hundred square feet of floor space and facilities, staff, apparatus, and equipment appropriate to its projected enrollment in accordance with the standards established ~~by the board and the department~~ by rule and regulation; and

(4) The proposed school shall not have the same entrance as or direct access to a cosmetology salon or nail technology salon.

Sec. 416. Section 71-3,219, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-3,219~~ A licensed school of cosmetology is not required to be licensed as a nail technology school in order to provide a nail technology program.

Sec. 417. Section 71-3,220, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,220~~ Any person seeking a license to operate a nail technology school shall submit ~~an application to the department. The application shall be on such forms and shall include such information as the department and the board may require. A~~a completed application ~~shall be received by the department~~ at least thirty days before construction or remodeling of the building proposed for use is scheduled to begin. If no construction or remodeling is planned, the application shall be received at least thirty days before the proposed opening of the school. ~~If the applicant is an individual, the application shall include the applicant's social security number.~~

Sec. 418. Section 71-3,221, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,221~~ Along with the application, an applicant for a license to operate a nail technology school shall submit:

(1) A detailed floor plan or blueprint of the proposed school building sufficient to show compliance with the relevant rules and regulations;

(2) ~~A statement confirming application for~~ Evidence of minimal property damage, personal injury, and liability insurance coverage for the proposed school;

(3) A copy of the curriculum to be taught for all

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courses;

(4) A copy of the school rules and the student contract;

(5) A list of the names and credentials of all persons licensed or registered under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to be employed by the school and the name and qualifications of the school manager;

(6) A completed nail technology education evaluation scale;

(7) A schedule of proposed hours of operation and class and course scheduling; and

(8) Any additional information the department may require. ~~; and~~

~~(9) The required fee.~~

A nail technology school's license shall be valid only for the location named in the application. When a school desires to change locations, it shall comply with section ~~71-3,229~~426 of this act.

Sec. 419. Section 71-3,222, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,222~~ Each application for a license to operate a nail technology school shall be reviewed by the department for compliance with the requirements of the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. If an application is denied, the applicant shall be informed in writing of the grounds for denial and such denial shall not prejudice future applications by the applicant. If an application

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is accepted, the ~~board and the~~ department shall immediately conduct an accreditation inspection of the proposed school. A school passing the inspection shall be issued a license and may begin operation as soon as the inspection results are received. If the proposed school fails the inspection, the applicant shall submit, within fifteen days, evidence of corrective action taken to improve those aspects of operation found deficient. If, after a second inspection to be conducted within thirty days after receipt of evidence, the school does not receive a satisfactory rating, or if evidence is not received within fifteen days, the application may be denied.

Sec. 420. Section 71-3,223, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,223~~ In order to maintain its license in good standing, each nail technology school shall operate in accordance with the following requirements:

(1) The school shall at all times comply with all applicable provisions of the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and all rules and regulations adopted and promulgated under such act;

(2) The school owner or owners or their authorized agent shall notify the department at least thirty days prior to any change of ownership, name, or address, and at least sixty days prior to closure, except in emergency circumstances as determined by the department;

(3) No school shall permit anyone other than a nail technology student, nail technology student instructor, or nail

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technology instructor to perform any of the practices of nail technology within its confines or employ, except that such restriction shall not prevent a school from inviting guest teachers who are not licensed or registered to provide lectures to students or student instructors if the guest lecturer does not perform any of the practices of nail technology;

(4) The school shall display a name upon or near the entrance door designating it as a nail technology school;

(5) The school shall display in a conspicuous place within the clinic area a sign reading: All services in this school are performed by students who are training in nail technology. A notice to such effect shall also appear in all advertising conducted by the school for its clinic services;

(6) The school shall permit any duly authorized agent of the department to conduct an operation inspection or investigation at any time during the normal operating hours of the school without prior notice, and the owner or manager shall assist the inspector by providing access to all areas of the school, all personnel, and all records requested by the inspector;

(7) The school shall display in a conspicuous place the following records:

(a) The current license to operate a nail technology school;

(b) The current licenses or registrations of all persons licensed or registered under the act, except students, employed by or working in the school; and

(c) The rating sheet from the most recent accreditation

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inspection;

(8) At no time shall a school enroll more students than permitted by the ~~Nebraska Cosmetology Act~~ act or the rules and regulations adopted and promulgated under ~~such~~ the act;

(9) The school shall not knowingly permit its students, employees, or clients to use, consume, serve, or in any other manner possess or distribute intoxicating beverages or controlled substances upon its premises; ~~during the hours the school is in operation;~~

~~(10) Food shall not be consumed in any area where nail technology services are being taught or performed and food shall not be stored in the same area where chemical supplies or used equipment is stored;~~

~~(11)~~ (10) No nail technology instructor or nail technology student instructor shall perform, and no school shall permit such person to perform, any of the practices of nail technology on the public in a nail technology school other than that part of the practical work which pertains directly to the teaching of practical subjects to nail technology students or nail technology student instructors, and complete nail technology services shall not be provided for a client unless done in a demonstration class of theoretical or practical studies;

~~(12)~~ (11) The school shall maintain space, staff, library, teaching apparatus, and equipment as established by rules and regulations adopted and promulgated under the ~~Nebraska Cosmetology Act~~act;

~~(13)~~ (12) The school shall keep a daily record of the

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attendance and clinical performance of each student and student instructor;

~~(14)~~ (13) The school shall maintain regular class and instructor hours and shall require the minimum curriculum;

~~(15)~~ (14) The school shall establish and maintain criteria and standards for student grading, evaluation, and performance and shall award a certificate or diploma to a student only upon completing a full course of study in compliance with such standards, except that no student shall receive such certificate or diploma until he or she has satisfied or made an agreement with the school to satisfy all outstanding financial obligations to the school;

~~(16)~~ (15) The school shall maintain on file the enrollment of each student; and

~~(17)~~ (16) The school shall print and provide to each student a copy of the school rules, which shall not be inconsistent with the ~~Nebraska Cosmetology Act~~ act or with the rules and regulations adopted and promulgated under such act and which shall include policies of the school with respect to tuition, reimbursement, conduct, attendance, grading, earning of hours and credits, demerits, penalties, dismissal, graduation requirements, dress, and other information sufficient to advise the student of the standards he or she will be required to maintain. The ~~board~~ department may review any school's rules to determine their consistency with the intent and content of the ~~Nebraska Cosmetology Act~~ act and ~~its~~ the rules and regulations and may overturn any school rules found not to be in accord.

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Sec. 421. Section 71-3,224, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,224~~ In order to maintain its license in good standing, each nail technology school shall operate in accordance with the following requirements:

(1) Every person accepted for enrollment as a standard student shall meet the following qualifications:

(a) He or she has attained the age of seventeen years on or before the date of his or her enrollment in a nail technology school;

(b) He or she has completed the equivalent of a high school education; and

(c) He or she has not undertaken any training in nail technology in this state after January 1, 2000, without being enrolled as a nail technology student;

~~(2)~~ (2)(a) Every person accepted for enrollment as a special study nail technology student shall meet the following requirements:

~~(a)~~ (i) He or she has attained the age of seventeen years on or before the date of enrollment in a nail technology school;

~~(b)~~ (ii) He or she has completed the tenth grade; and

~~(c)~~ (iii) He or she is actively continuing his or her formal high school education on a full-time basis as determined by the department.

(b) Special study nail technology students shall be limited to attending a nail technology school for no more than eight hours per week during the school year;

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(3) Proof of age shall consist of a birth certificate, baptismal certificate, or other equivalent document as determined by the department. Evidence of education shall consist of a high school diploma, general educational development certificate, transcript from a college or university, or equivalent document as determined by the department. No nail technology school shall accept an individual for enrollment who does not provide evidence of meeting the age and education requirements for registration;

(4) Every person accepted for enrollment as a nail technology student instructor shall show evidence of current licensure as a nail technician in Nebraska and completion of formal education equivalent to a United States high school education;

(5) The school shall, at all times the school is in operation, have at least one nail technology instructor in the school for each twenty students or fraction thereof enrolled in the school;

(6) The school shall not permit any nail technology student to render clinical services on members of the public with or without fees until such student has satisfactorily completed the beginning curriculum, except that the ~~board~~ department may establish guidelines by which it may approve such practices as part of the beginning curriculum;

(7) No school shall pay direct compensation to any of its nail technology students. Nail technology student instructors may be paid as determined by the school;

(8) All nail technology students and nail technology student instructors shall be under the supervision of a cosmetology

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instructor, nail technology instructor, or nail technology student instructor at all times when nail technology services are being taught or performed;

~~(9) Once a nail technology student has been classified as a permanent drop, if after two years the student has not reenrolled in a nail technology school in Nebraska or transferred his or her hours to a school in another state, all hours earned by the student shall be declared void;~~

~~(10)~~ (9) No student shall be permitted by the school to train or work in a school in any manner for more than ten hours a day; and

~~(11)~~ (10) The school shall not credit a nail technology student or nail technology student instructor with hours except when such hours were earned in the study or practice of nail technology in accordance with the required curriculum. Hours shall be credited on a daily basis. Once credited, hours cannot be removed or disallowed except by the department upon a finding that the hours have been wrongfully allowed.

Sec. 422. Section 71-3,225, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,225~~ Nail technology students or nail technology student instructors may transfer from one nail technology school in Nebraska to another at any time.

The school to which the student is transferring shall be entitled to receive from the student's previous school, upon request, any and all records pertaining to the student.

Sec. 423. Section 71-3,226, Reissue Revised Statutes of

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Nebraska, is amended to read:

~~71-3,226~~ Nail technology students or nail technology student instructors may transfer into a nail technology school in Nebraska from a school in another state if:

(1) The school in the other state meets all requirements of section ~~71-3,224~~421 of this act; and

(2) The student submits to the department evidence that the school from which he or she is transferring was fully accredited by the appropriate body in that state at the time the student attended.

~~In order to be honored in Nebraska, some portion of the nail technology student's hours shall have been earned within the two years immediately prior to the transfer. The board and the department shall adopt and promulgate rules and regulations for determining the manner in which hours shall be awarded to students or nail technology students transferring from such schools.~~

Sec. 424. Section 71-3,227, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,227~~ No nail technology school shall at any time enroll more than one nail technology student instructor for each full-time nail technology instructor or cosmetology instructor actively working in and employed by the school.

Sec. 425. Section 71-3,228, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,228 Each nail technology school license issued under the Nebraska Cosmetology Act shall expire and be subject to renewal on December 31 of each odd-numbered year.~~ The procedure

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for renewing a school license shall be in accordance with section ~~71-110.01~~46 of this act, except that in addition to all other requirements, the nail technology school shall receive a satisfactory rating on an accreditation inspection conducted by ~~the board and~~ the department~~, in consultation with the State Department of Education,~~ within the six months immediately prior to the date of license renewal.

Any nail technology school not able to meet the requirements for license renewal shall have its license placed on inactive status until all deficiencies have been corrected, and the school shall not operate in any manner during the time its license is inactive. If the deficiencies are not corrected within six months after the date of license renewal, the license may be revoked unless the ~~board~~ department approves an extension of the time limit. The license of a school that has been revoked or ~~lapsed~~ expired for any reason shall not be reinstated. An original application for licensure shall be submitted and approved before such school may reopen.

Sec. 426. Section 71-3,229, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,229~~ Each nail technology school license issued shall be in effect solely for the owner or owners and premises named thereon and shall ~~lapse~~expire automatically upon any change of ownership or change in the county of location. An original application for licensure shall be submitted and approved before such school may reopen, except that a school moving to a new location within the same county may do so by filing an application

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as required by the department, paying the required fee, submitting a new floor plan, and passing an operation inspection. Materials shall be received by the department no less than thirty days prior to the move, and all provisions of this section shall be complied with before the school may begin operation at its new location.

Sec. 427. Section 71-3,230, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,230~~ A licensed nail technology salon may employ licensed nail technicians to perform nail technology home services by meeting the following requirements:

(1) In order to be issued a nail technology home services permit by the department, an applicant shall hold a current active cosmetology salon license or nail technology salon license; and

(2) Any person seeking a nail technology home services permit shall submit ~~an application to the department. The application shall be on such forms and shall contain such information as the department and the board may require. A~~a complete application ~~shall be received by the department~~ at least ten days before the proposed date for beginning home services. Along with the application the applicant shall submit evidence of application for liability insurance or bonding.

The department shall issue a nail technology home services permit to each applicant meeting the requirements set forth in this section.

Sec. 428. Section 71-3,231, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,231~~ In order to maintain in good standing or renew

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its nail technology home services permit, a nail technology salon shall at all times operate in accordance with all requirements for operation, maintain its license in good standing, and comply with the following requirements:

(1) Clients receiving nail technology home services shall be in emergency circumstances which shall generally be defined as any condition sufficiently immobilizing to prevent the client from leaving his or her residence regularly to conduct routine affairs of daily living such as grocery shopping, visiting friends and relatives, attending social events, attending worship services, and other similar activities. Emergency circumstances may include such conditions or situations as:

(a) Chronic illness or injury leaving the client bedridden or with severely restricted mobility;

(b) Extreme general infirmity such as that associated with the aging process;

(c) Temporary conditions including, but not limited to, immobilizing injury and recuperation from serious illness or surgery;

(d) Having sole responsibility for the care of an invalid dependent requiring constant attention; or

(e) Any other conditions that, in the opinion of the ~~board~~department, meet the general definition of emergency circumstances;

(2) The nail technology salon shall determine that each person receiving nail technology home services meets the requirements of subdivision (1) of this section and shall:

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(a) Complete a client information form supplied by the department before nail technology home services may be provided to any client; and

(b) Keep on file the client information forms of all clients it is currently providing with nail technology home services or to whom it has provided such services within the past two years;

(3) The nail technology salon shall employ or contract with persons licensed under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to provide nail technology home services and shall not permit any person to perform any home services under its authority for which he or she is not licensed;

(4) No client shall be left unattended while any chemical service is in progress or while any electrical appliance is in use; and

(5) Each nail technology salon providing nail technology home services shall post a daily itinerary for each licensee providing home services. The kit for each licensee shall be available for inspection at the salon or at the home of the client receiving services.

Sec. 429. Section 71-3,232, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,232~~ Agents of the department may make operation inspections in the homes of clients if such inspections are limited to the activities, procedures, and materials of the licensee providing nail technology home services.

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Sec. 430. Section 71-3,233, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,233~~ No licensee may perform nail technology home services except when employed by or under contract to a nail technology salon holding a valid nail technology home services permit.

Sec. 431. Section 71-3,234, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,234~~ Each nail technology home services permit shall be subject to renewal at the same time as the nail technology salon license and shall be renewed upon request of the permitholder if the salon is operating its nail technology home services in compliance with the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and if the salon license is renewed. No permit that has been revoked or ~~lapsed~~ expired may be reinstated or transferred to another owner or location.

Sec. 432. Section 71-3,235, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3,235~~ The owner of each salon holding a nail technology home services permit shall have full responsibility for ensuring that the nail technology home services are provided in compliance with all applicable laws and rules and regulations and shall be liable for any violations which occur.

Sec. 433. Section 71-3,236, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,236~~ No person shall perform body art on or to any person under eighteen years of age without the prior written

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consent of the parent or court-appointed guardian of such person. The person giving such consent must be present during the procedure. A copy of such consent shall be retained for a period of five years by the person performing such body art. Nothing in this section shall be construed to require the performance of body art on a person under eighteen years of age. Violation of this section is a Class III misdemeanor.

Sec. 434. Section 71-3,237, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,237~~ Nothing in the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act shall be construed to authorize a person performing body art to engage in the practice of medicine and surgery.

Sec. 435. Section 71-3,238, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,238~~ The licensure of persons performing body art or operating a body art facility under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act shall not be construed to restrict or prohibit a governing body of a county, city, or village from providing further requirements for performing body art or operating a body art facility within its jurisdiction under ordinances at least as stringent as, or more stringent than, the regulations of the ~~Nebraska Cosmetology Act~~act.

Sec. 436. The department shall establish and collect fees for credentialing under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act as provided in sections 54 to 60 of this act.

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Sec. 437. Section 71-3,169, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,169~~ (1) The department shall conduct inspections as required by the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. Two types of inspections shall be conducted which shall be known as operation inspections and accreditation inspections. An operation inspection shall be conducted to ascertain that an establishment or a facility is operating in full compliance with all laws, rules, and regulations. An accreditation inspection shall be conducted to accomplish the purposes of an operation inspection and to ascertain that a school of cosmetology, a nail technology school, a school of esthetics, or an apprentice salon is maintaining academic standards and requirements of a quality consistent with the purpose of the ~~Nebraska Cosmetology Act~~act. All accreditation inspections shall be announced at least two weeks prior to the actual inspection.

(2) The ~~board and the~~ department, with the recommendation of the board, shall adopt and promulgate rules and regulations governing the standards and criteria to be used in the conduct of inspections, the rating system to be used, and the level of achievement necessary to receive a passing grade.

(3) Operation inspections shall be unannounced and shall be conducted during the normal working hours of the establishment or facility. ~~The inspector shall make every effort to gather the information he or she needs to complete the operation inspection in an inconspicuous manner.~~

(4) At the conclusion of the inspection, the owner or

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manager of the establishment or facility shall receive a copy of the rating form, which form shall be promptly displayed, and a ~~verbal~~ statement of any deficiencies noted.

Sec. 438. Section 71-3,170, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,170~~ If a cosmetology establishment, a nail technology establishment, ~~an electrology establishment,~~ or a body art facility receives a rating of unsatisfactory, it shall submit evidence to the department within fifteen days providing proof of corrective action taken. A repeat inspection shall be conducted within sixty days after the original inspection to determine if corrective action has occurred. The department may assess a fee for each repeat inspection required. If the establishment or facility receives an unsatisfactory rating on the repeat inspection, ~~or if evidence is not submitted within fifteen days~~the establishment shall be fined as determined by the department by rule and regulation. If the establishment or facility receives an unsatisfactory rating after the second unsatisfactory inspection or fails to pay the fine assessed within thirty days after notice, the license shall immediately be placed on inactive status pending action by the department, and the establishment or facility may not operate in any manner while its license is inactive.

The owner or manager of an establishment or a facility whose license has been placed on inactive status ~~shall~~ may appear before the board and the department to show cause why the department should not ask the Attorney General to initiate steps to revoke the license. The department may, as a result of such

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appearance, grant additional time for corrective action to occur, but the establishment or facility may not operate during such time. The establishment or facility may not return to operation until it has achieved a satisfactory rating on an inspection.

Sec. 439. Section 71-3,177, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3,177~~ Each of the following may be considered an act of unprofessional conduct when committed by a person licensed or registered under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act:

(1) Performing any of the practices regulated under the ~~Nebraska Cosmetology Act~~ act for which an individual is not licensed or registered or operating an establishment or facility without the appropriate license;

(2) Obstructing, interfering, or failing to cooperate with an inspection or investigation conducted by an authorized representative of the department when acting in accordance with the ~~Nebraska Cosmetology Act~~act;

(3) Failing to report to the department a suspected violation of the ~~Nebraska Cosmetology Act~~act;

(4) Aiding and abetting an individual to practice any of the practices regulated under the ~~Nebraska Cosmetology Act~~act for which he or she is not licensed or registered;

(5) Engaging in any of the practices regulated under the ~~Nebraska Cosmetology Act~~ act for compensation in an unauthorized location;

(6) Engaging in the practice of any healing art or

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profession for which a license is required without holding such a license;

(7) Enrolling a student or an apprentice without ~~submitting a complete student entrance notification to the department~~obtaining the appropriate documents prior to enrollment;

(8) Knowingly falsifying any student or apprentice record or report;

(9) Initiating or continuing home services to a client who does not meet the criteria established in the ~~Nebraska Cosmetology Act~~act;

(10) Knowingly issuing a certificate of completion or diploma to a student or an apprentice who has not completed all requirements for the issuance of such document;

(11) Failing, by a school of cosmetology, a nail technology school, a school of esthetics, or an apprentice salon, to follow its published rules;

(12) Violating, by a school of cosmetology, nail technology school, or school of esthetics, any federal or state law involving the operation of a vocational school or violating any federal or state law involving participation in any federal or state loan or grant program;

(13) Knowingly permitting any person under supervision to violate any law, rule, or regulation or knowingly permitting any establishment or facility under supervision to operate in violation of any law, rule, or regulation;

(14) Receiving two unsatisfactory inspection reports within any sixty-day period;

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(15) Engaging in any of the practices regulated under the ~~Nebraska Cosmetology Act~~ act while afflicted with any active case of a serious contagious disease, infection, or infestation, as determined by the department, or in any other circumstances when such practice might be harmful to the health or safety of clients;

(16) Violating any rule or regulation relating to the practice of body art; and

(17) Performing body art on or to any person under eighteen years of age (a) without the prior written consent of the parent or court-appointed guardian of such person, (b) without the presence of such parent or guardian during the procedure, or (c) without retaining a copy of such consent for a period of five years.

Sec. 440. Sections 440 to 489 of this act shall be known and may be cited as the Dentistry Practice Act.

Sec. 441. For purposes of the Dentistry Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 442 to 452 of this act apply.

Sec. 442. Accredited dental hygiene program means a program that is accredited by the American Dental Association Commission on Dental Accreditation, which is an agency recognized by the United States Department of Education as an accrediting body, that is within a school or college approved by the board, and that requires a dental hygiene curriculum of not less than two academic years.

Sec. 443. Accredited school or college of dentistry means

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a school or college approved by the board and accredited by the American Dental Association Commission on Dental Accreditation, which is an agency recognized by the United States Department of Education as an accrediting body.

Sec. 444. Analgesia means the diminution or elimination of pain in the conscious patient.

Sec. 445. Board means the Board of Dentistry.

Sec. 446. Section 71-183.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-183.02 For purposes of sections 71-183 to 71-193.20, dental~~ Dental assistant means a person, other than a dental hygienist, employed by a licensed dentist for the purpose of assisting such dentist in the performance of his or her clinical and clinical-related duties.

Sec. 447. General anesthesia means a controlled state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, and produced by a pharmacologic or nonpharmacologic method or a combination thereof.

Sec. 448. General supervision means the directing of the authorized activities of a dental hygienist or dental assistant by a licensed dentist and shall not be construed to require the physical presence of the supervisor when directing such activities.

Sec. 449. Indirect supervision means supervision when the licensed dentist authorizes the procedure to be performed by a dental hygienist or dental assistant and the licensed dentist is

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physically present on the premises when such procedure is being performed by the dental hygienist pursuant to section 470 of this act or the dental assistant.

Sec. 450. Inhalation analgesia means the administration of nitrous oxide and oxygen to diminish or eliminate pain in a conscious patient.

Sec. 451. Parenteral means administration other than through the digestive tract, including, but not limited to, intravenous administration.

Sec. 452. Sedation means a depressed level of consciousness in which the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command is retained and which is produced by a pharmacologic or nonpharmacologic method or a combination thereof.

Sec. 453. The board shall have ten members. The members shall consist of two public members; six licensed dentists, including one official or member of the instructional staff from each accredited school or college of dentistry in this state; and two licensed dental hygienists.

Sec. 454. Section 71-183, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-183 For the purpose of Chapter 71, article 1, any~~ Any person shall be deemed to be practicing dentistry who:

(1) Performs, or attempts or professes to perform, any dental operation or oral surgery or dental service of any kind, gratuitously or for a salary, fee, money, or other remuneration

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paid, or to be paid directly or indirectly, to ~~himself~~ such person or to any other person or agency who is a proprietor of a place where dental operations, oral surgery, or dental services are performed;

(2) Directly or indirectly, by any means or method, takes impression of the human tooth, teeth, jaws, or performs any phase of any operation incident to the replacement of a part of a tooth;

(3) Supplies artificial substitutes for the natural teeth~~,~~ or ~~who~~ furnishes, supplies, constructs, reproduces, or repairs any prosthetic denture, bridge, appliance, or ~~any~~ other structure to be worn in the human mouth, except on the written work authorization of a duly licensed and registered dentist;

(4) Places such appliance or structure in the human mouth, ~~or~~ adjusts or attempts or professes to adjust the same, or delivers the same to any person other than the dentist upon whose work authorization the work was performed;

(5) Professes to the public by any method to furnish, supply, construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth;

(6) Diagnoses, ~~or~~ professes to diagnose, ~~prescribe~~ prescribes for, ~~or~~ professes to prescribe for, treats, or professes to treat disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws, or adjacent structure;

(7) Extracts~~,~~ or attempts to extract~~,~~ human teeth~~,~~ or corrects or attempts to correct~~,~~ malformations of teeth or of the jaws;

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(8) Repairs or fills cavities in the human teeth;

(9) Diagnoses, makes, and adjusts appliances to artificial casts or malposed teeth for treatment of the malposed teeth in the human mouth, with or without instruction;

(10) Uses a roentgen or X-ray machine for the purpose of taking dental X-rays or roentgenograms;

(11) Gives or professes to give~~,~~ interpretations or readings of dental X-rays or roentgenograms;

(12) Administers an anesthetic of any nature in connection with a dental operation;

(13) Uses the words dentist, dental surgeon, or oral surgeon, ~~or~~ the letters D.D.S.~~,~~ or D.M.D., or any other words, letters, title, or descriptive matter which in any way represents ~~him~~ such person as being able to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of the teeth or jaws or adjacent structures; or

(14) States, ~~or~~ professes, or permits to be stated or professed by any means or method whatsoever that he or she can perform or will attempt to perform dental operations~~,~~ or render a diagnosis connected therewith.

Sec. 455. Section 71-183.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-183.01 Nothing in section 71-183~~ The Dentistry Practice Act shall not apply to:

(1) The practice of his or her profession by a physician or surgeon licensed as such under the laws of this state unless he or she practices dentistry as a specialty;

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(2) The giving by a qualified anesthetist or registered nurse of an anesthetic for a dental operation under the direct supervision of a licensed dentist or physician;

(3) The practice of dentistry in the discharge of their official duties by graduate dentists or dental surgeons in the United States Army, Navy, Public Health Service, Coast Guard, or Department of Veterans Affairs;

(4) The practice of dentistry by a licensed dentist of other states or countries at meetings of the Nebraska Dental Association or components thereof, or other like dental organizations approved by the Board of Dentistry, while appearing as clinicians;

(5) The practice of dentistry by a person duly licensed to practice dentistry in another state who has been recommended by the secretary of the board of examiners in the state of licensure and who has been granted temporary practice rights by the Board of Dentistry, with the approval of the department, for a period not to exceed three months in any twelve-month period, if the requirements regarding education and examination for licensure in the state of licensure are equal to or exceed the requirements regarding education and examination for licensure in Nebraska;

(6) The filling of work authorizations of a licensed and registered dentist as provided in this subdivision by any person or persons, association, corporation, or other entity for the construction, reproduction, or repair of prosthetic dentures, bridges, plates, or appliances to be used or worn as substitutes for natural teeth if such person or persons, association,

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corporation, or other entity does not solicit or advertise, directly or indirectly by mail, card, newspaper, pamphlet, radio, or otherwise, to the general public to construct, reproduce, or repair prosthetic dentures, bridges, plates, or other appliances to be used or worn as substitutes for natural teeth;

(7) The use of roentgen or X-ray machines or other rays for making radiograms or similar records of dental or oral tissues under the supervision of a licensed dentist or physician if such service is not advertised by any name whatever as an aid or inducement to secure dental patronage, and no person shall advertise that he or she has, leases, owns, or operates a roentgen or X-ray machine for the purpose of making dental radiograms of the human teeth or tissues or the oral cavity or administering treatment thereto for any disease thereof;

(8) The performance by a licensed dental hygienist, under the supervision of a licensed dentist, of the oral prophylaxis procedure which shall include the scaling and polishing of teeth and such additional procedures as are prescribed in accordance with rules and regulations adopted by the department;

(9) The performance by a dental assistant, under the supervision of a licensed dentist, of duties prescribed in accordance with rules and regulations adopted by the department; ~~or~~

(10) The performance by a licensed dental hygienist, by virtue of training and professional ability, under the supervision of a licensed dentist, of taking dental roentgenograms. Any other person is hereby authorized, under the supervision of a licensed dentist, to take dental roentgenograms but shall not be authorized

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to do so until he or she has satisfactorily completed a course in dental radiology recommended by the board and approved by the department;

(11) Students of dentistry who practice dentistry upon patients in clinics in the regular course of instruction at an accredited school or college of dentistry;

(12) Licensed physicians and surgeons who extract teeth or treat diseases of the oral cavity, gums, teeth, or maxillary bones as an incident to the general practice of their profession; or

(13) Dental hygiene students who practice dental hygiene upon patients in clinics in the regular course of instruction at an accredited dental hygiene program. Such dental hygiene students are also not engaged in the unauthorized practice of dental hygiene.

Sec. 456. Section 71-185, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-185~~ (1) Every applicant for a license to practice dentistry shall ~~(1)~~ (a) present proof of graduation with a Doctor of Dental Surgery degree or a Doctor of Dental Medicine degree from an accredited school or college of dentistry, (b) ~~and~~ ~~(2)~~ pass an examination approved by the Board of Dentistry which shall consist of the National Board Dental Examinations, both Part I and Part II, as constructed and administered by the American Dental Association Joint Commission on National Dental Examinations, (c) demonstrate the applicant's skill in clinical dentistry by passing the practical examination administered by the Central Regional Dental Testing Service or any other regional or state practical

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examination that the Board of Dentistry determines to be comparable to such practical examination, (d) pass a jurisprudence examination approved by the board that is based on the Nebraska statutes, rules, and regulations governing the practice of dentistry and dental hygiene, and (e) demonstrate continuing clinical competency as a condition of licensure if required by the board.

(2) Upon completion of these requirements, the department, with the recommendation of the board, shall issue the applicant a license to practice dentistry.~~prescribed by the Board of Dentistry which shall be elementary and practical in character but sufficiently thorough to test the fitness of the candidate to practice dentistry. Such examination shall include questions on anatomy, physiology, chemistry, dental materials, materia medica, therapeutics, histology, pathology, oral surgery, operative and prosthetic dentistry, dental jurisprudence, and such other subjects as are usually found in the curriculum of a dental college. Demonstrations of the applicant's skill in clinical dentistry shall also be required.~~

~~The department shall accept, upon the recommendation of the board and in lieu of the examination, a certificate of examination issued by the National Board of Dental Examiners of the United States of America. Every applicant for a license upon the basis of such certificate shall be required to pay the fee for licenses issued in dentistry without examination based upon a certificate by examination held by the National Board of Dental Examiners of the United States of America.~~

~~Each Nebraska-licensed dentist and dental hygienist in~~

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~~active practice within the State of Nebraska shall, on or before March 1 of each odd-numbered year, complete continuing competency activities as required by the Board of Dentistry pursuant to section 71-161.09 as a prerequisite for the licensee's next subsequent license renewal.~~

Sec. 457. Section 71-193.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.04 Any person (1) of good moral character, (2) who has attained the age of eighteen years, and (3) who is a graduate of a training school for dental hygienists that is accredited by the Commission on Dental Accreditation of the American Dental Association and is approved by the Board of Dentistry and that requires a course of not less than two academic years may be examined by such board on the subjects considered essential by it for a dental hygienist. Upon passage of the examination, the board shall recommend to the department that a license to practice as a dental hygienist be issued.~~(1) Every applicant for a license to practice dental hygiene shall (a) present proof of graduation from an accredited dental hygiene program, (b) pass an examination approved by the Board of Dentistry which shall consist of the National Board Dental Hygiene Examination as constructed and administered by the American Dental Association Joint Commission on National Dental Examinations, (c) demonstrate the applicant's skill in clinical dental hygiene by passing the practical examination administered by the Central Regional Dental Testing Service or any other regional or state practical examination that the Board of Dentistry determines to be comparable to such practical

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examination, (d) pass a jurisprudence examination approved by the board that is based on the Nebraska statutes, rules, and regulations governing the practice of dentistry and dental hygiene, and (e) demonstrate continuing clinical competency as a condition of licensure if required by the board.

(2) Upon completion of these requirements, the department, with the recommendation of the board, shall issue the applicant a license to practice dental hygiene.

Sec. 458. Any person who applies for a license to practice dentistry or dental hygiene and who has failed on two occasions to pass any part of the practical examination shall be required to complete a course in clinical dentistry or dental hygiene approved by the board before the department may consider the results of a third examination as a valid qualification for a license to practice dentistry or dental hygiene in the State of Nebraska.

Sec. 459. Every applicant for a license by endorsement to practice dentistry shall meet the requirements set out in section 44 of this act and shall have been actively engaged in the practice of dentistry for at least three years, one of which must be within the three years immediately preceding the application, under a license in another state or territory of the United States or the District of Columbia. Practice in an accredited school or college of dentistry for the purpose of completing a postgraduate or residency program in dentistry also serves as active practice toward meeting this requirement.

Sec. 460. Every applicant for a license by endorsement

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to practice dental hygiene shall meet the requirements set out in section 44 of this act and shall have been actively engaged in the practice of dental hygiene for at least three years, one of which must be within the three years immediately preceding the application, under a license in another state or territory of the United States or the District of Columbia. Practice in an accredited dental hygiene program for the purpose of completing a postgraduate or residency program in dental hygiene also serves as active practice toward meeting this requirement.

Sec. 461. Section 71-185.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-185.02~~ (1) The department, ~~upon~~with the recommendation of the ~~Board of Dentistry~~ board, shall issue a temporary license to any person who ~~(1)~~ (a) has met the requirements for a license to practice dentistry as set forth in section ~~71-185 and who~~ 456 of this act, (b) is enrolled in an accredited school or college of dentistry for the purpose of completing a postgraduate or residency program in dentistry, and (c) ~~and (2)~~ is licensed in another jurisdiction under conditions which the board finds equivalent to the requirements of the State of Nebraska for obtaining a license to practice dentistry.

(2) Any person who desires a temporary license shall make application to the department. Such application shall be accompanied by the required fee.

(3) The temporary license shall be issued for a period of one year and, upon application to the department, renewed annually without the licensee having to pay a renewal fee.

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(4) The temporary licensee shall be entitled to practice dentistry, including prescribing legend drugs and controlled substances, only under the auspices of the postgraduate or residency program in which he or she is enrolled.

Sec. 462. Section 71-185.03, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-185.03~~ (1) The department, ~~upon~~with the recommendation of the ~~Board of Dentistry~~ board, shall issue a faculty license to any person who meets the requirements of subsection (3) or (4) ~~or (5)~~ of this section. A faculty licensee may practice dentistry only as a faculty member at ~~a dental education institution~~ an accredited school or college of dentistry in the State of Nebraska ~~accredited by the Commission on Dental Accreditation of the American Dental Association, the Commission on Dental Accreditation of Canada, or similar organization as determined by the board~~ and may teach dentistry, conduct research, and participate in an institutionally administered faculty practice only at such ~~dental education institution~~accredited school or college of dentistry. A faculty licensee eligible for licensure under subsection ~~(5)~~ (4) of this section shall limit his or her practice to the clinical discipline in which he or she has received postgraduate education at an accredited ~~dental education institution~~school or college of dentistry.

(2) Any person who desires a faculty license shall make a written application to the department. The application shall include information regarding the applicant's professional qualifications, experience, and licensure. The application shall

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be accompanied by a copy of the applicant's dental degree, any other degrees or certificates for postgraduate education of the applicant, the required fee, and certification from the dean of an accredited ~~dental education institution~~ school or college of dentistry in the State of Nebraska ~~that~~ at which the applicant has a contract to be employed as a full-time faculty member. ~~at such institution.~~

~~(3) A faculty license shall expire at the same time and be subject to the same renewal requirements as a regular dental license, except that such license shall remain valid and may only be renewed if:~~

~~(a) The faculty licensee remains employed as a full-time faculty member of an accredited dental education institution in the State of Nebraska; and~~

~~(b) The faculty licensee demonstrates continuing clinical competency if required by the board.~~

~~(4)~~ (3) An individual who graduated from an accredited ~~dental education institution~~ school or college of dentistry shall be eligible for a faculty license if he or she:

(a) Has or had a license to practice dentistry within the past five years in some other state in the United States or a Canadian province;

(b) Has a contract to be employed as a full-time faculty member at an accredited ~~dental education institution~~ school or college of dentistry in the State of Nebraska;

(c) Passes a jurisprudence examination administered by the ~~Board of Dentistry~~board; and

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(d) Agrees to demonstrate continuing clinical competency as a condition of ~~renewal~~ licensure if required by the board.

~~(5)~~ (4) An individual who graduated from a nonaccredited ~~dental education institution~~ school or college of dentistry shall be eligible for a faculty license if he or she:

(a) Has completed at least two years of postgraduate education at an accredited ~~dental education institution~~ school or college of dentistry and received a certificate or degree from such ~~institution~~school or college of dentistry;

(b) Has a contract to be employed as a full-time faculty member at an accredited ~~dental education institution~~ school or college of dentistry in the State of Nebraska;

(c) Passes a jurisprudence examination administered by the ~~Board of Dentistry~~board;

(d) Agrees to demonstrate continuing clinical competency as a condition of ~~renewal~~ licensure if required by the board; and

(e) Has passed Part I and Part II of the National Board Dental Examinations or its equivalent as determined by the Board of Dentistry.

(5) A faculty license shall expire at the same time and be subject to the same renewal requirements as a regular dental license, except that such license shall remain valid and may only be renewed if:

(a) The faculty licensee remains employed as a full-time faculty member of an accredited school or college of dentistry in the State of Nebraska; and

(b) The faculty licensee demonstrates continuing clinical

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competency if required by the board.

Sec. 463. Section 71-185.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-185.01~~ (1) For purposes of this section, practitioner's facility ~~shall~~ ~~mean~~ means a facility in which a licensed dentist practices his or her profession, other than a facility licensed pursuant to the Health Care Facility Licensure Act.

(2) The department shall adopt and promulgate rules and regulations which are approved by the State Board of Health for practitioners' facilities in order to insure that such facilities are safe and sanitary and use precautions necessary to prevent the creation and spread of infectious and contagious diseases. Based upon a formal complaint, the department or its employees may inspect any practitioner's facility in this state to insure compliance with such regulations.

(3) Within thirty days after an inspection of a practitioner's facility which the department or its employees find to be in violation of its rules and regulations, the department shall notify the Board of Dentistry of its findings in writing. The ~~department~~Attorney General shall file a petition for disciplinary action pursuant to section ~~71-150~~ 89 of this act if the violation of the rules and regulations is not corrected within thirty days after the licensee has received notice of such violation. The department shall send a written progress report of its inspection and actions taken to the board.

(4) It shall be considered unprofessional conduct for a

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licensee to practice in a facility that does not comply with the rules and regulations regarding sanitary practitioners' facilities.

Sec. 464. The department shall establish and collect fees for credentialing under the Dentistry Practice Act as provided in sections 54 to 60 of this act.

Sec. 465. Section 71-189, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-189~~ Every person who owns, operates, or controls a dental office in which anyone other than himself or herself is practicing dentistry, shall display the name of such person or persons in a conspicuous place at the public entrance to such office.

Sec. 466. Section 71-190, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-190~~ (1) No person owning, operating, or conducting any place where dental work of any kind is done or contracted for shall employ or permit any unlicensed dentist to practice dentistry in such place.

(2) No person shall coerce or attempt to coerce a licensed dentist to practice dentistry in any manner contrary to the standards of acceptable and prevailing practice of the dental profession. Any dentist subjected to such coercion or attempted coercion has a cause of action against the person and may recover his or her damages and reasonable attorney's fees.

(3) Violation of this section by a health care professional regulated pursuant to the Uniform ~~Licensing Law~~ Credentialing Act may be considered evidence of an act of

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unprofessional conduct.

~~(4) Violation of this section by a person not regulated under the Uniform Licensing Law is a Class III misdemeanor.~~

Sec. 467. Section 71-191, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-191~~ No person shall operate any place in which dentistry is practiced under any other name than his or her own~~,~~ or display~~,~~ in connection with his or her practice~~,~~ or on any advertising matter~~,~~ any other than his or her own name. Two~~;~~ ~~but two~~ or more licensed dentists~~,~~ who are associated in the practice~~,~~ may use all of their names. A widow, widower, or heir of a deceased dentist may operate such office under the name of the deceased dentist for a period of not longer than one year from the date of death.

Sec. 468. Section 71-193.15, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.15~~ A licensed dental hygienist shall perform the traditional dental hygiene functions set forth in section ~~71-193.17~~ 469 of this act only when authorized to do so by a licensed dentist who shall be responsible for the total oral health care of the patient. The ~~Department of Health and Human Services Regulation and Licensure~~ department, in the conduct of public health-related services, may authorize a licensed dental hygienist to conduct preliminary charting and screening examinations, provide oral health education for patients including the teaching of appropriate plaque control techniques, and perform or provide all of the duties that any dental assistant is authorized to perform.

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Sec. 469. Section 71-193.17, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.17~~ When properly authorized, a licensed dental hygienist, under the general supervision of a licensed dentist, may perform the following intra and extra oral procedures:

(1) Scaling of teeth, including subgingival regions and root planing with hand and ultrasonic instruments;

(2) Polish all exposed tooth surfaces with motor-driven and hand instruments in the oral prophylaxis procedure, including polishing amalgam restorations;

(3) Conduct preliminary charting and screening examinations;

(4) Periodontal probing and charting;

(5) Gingival curettage;

(6) Place and remove periodontal dressings;

(7) Remove sutures;

(8) Provide preventive measures, such as the application of fluorides, sealants, and other recognized topical agents for the prevention of oral disease;

(9) Provide impressions for study casts;

(10) Apply topical desensitizing agents;

(11) Provide radiographic exposures;

(12) Provide oral health education for patients, including the teaching of appropriate plaque control techniques; and

(13) Perform or provide all of the duties that any dental assistant is authorized to perform.

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Sec. 470. Section 71-193.18, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.18~~ (1) A licensed dental hygienist may monitor nitrous oxide analgesia under the indirect supervision of a licensed dentist.

(2) A licensed dental hygienist may be approved by the department, ~~upon~~with the recommendation of the ~~Board of Dentistry~~board, to administer local anesthesia under the indirect supervision of a licensed dentist. The ~~department~~ board may~~,~~ ~~upon the recommendation of the board,~~ prescribe by rule and regulation: The necessary education and preparation, which shall include, but not be limited to, instruction in the areas of head and neck anatomy, osteology, physiology, pharmacology, medical emergencies, and clinical techniques; the necessary clinical experience; and the necessary examination for purposes of determining the competence of licensed dental hygienists to administer local anesthesia.~~Upon the recommendation of the board, the department~~ The board may approve successful completion after July 1, 1994, of a course of instruction to determine competence to administer local anesthesia. The course of instruction must be at an ~~institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education and approved by the Department of Health and Human Services Regulation and Licensure~~accredited school or college of dentistry or an accredited dental hygiene program. The course of instruction must be taught by a faculty member or members of the ~~institution~~ school or college of dentistry or dental hygiene program presenting the

course. The ~~department~~ board may approve for purposes of this subsection a course of instruction if such course includes:

(a) At least twelve clock hours of classroom lecture, including instruction in (i) medical history evaluation procedures, (ii) anatomy of the head, neck, and oral cavity as it relates to administering local anesthetic agents, (iii) pharmacology of local anesthetic agents, vasoconstrictor, and preservatives, including physiologic actions, types of anesthetics, and maximum dose per weight, (iv) systemic conditions which influence selection and administration of anesthetic agents, (v) signs and symptoms of reactions to local anesthetic agents, including monitoring of vital signs, (vi) management of reactions to or complications associated with the administration of local anesthetic agents, (vii) selection and preparation of the armamentaria for administering various local anesthetic agents, and (viii) methods of administering local anesthetic agents;

(b) At least twelve clock hours of clinical instruction during which time at least three injections of each of the anterior, middle and posterior superior alveolar, naso and greater palatine, inferior alveolar, lingual, mental, long buccal, and infiltration injections are administered; and

(c) Procedures, which shall include an examination, for purposes of determining whether the hygienist has acquired the necessary knowledge and proficiency to administer local anesthetic agents.

Sec. 471. Section 71-193.19, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-193.19~~ The ~~Department of Health and Human Services Regulation and Licensure~~ department, with the recommendation of the board, may, by rule and regulation, prescribe functions, procedures, and services in addition to those in section ~~71-193.17~~ 469 of this act which may be performed by a licensed dental hygienist under the supervision of a licensed dentist when such additional procedures are educational or related to the oral prophylaxis and intended to attain or maintain optimal oral health.

Sec. 472. Section 71-193.20, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.20~~ The department, ~~upon~~with the recommendation of the ~~Board of Dentistry~~ board, may adopt and promulgate rules and regulations providing for employment or work-setting facilities required for the provision of dental services by a licensed dental hygienist.

Sec. 473. Section 71-193.13, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.13~~ Any licensed dentist, public institution, or school may employ dental assistants~~,~~ in addition to licensed dental hygienists. Such dental assistants, under the supervision of a licensed dentist, may perform such duties as are prescribed in accordance with rules and regulations adopted and promulgated by the ~~Department of Health and Human Services Regulation and Licensure~~department, with the recommendation of the board.

Sec. 474. Section 71-193.14, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.14~~ The ~~Board of Dentistry shall recommend~~

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department, with the recommendation of the board, shall adopt and promulgate rules and regulations ~~to the department~~ governing the performance of duties by licensed dental hygienists and dental assistants. ~~The department shall adopt rules and regulations for such purpose upon the recommendations being submitted by the board.~~

Sec. 475. Section 71-193.23, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.23 Except as provided in section 71-193.24, after October 1, 1987, a~~ A dentist licensed in this state shall not administer ~~parenteral sedation,~~ general anesthesia, parenteral sedation, or inhalation analgesia in the practice of dentistry unless he or she has been issued a permit to administer general anesthesia, parenteral sedation, or inhalation analgesia pursuant to the ~~Dental Anesthesia~~ Dentistry Practice Act.

Sec. 476. Section 71-193.25, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.25 Violations of the Dental Anesthesia Act~~ A violation of provisions of the Dentistry Practice Act relating to the administration of general anesthesia, parenteral sedation, or inhalation analgesia may result in action against the dentist's permit, license, or both pursuant to ~~sections 71-155 to 71-161.18~~section 99 of this act.

Sec. 477. Section 71-193.26, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.26~~ The department, ~~upon~~with the recommendation of the board, shall issue a permit to a Nebraska-licensed dentist to administer general anesthesia on an outpatient basis to dental

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patients if the dentist:

(1) Maintains a properly equipped facility for the administration of general anesthesia as determined by the board;

(2) Is currently certified in basic life-support skills or the equivalent thereof;

(3) Has successfully completed an onsite evaluation covering the areas of physical evaluation, monitoring, sedation, and emergency medicine; and

(4) Meets at least one of the following criteria:

(a) Has completed one year of advanced training in anesthesiology and related academic subjects beyond the dental school level in an approved training program;

(b) Is a diplomate of the American Board of Oral and Maxillofacial Surgery;

(c) Has completed the educational requirements for eligibility for examination by the American Board of Oral and Maxillofacial Surgery; or

(d) Is a fellow of the American Dental Society of Anesthesiology.~~;~~ ~~or~~

~~(e) Is a licensed dentist who has been administering general anesthesia in a competent and efficient manner as determined by the board for ten of the twelve years immediately preceding October 1, 1988.~~

A dentist who has been issued a permit pursuant to this section may administer ~~intravenous~~ parenteral sedation or inhalation analgesia.

Sec. 478. Section 71-193.27, Reissue Revised Statutes of

Nebraska, is amended to read:

~~71-193.27~~ The department, ~~upon~~with the recommendation of the board, shall issue a permit to a Nebraska-licensed dentist to administer parenteral sedation on an outpatient basis to dental patients if the dentist:

(1) Maintains a properly equipped facility for the administration of parenteral sedation as determined by the board;

(2) Is currently certified in basic life-support skills or the equivalent thereof;

(3) Has successfully completed an onsite evaluation covering the areas of physical evaluation, monitoring, sedation, and emergency medicine; and

~~(4)(a)~~ (4) Is certified as competent in the administration of parenteral sedation and in handling all related emergencies by a university, teaching hospital, or other facility approved by the board or by completing the curriculum of an accredited ~~dental~~ school or college of dentistry. Such certification shall specify the type, the number of hours, and the length of formal training completed at such ~~institution~~school or college of dentistry. The formal training shall include, but not be limited to, forty didactic hours and twenty patient contact hours, including documentation of a minimum of fifteen supervised parenteral sedation cases.~~;~~ ~~or~~

~~(b) Has been administering parenteral sedation on an outpatient basis in a competent and efficient manner as determined by the board for twelve months preceding October 1, 1988.~~

A dentist who has been issued a permit pursuant to this

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section may administer inhalation analgesia.

Sec. 479. Section 71-193.29, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.29~~ The department, ~~upon~~with the recommendation of the board, shall issue a permit to a Nebraska-licensed dentist to administer inhalation analgesia on an outpatient basis to dental patients if the dentist:

(1) Maintains a properly equipped facility for the administration of inhalation analgesia as determined by the board;

(2) Is currently certified in basic life-support skills or the equivalent thereof; and

~~(3)(a)~~ (3) Has completed an approved two-day training course or equivalent training which may be acquired while studying at an accredited school or college of dentistry. ~~or (b) has been administering inhalation analgesia on an outpatient basis in a competent and efficient manner as determined by the board for twelve months preceding October 1, 1988.~~

Sec. 480. Section 71-193.28, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.28~~ General anesthesia and parenteral sedation shall not be administered by a dentist without the presence and assistance of a licensed dental hygienist or a dental assistant.

Sec. 481. Section 71-193.33, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.33~~ Any person who assists a dentist in the administration of general anesthesia, parenteral sedation, or inhalation analgesia shall be currently certified in basic

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life-support skills or the equivalent thereof.

Sec. 482. Section 71-193.30, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.30~~ Nothing in the ~~Dental~~ ~~Anesthesia~~ Dentistry Practice Act shall be construed to allow a dentist to administer to himself or herself, or to any person other than in the course of the practice of dentistry, any drug or agent used for ~~anesthesia, analgesia, or sedation~~general anesthesia, parenteral sedation, or inhalation analgesia.

Sec. 483. Section 71-193.31, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.31~~ (1) Permits issued ~~by the board~~ for the administration of general anesthesia, parenteral sedation, or inhalation analgesia pursuant to ~~sections 71-193.26, 71-193.27, and 71-193.29~~ the Dentistry Practice Act shall be valid ~~for four years~~until March 1 of the next odd-numbered year after issuance, except that permits issued or renewed prior to March 1, 2007, shall expire March 1, 2009.

(2) The department, ~~upon~~with the recommendation of the board, shall adopt and promulgate rules and regulations to define criteria for the reevaluation of credentials, facilities, equipment, dental hygienists, and dental assistants and procedures of a previously qualified dentist to renew his or her permit for each ~~additional four-year period~~subsequent renewal.

Sec. 484. Section 71-193.32, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.32~~ All practice locations of a dentist applying

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for a permit ~~pursuant to sections 71-193.26, 71-193.27, and 71-193.29~~ to administer general anesthesia, parenteral sedation, or inhalation analgesia may be inspected at the discretion of the board. The board may contract to have such inspections performed. The board shall not delegate authority to review and to make recommendations on permit applications or to determine the persons or facilities to be inspected.

Sec. 485. Section 71-193.34, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.34~~ (1) All licensed dentists practicing in this state shall submit a report to the board within thirty days of any incident which results in death or physical or mental injury requiring hospitalization of a patient which occurs in the outpatient facilities of such dentist during, or as a direct result of, inhalation analgesia, parenteral sedation, or general anesthesia.

(2) The incident report shall include, but not be limited to:

(a) A description of the dental procedure;

(b) A description of the preoperative physical condition of the patient;

(c) A list of the drugs and the dosage administered;

(d) A detailed description of the techniques used in administering the drugs;

(e) A description of the incident, including, but not limited to, a detailed description of the symptoms of any complications, the symptoms of onset, and the type of symptoms

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in the patient;

(f) A description of the treatment instituted;

(g) A description of the patient's response to the treatment; and

(h) A description of the patient's condition on termination of any procedures undertaken.

(3) Failure to submit an incident report as required by this section shall result in the loss of the permit.

Sec. 486. Section 71-193.35, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-193.35~~ The department, ~~upon~~with the recommendation of the board, may adopt and promulgate rules and regulations necessary to carry out the ~~Dental Anesthesia Act~~provisions of the Dentistry Practice Act relating to permits to administer general anesthesia, parenteral sedation, or inhalation analgesia.

Sec. 487. Section 71-193.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-193.01~~ There is hereby established the Office of Oral Health and Dentistry in the ~~Department of Health and Human Services Regulation and Licensure~~department. The head of such office shall be known as the Dental Health Director and shall be appointed by the department. The Dental Health Director shall give full time to his or her duties.

Sec. 488. Section 71-193.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-193.02~~ The Dental Health Director shall be a graduate of an ~~approved~~accredited school or college of dentistry and shall

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be licensed by the State of Nebraska to practice dentistry in Nebraska or duly licensed to practice dentistry in some other state of the United States of America.

Sec. 489. Section 71-193.03, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-193.03~~ The duties of the Office of Oral Health and Dentistry shall be the promotion and development of activities which will result in the practice and improvement of the dental health of the people of the state under rules and regulations adopted and promulgated by the department.

Sec. 490. Section 71-5172, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5172~~ Sections ~~71-5172~~ ~~to~~ ~~71-51,100~~ 490 to 526 of this act shall be known and may be cited as the Emergency Medical Services Practice Act.

Sec. 491. Section 71-5173, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5173~~ It is the intent of the Legislature in enacting the Emergency Medical Services Practice Act to (1) effectuate the delivery of quality out-of-hospital emergency medical care in the state, (2) eliminate duplication of statutory requirements, (3) merge the former boards responsible for regulating ambulance services and emergency medical care, (4) replace the former law regulating providers of and services delivering emergency medical care, (5) provide for the appropriate ~~certification~~ licensure of persons providing out-of-hospital medical care and licensure of organizations providing emergency medical services, (6) provide

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for the establishment of educational requirements and permitted practices for persons providing out-of-hospital emergency medical care, (7) provide a system for regulation of out-of-hospital emergency medical care which encourages out-of-hospital emergency care providers and emergency medical services to provide the highest degree of care which they are capable of providing, and (8) provide a flexible system for the regulation of out-of-hospital emergency care providers and emergency medical services that protects public health and safety.

The act shall be liberally construed to effect the purposes of, carry out the intent of, and discharge the responsibilities prescribed in the act.

Sec. 492. Section 71-5174, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5174~~ The Legislature finds:

(1) That out-of-hospital emergency medical care is a primary and essential health care service and that the presence of an adequately equipped ambulance and trained out-of-hospital emergency care providers may be the difference between life and death or permanent disability to those persons in Nebraska making use of such services in an emergency;

(2) That effective delivery of out-of-hospital emergency medical care may be assisted by a program of training and ~~certification~~ licensure of out-of-hospital emergency care providers and licensure of emergency medical services in accordance with rules and regulations ~~approved~~adopted by the ~~Board of Emergency Medical Services~~board;

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(3) That the Emergency Medical Services Practice Act is essential to aid in advancing the quality of care being provided by out-of-hospital emergency care providers and by emergency medical services and the provision of effective, practical, and economical delivery of out-of-hospital emergency medical care in the State of Nebraska;

(4) That the services to be delivered by out-of-hospital emergency care providers are complex and demanding and that training and other requirements appropriate for delivery of the services must be constantly reviewed and updated; and

(5) That the enactment of a regulatory system that can respond to changing needs of patients and out-of-hospital emergency care providers and emergency medical services is in the best interests of the citizens of Nebraska.

Sec. 493. Section 71-5175, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5175~~ For purposes of the Emergency Medical Services Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 494 to 503 of this act apply.~~:~~

~~(1) Ambulance means any privately or publicly owned motor vehicle or aircraft that is especially designed, constructed or modified, and equipped and is intended to be used and is maintained or operated for the overland or air transportation of patients upon the streets, roads, highways, airspace, or public ways in this state, including funeral coaches or hearses, or any other motor vehicles or aircraft used for such purposes;~~

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~~(2) Board means the Board of Emergency Medical Services;~~

~~(3) Department means the Department of Health and Human Services Regulation and Licensure;~~

~~(4) Emergency medical service means the organization responding to a perceived individual need for immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury;~~

~~(5) Out-of-hospital emergency care provider includes all certification classifications of emergency care providers established pursuant to the act;~~

~~(6) Patient means an individual who either identifies himself or herself as being in need of medical attention or upon assessment by an out-of-hospital emergency care provider has an injury or illness requiring treatment;~~

~~(7) Person means an individual, firm, partnership, limited liability company, corporation, company, association, or joint-stock company or association or group of individuals acting together for a common purpose and includes the State of Nebraska and any agency or political subdivision of the state;~~

~~(8) Physician medical director means a qualified physician who is responsible for the medical supervision of out-of-hospital emergency care providers and verification of skill proficiency of out-of-hospital emergency care providers pursuant to section 71-5178;~~

~~(9) Protocol means a set of written policies, procedures, and directions from a physician medical director to an out-of-hospital emergency care provider concerning the medical~~

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~~procedures to be performed in specific situations;~~

~~(10) Qualified physician means an individual who is licensed to practice medicine and surgery pursuant to sections 71-1,102 to 71-1,107.14 or osteopathic medicine and surgery pursuant to sections 71-1,137 to 71-1,141 and meets any other requirements established by rule and regulation;~~

~~(11) Qualified physician surrogate means a qualified, trained medical person designated by a qualified physician in writing to act as an agent for the physician in directing the actions or recertification of out-of-hospital emergency care providers; and~~

~~(12) Standing order means a direct order from the physician medical director to perform certain tasks for a patient under a specific set of circumstances.~~

Sec. 494. Ambulance means any privately or publicly owned motor vehicle or aircraft that is especially designed, constructed or modified, and equipped and is intended to be used and is maintained or operated for the overland or air transportation of patients upon the streets, roads, highways, airspace, or public ways in this state, including funeral coaches or hearses, or any other motor vehicles or aircraft used for such purposes.

Sec. 495. Board means the Board of Emergency Medical Services.

Sec. 496. Emergency medical service means the organization responding to a perceived individual need for immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

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Sec. 497. Out-of-hospital emergency care provider includes all licensure classifications of emergency care providers established pursuant to the Emergency Medical Services Practice Act.

Sec. 498. Patient means an individual who either identifies himself or herself as being in need of medical attention or upon assessment by an out-of-hospital emergency care provider has an injury or illness requiring treatment.

Sec. 499. Physician medical director means a qualified physician who is responsible for the medical supervision of out-of-hospital emergency care providers and verification of skill proficiency of out-of-hospital emergency care providers pursuant to section 506 of this act.

Sec. 500. Protocol means a set of written policies, procedures, and directions from a physician medical director to an out-of-hospital emergency care provider concerning the medical procedures to be performed in specific situations.

Sec. 501. Qualified physician means an individual who is licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to the Uniform Credentialing Act and meets any other requirements established by rule and regulation.

Sec. 502. Qualified physician surrogate means a qualified, trained medical person designated by a qualified physician in writing to act as an agent for the physician in directing the actions or renewal of out-of-hospital emergency care providers.

Sec. 503. Standing order means a direct order from the

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physician medical director to perform certain tasks for a patient under a specific set of circumstances.

Sec. 504. Section 71-5176, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-5176~~ (1) ~~The Board of Emergency Medical Services is established.~~ The board shall have seventeen members appointed by the Governor with the approval of a majority of the Legislature. The appointees may begin to serve immediately following appointment and prior to approval by the Legislature.

(2)(a) Seven members of the Board of Emergency Medical Services shall be active out-of-hospital emergency care providers at the time of and for the duration of their appointment, and each shall have at least five years of experience in his or her level of ~~certification~~ licensure at the time of his or her appointment or reappointment. Two of the seven members who are out-of-hospital emergency care providers shall be first responders, two shall be emergency medical technicians, one shall be an emergency medical technician-intermediate, and two shall be emergency medical technicians-paramedic.

(b) Three of the members shall be qualified physicians actively involved in emergency medical care. At least one of the physician members shall be a board-certified surgeon, and at least one of the physician members shall be a board-certified emergency physician.

(c) Five members shall be appointed to include one member who is a representative of an approved training agency, one member who is a physician assistant with at least five years

of experience and active in out-of-hospital emergency medical care education, one member who is a registered nurse with at least five years of experience and active in out-of-hospital emergency medical care education, and two ~~members who are consumers who have been residents of the State of Nebraska for five years with~~ public members who meet the requirements of section 68 of this act and who have an expressed interest in the provision of out-of-hospital emergency medical care.

(d) The remaining two members shall have any of the qualifications listed in subdivision (a), (b), or (c) of this subsection.

(e) In addition to any other criteria for appointment, among the members of the board there shall be at least one member who is a volunteer emergency medical care provider, at least one member who is a paid emergency medical care provider, at least one member who is a firefighter, at least one member who is a law enforcement officer, and at least one member who is active in the Critical Incident Stress Management Program. If a person appointed to the board is qualified to serve as a member in more than one capacity, all qualifications of such person shall be taken into consideration to determine whether or not the diversity in qualifications required in this subsection has been met.

(f) At least five members of the board shall be appointed from each congressional district, and at least one of such members shall be a~~. No more than one~~ physician member ~~shall reside in any single congressional district~~described in subdivision (b) of this subsection.

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(3) ~~The Governor shall make the initial appointments to the board within ninety days after September 13, 1997. Five of the initial members shall be appointed for terms of one year as determined by the Governor. Six of the initial members shall be appointed for terms of two years as determined by the Governor. Six of the initial members shall be appointed for terms of three years as determined by the Governor. After the initial appointments, all members shall serve three-year terms.~~Members shall serve five-year terms beginning on December 1 and may serve for any number of such terms. The terms of the members of the board appointed prior to the operative date of this section shall be extended by two years and until December 1 of such year. Each member shall hold office until the expiration of his or her term. Any vacancy in membership, other than by expiration of a term, shall be filled within ninety days by the Governor by appointment as provided in subsection (2) of this section.

~~(4) Members of the board shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.~~

(4)~~(5) The board shall meet within ninety days after the appointment of the initial members and shall meet at least once each year thereafter.~~ Special meetings of the board may be called by the department or upon the written request of any six members of the board explaining the reason for such meeting. The place of the meetings shall be set by the department. ~~At the first meeting of the board, such officers as the board deems necessary shall be elected. A majority of the members shall constitute a quorum~~

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~~for the transaction of business. Every act of the majority of the members of the board present at a meeting of the board shall be deemed to be the act of the board. The board shall comply with the Open Meetings Act.~~

~~(6) 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 for resolution of conflicts of interest.~~

~~(7)~~ (5) The Governor upon recommendation of the department shall have power to remove from office at any time any member of the board 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 professional ~~license or certificate~~ credential may be suspended or revoked pursuant to the Uniform ~~Licensing Law~~Credentialing Act, or for a lack of license ~~or certificate~~ required by the Emergency Medical Services Practice Act.

~~(8)~~ (6) Except as provided in subsection ~~(7)~~ (5) of this section and notwithstanding subsection (2) of this section, a member of the board who changes his or her ~~certification~~ licensure classification after appointment when such ~~certification~~ licensure classification was a qualification for appointment shall be permitted to continue to serve as a member of the board until the expiration of his or her term.

Sec. 505. Section 71-5177, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-5177~~ In addition to any other responsibilities prescribed by the Emergency Medical Services Practice Act, the board shall:

(1) Promote the dissemination of public information and education programs to inform the public about out-of-hospital emergency medical care and other out-of-hospital medical information, including appropriate methods of medical self-help, first aid, and the availability of out-of-hospital emergency medical services training programs in the state;

(2) Provide for the collection of information for evaluation of the availability and quality of out-of-hospital emergency medical care, evaluate the availability and quality of out-of-hospital emergency medical care, and serve as a focal point for discussion of the provision of out-of-hospital emergency medical care;

(3) Review and comment on all state agency proposals and applications that seek funding for out-of-hospital emergency medical care;

(4) Establish model procedures for patient management in out-of-hospital medical emergencies that do not limit the authority of law enforcement and fire protection personnel to manage the scene during an out-of-hospital medical emergency;

(5) Not less than once each five years, undertake a review and evaluation of the act and its implementation together with a review of the out-of-hospital emergency medical care needs of the citizens of the State of Nebraska and report to the Legislature any recommendations which it may have; and

(6) Identify communication needs of emergency medical services and make recommendations for development of a communications plan for a communications network for out-of-hospital emergency care providers and emergency medical services.

Sec. 506. Section 71-5178, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5178~~ The ~~department, with the approval of the~~ board~~,~~ shall adopt ~~and promulgate~~ rules and regulations necessary to:

~~(1) Implement the Emergency Medical Services Act;~~

~~(2)~~ (1) Create the following ~~certification~~ licensure classifications of out-of-hospital emergency care providers: (a) First responder; (b) emergency medical technician; (c) emergency medical technician-intermediate; and (d) emergency medical technician-paramedic. The rules and regulations creating the classifications shall include the practices and procedures authorized for each classification, training and testing requirements, ~~recertification~~ renewal and reinstatement requirements, and other criteria and qualifications for each classification determined to be necessary for protection of public health and safety;

~~(3) Provide for curricula which will allow out-of-hospital emergency care providers and users of automated external defibrillators as defined in section 71-51,102 to be trained for the delivery of practices and procedures in units of limited subject matter which will encourage continued development of abilities and use of such abilities through additional~~

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~~authorized practices and procedures;~~

~~(4) Establish procedures and requirements for applications for examination, certification, or recertification in any of the certification classifications created pursuant to the Emergency Medical Services Act;~~

~~(5) Provide~~ (2) Set standards for the licensure of basic life support services and advanced life support services. The rules and regulations providing for licensure shall include standards and requirements for: Vehicles, equipment, maintenance, sanitation, inspections, personnel, training, medical direction, records maintenance, practices and procedures to be provided by employees or members of each classification of service, and other criteria for licensure established by ~~the department with the approval of~~ the board;

~~(6)~~ (3) Authorize emergency medical services to provide differing practices and procedures depending upon the qualifications of out-of-hospital emergency care providers available at the time of service delivery. No emergency medical service shall be licensed to provide practices or procedures without the use of personnel ~~certified~~ licensed to provide the practices or procedures;

~~(7) Authorize out-of-hospital emergency care providers to perform any practice or procedure which they are authorized to perform with an emergency medical service other than the service with which they are affiliated when requested by the other service and when the patient for whom they are to render services is in danger of loss of life;~~

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~~(8)~~ (4) Provide for the ~~approval, inspection, review, and termination of~~ approval of training agencies and establish minimum standards for services provided by training agencies; ~~. All training for certification shall be provided through an approved or accredited training agency;~~

~~(9)~~ (5) Provide for the minimum qualifications of a physician medical director in addition to the licensure required by ~~subdivision (10) of section 71-5175~~section 501 of this act;

~~(10)~~ (6) Provide for the use of physician medical directors, qualified physician surrogates, model protocols, standing orders, operating procedures, and guidelines which may be necessary or appropriate to carry out the purposes of the ~~act~~Emergency Medical Services Practice Act. The model protocols, standing orders, operating procedures, and guidelines may be modified by the physician medical director for use by any out-of-hospital emergency care provider or emergency medical service before or after adoption;

~~(11)~~ (7) Establish criteria for approval of organizations issuing cardiopulmonary resuscitation certification which shall include criteria for instructors, establishment of certification periods and minimum curricula, and other aspects of training and certification;

~~(12)~~ (8) Establish ~~recertification and~~ renewal and reinstatement requirements for out-of-hospital emergency care providers and emergency medical services and ~~adopt and promulgate rules and regulations to~~ establish continuing competency requirements. ~~as approved by the board.~~ Continuing education

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is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section ~~71-161.09~~ 48 of this act which a ~~certified~~ licensed person may select as an alternative to continuing education. The ~~recertification~~ reinstatement requirements for out-of-hospital emergency care providers shall allow ~~recertification~~ reinstatement at the same or any lower level of ~~certification~~ licensure for which the out-of-hospital emergency care provider is determined to be qualified;

~~(13)~~ (9) Establish criteria for deployment and use of automated external defibrillators as necessary for the protection of the public health and safety;

~~(14)~~ (10) Create ~~certification, recertification, and renewal~~ licensure, renewal, and reinstatement requirements for emergency medical service instructors. The rules and regulations shall include the practices and procedures for ~~certification, recertification, and renewal~~licensure, renewal, and reinstatement; and

~~(15)~~ (11) Establish criteria for emergency medical technicians-intermediate and emergency medical technicians-paramedic performing activities within their scope of practice at a hospital or health clinic under subsection (3) of section ~~71-5184~~513 of this act. Such criteria shall include, but not be limited to: (a) Requirements for the orientation of registered nurses, physician assistants, and physicians involved in the supervision of such personnel; (b) supervisory and training

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requirements for the physician medical director or other person in charge of the medical staff at such hospital or health clinic; and (c) a requirement that such activities shall only be performed at the discretion of, and with the approval of, the governing authority of such hospital or health clinic. For purposes of this subdivision, health clinic has the definition found in section 71-416 and hospital has the definition found in section 71-419.

~~All certificates and licenses issued under the act shall expire at midnight on December 31 the third year after issuance.~~

Sec. 507. Section 71-5179, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5179~~ (1) The Legislature adopts all parts of the United States Department of Transportation curricula, including appendices, and skills as the training requirements and permitted practices and procedures for the ~~certification~~ licensure classifications listed in subdivision ~~(2)~~ (1) of section ~~71-5178~~ 506 of this act until modified by rule and regulation.

(2) The department and the board shall consider the following factors, in addition to other factors required or permitted by the Emergency Medical Services Practice Act, when adopting rules and regulations for a ~~certification~~ licensure classification:

(a) Whether the initial training required for ~~certification~~ licensure in the classification is sufficient to enable the out-of-hospital emergency care provider to perform the practices and procedures authorized for the classification in a manner which is beneficial to the patient and protects public

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health and safety;

(b) Whether the practices and procedures to be authorized are necessary to the efficient and effective delivery of out-of-hospital emergency medical care;

(c) Whether morbidity can be reduced or recovery enhanced by the use of the practices and procedures to be authorized for the classification; and

(d) Whether continuing competency requirements are sufficient to maintain the skills authorized for the classification.

Sec. 508. The department, with the recommendation of the board, shall adopt and promulgate rules and regulations necessary to:

(1) Administer the Emergency Medical Services Practice Act;

(2) Provide for curricula which will allow out-of-hospital emergency care providers and users of automated external defibrillators as defined in section 71-51,102 to be trained for the delivery of practices and procedures in units of limited subject matter which will encourage continued development of abilities and use of such abilities through additional authorized practices and procedures;

(3) Establish procedures and requirements for applications for licensure, renewal, and reinstatement in any of the licensure classifications created pursuant to the Emergency Medical Services Practice Act; and

(4) Provide for the inspection, review, and termination

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of approval of training agencies. All training for licensure shall be provided through an approved training agency.

Sec. 509. Section 71-5191, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-5191~~ The following are exempt from the licensing ~~and certification~~ requirements of the Emergency Medical Services Practice Act:

(1) The occasional use of a vehicle or aircraft not designated as an ambulance and not ordinarily used in transporting patients or operating emergency care, rescue, or resuscitation services;

(2) Vehicles or aircraft rendering services as an ambulance in case of a major catastrophe or emergency when licensed ambulances based in the localities of the catastrophe or emergency are incapable of rendering the services required;

(3) Ambulances from another state which are operated from a location or headquarters outside of this state in order to transport patients across state lines, but no such ambulance shall be used to pick up patients within this state for transportation to locations within this state except in case of an emergency;

(4) Ambulances or emergency vehicles owned and operated by an agency of the United States Government and the personnel of such agency;

(5) Except for the provisions of section ~~71-5194~~521 of this act, physicians, physician assistants, registered nurses, licensed practical nurses, or advanced practice registered nurses, who hold current Nebraska licenses and are exclusively engaged in

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the practice of their respective professions; ~~and~~

(6) Persons authorized to perform out-of-hospital emergency care in other states when incidentally working in Nebraska in response to an emergency situation; and~~.~~

(7) Students under the supervision of a licensed out-of-hospital emergency care provider performing emergency medical services that are an integral part of the training provided by an approved training agency.

Sec. 510. (1) To be eligible for a license under the Emergency Medical Services Practice Act, an individual shall have attained the age of eighteen years and met the requirements established in accordance with subdivision (1) of section 506 of this act.

(2) All licenses issued under the act shall expire the second year after issuance.

(3) An individual holding a certificate under the Emergency Medical Services Act on December 1, 2008, shall be deemed to be holding a license under the Uniform Credentialing Act and the Emergency Medical Services Practice Act on such date. The certificate holder may continue to practice under such certificate as a license in accordance with the Uniform Credentialing Act until the certificate would have expired under its terms.

Sec. 511. Section 71-5181.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5181.01~~ The department shall establish and collect fees for credentialing activities under the Emergency Medical Services Practice Act as provided in ~~section 71-162~~sections 54 to

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60 of this act.

Sec. 512. Section 71-5183, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5183~~ Each licensed emergency medical service shall have a physician medical director. ~~by July 1, 1998.~~

Sec. 513. Section 71-5184, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5184~~ (1) An out-of-hospital emergency care provider other than a first responder as classified under section ~~71-5178~~ 506 of this act may not assume the duties incident to the title or practice the skills of an out-of-hospital emergency care provider unless he or she is employed by or serving as a volunteer member of an emergency medical service licensed by the department.

(2) An out-of-hospital emergency care provider may only practice the skills he or she is authorized to employ and which are covered by the ~~certificate~~ license issued to such provider pursuant to ~~section 71-5181~~the Emergency Medical Services Practice Act.

(3) An emergency medical technician-intermediate or an emergency medical technician-paramedic may volunteer or be employed at a hospital as defined in section 71-419 or a health clinic as defined in section 71-416 to perform activities within his or her scope of practice within such hospital or health clinic under the supervision of a registered nurse, a physician assistant, or a physician. Such activities shall be performed in a manner established in rules and regulations adopted and promulgated by the department, with ~~approval~~the recommendation of the board.

Sec. 514. Section 71-5185, Reissue Revised Statutes of

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Nebraska, is amended to read:

~~71-5185~~ (1) No patient data received or recorded by an emergency medical service or an out-of-hospital emergency care provider shall be divulged, made public, or released by an emergency medical service or an out-of-hospital emergency care provider, except that patient data may be released to the receiving health care facility, to the department for public health purposes, upon the written authorization of the patient who is the subject of the record, or as otherwise permitted by law. For purposes of this section, patient data means any data received or recorded as part of the records maintenance requirements of the Emergency Medical Services Practice Act.

(2) Patient data received by the department shall be confidential with release only (a) in aggregate data reports created by the department on a periodic basis or at the request of an individual or (b) as case-specific data to approved researchers for specific research projects. Approved researchers shall maintain the confidentiality of the data, and researchers shall be approved in the same manner as described in section 81-666. Aggregate reports shall be public documents. Emergency-medical-service-specific data and out-of-hospital-emergency-care-provider-specific data shall be released only upon the written authorization of the service or the provider who is the subject of the record.

(3) No civil or criminal liability of any kind or character for damages or other relief or penalty shall arise or be enforced against any person or organization by reason of having

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provided patient data pursuant to this section.

Sec. 515. Section 71-5186, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5186~~ No ambulance shall transport any patient upon any street, road, highway, airspace, or public way in the State of Nebraska unless such ambulance, when so transporting patients, is occupied by at least one ~~certified~~ licensed out-of-hospital emergency care provider. Such requirement shall be met if any of the individuals providing the service is a licensed physician, registered nurse, licensed physician assistant, or licensed practical nurse functioning within the scope of practice of his or her license.

Sec. 516. Section 71-5187, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5187~~ The driver of a licensed motor vehicle ambulance who holds a valid driver's license issued by the state of his or her residence may exercise the privileges set forth in Nebraska statutes relating to emergency vehicles when responding to an emergency call or while transporting a patient.

Sec. 517. Section 71-5188, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5188~~ The department, with the approval of the board, may, whenever it deems appropriate, waive any rule, regulation, or standard relating to the licensure of emergency medical services or ~~certification of~~ out-of-hospital emergency care providers when the lack of a licensed emergency medical service in a municipality or other area will create an undue hardship in the municipality or

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other area in meeting the emergency medical service needs of the people thereof.

Sec. 518. Section 71-5189, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5189 The department may issue a certificate for out-of-hospital emergency care providers without examination to any person who holds a current certificate or license as an out-of-hospital emergency care provider, or its equivalent, from another jurisdiction if the department, with the approval of the board, finds that the standards for certification or licensure in such other jurisdiction are at least the substantial equivalent of those prevailing in this state.~~ The department, with the ~~approval~~recommendation of the board, may issue a ~~certificate~~ license to any individual who has a current certificate from the National Registry of Emergency Medical Technicians. The level of such ~~certification~~ licensure shall be determined by ~~the department with the approval of~~ the board.

Sec. 519. Section 71-5190, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5190~~ A license issued under the Emergency Medical Services Practice Act shall not be sold, transferred, or assigned by the holder. Any change of ownership of an emergency medical service requires a new application and a new license.

Sec. 520. Section 71-5193, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5193~~ The Emergency Medical Services Practice Act or the rules or regulations shall not be construed to authorize or

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require giving any medical treatment to a person who objects to such treatment on religious or other grounds or to authorize the transportation of such person to a medical facility.

Sec. 521. Section 71-5194, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5194~~ (1) No out-of-hospital emergency care provider, physician assistant, registered nurse, or licensed practical nurse who provides public emergency care shall be liable in any civil action to respond in damages as a result of his or her acts of commission or omission arising out of and in the course of his or her rendering in good faith any such care. Nothing in this subsection shall be deemed to grant any such immunity for liability arising out of the operation of any motor vehicle, aircraft, or boat or while such person was impaired by alcoholic liquor or any controlled substance enumerated in section 28-405 in connection with such care, nor shall immunity apply to any person causing damage or injury by his or her willful, wanton, or grossly negligent act of commission or omission.

(2) No qualified physician or qualified physician surrogate who gives orders, either orally or by communication equipment, to any out-of-hospital emergency care provider at the scene of an emergency, no out-of-hospital emergency care provider following such orders within the limits of his or her ~~certification~~licensure, and no out-of-hospital emergency care provider trainee in an approved training program following such orders, shall be liable civilly or criminally by reason of having issued or followed such orders but shall be subject to the rules

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of law applicable to negligence.

(3) No physician medical director shall incur any liability by reason of his or her use of any unmodified protocol, standing order, operating procedure, or guideline provided by the board pursuant to subdivision ~~(10)~~ (6) of section ~~71-5178~~506 of this act.

Sec. 522. Section 71-5195, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5195~~ No out-of-hospital emergency care provider shall be subject to civil liability based solely upon failure to obtain consent in rendering emergency medical, surgical, hospital, or health services to any individual regardless of age when the patient is unable to give his or her consent for any reason and there is no other person reasonably available who is legally authorized to consent to the providing of such care.

Sec. 523. Section 71-5196, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5196~~ No act of commission or omission of any out-of-hospital emergency care provider while rendering emergency medical care within the limits of his or her ~~certification~~licensure or status as a trainee to a person who is deemed by the provider to be in immediate danger of injury or loss of life shall impose any liability on any other person, and this section shall not relieve the out-of-hospital emergency care provider from personal liability, if any.

Sec. 524. Section 71-5197, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-5197~~ The department may accept from any person, in the name of and for the state, services, equipment, supplies, materials, or funds by way of bequest, gift, or grant for the purposes of promoting emergency medical care. Any such funds received shall be remitted to ~~the state treasury and shall be credited by~~ the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund.

Sec. 525. Section 71-5198, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5198~~ The provisions of the Emergency Medical Services Practice Act shall not be construed to supersede, limit, or otherwise affect the state emergency management laws or any interstate civil defense compact participated in by the State of Nebraska dealing with the licenses for professional, mechanical, or other skills of persons performing emergency management functions.

Sec. 526. Section 71-5199, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-5199~~ It shall be unlawful for any person who has not been ~~certified~~ licensed pursuant to the Emergency Medical Services Practice Act to hold himself or herself out as an out-of-hospital emergency care provider, to use any other term to indicate or imply that he or she is an out-of-hospital emergency care provider, or to act as such a provider without a ~~certificate~~ license therefor. It shall be unlawful for any person to operate a training agency for the initial training or ~~recertification~~ renewal or reinstatement of licensure of out-of-hospital emergency care providers unless the training agency is approved pursuant to rules and regulations

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of the board. It shall be unlawful for any person to operate an emergency medical service unless such service is licensed. ~~Any person who violates any provision of this section shall be guilty of a Class I misdemeanor.~~

Sec. 527. Sections 527 to 541 of this act shall be known and may be cited as the Environmental Health Specialists Practice Act.

Sec. 528. Section 71-3702, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3702~~ For purposes of ~~sections 71-3702 to 71-3715~~the Environmental Health Specialists Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 529 to 532 of this act apply.~~:~~

~~(1) Board shall mean the Board of Registration for Environmental Health Specialists;~~

~~(2) Environmental health specialist shall mean a person who by education and experience in the physical, biological, and sanitary sciences is qualified to carry out educational, investigational, and technical duties in the field of environmental sanitation;~~

~~(3) Registered environmental health specialist shall mean a person who has the educational requirements and has had experience in the field of environmental sanitation required by section 71-3703 and is registered in accordance with sections 71-3702 to 71-3715;~~

~~(4) Trainee shall mean a person who is qualified by education but does not have at least one full year of experience~~

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~~in the field of environmental sanitation and is registered in accordance with sections 71-3702 to 71-3715;~~

~~(5) Certificate of registration shall mean a document issued as evidence of registration and qualification to practice as an environmental health specialist or trainee under sections 71-3702 to 71-3715, bearing the designation Registered Environmental Health Specialist or Trainee, and showing the name of the person, date of issue, serial number, seal, and signatures of the members of the board authorized to grant such certificates; and~~

~~(6) Department shall mean the Department of Health and Human Services Regulation and Licensure.~~

Sec. 529. Board means the Board of Registered Environmental Health Specialists.

Sec. 530. Environmental health specialist means a person who by education and experience in the physical, biological, and sanitary sciences is qualified to carry out educational, investigational, and technical duties in the field of environmental sanitation.

Sec. 531. Provisional environmental health specialist means a person who is qualified by education but does not have at least two full years of experience in the field of environmental sanitation and is certified in accordance with the Environmental Health Specialists Practice Act.

Sec. 532. Registered environmental health specialist means a person who has the educational requirements and has had experience in the field of environmental sanitation required by section 534 of this act and is certified in accordance with the

Environmental Health Specialists Practice Act.

Sec. 533. Section 71-3706, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3706~~ The ~~Board of Registration for Environmental Health Specialists~~board shall consist of six members. One member shall be a public member who meets the requirements of section 68 of this act. ~~appointed by the State Board of Health. One member shall be a layperson who is at least the age of majority, who has been a resident of the state for at least five years immediately preceding appointment, and who is a representative of consumer viewpoints.~~ Each of the other members shall have been engaged in environmental health for at least ten years, shall have had responsible charge of work for at least five years at the time of his or her appointment, and shall be a registered environmental health specialist. At the expiration of the three-year terms of the members serving on December 1, 2008, successors shall be appointed for five-year terms.~~Each member of the 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 and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations which establish definitions of conflicts of interest for members~~

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~~of the board and which establish procedures in the case such a conflict arises.~~

Sec. 534. Section 71-3703, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3703 Any person desiring to be registered as an environmental health specialist may make application to the board on a form prescribed by the board. The application shall include the applicant's social security number. The board shall accept such application when submitted if accompanied by the required fees established and collected as provided in section 71-162.~~ A person shall be eligible for ~~registration under sections 71-3702 to 71-3715~~ certification as an environmental health specialist if he or she has graduated with a baccalaureate or higher degree from an accredited college or university, has satisfactorily completed at least forty-five quarter hours or thirty semester hours of academic work in the basic natural sciences, has been employed full time as an environmental health specialist for a period not less than ~~one year~~two years, and has passed an examination ~~given and conducted~~ approved by the board, ~~under section 71-3705,~~ except that a person holding a degree higher than a baccalaureate degree who has satisfactorily completed at least forty-five quarter hours or thirty semester hours of academic work in the basic natural sciences may qualify when employed as an environmental health specialist for a period of not less than ~~six months~~one year.

Sec. 535. Section 71-3704, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3704~~ Any person meeting the educational qualifications

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of section ~~71-3703~~534 of this act but who does not meet the experience requirements of such section may make application ~~to the board on a form prescribed by the board for registration~~ for certification as a ~~trainee~~provisional environmental health specialist. ~~The board shall accept such application when submitted if accompanied by the required fees.~~

Sec. 536. Section 71-3710, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3710 (1) The board shall prescribe and provide an application form for the use of all applicants. Applicants for registration as environmental health specialists and for registration as trainees shall submit fees for credentialing activities as provided in section 71-162.~~

~~A registered environmental health specialist may renew his or her registration by paying the renewal fee as provided in section 71-162. Such fee shall be due and payable on or before January 1 of each odd-numbered year for which a renewal registration is issued. All registrations shall expire on December 31 of each even-numbered year. Procedures for renewal shall be in accordance with section 71-110.~~

(1) Certification as a registered environmental health specialist shall expire biennially. Certification as a provisional environmental health specialist shall be valid for one year and may be renewed for two additional one-year periods. In no case shall ~~registration~~certification for a ~~trainee~~provisional environmental health specialist exceed a ~~two-year~~three-year period.

(2) Each registered environmental health specialist ~~or~~

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~~trainee~~ in active practice in the state shall~~, on or before December 31 of each even-numbered year,~~ complete continuing competency activities as ~~required~~ approved by the board and adopted and promulgated by the department in rules and regulations as a prerequisite for the registrant's next subsequent biennial ~~registration~~ renewal. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section ~~71-161.09~~ 48 of this act which a ~~registrant~~ registered environmental health specialist may select as an alternative to continuing education.

~~Each registered environmental health specialist and trainee in active practice within the State of Nebraska shall, on or before December 31 of each even-numbered year, certify to the department that he or she has complied with this subsection during the preceding two-year period. Any registrant who has not complied with such requirements shall not be issued a renewal registration except if he or she is exempt as provided in subsection (3) of this section. Procedures for nonrenewal of the registration of such registrants shall be identical to those for nonpayment of renewal fees as provided in sections 71-110 and 71-149. In cases other than nonrenewal, the procedures in sections 71-149 and 71-150 for refusal to renew shall apply.~~

(3) A ~~registrant~~ registered environmental health specialist or a provisional environmental health specialist shall be exempt from the requirements of subsection (2) of this section if he or she:

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(a) Holds a Nebraska certificate ~~of~~ ~~registration~~ but is not practicing as a registered environmental health specialist or ~~registered~~ ~~trainee~~provisional environmental health specialist in Nebraska;

(b) Serves in the regular armed forces of the United States during any part of the twenty-four months immediately preceding the biennial ~~certificate~~ ~~of~~ ~~registration~~ renewal date;

(c) Attends a college, university, or other institution of higher education for a residence period of time in excess of eight months during any part of the twenty-four months immediately preceding the biennial ~~certificate~~ ~~of~~ ~~registration~~ renewal date;

(d) Submits proof that he or she was suffering from a serious or disabling illness or physical disability during the twenty-four months immediately preceding the biennial ~~certificate~~ ~~of~~ ~~registration~~ renewal date which prevented his or her completion of continuing competency requirements ~~established~~ approved by the board;

(e) Had ~~first~~ ~~registered~~ been certified within the twenty-four months immediately preceding the biennial ~~certificate~~ ~~of~~ ~~registration~~ renewal date; or

(f) Is a registered environmental health specialist in good standing ~~with~~ ~~the~~ ~~board~~ who has completely retired from the active practice of environmental sanitation.

Sec. 537. An applicant for certification as a registered environmental health specialist who has met the education and examination requirements in section 534 of this act, who passed the examination more than three years prior to the time of application

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for certification, and who is not practicing at the time of application for certification shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for certification completed continuing competency requirements approved by the board pursuant to section 48 of this act.

Sec. 538. An applicant for certification as a registered environmental health specialist who has met the requirements for endorsement in section 44 of this act but is not practicing at the time of application for certification shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for certification completed continuing competency requirements approved by the board pursuant to section 48 of this act.

Sec. 539. The department shall establish and collect fees for credentialing under the Environmental Health Specialists Practice Act as provided in sections 54 to 60 of this act.

Sec. 540. Section 71-3713, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3713~~ Only a person ~~who has qualified as a registered environmental health specialist and~~ who holds a valid current ~~registration~~ certificate for use in this state shall have the right and privilege of using the title Registered Environmental Health Specialist and to use the abbreviation R.E.H.S. after his or her name.

Sec. 541. Section 71-3714, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-3714~~ It shall be unlawful for any person to represent himself or herself as a registered environmental health specialist without being duly ~~registered~~certified and the holder of a currently valid certificate ~~of~~ ~~registration~~ issued by the ~~board~~department. An individual holding a certificate of registration as a registered environmental health specialist on December 1, 2008, shall be deemed to be certified as a registered environmental health specialist on such date. An individual holding a certificate of registration as a trainee on December 1, 2008, shall be deemed to be certified as a provisional environmental health specialist on such date.

Sec. 542. Sections 542 to 569 of this act shall be known and may be cited as the Funeral Directing and Embalming Practice Act.

Sec. 543. Section 71-1301, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1301~~ For purposes of ~~sections~~ ~~71-1301~~ ~~to~~ ~~71-1306~~ ~~and~~ ~~71-1326~~ ~~to~~ ~~71-1354~~the Funeral Directing and Embalming Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 544 to 554 of this act apply.~~:~~

~~(1) Accredited school of mortuary science means a school of the same type as those rated Class A by the Conference of Funeral Service Examining Boards of the United States, Inc., approved by the department upon recommendation of the board;~~

~~(2) Apprentice means a person registered with the department as an apprentice who is completing a twelve-month~~

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~~apprenticeship under the supervision of a licensed funeral director and embalmer practicing in the State of Nebraska. The licensed funeral director and embalmer is responsible for all funeral assists and embalmings completed by the apprentice;~~

~~(3) Board means the Board of Funeral Directing and Embalming;~~

~~(4) Branch establishment means a place of business situated at a specific street address or location which is a subsidiary of a licensed funeral establishment, which contains a casket display room, a viewing area, or an area for conducting funeral services, or all of them, and where any portion of the funeral service or arrangements for the disposition of a dead human body is conducted;~~

~~(5) Casket means a receptacle for a dead human body and does not include vaults, lawn crypts, mausoleums, or other outside receptacles for caskets;~~

~~(6) Crematory authority means the legal entity subject to licensure by the department to maintain and operate a crematory and perform cremation;~~

~~(7) Department means the Department of Health and Human Services Regulation and Licensure;~~

~~(8) Embalming means the practice of preparing a dead human body for burial or other final disposal by a licensed funeral director and embalmer or an apprentice, requesting and obtaining burial or removal permits, or assuming any of the other duties incident to the practice of embalming. Any person who publicly professes to be a funeral director and embalmer or an apprentice is~~

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~~deemed to be practicing embalming. The performance of the following acts is also deemed to be the practice of embalming: (a) The disinfection and preservation of dead human beings, entire or in part; and (b) the attempted disinfection and preservation thereof by the use or application of chemical substances, fluids, or gases ordinarily used, prepared, or intended for such purposes, either by outward application of such chemical substances, fluids, or gases on the body or by introducing them into the body, by vascular or hypodermic injection, or by direct introduction into the organs or cavities;~~

~~(9) Funeral directing means (a) counseling families or next of kin in regard to the conduct of a funeral service for a dead human body for burial, disposition, or cremation or directing or supervising burial, disposition, or cremation of dead human bodies, (b) providing for or maintaining a funeral establishment, or (c) the act of representing oneself as or using in connection with one's name the title of funeral director, mortician, or any other title implying that he or she is engaged in the business of funeral directing;~~

~~(10) Funeral establishment means a place of business situated at a specific street address or location devoted to the care and preparation of dead human bodies for burial, disposition, or cremation or to conducting or arranging funeral services for dead human bodies;~~

~~(11) Licensee means a person licensed by the department as a funeral director and embalmer on or after January 1, 1994, or a person licensed as a funeral director or embalmer prior to~~

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~~January 1, 1994;~~

~~(12) Licensure examination means a national standardized examination, the state jurisprudence examination, and the vital statistic forms examination; and~~

~~(13) Supervision means the direct oversight or the easy availability of the supervising funeral director and embalmer. The first twenty-five funeral assists and embalmings shall be completed under direct onsite supervision of the supervising funeral director and embalmer.~~

Sec. 544. Accredited school of mortuary science means a school of the same type as those rated Class A by the Conference of Funeral Service Examining Boards of the United States, Inc., approved by the board.

Sec. 545. Apprentice means a person registered with the department as an apprentice who is completing a twelve-month apprenticeship under the supervision of a licensed funeral director and embalmer practicing in the State of Nebraska. The licensed funeral director and embalmer is responsible for all funeral assists and embalmings completed by the apprentice.

Sec. 546. Board means the Board of Funeral Directing and Embalming.

Sec. 547. Branch establishment means a place of business situated at a specific street address or location which is a subsidiary of a licensed funeral establishment, which contains a casket display room, a viewing area, or an area for conducting funeral services, or all of them, and where any portion of the funeral service or arrangements for the disposition of a dead human

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body is conducted.

Sec. 548. Casket means a receptacle for a dead human body and does not include vaults, lawn crypts, mausoleums, or other outside receptacles for caskets.

Sec. 549. Crematory authority means the legal entity subject to licensure by the department to maintain and operate a crematory and perform cremation.

Sec. 550. (1) Embalming means the practice of preparing a dead human body for burial or other final disposal by a licensed funeral director and embalmer or an apprentice, requesting and obtaining burial or removal permits, or assuming any of the other duties incident to the practice of embalming.

(2) Any person who publicly professes to be a funeral director and embalmer or an apprentice is deemed to be practicing embalming.

(3) The performance of the following acts is also deemed to be the practice of embalming: (a) The disinfection and preservation of dead human beings, entire or in part; and (b) the attempted disinfection and preservation thereof by the use or application of chemical substances, fluids, or gases ordinarily used, prepared, or intended for such purposes, either by outward application of such chemical substances, fluids, or gases on the body or by introducing them into the body, by vascular or hypodermic injection, or by direct introduction into the organs or cavities.

Sec. 551. Funeral directing means (1) counseling families or next of kin in regard to the conduct of a funeral service for a

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dead human body for burial, disposition, or cremation or directing or supervising burial, disposition, or cremation of dead human bodies, (2) providing for or maintaining a funeral establishment, or (3) the act of representing oneself as or using in connection with one's name the title of funeral director, mortician, or any other title implying that he or she is engaged in the business of funeral directing.

Sec. 552. Funeral establishment means a place of business situated at a specific street address or location devoted to the care and preparation of dead human bodies for burial, disposition, or cremation or to conducting or arranging funeral services for dead human bodies.

Sec. 553. Licensure examination means a national standardized examination, the state jurisprudence examination, and the vital statistic forms examination.

Sec. 554. Supervision means the direct oversight or the easy availability of the supervising funeral director and embalmer. The first twenty-five funeral assists and embalmings shall be completed under direct onsite supervision of the supervising funeral director and embalmer.

Sec. 555. Section 71-1302, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1302~~ (1) ~~On and after January 1, 1994, the~~The department shall issue a single license to practice funeral directing and embalming to applicants who meet the requirements of this section. An applicant for a license as a funeral director and embalmer ~~shall file with the department an application upon a~~

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~~form prepared by the department and~~ shall:

(a) Present satisfactory proof that the applicant has earned the equivalent of sixty semester hours of college credit in addition to a full course of instruction in an accredited school of mortuary science. Such hours shall include the equivalent of (i) six semester hours of English, (ii) six semester hours of accounting, (iii) eight semester hours of chemistry, (iv) twelve semester hours of a biological science relating to the human body, and (v) six semester hours of psychology or counseling; and

(b) Present proof to the department that he or she has completed the following training:

(i) A full course of instruction in an accredited school of mortuary science;

(ii) A twelve-month apprenticeship under the supervision of a licensed funeral director and embalmer practicing in the State of Nebraska, which apprenticeship shall consist of arterially embalming twenty-five bodies and assisting with twenty-five funerals; and

(iii) Successful completion of the licensure examination approved by the board.

(2) Any person holding a valid license as an embalmer on January 1, 1994, may continue to provide services as an embalmer after such date. Upon expiration of such valid license, the ~~licensee~~ person may apply for renewal thereof, and the department ~~on the recommendation of the board~~ shall renew such license to practice embalming. ~~The recommendation of the board, the application, and the renewal fee shall be based on the requirements~~

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~~for renewal of such license in existence immediately prior to January 1, 1994.~~

(3) Any person holding a valid license as a funeral director on January 1, 1994, may continue to provide services as a funeral director after such date. Upon expiration of such valid license, the ~~licensee~~ person may apply for renewal thereof, and the department ~~on the recommendation of the board~~ shall renew such license to practice funeral directing. ~~The recommendation of the board, the application, and the renewal fee shall be based on the requirements for renewal of such license in existence immediately prior to January 1, 1994.~~

~~(4) The department on the recommendation of the board shall issue a single license to practice funeral directing and embalming to a person holding a valid license as an embalmer and a valid license as a funeral director on January 1, 1994, when such valid licenses expire. A licensee desiring to obtain a license under this subsection shall apply on forms prescribed by the department and pay a fee equal to the renewal fee for such license established by the department.~~

Sec. 556. Section 71-1303, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1303~~ When the applicant has satisfied the department that he or she either has completed a full course of instruction in an accredited school of mortuary science or has completed all but the final semester of such course, the applicant shall be eligible to take the national standardized examination. The applicant shall pass such examination before beginning his or her twelve-month

apprenticeship or the final six months thereof. When the applicant has satisfied the department that he or she has the qualifications specified in section ~~71-1304~~557 of this act, he or she shall be eligible to take the state jurisprudence and vital statistic forms examination. A grade of seventy-five or above on each part of the licensure examination shall be a passing grade.

Sec. 557. Section 71-1304, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1304~~ (1) Before beginning an apprenticeship, an applicant shall ~~register with the department on a form provided by the department for that purpose~~apply for an apprentice license. The applicant shall show that he or she has completed thirty-nine of the sixty hours required in subdivision (1)(a) of section ~~71-1302~~555 of this act. The applicant may complete the twelve-month apprenticeship in either a split apprenticeship or a full apprenticeship as provided in this section.

(2) A split apprenticeship shall be completed in the following manner:

(a) ~~Registration with the department~~ Application for an apprentice license to complete a six-month apprenticeship prior to attending an accredited school of mortuary science, which ~~registration~~ license shall be valid for six months from the date of issuance and shall not be extended by the board. The apprenticeship shall be completed over a continuous six-month period;

(b) ~~successful~~ Successful completion of a full course of study in an accredited school of mortuary science;

(c) ~~successful~~ Successful passage of the national

standardized examination; and

(d) ~~registration with the department~~ Application for an apprentice license to complete the final six-month apprenticeship, which ~~registration~~ license shall be valid for six months from the date of issuance and shall not be extended by the board. The apprenticeship shall be completed over a continuous six-month period.

(3) A full apprenticeship shall be completed in the following manner:

(a) Successful completion of a full course of study in an accredited school of mortuary science;

(b) ~~successful~~ Successful passage of the national standardized examination; and

(c) ~~registration with the department~~ Application for an apprentice license to complete a twelve-month apprenticeship. This ~~registration~~ license shall be valid for twelve months from the date of issuance and shall not be extended by the board. The apprenticeship shall be completed over a continuous twelve-month period.

(4) An individual registered as an apprentice on December 1, 2008, shall be deemed to be licensed as an apprentice for the term of the apprenticeship on such date.~~The department may, on the recommendation of the board, adopt and promulgate rules and regulations for apprentices in funeral directing and embalming.~~

Sec. 558. Section 71-1305, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1305~~ The board shall have the privileges extended to

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them for the use of bodies for dissection, demonstrating, and teaching under the requirements of the State Anatomical Board for the distribution and delivery of dead human bodies.

Sec. 559. Section 71-1306, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1306~~ The finding of chemical substances, fluids, or gases ordinarily used in embalming or any trace thereof in a dead human body, the use of which is prohibited except by a licensed funeral director and embalmer, or the placing thereof upon a dead human body by other than a licensed funeral director and embalmer shall constitute prima facie evidence of the violation of ~~sections 71-1301 to 71-1306~~the Funeral Directing and Embalming Practice Act.

Sec. 560. Section 71-1327, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1327~~ (1) ~~The application for an initial funeral establishment license shall be in writing and verified on a form provided by the department.~~ In order for a funeral establishment to be licensed, it shall employ as its manager a licensed funeral director and embalmer who shall be responsible for all transactions conducted in the funeral establishment, except that any person holding a valid license as a funeral director ~~on December 31, 1993,~~ may serve as a manager of a funeral establishment. The manager shall maintain and operate the funeral establishment in accordance with all laws, rules, and regulations relating thereto.

(2) ~~A license to operate a funeral establishment may be granted by the department upon the recommendation of the board.~~ If the applicant for a funeral establishment license proposes to

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operate more than one establishment, a separate application and fee shall be required for each location.

(3) A funeral establishment desiring to relocate shall make application ~~therefor on a form provided by~~ to the department at least thirty days prior to the designated date of such change in location. ~~The application for relocation shall be accompanied by the required fee.~~

(4) A funeral establishment desiring to change its manager shall make application ~~on a form provided by~~ to the department at least fifteen days prior to the designated date of such change, except that in the case of death of a manager, the application shall be made immediately following such death. ~~The application shall be accompanied by the required fee.~~ No license shall be issued under this subsection by the department until the original license has been surrendered.

(5) A funeral establishment desiring to change its name shall request such change ~~on a form provided by~~ to the department at least thirty days prior to the designated change in name.

Sec. 561. Section 71-1327.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1327.01 (1) The application for an initial branch establishment license shall be in writing on a form provided by the department.~~

~~(2) A license to operate a branch establishment may be granted by the department upon the recommendation of the board.~~ (1) If the applicant for a branch establishment license proposes to operate more than one branch establishment, a separate application

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and fee shall be required for each location.

~~(3)~~(2) A branch establishment desiring to relocate shall make application ~~therefor on a form provided by~~ to the department at least thirty days prior to the designated date of such change in location. ~~The application for relocation shall be accompanied by the required fee.~~

~~(4)~~(3) A branch establishment desiring to change its manager shall make application ~~on a form provided by~~ to the department at least fifteen days prior to the designated date of such change, except that in the case of death of the manager, the establishment shall make application immediately after such death. ~~The application shall be accompanied by the required fee.~~ No license shall be issued by the department under this subsection until the original license has been surrendered.

~~(5)~~(4) A branch establishment desiring to change its name shall ~~request such change on a form provided by~~ apply to the department at least thirty days prior to the designated change in name.

Sec. 562. The department, with the recommendation of the board, may issue a license by endorsement to an individual who meets the requirements of the Funeral Directing and Embalming Practice Act or substantially equivalent requirements as determined by the department, with the recommendation of the board.

Sec. 563. The department shall establish and collect fees for credentialing under the Funeral Directing and Embalming Practice Act as provided in sections 54 to 60 of this act.

Sec. 564. Section 71-1331, Reissue Revised Statutes of

Nebraska, is amended to read:

~~71-1331 (1) Every licensed funeral establishment and branch establishment shall pay biennially a fee for the renewal of its license. All renewal fees shall become due and payable on February 1 of each even-numbered year. Renewals shall be processed in accordance with section 71-110.(2)~~ Any person, partnership, limited liability company, firm, corporation, association, or other organization which ~~(a)~~ (1) without having complied with ~~sections 71-1301 to 71-1354~~ the Funeral Directing and Embalming Practice Act and without having first obtained a license ~~(i)~~ (a) engages directly or indirectly in the business of funeral directing and embalming, ~~(ii)~~ (b) holds himself, herself, or itself out to the public as a funeral director and embalmer, or ~~(iii)~~ (c) performs or attempts to perform any of the services of a funeral establishment or branch establishment or of a funeral director and embalmer relating to the disposition of dead human bodies or ~~(b)~~ (2) continues to perform such services after the license has expired or has been revoked or suspended ~~shall be guilty of a Class III misdemeanor and~~ shall be dealt with in the same manner as outlined in section ~~71-167~~121 of this act. Each day so engaged in such business shall constitute and be deemed a separate offense.

Sec. 565. Section 71-1333, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1333~~ (1) ~~The department may deny, refuse renewal of, revoke, limit, suspend, or take other disciplinary measures against a license or an application for a license to practice funeral directing and embalming pursuant to section 71-155 if the applicant~~

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~~or licensee is found guilty of any of the acts or offenses specified in sections 71-147 and 71-148 or~~ In addition to the grounds for disciplinary action found in sections 81 and 82 of this act, a credential issued under the Funeral Directing and Embalming Practice Act may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 99 of this act when the applicant or credential holder is found guilty of any of the following acts or offenses:

(a) Solicitation of dead human bodies by the ~~licensee~~ credential holder or his or her agents, assistants, or employees, either prior to or following death;

(b) ~~the~~ The purchasing of funeral or embalming engagements or the payment of a commission either directly or indirectly or offer of payment of such commission to any agent, assistant, or employee for the purpose of securing business;

(c) ~~using~~ Using indecent, profane, or obscene language in the presence of a dead human body or within the immediate presence or hearing of the family, relatives, or friends of the deceased prior to the burial of the deceased;

(d) ~~soliciting~~ Soliciting or accepting any remuneration, commission, bonus, or rebate in consideration of the recommending or causing a dead human body to be placed in any crematory, mausoleum, or cemetery;

(e) ~~using~~ Using any casket or part thereof which has previously been used as a receptacle for, or in connection with, the shipment, burial, or other disposition of a dead human body

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without first identifying such item as used;

(f) ~~violations~~ Violations of any state law, municipal ordinance, or rule or regulation of the department or other body having regulatory powers, relating to the handling, custody, care, or transportation of dead human bodies;

(g) ~~refusal~~ Refusal to surrender promptly the custody of a dead human body upon request of a person or persons lawfully entitled to the custody thereof; or

(h) ~~taking~~ Taking undue advantage of a patron or patrons, or being found guilty of fraud, or misrepresentation in the selling of merchandise or service to patrons.

(2) An applicant or a ~~licensee~~ credential holder shall be subject to the penalty provisions of this section if found guilty of any of the following:

(a) Paying, directly or indirectly, any money or other thing of value as a commission or gratuity for the securing of business;

(b) ~~the~~ The buying of a business of any person, firm, or corporation, or the paying of a commission to any person, firm, or corporation or to any hospital or any institution where death occurs or to any hospital superintendent, nurse, intern, or other employee, whether directly or indirectly; or

(c) ~~willful~~ Willful malpractice.

(3) Any funeral director and embalmer who commits any of the acts or things prohibited by this section or otherwise violates any of the provisions thereof shall be guilty of a Class II misdemeanor.

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~~(3)~~ (4) Nothing in this section shall be construed to prohibit a licensed funeral director and embalmer from engaging in sales of funeral goods or services under the Burial Pre-Need Sale Act.

Sec. 566. Section 71-1339, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1339~~ (1) Except as otherwise provided in section 71-20,121, the right to control the disposition of the remains of a deceased person, except in the case of a minor subject to section 23-1824 and unless other directions have been given by the decedent in the form of a testamentary disposition or a pre-need contract, vests in the following persons in the order named:

~~(1)~~ (a) Any person authorized to direct the disposition of the decedent's body pursuant to a notarized affidavit authorizing such disposition and signed and sworn to by the decedent. Such an affidavit shall be sufficient legal authority for authorizing disposition without additional authorization from the decedent, the decedent's family, or the decedent's estate. Such person shall not be considered an attorney in fact pursuant to sections 30-3401 to 30-3432;

~~(2)~~ (b) The surviving spouse of the decedent;

~~(3)~~ (c) If the surviving spouse is incompetent or not available or if there is no surviving spouse, the decedent's surviving adult children. If there is more than one adult child, any adult child, after confirmation in writing of the notification of all other adult children, may direct the manner of disposition unless the funeral establishment or crematory authority receives

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written objection to the manner of disposition from another adult child;

~~(4)~~ (d) The decedent's surviving parents;

~~(5)~~ (e) The persons in the next degree of kinship under the laws of descent and distribution to inherit the estate of the decedent. If there is more than one person of the same degree, any person of that degree may direct the manner of disposition;

~~(6)~~ (f) A guardian of the person of the decedent at the time of such person's death;

~~(7)~~ (g) The personal representative of the decedent;

~~(8)~~ (h) The State Anatomical Board or county board in the case of an indigent person or any other person the disposition of whose remains is the responsibility of the state or county; or

~~(9)~~ (i) A representative of an entity described in section ~~71-1340~~ 567 of this act that has arranged with the funeral establishment or crematory authority to cremate a body part in the case of body parts received from such entity described in section ~~71-1340~~567 of this act.

(2) A funeral director, funeral establishment, crematory authority, or crematory operator shall not be subject to criminal prosecution or civil liability for carrying out the otherwise lawful instructions of the person or persons described in this section if the funeral director or crematory authority or operator reasonably believes such person is entitled to control the final disposition of the remains of the deceased person.

(3) The liability for the reasonable cost of the final disposition of the remains of the deceased person devolves jointly

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and severally upon all kin of the decedent in the same degree of kindred and upon the estate of the decedent and, in cases when the county board has the right to control disposition of the remains under subdivision ~~(8)~~ (1)(h) of this section, upon the county in which death occurred from funds available for such purpose.

Sec. 567. Section 71-1340, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1340~~ (1) A decedent, prior to his or her death, may direct the preparation for the final disposition of his or her remains by written instructions. If such instructions are in a will or other written instrument, the decedent may direct that the whole or any part of such remains be given to a teaching institution, university, college, or legally licensed hospital, to the ~~Director of Regulation and Licensure~~director, or to or for the use of any nonprofit blood bank, artery bank, eye bank, or other therapeutic service operated by any agency approved by the ~~Director of Regulation and Licensure~~ director under rules and regulations established by the director. The person or persons otherwise entitled to control the disposition of the remains under this section shall faithfully carry out the directions of the decedent.

(2) If such instructions are contained in a will or other written instrument, they shall be immediately carried out, regardless of the validity of the will in other respects or of the fact that the will may not be offered for or admitted to probate until a later date.

(3) This section shall be administered and construed to

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the end that such expressed instructions of any person shall be faithfully and promptly performed.

(4) A funeral director and embalmer, physician, or cemetery authority shall not be liable to any person or persons for carrying out such instructions of the decedent, and any teaching institution, university, college, or legally licensed hospital or the ~~Director of Regulation and Licensure~~ director shall not be liable to any person or persons for accepting the remains of any deceased person under a will or other written instrument as set forth in this section.

Sec. 568. Section 71-1341, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1341~~ A written authorization for an autopsy given by the survivor or survivors, as enumerated in section ~~71-1339~~566 of this act, having the right to control the disposition of remains may, subject to section 23-1824 and when not inconsistent with any directions given by the decedent pursuant to section ~~71-1340~~567 of this act, include authorization for the removal of any specifically named organ or organs for therapeutic or scientific purposes. Pursuant to any such written authorization, any structure or organ may be given to the ~~Director of Regulation and Licensure~~ director or to any other therapeutic service operated by any nonprofit agency approved by the ~~Director of Regulation and Licensure~~director, including, but not limited to, a teaching institution, university, college, legally licensed hospital, nonprofit blood bank, nonprofit artery bank, nonprofit eye bank, or nationally recognized nonprofit hormone and pituitary

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program. The person or persons performing any autopsy shall do so within a reasonable time and without delay and shall not exceed the removal permission contained in such written authorization, and the remains shall not be significantly altered in external appearance nor shall any portion thereof be removed for purposes other than those expressly permitted in this section.

Sec. 569. Section 71-1346, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1346~~ A written statement, signed by the funeral director and embalmer or legal representative, of all principal services and furnishings to be supplied by the funeral director and embalmer for the preparation and burial or cremation of the deceased, together with the actual cost of the services including the total actual costs, shall be given to the next of kin or other person responsible for the making of the funeral arrangements prior to the burial or disposition of the deceased. For purposes of this section principal services shall include, but not be limited to, the casket, outer receptacle, facilities and equipment, professional services, nonlocal transportation, clothing, an itemization of all cash advances, and sales tax. A copy of such statement, signed by the person to whom it was tendered, shall be retained in the records of the funeral director and embalmer for a period of at least two years.

Sec. 570. Sections 570 to 587 of this act shall be known and may be cited as the Hearing Aid Instrument Dispensers and Fitters Practice Act.

Sec. 571. Section 71-4701, Reissue Revised Statutes of

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Nebraska, is amended to read:

~~71-4701 As used in sections 71-4701 to 71-4719~~For purposes of the Hearing Aid Instrument Dispensers and Fitters Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 572 to 576 of this act apply.~~:~~

~~(1) Department shall mean the Department of Health and Human Services Regulation and Licensure;~~

~~(2) License shall mean a license issued by the state under such sections to hearing aid instrument dispensers and fitters;~~

~~(3) Temporary license shall mean a license issued while the applicant is in training to become a licensed hearing aid instrument dispenser and fitter;~~

~~(4) Board shall mean the Board of Hearing Aid Instrument Dispensers and Fitters;~~

~~(5) Hearing aid shall mean any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments, or accessories, including earmold, but excluding batteries and cords. A hearing aid shall also be known as a hearing instrument;~~

~~(6) Practice of fitting hearing aids shall mean the measurement of human hearing by means of an audiometer or by other means approved by the board solely for the purpose of making selections, adaptations, or sale of hearing aids. The term also includes the making of impressions for earmolds. A dispenser, at the request of a physician or a member of related professions, may~~

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~~make audiograms for the professional's use in consultation with the hard-of-hearing; and~~

~~(7) Sell, sale, or dispense shall mean any transfer of title or of the right to use by lease, bailment, or any other contract, excluding (a) wholesale transactions with distributors or dispensers and (b) distribution of hearing aids by nonprofit service organizations at no cost to the recipient for the hearing aid.~~

Sec. 572. Board means the Board of Hearing Aid Instrument Dispensers and Fitters.

Sec. 573. Hearing aid means any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments, or accessories, including earmold, but excluding batteries and cords. A hearing aid shall also be known as a hearing instrument.

Sec. 574. Practice of fitting hearing aids means the measurement of human hearing by means of an audiometer or by other means approved by the board solely for the purpose of making selections, adaptations, or sale of hearing aids. The term also includes the making of impressions for earmolds. A dispenser, at the request of a physician or a member of related professions, may make audiograms for the professional's use in consultation with the hard-of-hearing.

Sec. 575. Sell, sale, or dispense means any transfer of title or of the right to use by lease, bailment, or any other contract, excluding (1) wholesale transactions with distributors or dispensers and (2) distribution of hearing aids by nonprofit

service organizations at no cost to the recipient for the hearing aid.

Sec. 576. Temporary license means a license issued while the applicant is in training to become a licensed hearing aid instrument dispenser and fitter.

Sec. 577. Section 71-4715, Reissue Revised Statutes of Nebraska, is amended to read:

~~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 five professional members and one public member appointed pursuant to section 61 of this act. The members shall meet the requirements of sections 67 and 68 of this act. The professional members shall consist of three hearing aid instrument dispensers and fitters, one otolaryngologist, and one audiologist. At the expiration of the four-year terms of the members serving on December 1, 2008, successors shall be appointed for five-year terms.~~, and one public member. 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. The public member shall be at least the age of majority, a resident of this state at least five years preceding appointment, and a representative of consumer viewpoints.~~

~~(3) All members of the board shall be appointed by the State Board of Health. The term of office of each member shall be for four years, except that of the first members appointed under~~

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~~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. The State Board of Health shall appoint the public member as of December 1, 1994, for a term of four years. Before a member's term expires, the 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 shall annually designate one member to serve as chairperson and another to serve as secretary-treasurer. No member who has served two or more full terms may be reappointed to the 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~~

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~~be suspended or revoked, for a lack of licensure in the member's profession, or for other sufficient cause.~~

Sec. 578. Section 71-4702, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4702~~ (1) No person shall engage in the sale of or practice of fitting hearing aids or display a sign or in any other way advertise or represent himself or herself as a person who practices the fitting and sale or dispensing of hearing aids unless he or she holds an unsuspended, unrevoked license issued by the department as provided in ~~sections 71-4701 to 71-4719. The license shall be conspicuously posted in his or her office or place of business~~the Hearing Aid Instrument Dispensers and Fitters Practice Act. A license shall confer upon the holder the right to select, fit, and sell hearing aids.

(2) Nothing in ~~such sections~~ the act shall prohibit a corporation, partnership, limited liability company, trust, association, or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing aids at retail without a license if it employs only properly licensed natural persons in the direct sale and fitting of such products. ~~Such corporation, partnership, limited liability company, trust, association, or like organization shall file annually with the board a list of all licensed hearing aid instrument dispensers and fitters directly or indirectly employed by it. Such corporation, partnership, limited liability company, trust, association, or like organization shall also file with the board a statement on a form approved by the board that~~

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~~it submits itself to the rules and regulations of the department and the provisions of such sections which the department deems applicable.~~

(3) Nothing in ~~such sections~~ the act shall prohibit the holder of a license from the fitting and sale of wearable instruments or devices designed for or offered for the purpose of conservation or protection of hearing.

Sec. 579. Section 71-4704, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4704~~ (1) ~~Sections 71-4701 to 71-4719 are~~The Hearing Aid Instrument Dispensers and Fitters Practice Act is not intended to prevent any person from engaging in the practice of measuring human hearing for the purpose of selection of hearing aids if such person or organization employing such person does not sell hearing aids or accessories thereto.

(2) ~~Such sections~~ The act shall not apply to a person who is a physician licensed to practice in this state, except that such physician shall not delegate the authority to fit and dispense hearing aids unless the person to whom the authority is delegated is licensed under ~~such sections~~the act.

Sec. 580. Section 71-4703, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4703~~ (1) Any person who practices the fitting and sale of hearing aids shall deliver to each person supplied with a hearing aid a receipt which shall contain the licensee's signature and show his or her business address and the number of his or her certificate, together with specifications as to the make and model

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of the hearing aid furnished, and clearly stating the full terms of sale. If an aid which is not new is sold, the receipt and the container thereof shall be clearly marked as used or reconditioned, whichever is applicable, with terms of guarantee, if any.

(2) Such receipt shall bear in no smaller type than the largest used in the body copy portion the following: The purchaser has been advised at the outset of his or her relationship with the hearing aid instrument dispenser that any examination or representation made by a licensed hearing aid instrument dispenser and fitter in connection with the fitting and selling of this hearing aid is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and therefor must not be regarded as medical opinion or advice.

Sec. 581. Section 71-4707, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4707~~ (1) Any person may obtain a license under the Hearing Aid Instrument Dispensers and Fitters Practice Act by successfully passing a qualifying examination if the applicant:

(a) Is at least twenty-one years of age; and

~~(b) Is of good moral character;~~

~~(c)~~(b) Has an education equivalent to a four-year course in an accredited high school.~~; and~~

~~(d) Is free of contagious or infectious disease.~~

(2) ~~Each applicant for license by examination shall appear at a time and place and before such persons as the department may designate to be examined by means of written and practical tests in order to demonstrate that he or she is qualified~~

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~~to practice the fitting and sale of hearing aids.~~ The qualifying examination shall consist of written and practical tests. The examination shall not be conducted in such a manner that college training is required in order to pass. Nothing in this examination shall imply that the applicant is required to possess the degree of medical competence normally expected of physicians.

(3) The department shall give examinations ~~as determined~~ approved by the board. A~~,~~ ~~except that a~~ minimum of two examinations shall be offered each calendar year.

Sec. 582. Section 71-4708, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4708~~ (1) The department, with the~~upon~~ recommendation of the board, shall issue a temporary license to any person who has met the requirements for licensure pursuant to subsection (1) of section ~~71-4707~~581 of this act. Previous experience or a waiting period shall not be required to obtain a temporary license.

(2) Any person who desires a temporary license shall make application to the department. ~~Such application shall include the applicant's social security number and shall be accompanied by the required fee.~~ The temporary license shall be issued for a period of one year. A person holding a valid license shall be responsible for the supervision and training of such applicant and shall maintain adequate personal contact with him or her.

(3) If a person who holds a temporary license under this section has not successfully passed the licensing examination within twelve months of the date of issuance of the temporary license, the temporary license may be renewed or reissued for a

twelve-month period. ~~upon payment of the required fee.~~ In no case may a temporary license be renewed or reissued more than once. A renewal or reissuance may take place any time after the expiration of the first twelve-month period.

~~(4) The department shall have the power to deny, revoke, limit, suspend, or otherwise discipline a temporary license upon the grounds and in accordance with the Uniform Licensing Law.~~

Sec. 583. Section 71-4709, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4709~~ The qualifying examination provided in section ~~71-4707~~ 581 of this act shall be designed to demonstrate the applicant's adequate technical qualifications by:

(1) Tests of knowledge in the following areas as they pertain to the fitting and sale of hearing aids:

(a) Basic physics of sound;

(b) The anatomy and physiology of the ear; and

(c) The function of hearing aids; and

(2) Practical tests of proficiency in the following techniques as they pertain to the fitting of hearing aids:

(a) Pure tone audiometry, including air conduction testing and bone conduction testing;

(b) Live voice or recorded voice speech audiometry;

(c) Masking when indicated;

(d) Recording and evaluation of audiograms and speech audiometry to determine proper selection and adaptation of a hearing aid; and

(e) Taking earmold impressions.

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Sec. 584. An applicant for licensure to practice hearing aid instrument dispensing and fitting who has met the education and examination requirements in section 581 of this act, who passed the examination more than three years prior to the time of application for licensure, and who is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 48 of this act.

Sec. 585. An applicant for licensure to practice hearing aid instrument dispensing and fitting who has met the requirements for endorsement in section 44 of this act but is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 48 of this act.

Sec. 586. Section 71-4712, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4712 (1) The department may deny, revoke, or suspend any license to practice as a hearing aid instrument dispenser and fitter issued by the department or applied for pursuant to section 71-4707 or otherwise discipline any applicant or licensee when the applicant or licensee commits or is convicted of any of the acts or offenses set out in sections 71-147 and 71-148 or~~In addition to the grounds for disciplinary action found in sections 81 and 82

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of this act, a credential issued under the Hearing Aid Instrument Dispensers and Fitters Practice Act may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 99 of this act when the applicant or credential holder is found guilty of any of the following acts or offenses:

~~(a)~~ (1) Fitting and selling a hearing aid to a child under the age of sixteen who has not been examined and cleared for hearing aid use within a six-month period by an otolaryngologist without a signed waiver by the legal guardian. This subdivision shall not apply to the replacement with an identical model of any hearing aid within one year of its purchase;

~~(b)~~ (2) Any other condition or acts which violate the Trade Practice Rules for the Hearing Aid Industry of the Federal Trade Commission or the Food and Drug Administration; or

(3) Violation of any provision of the Hearing Aid Instrument Dispenser and Fitters Practice Act.

~~(c) Conducting business while suffering from a contagious or infectious disease; or~~

~~(d) Violating any provision of sections 71-4701 to 71-4719.~~

~~(2) The department shall deny, revoke, suspend, or otherwise discipline a license in accordance with the Uniform Licensing Law.~~

Sec. 587. Section 71-4714.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4714.01~~ The department shall establish and collect

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fees for credentialing activities under ~~sections 71-4701 to 71-4719 shall be established and collected~~ the Hearing Aid Instrument Dispensers and Fitters Practice Act as provided in ~~section 71-162~~sections 54 to 60 of this act.

Sec. 588. Section 71-1772, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1772~~ Sections ~~71-1772 to 71-1794~~ 588 to 612 of this act shall be known and may be cited as the Licensed Practical Nurse-Certified Practice Act.

Sec. 589. Section 71-1773, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1773~~ The purposes of the Licensed Practical Nurse-Certified Practice Act are (1) to provide a means by which licensed practical nurses-certified may perform certain activities related to intravenous therapy, (2) to provide for approval of certification courses to prepare licensed practical nurses-certified, and (3) to ensure the health and safety of the general public.

Sec. 590. For purposes of the Licensed Practical Nurse-Certified Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 591 to 599 of this act apply.

Sec. 591. Administration includes observing, initiating, monitoring, discontinuing, maintaining, regulating, adjusting, documenting, assessing, planning, intervening, and evaluating.

Sec. 592. Approved certification course means a course for the education and training of a licensed practical

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nurse-certified which the board has approved.

Sec. 593. Board means the Board of Nursing.

Sec. 594. Direct supervision means that the responsible licensed practitioner or registered nurse is physically present in the clinical area and is available to assess, evaluate, and respond immediately.

Sec. 595. Initial venipuncture means the initiation of intravenous therapy based on a new order from a licensed practitioner for an individual for whom a previous order for intravenous therapy was not in effect.

Sec. 596. Intravenous therapy means the therapeutic infusion or injection of substances through the venous system.

Sec. 597. Licensed practical nurse-certified means a licensed practical nurse who meets the standards established pursuant to section 602 of this act and who holds a valid license issued by the department pursuant to the Licensed Practical Nurse-Certified Practice Act.

Sec. 598. Licensed practitioner means any person authorized by state law to prescribe intravenous therapy.

Sec. 599. Pediatric patient means a patient who is both younger than eighteen years old and under the weight of thirty-five kilograms.

Sec. 600. Section 71-1776, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1776~~ A licensed practical nurse-certified may perform the following activities related to the administration of intravenous therapy under the direction of a licensed practitioner

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or registered nurse:

(1) Calculate the rate of intravenous fluid infusions, except for pediatric patients;

(2) Perform venipuncture, excluding jugular, for purposes of peripheral intravenous therapy, except (a) for pediatric patients or (b) with devices which exceed three inches in length. Direct supervision by a licensed practitioner or registered nurse shall be required for initial venipuncture for purposes of peripheral intravenous therapy;

(3) Except in the case of a pediatric patient, administer approved medications by approved methods. Approved methods of administration and approved medications shall be those for which nursing interventions are routine and predictable in nature related to individual responses and adverse reactions and as defined in rules and regulations of the board;

(4) Flush intravenous ports with heparin solution or saline solution; and

(5) Add pain medication solutions to a patient-controlled infusion pump.

Sec. 601. Section 71-1789, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1789~~ The Licensed Practical Nurse-Certified Practice Act shall not prohibit the performance of the activities identified in section ~~71-1776~~ 600 of this act by an ~~uncertified~~ unlicensed person if performed (1) in an emergency situation, (2) by a legally qualified person from another state employed by the federal government and performing official duties in this state, or (3) by

a person enrolled in an approved certification course if performed as part of that approved certification course.

Sec. 602. Section 71-1777, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1777~~ (1) In order to obtain a ~~certificate~~ license as a licensed practical nurse-certified, an individual shall: ~~meet the following requirements:~~

~~(1)~~ (a) Have a current license to practice as a licensed practical nurse in Nebraska;

~~(2)~~ (b) Have successfully completed an approved certification course within one year before application for ~~certification;~~licensure; and

~~(3)~~ (c) Have satisfactorily passed an examination approved by the board.

(2) There is no minimum age requirement for licensure as a licensed practical nurse-certified.~~;~~

~~(4) Have filed an application with the department; and~~

~~(5) Have paid the required fee.~~

(3) An individual holding a certificate as a licensed practical nurse-certified on December 1, 2008, shall be deemed to be holding a license under this section on such date. The certificate holder may continue to practice under such certificate as a license until the next renewal date.

Sec. 603. Section 71-1778, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1778 Except as otherwise provided in this section, a certificate~~ A license to practice as a licensed practical

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nurse-certified shall be ~~issued by the department to be valid for two years. An initial certificate~~ renewed biennially and shall expire ~~at the same time~~ on the same date as the applicant's Nebraska license to practice as a licensed practical nurse. ~~The application for the license shall include the applicant's social security number.~~

Sec. 604. Section 71-1779, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1779 Certificates for licensed practical nurses-certified shall be renewed as provided for licenses for licensed practical nurses in section 71-1,132.20. To obtain renewal of a certificate,~~ Continuing competency activities for renewal of a license to practice as a licensed practical nurse-certified shall ~~complete continuing competency activities as required by the board under section 71-1788 and provide documentation of such activities as provided in section 71-161.10. Such continuing competency activities shall~~ relate to intravenous therapy and may be included in the continuing competency activities required under the Nurse Practice Act for renewal of a license as a licensed practical nurse.

Sec. 605. Section 71-1792, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1792 When a certificate~~ To restore a license to practice as a licensed practical nurse-certified ~~lapses~~after it expires, ~~the right of the individual to represent himself or herself as a certificate holder and to practice the activities for which a certificate is required shall terminate. To restore~~

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~~the~~ ~~certificate~~ such individual shall be required to meet the requirements for ~~certification~~ licensure which are in effect at the time that he or she wishes to restore the ~~certificate~~license.

Sec. 606. The department shall establish and collect fees for credentialing under the Licensed Practical Nurse-Certified Practice Act as provided in sections 54 to 60 of this act.

Sec. 607. Section 71-1790, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1790~~ An individual ~~certified~~ licensed to practice as a licensed practical nurse-certified may use the title licensed practical nurse-certified and the abbreviation L.P.N.-C.

Sec. 608. Section 71-1775, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1775~~ (1) Administration of intravenous therapy shall be a responsibility of the registered nurse as ordered by a licensed practitioner.

(2) A licensed practical nurse-certified may, under the direction of a licensed practitioner or registered nurse, perform the activities identified in section ~~71-1776~~ 600 of this act after the licensed practitioner or registered nurse has performed a physical assessment of the patient.

(3) A licensed practical nurse-certified shall perform appropriate activities associated with central venous lines only under direct supervision. Activities associated with central venous lines that are appropriate for the licensed practical nurse-certified to perform shall be defined in rules and regulations. A licensed practitioner or registered nurse

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shall provide direct supervision whenever a licensed practical nurse-certified is performing activities associated with central venous lines.

(4) A licensed practitioner or registered nurse need not be on the premises in order for the licensed practical nurse-certified to perform directed activities except for (a) initial venipuncture for purposes of peripheral intravenous therapy and (b) central-line activities.

(5) A licensed practitioner or registered nurse shall be present at least once during each twenty-four-hour interval and more frequently when a significant change in therapy or client condition has occurred to assess the client when the licensed practical nurse-certified is performing the activities identified in section ~~71-1776~~600 of this act.

Sec. 609. Section 71-1780, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1780~~ (1) The board shall adopt and promulgate rules and regulations defining competencies required for enrollment in an approved certification course and acceptable means for measuring the competencies. Before enrolling in a course, a licensed practical nurse shall successfully demonstrate the prerequisite competencies.

(2) The department with the advice of the board shall prescribe a curriculum for training licensed practical nurses-certified, establish an examination, and adopt and promulgate rules and regulations setting minimum standards for approved certification courses, including faculty qualifications,

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record keeping, faculty-to-student ratios, and other aspects of conducting such courses. The department may approve certification courses developed by associations, educational institutions, or other entities if such courses meet the requirements of this section and the criteria prescribed in the rules and regulations.

(3) An approved certification course shall be no less than forty-eight hours of classroom instruction and shall include a clinical competency component as defined in rules and regulations of the board. Classroom instruction shall include the following: (a) State laws governing the administration of intravenous therapy; (b) anatomy and physiology of the circulatory system; (c) pharmacology; (d) fluid and electrolyte balance; (e) procedures and precautions in performing intravenous therapy; (f) types of equipment for intravenous therapy; (g) actions, interactions, and effects of medications in intravenous therapy; (h) documentation; and (i) other subjects relevant to the administration of intravenous therapy. An approved certification course shall be supervised by a registered nurse with a minimum of three years of clinical experience immediately prior to supervision of the course. An educator may be a physician, pharmacist, or other qualified professional. Nothing in this section shall be deemed to prohibit any courses from exceeding the minimum requirements.

Sec. 610. Section 71-1781, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1781~~ (1) An applicant for approval to conduct a certification course shall file an application and shall present proof satisfactory to the department that the proposed course meets

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the requirements of the Licensed Practical Nurse-Certified Practice Act and the rules and regulations adopted and promulgated under the act.

(2) The department may conduct such inspections or investigations of applicants for approval to conduct a certification course and of approved certification courses as may be necessary to ensure compliance with the act and the rules and regulations.

Sec. 611. Section 71-1783, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1783~~ The department may deny, revoke, or suspend or otherwise take disciplinary measures against an approved certification course in accordance with section ~~71-155~~ 99 of this act for violation of the Licensed Practical Nurse-Certified Practice Act or the rules and regulations adopted and promulgated under the act.

Sec. 612. Section 71-1785, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1785~~ A course provider whose approval to conduct a certification course has been suspended or revoked may apply for reinstatement at such time as the certification course meets the requirements of the Licensed Practical Nurse-Certified Practice Act and rules and regulations adopted and promulgated under the act and will continue to meet such requirements.

Sec. 613. Sections 613 to 627 of this act shall be known and may be cited as the Massage Therapy Practice Act.

Sec. 614. Section 71-1,278, Reissue Revised Statutes of

Nebraska, is amended to read:

~~71-1,278~~ (1) For purposes of ~~sections 71-1,278 to 71-1,282~~the Massage Therapy Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 615 to 619 of this act apply.~~:~~

~~(a) An approved massage therapy school shall be (i) one which is approved by the department upon the recommendation of the Board of Massage Therapy, (ii) one which requires for admission a diploma from an accredited high school or its equivalent, (iii) one which has attached to its staff a regularly licensed physician and employs one or more competent massage therapists as instructors, and (iv) one which has a minimum requirement of a continuous course of study and training of not less than one thousand hours distributed over a term of not less than nine months. Such study and training shall consist of one hundred hours of each of the following: Physiology; anatomy; massage; pathology; hydrotherapy; hygiene and practical demonstration; and health service management. The remaining three hundred hours shall be obtained in subject areas related to the clinical practice of massage therapy;~~

~~(b) Massage therapist shall mean a person licensed to practice massage therapy;~~

~~(c) Massage therapy shall mean the physical, mechanical, or electrical manipulation of soft tissue for the therapeutic purposes of enhancing muscle relaxation, reducing stress, improving circulation, or instilling a greater sense of well-being and may include the use of oil, salt glows, heat lamps, and hydrotherapy. Massage therapy shall not include diagnosis or~~

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~~treatment or use of procedures for which a license to practice medicine or surgery, chiropractic, or podiatry is required nor the use of microwave diathermy, shortwave diathermy, ultrasound, transcutaneous electrical nerve stimulation, electrical stimulation of over thirty-five volts, neurological hyperstimulation, or spinal and joint adjustments; and~~

~~(d) Massage therapy establishment shall mean any duly licensed place in which a massage therapist practices his or her profession of massage therapy.~~

~~(2) The department shall adopt and promulgate rules and regulations as it may deem necessary with reference to the conditions under which the practice of massage therapy shall be carried on and the precautions necessary to be employed to prevent the spread of infectious and contagious diseases. The department shall have the power to enforce sections 71-1,278 to 71-1,282 and all necessary inspections in connection therewith.~~

Sec. 615. Approved massage therapy school means (1) one which is approved by the board, (2) one which requires for admission a diploma from an accredited high school or its equivalent, (3) one which has attached to its staff a regularly licensed physician and employs one or more competent massage therapists as instructors, and (4) one which has a minimum requirement of a continuous course of study and training of not less than one thousand hours distributed over a term of not less than nine months. Such study and training shall consist of one hundred hours of each of the following: Physiology; anatomy; massage; pathology; hydrotherapy; hygiene and practical

demonstration; and health service management. The remaining three hundred hours shall be obtained in subject areas related to the clinical practice of massage therapy.

Sec. 616. Board means the Board of Massage Therapy.

Sec. 617. Massage therapist means a person licensed to practice massage therapy.

Sec. 618. Massage therapy means the physical, mechanical, or electrical manipulation of soft tissue for the therapeutic purposes of enhancing muscle relaxation, reducing stress, improving circulation, or instilling a greater sense of well-being and may include the use of oil, salt glows, heat lamps, and hydrotherapy. Massage therapy does not include diagnosis or treatment or use of procedures for which a license to practice medicine or surgery, chiropractic, or podiatry is required nor the use of microwave diathermy, shortwave diathermy, ultrasound, transcutaneous electrical nerve stimulation, electrical stimulation of over thirty-five volts, neurological hyperstimulation, or spinal and joint adjustments.

Sec. 619. Massage therapy establishment means any duly licensed place in which a massage therapist practices his or her profession of massage therapy.

Sec. 620. Section 71-1,279, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,279 Section 71-1,278~~ The Massage Therapy Practice Act shall not be construed to include the following classes of persons:

(1) Licensed physicians and surgeons, osteopathic

physicians, chiropractors, registered nurses, practical nurses, cosmetologists, ~~chiropodists~~estheticians, nail technicians, physical therapists, ~~and~~ barbers, and other persons credentialed under the Uniform Credentialing Act who are exclusively engaged in the practice of their respective professions;

(2) ~~physicians~~ Physicians of the United States Army, Navy, or Public Health Service when acting in the line of duty in this state; ~~and~~

(3) ~~students~~ Students performing massage therapy services when they render such services within the scope of an approved massage therapy school under the supervision of a licensed massage therapist; and

(4) Individuals who hold a current license as a massage therapist in another state and who travel with and provide massage therapy services to theatrical groups, entertainers, or athletic organizations.

Sec. 621. Section 71-1,280, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,280 (1)~~ No person shall engage in the practice of massage therapy or the operation of a massage therapy school or establishment unless he or she obtains a license from the department for that purpose.

~~(2) In November of each odd-numbered year, all license holders shall apply for renewal of such license pursuant to the Uniform Licensing Law.~~

~~(3) Each Nebraska-licensed massage therapist in active practice within the State of Nebraska shall, on or before November~~

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~~1 of each odd-numbered year, complete continuing competency activities as required by the board pursuant to section 71-161.09 as a prerequisite for the licensee's next subsequent license renewal.~~

Sec. 622. Section 71-1,281, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,281~~ Every applicant for an initial license to practice massage therapy shall (1) present satisfactory evidence that he or she ~~is a resident of this state and~~ has attained the age of nineteen years; ~~and is of good moral character,~~ (2) present proof of graduation from an approved massage therapy school, and (3) pass an examination prescribed by the ~~Board of Massage Therapy~~board.

Sec. 623. Section 71-1,281.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,281.01~~ A temporary license to practice massage therapy may be granted to any person who meets all the requirements for a license except passage of the licensure examination required by section ~~71-1,281~~622 of this act. A temporary licensee shall be supervised in his or her practice by a licensed massage therapist. A temporary license shall be valid ~~only until the results of the next examination are available to the department~~for sixty days or until the temporary licensee takes the examination, whichever occurs first. In the event a temporary licensee fails the examination required by such section, the temporary license shall be ~~revoked~~null and void, except that the department, with the~~upon~~ recommendation of the ~~Board of Massage Therapy~~ board, may extend

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the temporary license upon a showing of good cause why such license should be extended. A temporary license may not be extended beyond ~~one year~~six months. A temporary license shall not be issued to any person failing the examination if such person did not hold a valid temporary license prior to his or her failure to pass the examination.

~~The department shall have the power to deny or revoke a temporary license to practice massage therapy upon the grounds and in accordance with the Uniform Licensing Law.~~

Sec. 624. The department, with the recommendation of the board, may issue a license by endorsement to an individual who meets the requirements of the Massage Therapy Practice Act or substantially equivalent requirements as determined by the department, with the recommendation of the board.

Sec. 625. The department shall establish and collect fees for credentialing under the Massage Therapy Practice Act as provided in sections 54 to 60 of this act.

Sec. 626. For purposes of the Massage Therapy Practice Act, unprofessional conduct includes the conduct listed in section 82 of this act and the provision by a massage therapist of sexual stimulation as part of massage therapy.

Sec. 627. The department shall adopt and promulgate rules and regulations as it may deem necessary with reference to the conditions under which the practice of massage therapy shall be carried on and the precautions necessary to be employed to prevent the spread of infectious and contagious diseases. The department shall have the power to enforce the Massage Therapy Practice Act

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and all necessary inspections in connection therewith.

Sec. 628. Sections 628 to 643 of this act shall be known and may be cited as the Medical Nutrition Therapy Practice Act.

Sec. 629. Section 71-1,285, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,285~~ (1) The Legislature finds that:

(a) The unregulated practice of medical nutrition therapy can clearly harm or endanger the health, safety, and welfare of the public;

(b) The public can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(c) The public cannot be effectively protected by a less cost-effective means than state regulation of the practice of medical nutrition therapy. The Legislature also finds that medical nutrition therapists must exercise independent judgment and that professional education, training, and experience are required to make such judgment.

(2) The Legislature further finds that the practice of medical nutrition therapy in the State of Nebraska is not sufficiently regulated for the protection of the health, safety, and welfare of the public. It declares that this is a matter of statewide concern and it shall be the policy of the State of Nebraska to promote high standards of professional performance by those persons representing themselves as licensed medical nutrition therapists.

Sec. 630. Section 71-1,286, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-1,286 As used in sections 71-1,285 to 71-1,294~~For purposes of the Medical Nutrition Therapy Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 631 to 637 of this act apply.~~:~~

~~(1) Assessment means the process of evaluating the nutritional status of patients. The assessment includes review and analysis of medical and diet histories, biochemical lab values, and anthropometric measurements to determine nutritional status and appropriate nutritional treatment;~~

~~(2) Board means the Board of Medical Nutrition Therapy;~~

~~(3) Consultation means conferring with a physician regarding the activities of the licensed medical nutrition therapist;~~

~~(4) General nutrition services includes, but is not limited to:~~

~~(a) Identifying the nutritional needs of individuals and groups in relation to normal nutritional requirements; and~~

~~(b) Planning, implementing, and evaluating nutrition education programs for individuals and groups in the selection of food to meet normal nutritional needs throughout the life cycle;~~

~~(5) Licensed medical nutrition therapist means a person who is licensed to practice medical nutrition therapy pursuant to the Uniform Licensing Law and who holds a current license issued by the department pursuant to section 71-1,290;~~

~~(6) Medical nutrition therapy means the assessment of the nutritional status of patients. It involves the assessment of~~

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~~patient nutritional status followed by treatment, ranging from diet modification to specialized nutrition support, such as determining nutrient needs for enteral and parenteral nutrition, and monitoring to evaluate patient response to such treatment; and~~

~~(7) Patient means a person with a disease, illness, injury, or medical condition for which nutritional interventions are an essential component of standard care.~~

Sec. 631. Assessment means the process of evaluating the nutritional status of patients. The assessment includes review and analysis of medical and diet histories, biochemical lab values, and anthropometric measurements to determine nutritional status and appropriate nutritional treatment.

Sec. 632. Board means the Board of Medical Nutrition Therapy.

Sec. 633. Consultation means conferring with a physician regarding the activities of the licensed medical nutrition therapist.

Sec. 634. General nutrition services includes, but is not limited to:

(1) Identifying the nutritional needs of individuals and groups in relation to normal nutritional requirements; and

(2) Planning, implementing, and evaluating nutrition education programs for individuals and groups in the selection of food to meet normal nutritional needs throughout the life cycle.

Sec. 635. Licensed medical nutrition therapist means a person who is licensed to practice medical nutrition therapy pursuant to the Uniform Credentialing Act and who holds a current

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license issued by the department pursuant to the Medical Nutrition Therapy Practice Act.

Sec. 636. Medical nutrition therapy means the assessment of the nutritional status of patients. Medical nutrition therapy involves the assessment of patient nutritional status followed by treatment, ranging from diet modification to specialized nutrition support, such as determining nutrient needs for enteral and parenteral nutrition, and monitoring to evaluate patient response to such treatment.

Sec. 637. Patient means a person with a disease, illness, injury, or medical condition for which nutritional interventions are an essential component of standard care.

Sec. 638. The board shall consist of three professional members, one physician, and one public member appointed pursuant to section 61 of this act. The members shall meet the requirements of sections 67 and 68 of this act.

Sec. 639. Section 71-1,287, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,287 After September 1, 1996, no~~ No person shall practice medical nutrition therapy unless he or she is licensed for such purpose pursuant to the Uniform ~~Licensing Law~~Credentialing Act. The practice of medical nutrition therapy shall not include:

(1) Any person ~~licensed or certified~~ credentialed in this state pursuant to ~~Chapter 71~~ the Uniform Credentialing Act and engaging in such profession or occupation for which he or she is ~~licensed or certified~~credentialed;

(2) Any student engaged in an academic program under the

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supervision of a licensed medical nutrition therapist as part of a major course of study in human nutrition, food and nutrition, or dietetics, or an equivalent major course of study approved by the board, and who is designated with a title which clearly indicates the person's status as a student or trainee;

(3) Persons practicing medical nutrition therapy who serve in the Armed Forces or the Public Health Service, or are employed by the United States Department of Veterans Affairs, if their practice is limited to that service or employment;

(4) Persons practicing medical nutrition therapy who are licensed in another state, United States possession, or country, or have received at least a baccalaureate degree, and are in this state for the purpose of:

(a) Consultation if the practice in this state is limited to consultation; or

(b) Conducting a teaching clinical demonstration in connection with a program of basic clinical education, graduate education, or postgraduate education which is sponsored by a dietetic education program or a major course of study in human nutrition, food and nutrition, or dietetics, or an equivalent major course of study approved by the board;

(5) Persons performing general nutrition services incidental to the practice of the profession insofar as it does not exceed the scope of their education and training;

(6) Persons who market or distribute food, food materials, or dietary supplements, including persons employed in health food stores, or persons engaged in the advising of the use

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of those products, or the preparation of those products, or the counseling of individuals or groups in the selection of products to meet general nutrition needs;

(7) Persons conducting classes or disseminating information related to general nutrition services;

(8) Persons who care for the sick in accordance with the tenets and practices of any bona fide church or religious denomination;

(9) Persons who provide information and instructions regarding food intake or exercise as a part of a weight control program; and

(10) Persons with advanced postgraduate degrees involved in academic teaching or research.

Sec. 640. Section 71-1,289, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,289~~ A person shall be qualified to be a licensed medical nutrition therapist if such person furnishes evidence that he or she:

(1) Has met the requirements for and is a registered dietitian by the American Dietetic Association or an equivalent entity recognized by the board;

(2)(a) Has satisfactorily passed an examination approved by the board;

(b) Has received a baccalaureate degree from an accredited college or university with a major course of study in human nutrition, food and nutrition, dietetics, or an equivalent major course of study approved by the board; and

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(c) Has satisfactorily completed a program of supervised clinical experience approved by the department. Such clinical experience shall consist of not less than nine hundred hours of a planned continuous experience in human nutrition, food and nutrition, or dietetics under the supervision of an individual meeting the qualifications of this section; or

(3)(a) Has satisfactorily passed an examination approved by the board; and

(b)(i) Has received a master's or doctorate degree from an accredited college or university in human nutrition, nutrition education, food and nutrition, or public health nutrition or in an equivalent major course of study approved by the board; or

(ii) Has received a master's or doctorate degree from an accredited college or university which includes a major course of study in clinical nutrition. Such course of study shall consist of not less than a combined two hundred hours of biochemistry and physiology and not less than seventy-five hours in human nutrition.

For purposes of this section, accredited college or university means an institution currently listed with the United States Secretary of Education as accredited. Applicants who have obtained their education outside of the United States and its territories shall have their academic degrees validated as equivalent to a baccalaureate or master's degree conferred by a United States regionally accredited college or university.

The practice of medical nutrition therapy shall be performed under the consultation of a physician licensed pursuant to section ~~71-1,104~~ 690 of this act or sections ~~71-1,137~~ ~~to~~

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~~71-1,141~~693 to 697 of this act.

Sec. 641. The department, with the recommendation of the board, may issue a license by endorsement to an individual who meets the requirements of the Medical Nutrition Therapy Practice Act or substantially equivalent requirements as determined by the department, with the recommendation of the board.

Sec. 642. The department shall establish and collect fees for credentialing under the Medical Nutrition Therapy Practice Act as provided in sections 54 to 60 of this act.

Sec. 643. Section 71-1,293, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,293 (1)~~ Nothing in ~~sections 71-1,285 to 71-1,294~~ the Medical Nutrition Therapy Practice Act shall be construed to permit a licensed medical nutrition therapist to practice any other profession regulated under the ~~Nebraska Cosmetology Act, the Occupational Therapy Practice Act, or Chapter 71, article 1, 37, or 47~~Uniform Credentialing Act.

~~(2) Any person who represents himself or herself as a licensed medical nutrition therapist without first being licensed pursuant to the Uniform Licensing Law shall be guilty of a Class IV misdemeanor.~~

Sec. 644. Sections 644 to 664 of this act shall be known and may be cited as the Medical Radiography Practice Act.

Sec. 645. For purposes of the Medical Radiography Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 646 to 657 of this act apply.

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Sec. 646. Board means the Board of Medical Radiography.

Sec. 647. Electronic product means any manufactured product, device, assembly, or assemblies of such products or devices which, during operation in an electronic circuit, can generate or emit a physical field of radiation.

Sec. 648. Interpretative fluoroscopic procedures means the use of radiation in continuous mode to provide information, data, and film or hardcopy images for diagnostic review and interpretation by a licensed practitioner as the images are being produced.

Sec. 649. Licensed practitioner means a person licensed to practice medicine, dentistry, podiatry, chiropractic, osteopathic medicine and surgery, or as an osteopathic physician.

Sec. 650. Limited radiographer means a person licensed to practice medical radiography pursuant to section 660 of this act. Limited radiographer does not include a person certified under section 1043 of this act.

Sec. 651. Medical radiographer means a person licensed to practice medical radiography pursuant to section 659 of this act.

Sec. 652. Medical radiography means the application of radiation to humans for diagnostic purposes, including, but not limited to, adjustment or manipulation of X-ray systems and accessories including image receptors, positioning of patients, processing of films, and any other action that materially affects the radiation dose to patients.

Sec. 653. Radiation means ionizing radiation and nonionizing radiation as follows:

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(1) Ionizing radiation means gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other atomic or nuclear particles or rays but does not include sound or radio waves or visible, infrared, or ultraviolet light; and

(2) Nonionizing radiation means (a) any electromagnetic radiation which can be generated during the operation of electronic products to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment, other than ionizing electromagnetic radiation, and (b) any sonic, ultrasonic, or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment.

Sec. 654. Radiation-generating equipment means any manufactured product or device, component part of such a product or device, or machine or system which during operation can generate or emit radiation except devices which emit radiation only from radioactive material.

Sec. 655. Sources of radiation means any radioactive material, any radiation-generating equipment, or any device or equipment emitting or capable of emitting radiation or radioactive material.

Sec. 656. Undesirable radiation means radiation in such quantity and under such circumstances as determined from time to time by rules and regulations adopted and promulgated by the

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department.

Sec. 657. X-ray system means an assemblage of components for the controlled production of X-rays, including, but not limited to, an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

Sec. 658. Section 71-3512, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3512 (1) The Medical Radiographer Advisory Committee is created. The advisory committee~~ The board shall consist of ~~the head of the division of the department responsible for credentialing, who shall chair the meetings of the advisory committee, and~~ four medical radiographers and one limited radiographer.~~licensed by the department and appointed by the State Board of Health.~~ Of the first four medical radiographers appointed, ~~two~~one shall be appointed for a term of one year, one shall be appointed for ~~terms~~a term of two years, one shall be appointed for a term of three years, and one~~and two~~ shall be appointed for ~~terms~~a term of four years. The first limited radiographer shall be appointed for a term of five years. Thereafter each appointment shall be for a term of ~~four~~ five years. The ~~advisory committee~~board shall meet at ~~the call of the chairperson but not less than~~ least two times per calendar year. ~~The members shall serve without compensation for such service other than reimbursement for the actual and necessary expenses of attending the meetings of the advisory committee as provided in sections 81-1174 to 81-1177.~~

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~~(2) The advisory committee shall advise the department on all matters pertaining to the licensure and regulation of medical radiographers, including, but not limited to, the practice of medical radiography, the assurance of continuing competency, and the disciplining of medical radiographers found to have violated rules and regulations relating to the practice of medical radiography adopted and promulgated pursuant to the Radiation Control Act.~~

Sec. 659. Section 71-3515.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3515.01~~ (1) A person licensed by the department, with the recommendation of the board, as a medical radiographer may practice medical radiography on any part of the human anatomy for interpretation by and under the direction of a licensed practitioner, excluding interpretative fluoroscopic procedures. ~~Such person~~An applicant for a license as a medical radiographer shall:

(a) ~~Prior to issuance of a license as a medical radiographer, (i) complete~~Complete an educational program in radiography ~~incorporating the course material as provided in the rules and regulations of the department~~approved by the board pursuant to subsection (1) of section ~~71-3515.02 and (ii) complete~~662 of this act;

(b) Complete an application ~~which includes such person's social security number and successfully~~in accordance with the Uniform Credentialing Act; and

(c) Successfully complete an examination approved by the

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board.~~department on the course material. Presentation of proof of registration in radiography with the American Registry of Radiologic Technologists is proof of meeting the requirements of this subdivision (a) of this subsection; and~~

~~(b) Prior to renewal of licensure as a medical radiographer, have an average of twelve units of continuing education per year as approved by the department or complete continuing competency activities as required by the department pursuant to section 71-3507.~~

(2) Presentation of proof of ~~current~~ registration in radiography with the American Registry of Radiologic Technologists is proof of meeting the requirements of subdivisions ~~(a)~~(1)(a) and ~~(b) of this subsection~~(c) of this section.

~~(2) A person licensed by the department as a limited radiographer may practice medical radiography on limited regions of the human anatomy, using only routine radiographic procedures, for the interpretation by and under the direction of a licensed practitioner, excluding computed tomography, the use of contrast media, and the use of fluoroscopic or mammographic equipment. Such person shall:~~

~~(a) Prior to issuance of a license as a limited radiographer, complete an application which includes the applicant's social security number and successfully complete an examination approved by the department, as described in subdivision (2)(a) of section 71-3515.02 and at least one of the anatomical regions listed in subdivision (2)(b) of such section or successfully complete an examination approved by the department,~~

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~~as described in subsection (3) of section 71-3515.02. The license issued shall be specific to the anatomical region or regions for which the applicant has passed an approved examination, except that an applicant may be licensed in the anatomical region of Abdomen upon successful passage of the examinations described in subdivisions (2)(a) and (2)(b)(iv) of section 71-3515.02 and upon a finding by the department that continued provision of service for a community would be in jeopardy; and~~

~~(b) Prior to renewal of licensure as a limited radiographer, have an average of twelve units of continuing education per year as approved by the department or complete continuing competency activities as required by the department pursuant to section 71-3507.~~

~~(3) The requirements of this section do not apply to a student while enrolled and participating in an educational program in medical radiography who, as a part of an educational program, applies X-rays to humans while under the supervision of the licensed practitioners or medical radiographers associated with the educational program. Students who have completed at least twelve months of the training course described in subsection (1) of section 71-3515.02 may apply for licensure as a temporary medical radiographer. Temporary medical radiographer licenses shall expire eighteen months after issuance and shall not be renewed. Persons licensed as temporary medical radiographers shall be permitted to perform the duties of a limited radiographer licensed in all anatomical regions of subdivision (2)(b) of such section and Abdomen.~~

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Sec. 660. (1) A person licensed by the department, with the recommendation of the board, as a limited radiographer may practice medical radiography on limited regions of the human anatomy, using only routine radiographic procedures, for the interpretation by and under the direction of a licensed practitioner, excluding computed tomography, the use of contrast media, and the use of fluoroscopic or mammographic equipment. An applicant for a license as a limited radiographer shall successfully complete an examination approved by the board, as described in subdivision (2)(a) of section 662 of this act and at least one of the anatomical regions listed in subdivision (2)(b) of such section or successfully complete an examination approved by the department, as described in subsection (3) of section 662 of this act.

(2) Each license issued shall be specific to the anatomical region or regions for which the applicant has passed an approved examination, except that an applicant may be licensed in the anatomical region of Abdomen upon successful passage of the examinations described in subdivisions (2)(a) and (2)(b)(iv) of section 662 of this act and upon a finding by the department, with the recommendation of the board, that continued provision of service for a community would be in jeopardy.

Sec. 661. The requirements of sections 659 and 660 of this act do not apply to a student while enrolled and participating in an educational program in medical radiography who, as a part of an educational program, applies X-rays to humans while under the supervision of the licensed practitioners

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or medical radiographers associated with the educational program. Students who have completed at least twelve months of the training course described in subsection (1) of section 662 of this act may apply for licensure as a temporary medical radiographer. Temporary medical radiographer licenses shall expire eighteen months after issuance and shall not be renewed. Persons licensed as temporary medical radiographers shall be permitted to perform the duties of a limited radiographer licensed in all anatomical regions of subdivision (2)(b) of section 662 of this act and Abdomen.

Sec. 662. Section 71-3515.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-3515.02~~ (1) The educational program for medical radiographers shall consist of twenty-four months of instruction in radiography approved by the ~~department~~board which includes, but is not limited to, radiographic procedures, imaging equipment, image production and evaluation, film processing, radiation physics, radiation protection, radiation biology, radiographic pathology, and quality assurance activities. The ~~department~~board shall recognize equivalent courses of instruction successfully completed by individuals who are applying for licensure as medical radiographers ~~by the department~~ when determining if the requirements of section ~~71-3515.01~~659 of this act have been met.

(2) The examination for limited radiographers shall include, but not be limited to:

(a) Radiation protection, equipment maintenance and operation, image production and evaluation, and patient care and management; and

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(b) The anatomy of, and positioning for, specific regions of the human anatomy. The anatomical regions shall include at least one of the following:

(i) Chest;

(ii) Extremities;

(iii) Skull and sinus;

(iv) Spine; or

(v) Ankle and foot.

(3) The examination for limited radiographers in bone density shall include, but not be limited to, basic concepts of bone densitometry, equipment operation and quality control, radiation safety, and dual X-ray absorptiometry (DXA) scanning of the finger, heel, forearm, lumbar spine, and proximal femur.

(4) The department, with the recommendation by the board, shall adopt and promulgate rules and regulations regarding the examinations required in ~~subdivisions (1)(a)(ii) and (2)(a) of section 71-3515.01~~sections 659 and 660 of this act. Such rules and regulations shall provide for (a) the administration of examinations based upon national standards, such as the Examination in Radiography from the American Registry of Radiologic Technologists for medical radiographers, the Examination for the Limited Scope of Practice in Radiography or the Bone Densitometry Equipment Operator Examination from the American Registry of Radiologic Technologists for limited radiographers, or equivalent examinations that, as determined by the ~~department~~board, meet the standards for educational and psychological testing as recommended by the American Psychological Association, the American Educational

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Research Association, and the National Council on Measurement in Education, (b) procedures to be followed for examinations, (c) the method of grading and the passing grades for such examinations, (d) security protection for questions and answers, and (e) for medical radiographers, the contents of such examination based on the course requirements for medical radiographers prescribed in subsection (1) of this section. Any costs incurred in determining the extent to which examinations meet the examining standards of this subsection shall be paid by the individual or organization proposing the use of such examination.

~~(5) Any person employed in medical radiography before and on June 2, 1995, who is not otherwise licensed may apply for a license as a provisional limited radiographer before January 1, 1996. A person licensed as a provisional limited radiographer may perform the duties of a limited radiographer licensed in all anatomical regions listed in subdivision (2)(b) of this section and the anatomical region of Abdomen. A provisional limited radiographer shall not radiograph children under the age of six months, except (a) upon a finding by the department that continued provision of service for a community would be in jeopardy if this provision is enforced, (b) for an employee of a hospital licensed and in good standing under the Health Care Facility Licensure Act and located in a rural area as defined in section 71-5653, or (c) in a bona fide emergency situation. No examination shall be required of individuals applying for a license as a provisional limited radiographer. All provisional limited radiographer licenses expire January 1, 2005. A license~~

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~~as a provisional limited radiographer is subject to discipline for violations of the Radiation Control Act and rules and regulations adopted pursuant to the act, including, but not limited to, revocation for nonpayment of fees or failure to meet continuing competency requirements as required by the department pursuant to section 71-3507.~~

~~(6)~~(5) No applicant for a license as a limited radiographer may take the examination for licensure, or for licensure for any specific anatomical region, more than three times without first waiting a period of one year after the last unsuccessful attempt of the examination and submitting proof to the department of completion of continuing competency activities as required by the ~~department pursuant to section 71-3507~~board for each subsequent attempt.

~~(7) The department shall establish and collect fees as provided in section 71-162 for the implementation of this section and section 71-3515.01, including an examination fee, initial and renewal fees for licenses for persons performing medical radiography, and a fee for approval of courses of instruction.~~

Sec. 663. The department shall establish and collect fees for credentialing under the Medical Radiography Practice Act as provided in sections 54 to 60 of this act.

Sec. 664. (1) Persons authorized under the Dentistry Practice Act to practice as dental hygienists and dental assistants who meet the requirements of section 473 of this act shall not be required to be licensed under the Medical Radiography Practice Act.

(2) The department may exempt certain sources of

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radiation or kinds of uses or users from licensing requirements established under the Medical Radiography Practice Act when the board finds that the exemption will not constitute a significant risk to occupational and public health and safety and the environment.

(3) Individuals who are currently licensed in the State of Nebraska as podiatrists, chiropractors, dentists, physicians and surgeons, osteopathic physicians, physician assistants, and veterinarians shall be exempt from the rules and regulations of the department pertaining to the qualifications of persons for the use of X-ray radiation-generating equipment operated for diagnostic purposes.

Sec. 665. Sections 665 to 725 of this act shall be known and may be cited as the Medicine and Surgery Practice Act.

Sec. 666. Section 71-1,107.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.01~~ For the purposes of ~~sections 71-1,107.01 to 71-1,107.14~~the Medicine and Surgery Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 667 to 686 of this act apply.~~:~~

~~(1) Temporary educational permit shall mean a permit to practice medicine and surgery, osteopathic medicine and surgery, or any of their allied specialties in a supervised educational program approved by the Board of Medicine and Surgery;~~

~~(2) Graduate medical education shall mean a period of supervised educational training by a graduate of an accredited~~

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~~school or college of medicine or an accredited school or college of osteopathic medicine, which training has been approved by the department upon recommendation of the board;~~

~~(3) Visiting faculty permit shall mean a permit for a physician qualified by virtue of previous medical training and experience to teach students of medicine, to conduct research, or both;~~

~~(4) Accredited hospital shall mean a hospital accredited by the department upon recommendation of the board;~~

~~(5) Accredited school or college of medicine shall mean any school or college of medicine accredited as such pursuant to the laws of the State of Nebraska; and~~

~~(6) An accredited school or college of osteopathic medicine shall mean any school or college of osteopathic medicine accredited as such under the laws of the State of Nebraska.~~

Sec. 667. Accredited hospital means a hospital accredited by the department, with the recommendation of the board.

Sec. 668. Section 71-1,105, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,105~~ An accredited school or college of medicine ~~for the purpose of the Uniform Licensing Law shall be~~ means one approved by the ~~department upon the recommendation of the Board of Medicine and Surgery~~board, and such school or college shall meet and maintain generally minimum standards ~~prescribed~~ approved by the board. Such minimum standards shall apply equally to all accredited schools, and any school to be accredited shall permit inspections by the department.

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A school or college of osteopathic medicine and surgery fulfilling all ~~the~~ ~~foregoing~~ such requirements shall not be refused standing as an accredited medical school because it may also specialize in giving instruction according to any special system of healing.

Sec. 669. Section 71-1,140, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,140~~ An accredited school or college of osteopathic medicine ~~shall be~~means one approved by the ~~department upon the recommendation of the Board of Medicine and Surgery~~board. An accredited school or college of osteopathic medicine shall meet and maintain general minimum standards ~~prescribed~~ approved by the board. The minimum standards shall apply equally to all such accredited schools and colleges. Any school or college seeking accreditation shall permit inspections by the department.

Nothing in this section shall be construed to prohibit the department, ~~upon consultation~~ with the recommendation of the board, from accepting accreditation of a school or college of osteopathic medicine by the American Osteopathic Association as evidence of meeting the specified requirements of this section or the equivalent thereof.

Sec. 670. Section 71-1,344, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,344 For purposes of sections 71-1,344 to 71-1,349 and elsewhere in the Uniform Licensing Law, unless the context otherwise requires:(1)~~ Acupuncture means the insertion, manipulation, and removal of acupuncture needles and the

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application of manual, mechanical, thermal, electrical, and electromagnetic treatment to such needles at specific points or meridians on the human body in an effort to promote, maintain, and restore health and for the treatment of disease, based on acupuncture theory. Acupuncture may include the recommendation of therapeutic exercises, dietary guidelines, and nutritional support to promote the effectiveness of the acupuncture treatment. Acupuncture does not include manipulation or mobilization of or adjustment to the spine, extraspinal manipulation, or the practice of medical nutrition therapy.~~;~~

~~(2) Acupuncturist means a person engaged in the practice of acupuncture; and~~

~~(3) Board means the Board of Medicine and Surgery.~~

Sec. 671. Acupuncturist means a person engaged in the practice of acupuncture.

Sec. 672. Approved program means a program for the education of physician assistants which the board formally approves.

Sec. 673. Backup physician means a physician designated by the supervising physician to ensure supervision of the physician assistant in the supervising physician's absence. A backup physician shall be subject to the same requirements imposed upon the supervising physician when the backup physician is acting as a supervising physician.

Sec. 674. Board means the Board of Medicine and Surgery.

Sec. 675. Committee means the Physician Assistant Committee created in section 720 of this act.

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Sec. 676. Fellowship means a program of supervised educational training, approved by the board, in a medical specialty or subspecialty at an accredited hospital, an accredited school or college of medicine, or an accredited school or college of osteopathic medicine, that follows the completion of undergraduate medical education.

Sec. 677. Graduate medical education or residency means a program of supervised educational training, approved by the board, in a medical specialty at an accredited hospital, an accredited school or college of medicine, or an accredited school or college of osteopathic medicine, that follows the completion of undergraduate medical education.

Sec. 678. Section 71-1,107.16, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.16 For purposes of sections 71-1,107.15 to 71-1,107.30, unless the context otherwise requires:~~

~~(1) Approved program means a program for the education of physician assistants which the board formally approves;~~

~~(2) Board means the Board of Medicine and Surgery;~~

~~(3) Department means the Department of Health and Human Services Regulation and Licensure;~~

~~(4)~~ Physician assistant means any person who graduates from a program approved by the Commission on Accreditation of Allied Health Education Programs or its predecessor or successor agency and the board, who satisfactorily completes a proficiency examination, and whom ~~the board, with the concurrence of~~ the department, with the recommendation of the board, approves to

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perform medical services under the supervision of a physician or group of physicians approved by the department, with the recommendation of the board, to supervise such assistant.~~;~~

~~(5) Supervision means the ready availability of the supervising physician for consultation and direction of the activities of the physician assistant. Contact with the supervising physician by telecommunication shall be sufficient to show ready availability if the board finds that such contact is sufficient to provide quality medical care. The level of supervision may vary by geographic location as provided in section 71-1,107.17;~~

~~(6) Trainee means any person who is currently enrolled in an approved program;~~

~~(7) Proficiency examination means the initial proficiency examination approved by the board for the licensure of physician assistants, including, but not limited to, the examination administered by the National Commission on Certification of Physician Assistants or other national organization established for such purpose that is recognized by the board;~~

~~(8) Supervising physician means a (a) board-approved physician who utilizes an approved physician assistant or (b) backup physician;~~

~~(9) Backup physician means a physician designated by the supervising physician to ensure supervision of the physician assistant in the supervising physician's absence. A backup physician shall be subject to the same requirements imposed upon the supervising physician when the backup physician is acting as a supervising physician; and~~

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~~(10) Committee means the Physician Assistant Committee created in section 71-1,107.25.~~

Sec. 679. Proficiency examination means the initial proficiency examination approved by the board for the licensure of physician assistants, including, but not limited to, the examination administered by the National Commission on Certification of Physician Assistants or other national organization established for such purpose that is recognized by the board.

Sec. 680. Refresher course means a planned program of supervised educational training, approved by the board, that provides a review of medical knowledge and skills for the purpose of the enhancement of clinical competency.

Sec. 681. Supervising physician means (1) a board-approved physician who utilizes a licensed physician assistant or (2) a backup physician.

Sec. 682. Supervision means the ready availability of the supervising physician for consultation and direction of the activities of the physician assistant. Contact with the supervising physician by telecommunication shall be sufficient to show ready availability if the board finds that such contact is sufficient to provide quality medical care. The level of supervision may vary by geographic location as provided in section 711 of this act.

Sec. 683. Temporary educational permit means a permit to practice medicine and surgery, osteopathic medicine and surgery, or any of their allied specialties in graduate medical education, a fellowship, or a refresher course.

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Sec. 684. Trainee means any person who is currently enrolled in an approved program.

Sec. 685. Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of medicine and surgery or the ethics of the profession, regardless of whether a person, patient, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including, but not limited to:

(1) Performance by a physician of an abortion as defined in subdivision (1) of section 28-326 under circumstances when he or she will not be available for a period of at least forty-eight hours for postoperative care unless such postoperative care is delegated to and accepted by another physician;

(2) Performing an abortion upon a minor without having satisfied the notice requirements of sections 71-6901 to 71-6908; and

(3) The intentional and knowing performance of a partial-birth abortion as defined in subdivision (9) of section 28-326, unless such procedure is necessary to save the life of the mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

Sec. 686. Visiting faculty permit means a permit for a physician qualified by virtue of previous medical training and experience to teach students of medicine, to conduct research, or both.

Sec. 687. The board shall consist of eight members,

including at least two public members. Two of the six professional members of the board shall be officials or members of the instructional staff of an accredited medical school in this state. One of the six professional members of the board shall be a person who has a license to practice osteopathic medicine and surgery in this state.

Sec. 688. Section 71-1,102, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,102~~ For ~~the purpose of the Uniform Licensing Law~~purposes of the Uniform Credentialing Act, and except as provided in section ~~71-1,103~~689 of this act or as otherwise provided by law, the following classes of persons shall be deemed to be engaged in the practice of medicine and surgery:

(1) Persons who publicly profess to be physicians, surgeons, or obstetricians or publicly profess to assume the duties incident to the practice of medicine, surgery, or obstetrics, or any of their branches;

(2) ~~persons~~Persons who prescribe and furnish medicine for some illness, disease, ailment, injury, pain, deformity, or any physical or mental condition, or treat the same by surgery;

(3) ~~persons~~Persons holding themselves out to the public as being qualified in the diagnosis or treatment of diseases, ailments, pain, deformity, or any physical or mental condition, or injuries of human beings;

(4) ~~persons~~Persons who suggest, recommend, or prescribe any form of treatment for the intended palliation, relief, or cure of any physical or mental ailment of any person;

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(5) ~~persons~~Persons who maintain an office for the examination or treatment of persons afflicted with ailments, diseases, injuries, pain, deformity, or any physical or mental condition of human beings;

(6) ~~persons~~Persons who attach to their name the title of M.D., surgeon, physician, physician and surgeon, or any word or abbreviation ~~indicating~~and who indicate that they are engaged in the treatment or diagnosis of ailments, diseases, injuries, pain, deformity, infirmity, or any physical or mental condition of human beings; and

(7) ~~persons~~Persons who are physically located in another state but who, through the use of any medium, including an electronic medium, perform for compensation any service which constitutes the healing arts that would affect the diagnosis or treatment of an individual located in this state.

Sec. 689. Section 71-1,103, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,103~~ The following classes of persons shall not be construed to be engaged in the unauthorized practice of medicine:

(1) Persons rendering gratuitous services in cases of emergency;

(2) Persons administering ordinary household remedies;

(3) The members of any church practicing its religious tenets, except that they shall not prescribe or administer drugs or medicines, perform surgical or physical operations, nor assume the title of or hold themselves out to be physicians, and such members shall not be exempt from the quarantine laws of this state;

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(4) Students of medicine who are studying in an accredited school or college of medicine and who gratuitously prescribe for and treat disease under the supervision of a licensed physician;

(5) Physicians of the United States Armed Forces or Public Health Service or United States Department of Veterans Affairs when acting in the line of such duty in this state;

(6) Physicians who are licensed in good standing to practice medicine under the laws of another state when incidentally called into this state or contacted via electronic or other medium for consultation with a physician licensed in this state. For purposes of this subdivision, consultation means evaluating the medical data of the patient as provided by the treating physician and rendering a recommendation to such treating physician as to the method of treatment or analysis of the data. The interpretation of a radiological image by a physician who specializes in radiology is not a consultation;

(7) Physicians who are licensed in good standing to practice medicine in another state but who, from such other state, order diagnostic or therapeutic services on an irregular or occasional basis, to be provided to an individual in this state, if such physicians do not maintain and are not furnished for regular use within this state any office or other place for the rendering of professional services or the receipt of calls;

(8) Physicians who are licensed in good standing to practice medicine in another state and who, on an irregular and occasional basis, are granted temporary hospital privileges to

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practice medicine and surgery at a hospital or other medical facility licensed in this state;

~~(9) Physicians who are licensed in good standing to practice medicine in another state and who have been recommended by the secretary of the board of examiners in the state of licensure and granted temporary practice rights by the Board of Medicine and Surgery, with the approval of the department, for a period not to exceed three months in any twelve-month period;~~

~~(10)~~(9) Persons providing or instructing as to use of braces, prosthetic appliances, crutches, contact lenses, and other lenses and devices prescribed by a physician licensed to practice medicine while working under the direction of such physician;

~~(11)~~(10) Dentists practicing their profession when licensed and practicing in accordance with ~~sections 71-183 to 71-191~~the Dentistry Practice Act;

~~(12)~~(11) Optometrists practicing their profession when licensed and practicing under and in accordance with ~~sections 71-1,133 to 71-1,136~~the Optometry Practice Act;

~~(13)~~(12) Osteopathic physicians practicing their profession if licensed and practicing under and in accordance with sections ~~71-1,137 and 71-1,141~~693 and 697 of this act;

~~(14)~~(13) Chiropractors practicing their profession if licensed and practicing under ~~sections 71-177 to 71-182~~the Chiropractic Practice Act;

~~(15)~~(14) Podiatrists practicing their profession when licensed and practicing under and in accordance with ~~sections 71-173 to 71-176~~the Podiatry Practice Act;

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~~(16)~~(15) Psychologists practicing their profession when licensed and practicing under and in accordance with ~~sections 71-1,206.01 to 71-1,206.35~~the Psychology Practice Act;

~~(17)(a) Until July 1, 2007, advanced practice registered nurses and certified registered nurse anesthetists practicing their professions and practicing under and in accordance with the Advanced Practice Registered Nurse Act; and~~

~~(b) On and after July 1, 2007, advanced~~(16) Advanced practice registered nurses practicing in their clinical specialty areas when licensed under the Advanced Practice Registered Nurse ~~Licensure~~Practice Act and practicing under and in accordance with their respective ~~certification~~practice acts;

~~(18)~~(17) Persons licensed or certified under the laws of this state to practice a limited field of the healing art, not specifically named in this section, when confining themselves strictly to the field for which they are licensed or certified, not assuming the title of physician, surgeon, or physician and surgeon, and not professing or holding themselves out as qualified to prescribe drugs in any form or to perform operative surgery;

~~(19)~~(18) Persons obtaining blood specimens while working under an order of or protocols and procedures approved by a physician, registered nurse, or other independent health care practitioner licensed to practice by the state if the scope of practice of that practitioner permits the practitioner to obtain blood specimens; and

~~(20)~~(19) Other trained persons employed by a licensed health care facility or health care service defined in the

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Health Care Facility Licensure Act or clinical laboratory certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII or XIX of the federal Social Security Act to withdraw human blood for scientific or medical purposes.

Any person who has held or applied for a license to practice medicine and surgery in this state, and such license or application has been denied or such license has been refused renewal or disciplined by order of limitation, suspension, or revocation, shall be ineligible for the exceptions described in subdivisions (5) through ~~(9)~~(8) of this section until such license or application is granted or such license is renewed or reinstated. Every act or practice falling within the practice of medicine and surgery as defined in section ~~71-1,102~~688 of this act and not specially excepted in this section shall constitute the practice of medicine and surgery and may be performed in this state only by those licensed by law to practice medicine in Nebraska.

Sec. 690. Section 71-1,104, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,104~~ ~~(1)~~ Each applicant for a license to practice medicine and surgery shall:

~~(a)(i)~~ (1)(a) Present proof that he or she is a graduate of an accredited school or college of medicine, ~~(ii)~~ (b) if a foreign medical graduate, provide a copy of a permanent certificate issued by the Educational Commission on Foreign Medical Graduates that is currently effective and relates to such applicant or provide such credentials as are necessary to certify that

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such foreign medical graduate has successfully passed the Visa Qualifying Examination or its successor or equivalent examination required by the United States Department of Health and Human Services and the United States Immigration and Naturalization Service, or ~~(iii)~~ (c) if a graduate of a foreign medical school who has successfully completed a program of American medical training designated as the Fifth Pathway and who additionally has successfully passed the Educational Commission on Foreign Medical Graduates examination but has not yet received the permanent certificate attesting to the same, provide such credentials as certify the same to the Department of Health and Human Services Regulation and Licensure;

~~(b)~~ (2) Present proof that he or she has served at least one year of graduate medical education approved by the ~~Board of Medicine and Surgery~~board or, if a foreign medical graduate, present proof that he or she has served at least three years of graduate medical education approved by the board;

~~(c)~~ (3) Pass a licensing examination ~~designated~~ approved by the board ~~and the department~~ covering appropriate medical subjects; and

~~(d)~~ (4) Present proof satisfactory to the ~~board~~ department that he or she, within the three years immediately preceding the application for licensure, ~~(i)~~ (a) has been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year, ~~(ii)~~ (b) has had at least one year of graduate medical education as described in subdivision ~~(1)(b)~~ (2)

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of this section, ~~(iii)~~ (c) has completed continuing education in medicine and surgery approved by the board, ~~(iv)~~ (d) has completed a refresher course in medicine and surgery approved by the board, or ~~(v)~~ (e) has completed the special purposes examination approved by the board.

~~(2) The department, upon the recommendation of the board, may waive any requirement for more than one year of approved graduate medical education, as set forth in subdivision (1)(b) of this section, if the applicant has served at least one year of graduate medical education approved by such board and if the following conditions are met:~~

~~(a) The applicant meets all other qualifications for a license to practice medicine and surgery;~~

~~(b) The applicant submits satisfactory proof that the issuance of a license based on the waiver of the requirement of more than one year of approved graduate medical education will not jeopardize the health, safety, and welfare of the citizens of this state; and~~

~~(c) The applicant submits proof that he or she will enter into the practice of medicine in a health profession shortage area designated as such by the Nebraska Rural Health Advisory Commission immediately upon obtaining a license to practice medicine and surgery based upon a waiver of the requirement for more than one year of graduate medical education.~~

~~(3) A license issued on the basis of such a waiver shall be subject to the limitation that the licensee continue in practice in the health profession shortage area and such other~~

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~~limitations, if any, deemed appropriate under the circumstances by the Director of Regulation and Licensure, upon recommendation of the board, which may include, but shall not be limited to, supervision by a medical practitioner, training, education, and scope of practice. After two years of practice under a limited license issued on the basis of a waiver of the requirement of more than one year of graduate medical education, a licensee may apply to the department for removal of the limitations. The director, upon the recommendation of the board, may grant or deny such application or may continue the license with limitations.~~

~~(4) In addition to any other grounds for disciplinary action against the license contained in the Uniform Licensing Law, the department may take disciplinary action against a license granted on the basis of a waiver of the requirement of more than one year of graduate medical education for violation of the limitations on the license. The department, upon the recommendation of the board, shall adopt and promulgate rules and regulations for the purpose of implementing and administering this section.~~

Sec. 691. (1) The department, with the recommendation of the board, may waive any requirement for more than one year of approved graduate medical education, as set forth in subdivision (2) of section 690 of this act, if the applicant has served at least one year of graduate medical education approved by the board and if the following conditions are met:

(a) The applicant meets all other qualifications for a license to practice medicine and surgery;

(b) The applicant submits satisfactory proof that the

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issuance of a license based on the waiver of the requirement of more than one year of approved graduate medical education will not jeopardize the health, safety, and welfare of the citizens of this state; and

(c) The applicant submits proof that he or she will enter into the practice of medicine in a health profession shortage area designated as such by the Nebraska Rural Health Advisory Commission immediately upon obtaining a license to practice medicine and surgery based upon a waiver of the requirement for more than one year of graduate medical education.

(2) A license issued on the basis of such a waiver shall be subject to the limitation that the licensee continue in practice in the health profession shortage area and such other limitations, if any, deemed appropriate under the circumstances by the director, with the recommendation of the board, which may include, but shall not be limited to, supervision by a medical practitioner, training, education, and scope of practice. After two years of practice under a limited license issued on the basis of a waiver of the requirement of more than one year of graduate medical education, a licensee may apply to the department for removal of the limitations. The director, with the recommendation of the board, may grant or deny such application or may continue the license with limitations.

(3) In addition to any other grounds for disciplinary action against the license contained in the Uniform Credentialing Act, the department may take disciplinary action against a license granted on the basis of a waiver of the requirement of more

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than one year of graduate medical education for violation of the limitations on the license.

Sec. 692. An applicant for a license to practice medicine and surgery by endorsement shall meet the requirements set out in section 44 of this act, except that an applicant who has not passed one of the licensing examinations specified in the rules and regulations but has been duly licensed to practice medicine and surgery in some other state or territory of the United States of America or in the District of Columbia and obtained that license based upon a state examination, as approved by the board, may be issued a license by the department, with the recommendation of the board, to practice medicine and surgery by endorsement.

Sec. 693. Section 71-1,137, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,137 For the purpose of the Uniform Licensing Law~~(1) For purposes of the Uniform Credentialing Act, the following classes of persons shall be deemed to be engaged in practice as osteopathic physicians:

~~(1)~~ (a) Persons publicly professing to be osteopathic physicians or publicly professing to assume the duties incident to the practice of osteopathic physicians; and ~~(2) persons~~

(b) Persons who are graduates of a school or college of osteopathic medicine and who treat human ailments by that system of the healing art which was advocated and taught by the school or college of osteopathic medicine from which such person graduated at the time of his or her graduation as determined by the department, with the recommendation of the board.

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(2)~~after consultation with the Board of Medicine and Surgery.~~ No license issued ~~under this section~~to osteopathic physicians under the Medicine and Surgery Practice Act shall authorize the person so licensed to perform surgical procedures except those usually performed by general practitioners, as determined by the department, ~~upon consultation~~ with the recommendation of the board.

(3) Nothing in this section shall be construed to prohibit an osteopathic physician licensed in accordance with ~~this section~~the act from serving as an assistant in surgery more complex than that usually performed by general practitioners, as determined ~~above~~by the department, with the recommendation of the board, when such surgery is performed by an osteopathic physician licensed pursuant to section ~~71-1,139.01~~696 of this act or by an osteopathic physician or doctor of medicine licensed pursuant to section ~~71-1,104~~690 of this act. In no event shall this section or section ~~71-1,139.01~~696 of this act be construed as authorizing any physician to engage in any procedure which he or she is not qualified by training to perform according to the standards prevailing in the State of Nebraska at the time.

(4) Persons who are licensed to practice as osteopathic physicians who have demonstrated to the department, with the recommendation of the board, that they have acquired adequate training and knowledge for such purpose and have been so authorized by ~~such board~~the department, with the recommendation of the board, may prescribe and administer drugs and medicines. ~~The board shall provide procedures for determining an osteopathic physician's~~

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~~qualifications to prescribe and administer drugs and medicines and for issuing appropriate evidence of authority to do so.~~

Sec. 694. Section 71-1,138, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,138 Section 71-1,137 shall not be construed to include~~ For purposes of the Uniform Credentialing Act, the following classes of persons shall not be construed as engaged in practice as osteopathic physicians:

(1) Licensed physicians and surgeons, podiatrists, nurses, and dentists who are exclusively engaged in the practice of their respective professions;

(2) ~~physicians~~ Physicians and surgeons of the United States Armed Forces or other federal agencies when acting in the line of duty in this state; and

(3) ~~osteopathic~~ Osteopathic physicians licensed in another state when incidentally called into this state in consultation with a licensed physician or an osteopathic physician licensed in this state.

Sec. 695. Section 71-1,139, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,139~~ Every applicant for a license to practice as an osteopathic physician shall (1) present proof of having completed a four-year course in an accredited high school or its equivalent, (2) present proof of having graduated from an accredited school or college of osteopathic medicine, and (3) pass an examination, as ~~prescribed by the Board of Medicine and Surgery~~approved by the board, in the science of osteopathy and the practice of the

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same. ~~The application for a license to practice as an osteopathic physician shall include the applicant's social security number.~~

~~The department shall accept, in lieu of the examination provided in subdivision (3) of this section, a certificate of examination issued by the National Board of Osteopathic Examiners of the United States of America. Every applicant for a license upon the basis of such certificate shall be required to pay the fees prescribed for licenses issued to osteopathic physicians without examination, based upon a license by examination held in another state or territory or the District of Columbia.~~

Sec. 696. Section 71-1,139.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,139.01~~ (1) If a person (a) has graduated from an accredited school or college of osteopathic medicine since January 1, 1963, (b) meets all statutory requirements for licensure as an osteopathic physician, (c) has served one year of internship or its equivalent at an institution approved for such training by the ~~Board of Medicine and Surgery~~board, (d) after his or her internship, has taken and passed the examination provided in section 71-1,104, and (e) presents proof satisfactory to the department, with the recommendation of the board, that he or she, within the three years immediately preceding the application for licensure, (i) has been in the active practice of the profession of osteopathic medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year, (ii) has had one year of graduate medical education as described in subdivision (1)(c) of this section, (iii) has completed continuing

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education in medicine and surgery or osteopathic medicine and surgery approved by the board, (iv) has completed a refresher course in medicine and surgery or osteopathic medicine and surgery approved by the board, or (v) has completed the special purposes examination approved by the board, such person, upon making application therefor, shall receive a license as a Doctor of Osteopathic Medicine and Surgery which shall qualify such person to practice osteopathic medicine and surgery.

~~(2) The department shall accept, in lieu of the examination provided in subdivision (1)(d) of this section, a certificate of examination issued by the National Board of Osteopathic Examiners of the United States of America. Every applicant for a license upon the basis of such certificate shall be required to pay the fees prescribed for licenses issued in osteopathic medicine and surgery without examination, based upon a license by examination held in another state or territory or the District of Columbia.~~

~~(3)~~ (2) With respect to persons who have graduated from an accredited school or college of osteopathic medicine prior to January 1, 1963, the department, ~~upon the approval of the Board of Medicine and Surgery~~with the recommendation of the board, may issue a license to practice osteopathic medicine and surgery to any such graduate who meets all the requirements for issuance of such license except graduation from an accredited school or college of osteopathic medicine after January 1, 1963.~~, and whose application has been approved by the board.~~

Sec. 697. Section 71-1,141, Reissue Revised Statutes of

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Nebraska, is amended to read:

~~71-1,141~~ (1) With respect to licenses issued pursuant to sections ~~71-1,139~~ ~~and~~ ~~71-1,139.01~~695 and 696 of this act and any renewals thereof, the ~~Department~~ ~~of~~ ~~Health~~ ~~and~~ ~~Human~~ ~~Services~~ ~~Regulation~~ ~~and~~ ~~Licensure~~ department shall designate the extent of such practice as follows:

~~(1)~~ (a) License to practice as an osteopathic physician; or

~~(2)~~ (b) License to practice osteopathic medicine and surgery.

(2) Every license issued under sections ~~71-1,139~~ ~~and~~ ~~71-1,139.01~~ 695 and 696 of this act shall confer upon the holder thereof the right to practice osteopathic medicine and surgery as taught in the schools or colleges of osteopathic medicine recognized by the American Osteopathic Association in the manner and to the extent provided by such license.

Sec. 698. An applicant for a license to practice osteopathic medicine and surgery by endorsement shall meet the requirements set out in section 44 of this act, except that an applicant who has not passed one of the licensing examinations specified in the rules and regulations but has been duly licensed to practice osteopathic medicine and surgery in some other state or territory of the United States of America or in the District of Columbia and obtained that license based upon a state examination, as approved by the board, may be issued a license by the department, upon the recommendation of the board, to practice osteopathic medicine and surgery by endorsement.

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Sec. 699. Applicants for licensure in medicine and surgery and osteopathic medicine and surgery shall pass the licensing examination. An applicant who fails to pass any part of the licensing examination within four attempts shall complete one additional year of postgraduate medical education at an accredited school or college of medicine or osteopathic medicine. All parts of the licensing examination shall be successfully completed within ten years. An applicant who fails to successfully complete the licensing examination within the time allowed shall retake that part of the examination which was not completed within the time allowed.

Sec. 700. A locum tenens may be issued by the department, with the recommendation of the board, to an individual who holds an active license to practice medicine and surgery or osteopathic medicine and surgery in another state when circumstances indicate a need for the issuance of a locum tenens in the State of Nebraska. A locum tenens may be issued for a period not to exceed ninety days in any twelve-month period.

Sec. 701. In addition to the grounds for disciplinary action found in sections 81 and 82 of this act, a license to practice medicine and surgery or osteopathic medicine and surgery may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 99 of this act when the applicant or licensee fails to comply with the provisions of section 71-603.01, 71-604, 71-605, or 71-606 relating to the signing of birth and death certificates.

Sec. 702. Section 71-1,107.03, Reissue Revised Statutes

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of Nebraska, is amended to read:

~~71-1,107.03~~ The holder of a temporary educational permit or of a visiting faculty permit shall be entitled to practice medicine and surgery and any of its allied specialties, including prescribing medicine and ~~narcotics~~controlled substances, while serving in ~~a supervised educational program or in an approved~~ graduate medical education, a fellowship, or a refresher course in ~~program conducted by an accredited hospital in the State of Nebraska or by an accredited school or college of medicine of~~ the State of Nebraska, but neither the holder of a temporary educational permit nor the holder of a visiting faculty permit shall be qualified to engage in the practice of medicine and surgery or any of its allied specialties within the State of Nebraska and outside of the assigned ~~training or teaching~~graduate medical education, fellowship, refresher course, teaching program, or research program.

Sec. 703. Section 71-1,107.07, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.07~~ Before granting any temporary educational permit, the ~~Department of Health and Human Services Regulation and Licensure~~department, with the recommendation of the board, shall ascertain ~~by evidence satisfactory to such board that an accredited hospital or school or college of medicine in the State of Nebraska~~that an authorized provider of graduate medical education, a fellowship, or a refresher course has requested the issuance of a temporary educational permit for an applicant to ~~serve as a graduate student~~participate in its ~~approved program~~graduate medical

education, fellowship, or refresher course for the period involved. ~~and any application for the issuance of such permit shall be signed by the applicant requesting that such permit be issued to him or her and shall designate the specified approved graduate medical educational program with respect to which such permit shall apply.~~

Sec. 704. Section 71-1,107.08, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.08~~ Before a visiting faculty permit ~~shall be~~is issued, the ~~Department of Health and Human Services Regulation and Licensure~~department, with the recommendation of the board, shall determine ~~on the basis of evidence satisfactory to the department~~ that an accredited school or college of medicine in the State of Nebraska has requested issuance of ~~such~~a visiting faculty permit for the individual involved to serve as a member of the faculty of such school or college of medicine. ~~and that the applicant for such permit has met the requirements of sections 71-1,107.01 to 71-1,107.14.~~ Any application for issuing a visiting faculty permit ~~shall be signed by the applicant to whom such permit is to be issued and shall designate the accredited school or college of medicine where such applicant proposes to serve as a member of the faculty and~~ shall outline the faculty duties to be performed pursuant to the permit.

Sec. 705. Section 71-1,107.09, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.09~~ The recommendation of the ~~Board of Medicine and Surgery~~board for the issuance of any temporary educational permits or any visiting faculty permits shall be made at regular

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meetings of such board, but the ~~president~~chairperson or one other member of the board ~~and its executive secretary jointly~~ shall have the power to recommend the issuance of such permits between the meetings of the board.~~, which permits shall be subject to approval or disapproval at the next subsequent meeting of the board.~~

Sec. 706. Section 71-1,107.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.06~~ The duration of any temporary educational or visiting faculty permit ~~issued pursuant to sections 71-1,107.01 to 71-1,107.14~~ shall be determined by the ~~Department of Health and Human Services Regulation and Licensure~~department but in no case shall it be in excess of one year. The permit may be renewed annually as long as the holder of a temporary educational permit is still enrolled and participating in the program of supervised educational training or as long as the holder of a visiting faculty permit is still teaching students of medicine or conducting research.~~from time to time at the discretion of the Department of Health and Human Services Regulation and Licensure but in no case shall it be renewed for more than five one-year periods. The department may issue to all qualified graduates of accredited colleges of medicine or accredited schools or colleges of osteopathic medicine, who are eligible for the examination provided in section 71-1,104, and who make application for such examination, a temporary educational permit, without charge. Such permit shall be issued only for the duration of the time between the date of the examination and the date of licensure granted as a result of such examination. Any person issued a temporary~~

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~~educational permit without charge shall meet all requirements provided for in sections 71-1,107.01 to 71-1,107.13, except the required fee, and such exemption is only for the period of time between the examination date and the licensing date and for only those individuals who take the examination as provided in section 71-1,104.~~

Sec. 707. Section 71-1,107.11, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.11~~ Any temporary educational or visiting faculty permit ~~granted under the authority of sections 71-1,107.01 to 71-1,107.14~~ may be suspended, limited, or revoked by the department, with the ~~upon~~ recommendation of the ~~Board of Medicine and Surgery~~ board, at any time upon a finding that the reasons for issuing such permit no longer exist or that the person to whom such permit has been issued is no longer qualified to hold such permit.

Sec. 708. Section 71-1,107.13, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.13~~ A temporary educational permit may be issued to graduates of foreign schools or colleges of medicine or to individuals if the applicant, in addition to meeting the other requirements for the issuance of such permit, presents to the department a copy of a permanent certificate of the Educational Commission on Foreign Medical Graduates currently effective and relating to such applicant or, in lieu thereof, such credentials as are necessary to certify to successful passage of the Visa Qualifying Examination, or its successor or equivalent examination, required by the United States Department

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of Health and Human Services and the United States Immigration and Naturalization Service or, if a graduate of a foreign medical school who has successfully completed a program of American medical training designated as the Fifth Pathway and who additionally has successfully passed the Educational Commission on Foreign Medical Graduates examination but has not yet received a permanent certificate attesting to the same, and provides such credentials as are necessary to certify the same to the department, at such time as the department, with the ~~upon~~ recommendation of the ~~Board of Medicine and Surgery~~ board determines, and, if so directed by the department, passes an examination ~~prescribed by the department upon recommendation of~~ approved by the board to measure his or her clinical competence to proceed to advanced training before advancing beyond the initial phase of the training program, and if such examination is required, pays the required fee.

Sec. 709. Section 71-1,107.14, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.14~~ A visiting faculty permit may be issued to graduates of foreign schools or colleges of medicine or to individuals if an accredited college or school of medicine in the State of Nebraska has requested that such permit be issued. It shall not be necessary for such applicant to provide a certificate of the Educational Commission on Foreign Medical Graduates as required in the case of temporary educational permits. If directed by the department an applicant for a visiting faculty permit may be required to pass an examination ~~prescribed by the department upon recommendation of the Board of Medicine and Surgery~~ approved

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by the board to measure his or her clinical competence to practice medicine and if such examination is required the applicant shall pay the required fee.

Sec. 710. Section 71-1,107.15, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.15~~ The Legislature finds that:

(1) ~~That~~ ~~in~~ In its concern with the geographic maldistribution of health care services in Nebraska it is essential to develop additional health ~~manpower;~~personnel; and

(2) ~~That~~ ~~it~~ It is essential to encourage the more effective utilization of the skills of physicians by enabling them to delegate health care tasks to qualified physician assistants when such delegation is consistent with the patient's health and welfare.~~;~~ ~~and~~

~~(3)~~ ~~That~~ ~~sections~~ ~~71-1,107.15~~ ~~to~~ ~~71-1,107.30~~ ~~are established~~ It is the intent of the Legislature to encourage the utilization of such physician assistants by physicians.

Sec. 711. Section 71-1,107.17, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.17~~ (1) Notwithstanding any other provision of law, a physician assistant may perform medical services when he or she renders such services under the supervision of a licensed physician or group of physicians approved by the department, with the recommendation of the board, in the specialty area or areas for which the physician assistant shall be trained or experienced. Any physician assistant licensed under ~~sections~~ ~~71-1,107.15~~ ~~to~~ ~~71-1,107.30~~ the Medicine and Surgery Practice Act to perform

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services may perform those services only:

(a) In the office of the supervising physician where such physician maintains his or her primary practice;

(b) In any other office which is operated by the supervising physician with the personal presence of the supervising physician. The physician assistant may function without the personal presence of the supervising physician in an office other than where such physician maintains his or her primary practice as provided in subsection (2) of this section and when approved on an individual basis by the department, with the recommendation of the board. Any such approval shall require site visits by the supervising physician, regular reporting to the supervising physician by the physician assistant, and arrangements for supervision at all times by the supervising physician which are sufficient to provide quality medical care;

(c) In a hospital, with the approval of the governing board of such hospital, where the supervising physician is a member of the staff and the physician assistant is subject to the rules and regulations of the hospital. Such rules and regulations may include, but need not be limited to, reasonable requirements that physician assistants and the supervising physician maintain professional liability insurance with such coverage and limits as may be established by the hospital governing board, upon the recommendation of the medical staff; or

(d) On calls outside such offices, when authorized by the supervising physician and with the approval of the governing board of any affected hospital.

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(2) The department, with the recommendation of the board, shall adopt and promulgate rules and regulations establishing minimum requirements for the personal presence of the supervising physician, stated in hours or percentage of practice time. The board may provide different minimum requirements for the personal presence of the supervising physician based on the geographic location of the supervising physician's primary and other practice sites and other factors the board deems relevant.

Sec. 712. Section 71-1,107.18, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.18~~ Notwithstanding any other provision of law, a trainee may perform medical services when he or she renders such services within the scope of an approved program.

Sec. 713. Section 71-1,107.19, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.19~~ (1) The department, with the recommendation of the board, shall issue licenses to persons who are graduates of physician assistant programs approved by the board and have satisfactorily completed a proficiency examination.

(2) The ~~board~~ department, with the recommendation of the board, shall issue temporary licenses to persons who have successfully completed an approved program for the education and training of physician assistants but have not yet passed a proficiency examination. Any temporary license issued pursuant to this subsection shall be issued for a period not to exceed one year and under such conditions as ~~the board determines, with the approval of the department. The~~ determined by the department, with

the recommendation of the board. Upon a showing of good cause, the temporary license may be extended by ~~the board, with the approval of~~ the department, ~~upon a showing of good cause~~with the recommendation of the board.

(3) The board may recognize groups of specialty classifications of training for physician assistants. These classifications shall reflect the training and experience of the physician assistant. The physician assistant may receive training in one or more such classifications which shall be shown on the license issued.

(4) Physician assistants approved by the board prior to April 16, 1985, shall not be required to complete the proficiency examination.

~~(5) A physician assistant holding a certificate issued under this section prior to April 16, 1996, may continue to practice under the certificate until it expires and shall be considered licensed for purposes of the statutes and rules and regulations of Nebraska. Upon expiration of the certificate, the physician assistant may apply for a license and shall be granted a license if he or she would otherwise qualify for renewal of a certificate prior to April 16, 1996. Any reference to certified physician assistant in the rules and regulations of the department prior to April 16, 1996, shall be construed to refer to licensed physician assistant until changed by the department.~~

Sec. 714. Section 71-1,107.20, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.20~~ (1) The ~~board~~ department, with the

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recommendation of the board, shall formulate guidelines for the consideration of applications by a licensed physician or physicians to supervise physician assistants. Any application made by a physician or physicians shall include all of the following:

(a) The qualifications, including related experience, of the physician assistant intended to be employed;

(b) The professional background and specialty of the physician or physicians; and

(c) A description by the physician of his or her, or physicians of their, practice and the way in which the assistant or assistants shall be utilized. The application shall provide for the personal presence of the supervising physician in conformance with requirements established by the department, with the recommendation of the board, under section ~~71-1,107.17~~711 of this act.

(2) The department, with the recommendation of the board, ~~with the concurrence of the department,~~ shall approve an application by a licensed physician to supervise a physician assistant when the ~~board~~ department, with the recommendation of the board, is satisfied that the proposed assistant is a graduate of an approved program, has satisfactorily completed a proficiency examination, and is fully qualified to perform medical services under the responsible supervision of a licensed physician. The public shall be adequately protected by the arrangement proposed in the application.

(3) The department, with the recommendation of the board, shall ~~certify~~ approve no more than two physician assistants for any practicing physician, except that this limitation may be waived

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by the department, with the recommendation of the board, upon a showing of good cause by the practicing physician.

Sec. 715. Section 71-1,107.23, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.23 The board, with the concurrence of the department, may limit, deny, suspend, or revoke the certificate of approval to supervise a physician assistant held by any physician when it finds that sections 71-1,107.15 to 71-1,107.30 or any of the rules and regulations adopted and promulgated by the board thereunder are not being complied with. In cases of failure to pay the required fees, denial shall be automatic. Any limitation, denial, suspension, or revocation may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.~~

If the supervision of a physician assistant is terminated by the physician or physician assistant, the physician shall notify the department of such termination. A physician who thereafter assumes the responsibility for such supervision shall obtain a certificate ~~of approval~~ to supervise a physician assistant from the department prior to the use of the physician assistant in the practice of medicine.

Sec. 716. Section 71-1,107.21, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.21~~ Any person who has not been ~~approved~~ licensed by the department, with the recommendation of the board, ~~with the concurrence of the department,~~ and who holds himself or herself out as a physician assistant, or who uses any other term to indicate or imply that he or she is a physician assistant, shall be guilty of a

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Sec. 717. Section 71-1,107.28, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.28~~ Any physician or physician groups utilizing physician assistants shall be liable for any negligent acts or omissions of physician assistants while acting under their supervision and control.

Sec. 718. Section 71-1,107.29, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.29~~ Any physician assistant who is licensed and who renders services under the supervision and control of a licensed physician as provided by ~~sections~~ ~~71-1,107.15~~ ~~to~~ ~~71-1,107.30~~ the Medicine and Surgery Practice Act shall not be construed to be engaged in the unauthorized practice of medicine.

Sec. 719. Section 71-1,107.30, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,107.30~~ A physician assistant may prescribe drugs and devices as delegated to do so by a supervising physician. Any limitation placed by the supervising physician on the prescribing authority of the physician assistant shall be recorded on the physician assistant's scope of practice agreement established pursuant to rules and regulations adopted and promulgated under ~~section~~ ~~71-1,107.24~~the Medicine and Surgery Practice Act. All prescriptions and prescription container labels shall bear the name of the supervising physician and the physician assistant. A physician assistant to whom has been delegated the authority to prescribe controlled substances shall obtain a federal Drug

Enforcement Administration registration number. When prescribing Schedule II controlled substances, the prescription container label shall bear all information required by the federal Controlled Substances Act of 1970.

Sec. 720. Section 71-1,107.25, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,107.25~~ (1) There is hereby created the Physician Assistant Committee which shall review and make recommendations to the board regarding all matters relating to physician assistants that come before the board. Such matters shall include, but not be limited to, ~~(1)~~(a) applications for licensure, ~~(2)~~(b) physician assistant education, ~~(3)~~(c) scope of practice, ~~(4)~~(d) proceedings arising pursuant to ~~section 71-1,107.23~~sections 81 and 82 of this act, ~~(5)~~(e) physician assistant licensure and supervising physician requirements, and ~~(6)~~(f) continuing competency. The committee shall be directly responsible to the board.

(2) The committee shall be appointed by the State Board of Health and shall be composed of two physician assistants, one supervising physician, one member of the Board of Medicine and Surgery, and ~~one public member~~two public members. The chairperson of the committee shall be elected by a majority vote of the committee members.

(3) At the expiration of the four-year terms of the members serving on December 1, 2008, ~~All~~ appointments shall be for ~~four-year~~ five-year terms.~~,~~ ~~at staggered intervals.~~ Members shall serve no more than two consecutive full five-year terms. Reappointments shall be made by the State Board of Health.

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(4) The committee shall meet on a regular basis and committee members shall, in addition to necessary traveling and lodging expenses, receive a per diem for each day actually engaged in the discharge of his or her duties, including compensation for the time spent in traveling to and from the place of conducting business. Traveling and lodging expenses shall be reimbursed ~~receive reimbursement for time and travel expenditures~~ on the same basis as provided in sections 81-1174 to 81-1177. The compensation shall not exceed fifty dollars per day and shall be determined by the committee with the approval of the department.

Sec. 721. Section 71-1,345, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,345 Sections 71-1,344 to 71-1,349~~ The provisions of the Medicine and Surgery Practice Act relating to acupuncture do not apply to:

(1) Any other health care practitioner credentialed under the Uniform ~~Licensing Law~~ Credentialing Act practicing within the scope of his or her profession;

(2) A student practicing acupuncture under the supervision of a person licensed to practice acupuncture under the Uniform ~~Licensing Law~~ Credentialing Act as part of a course of study approved by the department; or

(3) The practice of acupuncture by any person licensed or certified to practice acupuncture in any other jurisdiction when practicing in an educational seminar sponsored by a state-approved acupuncture or professional organization if the practice is supervised directly by a person licensed to practice acupuncture

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under the Uniform ~~Licensing~~ ~~Law~~Credentialing Act.

Sec. 722. Section 71-1,346, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,346~~ It is unlawful to practice acupuncture on a person in this state unless the acupuncturist is licensed to practice acupuncture under the Uniform ~~Licensing~~ ~~Law~~ Credentialing Act and has been presented by the patient with a prior letter of referral from or a medical diagnosis and evaluation completed by a practitioner licensed to practice medicine and surgery or osteopathic medicine and surgery within ninety days immediately preceding the date of an initial acupuncture treatment. An acupuncturist licensed under the Uniform ~~Licensing~~ ~~Law~~ Credentialing Act shall provide the same standard of care to patients as that provided by a person licensed under the Uniform ~~Licensing~~ ~~Law~~ Credentialing Act to practice medicine and surgery, osteopathy, or osteopathic medicine and surgery.

Sec. 723. Section 71-1,347, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,347~~ The practice of acupuncture shall not be performed upon any person except with the voluntary and informed consent of such person. Information provided in connection with obtaining such informed consent shall include, but not be limited to, the following:

(1) The distinctions and differences between the practice of acupuncture and the practice of medicine;

(2) The disclosure that an acupuncturist is not licensed to practice medicine or to make a medical diagnosis of the person's

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disease or condition and that a physician should be consulted for such medical diagnosis;

(3) The nature and the purpose of the acupuncture treatment; and

(4) Any medical or other risks associated with such treatment.

Sec. 724. Section 71-1,348, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,348 An applicant for an initial license to practice acupuncture shall apply to the department on forms provided by the department.~~ At the time of application for an initial license to practice acupuncture, the applicant shall present to the department proof that he or she:

~~(1) Is nineteen years of age or older and is of good moral character;~~

~~(2)~~ (1) Has graduated from, after having successfully completed the acupuncture curriculum requirements of, a formal, full-time acupuncture program at a ~~board-approved~~ university, college, or school of acupuncture approved by the board which includes at least one thousand seven hundred twenty-five hours of entry-level acupuncture education consisting of a minimum of one thousand didactic and five hundred clinical hours;

~~(3)~~ (2) Has successfully passed an acupuncture examination approved by the board which shall include a comprehensive written examination in acupuncture theory, diagnosis and treatment technique, and point location; and

~~(4)~~ (3) Has successfully completed a clean-needle

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technique course approved by the board.

Sec. 725. The department shall establish and collect fees for credentialing under the Medicine and Surgery Practice Act as provided in sections 54 to 60 of this act.

Sec. 726. Sections 726 to 762 of this act shall be known and may be cited as the Mental Health Practice Act.

Sec. 727. Section 71-1,295, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,295~~ The Legislature finds that, because many mental health practitioners are not regulated in this state, anyone may offer mental health services by using an unrestricted title and that there is no means for identifying qualified practitioners, for enforcing professional standards, or for holding such practitioners accountable for their actions. Therefor the Legislature determines that, in the interest of consumer protection and for the protection of public health, safety, and welfare, individuals should be provided a means by which they can be assured that their selection of a mental health practitioner is based on sound criteria and that the activities of those persons who by any title may offer or deliver therapeutic mental health services should be regulated.

The purpose of licensing mental health practitioners is to provide for an omnibus title for such persons and to provide for associated certification of social workers, master social workers, professional counselors, and marriage and family therapists.

Sec. 728. Section 71-1,296, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,296~~ For purposes of ~~sections~~ ~~71-1,295~~ ~~to~~ ~~71-1,338~~the

Mental Health Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections ~~71-1,297 to 71-1,311 shall be used~~729 to 743 of this act apply.

Sec. 729. Section 71-1,297, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,297~~ Approved educational program ~~shall mean~~ means a program of education and training approved by the board. Such approval may be based on the program's accreditation by an accrediting agency or on standards established by the board in the manner and form provided in section ~~71-128~~35 of this act.

Sec. 730. Section 71-1,298, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,298~~ Board ~~shall mean~~ means the Board of Mental Health Practice.

Sec. 731. Section 71-1,299, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,299~~ Certified marriage and family therapist ~~shall mean~~ means a person who is certified to practice marriage and family therapy pursuant to the Uniform ~~Licensing Law~~ Credentialing Act and who holds a current certificate issued by the department.

Sec. 732. Section 71-1,300, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,300~~ Certified master social work ~~shall mean~~ means the specialized application of social work values, knowledge, principles, and methods in all areas of social work practice. Certified master social work may include the private, independent,

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and autonomous practice of social work.

Sec. 733. Section 71-1,301, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,301~~ Certified master social worker ~~shall~~ ~~mean~~ means a person who meets the standards established in subsection (1) of section ~~71-1,319~~ 751 of this act and who holds a current certificate issued by the department.

Sec. 734. Section 71-1,302, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,302~~ Certified professional counselor ~~shall~~ ~~mean~~ means a person who is certified to practice professional counseling pursuant to the Uniform ~~Licensing~~ ~~Law~~ Credentialing Act and who holds a current certificate issued by the department.

Sec. 735. Section 71-1,303, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,303~~ Certified social work ~~shall~~ ~~mean~~ means the professional application of social work values, knowledge, principles, and methods in all areas of social work practice, except that certified social work shall not include private, independent, and autonomous practice of social work.

Sec. 736. Section 71-1,304, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,304~~ Certified social worker ~~shall~~ ~~mean~~ means a person who meets the standards established in subsection (2) of section ~~71-1,319~~ 751 of this act and who holds a current certificate issued by the department.

Sec. 737. Section 71-1,305, Reissue Revised Statutes of

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Nebraska, is amended to read:

~~71-1,305~~ Consultation ~~shall~~ ~~mean~~ means a professional collaborative relationship between a licensed mental health practitioner and a consultant who is a psychologist licensed to engage in the practice of psychology as provided in section ~~71-1,206.14~~ 1054 of this act or a qualified physician in which (1) the consultant makes a diagnosis based on information supplied by the licensed mental health practitioner and any additional assessment deemed necessary by the consultant and (2) the consultant and the licensed mental health practitioner jointly develop a treatment plan which indicates the responsibility of each professional for implementing elements of the plan, updating the plan, and assessing the client's progress.

Sec. 738. Section 71-1,306, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,306~~ Marriage and family therapy ~~shall~~ ~~mean~~ means the assessment and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems through the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families for the purpose of treating such disorders.

Sec. 739. Section 71-1,307, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,307~~ Mental health practice ~~shall~~ ~~mean~~ means the provision of treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups

for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations.

Mental health practice ~~shall~~ does not include the practice of psychology or medicine, prescribing drugs or electroconvulsive therapy, treating physical disease, injury, or deformity, diagnosing major mental illness or disorder except in consultation with a qualified physician or a psychologist licensed to engage in the practice of psychology as provided in section ~~71-1,206.14~~1054 of this act, measuring personality or intelligence for the purpose of diagnosis or treatment planning, using psychotherapy with individuals suspected of having major mental or emotional disorders except in consultation with a qualified physician or licensed psychologist, or using psychotherapy to treat the concomitants of organic illness except in consultation with a qualified physician or licensed psychologist.

Mental health practice ~~shall include~~ includes the initial assessment of organic mental or emotional disorders for the purpose of referral or consultation.

Nothing in sections ~~71-1,306, 71-1,310, and 71-1,311~~ 738, 742, and 743 of this act shall be deemed to constitute authorization to engage in activities beyond those described in this section. Persons certified under ~~sections 71-1,295 to 71-1,338~~ the Mental Health Practice Act but not licensed under section ~~71-1,314~~ 746 of this act shall not engage in mental health practice.

Sec. 740. Section 71-1,308, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-1,308~~ Mental health practitioner ~~shall~~ ~~mean~~ means a person who holds himself or herself out as a person qualified to engage in mental health practice or a person who offers or renders mental health practice services. A person who is licensed as a mental health practitioner and certified as a master social worker may use the title licensed clinical social worker. A person who is licensed as a mental health practitioner and certified as a professional counselor may use the title licensed professional counselor. A person who is licensed as a mental health practitioner and certified as a marriage and family therapist may use the title licensed marriage and family therapist. No person shall use the title licensed clinical social worker, licensed professional counselor, or licensed marriage and family therapist unless he or she is licensed and certified as provided in this section.

A mental health practitioner shall not represent himself or herself as a physician or psychologist and shall not represent his or her services as being medical or psychological in nature.

Sec. 741. Section 71-1,309, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,309~~ Mental health program ~~shall~~ ~~mean~~ means an educational program in a field such as, but not limited to, social work, professional counseling, marriage and family therapy, human development, psychology, or family relations, the content of which contains an emphasis on therapeutic mental health and course work in psychotherapy and the assessment of mental disorders.

Sec. 742. Section 71-1,310, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-1,310~~ Professional counseling ~~shall~~ ~~mean~~ means the assessment and treatment of mental and emotional disorders within the context of professional counseling theory and practice of individuals, couples, families, or groups and ~~shall include~~includes, but is not ~~be~~ limited to:

(1) Assisting individuals or groups through the counseling relationship to develop understanding, define goals, plan action, and change behavior with the goal of reflecting interests, abilities, aptitudes, and needs as they are related to personal and social concerns, educational progress, and occupations;

(2) Appraisal activities which shall mean selecting, administering, scoring, and interpreting instruments designed to assess a person's aptitudes, attitudes, abilities, achievements, interests, and personal characteristics, except that nothing in this subdivision shall be construed to authorize a certified professional counselor to engage in the practice of clinical psychology as defined in section ~~71-1,206.14~~1045 of this act;

(3) Referral activities which evaluate data to identify which persons or groups may better be served by other specialists;

(4) Research activities which shall mean reporting, designing, conducting, or consulting on research in counseling with human subjects;

(5) Therapeutic, vocational, or personal rehabilitation in relationship to adapting to physical, emotional, or intellectual disability; and

(6) Consulting on any activity listed in this section.

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Sec. 743. Section 71-1,311, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,311~~ (1) Social work practice or the practice of social work ~~shall mean~~ means the professional activity of helping individuals, groups, and families or larger systems such as organizations and communities to improve, restore, or enhance their capacities for personal and social functioning and the professional application of social work values, knowledge, principles, and methods in the following areas of practice:

(a) Information, resource identification and development, and referral services;

(b) Preparation and evaluation of psychosocial assessments and development of social work service plans;

(c) Case management, coordination, and monitoring of social work service plans in the areas of personal, social, or economic resources, conditions, or problems;

(d) Development, implementation, and evaluation of social work programs and policies;

(e) Supportive contacts to assist individuals and groups with personal adjustment to crisis, transition, economic change, or a personal or family member's health condition, especially in the area of services given in hospitals, health clinics, home health agencies, schools, shelters for the homeless, shelters for the urgent care of victims of sexual assault, child abuse, elder abuse, or domestic violence, nursing homes, and correctional facilities. Nothing in this subdivision shall be construed to prevent charitable and religious organizations, the clergy, governmental

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agencies, hospitals, health clinics, home health agencies, schools, shelters for the homeless, shelters for the urgent care of victims of sexual assault, child abuse, elder abuse, or domestic violence, nursing homes, or correctional facilities from providing supportive contacts to assist individuals and groups with adjustment to crisis, transition, economic change, or personal or a family member's health condition if such persons or organizations do not represent themselves to be social workers;

(f) Social casework for and prevention of psychosocial dysfunction, disability, or impairment; and

(g) Social work research, consultation, and education.

(2) Social work practice ~~shall~~ does not include the following:

(a) The measuring and testing of personality or intelligence;

(b) Accepting fees or compensation for the treatment of disease, injury, or deformity of persons by drugs, surgery, or any manual or mechanical treatment whatsoever;

(c) Prescribing drugs or electroconvulsive therapy; and

(d) Treating organic diseases or major psychiatric diseases.

(3) A certified master social worker who practices within the confines of this section shall not be required to be licensed as a mental health practitioner.

Sec. 744. The board shall consist of eight professional members and two public members appointed pursuant to section 61 of this act. The members shall meet the requirements of

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sections 67 and 68 of this act. Two professional members shall be certified master social workers, two professional members shall be certified professional counselors, two professional members shall be certified marriage and family therapists, and two professional members shall be licensed mental health practitioners that do not hold an associated certification.

Sec. 745. Section 71-1,312, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,312 No person shall engage in mental health practice or hold himself or herself out~~The requirement to be licensed as a mental health practitioner ~~unless he or she is licensed for such purpose~~ pursuant to the Uniform ~~Licensing Law, except that this section~~Credentialing Act in order to engage in mental health practice shall not be construed to prevent:

(1) Qualified members of other professions who are licensed, certified, or registered by this state from practice of any mental health activity consistent with the scope of practice of their respective professions;

(2) Alcohol and drug counselors who are licensed by the Department of Health and Human Services Regulation and Licensure and problem gambling counselors who are certified by the Department of Health and Human Services from practicing their profession. Such exclusion shall include students training and working under the supervision of an individual qualified under section ~~71-1,356~~168 of this act;

(3) Any person employed by an agency, bureau, or division of the federal government from discharging his or her official

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duties, except that if such person engages in mental health practice in this state outside the scope of such official duty or represents himself or herself as a licensed mental health practitioner, he or she shall be licensed;

(4) Teaching or the conduct of research related to mental health services or consultation with organizations or institutions if such teaching, research, or consultation does not involve the delivery or supervision of mental health services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services;

(5) The delivery of mental health services by:

(a) Students, interns, or residents whose activities constitute a part of the course of study for medicine, psychology, nursing, school psychology, social work, clinical social work, counseling, marriage and family therapy, or other health care or mental health service professions; or

(b) Individuals seeking to fulfill postgraduate requirements for licensure when those individuals are supervised by a licensed professional consistent with the applicable regulations of the appropriate professional board;

(6) Duly recognized members of the clergy from providing mental health services in the course of their ministerial duties and consistent with the codes of ethics of their profession if they do not represent themselves to be mental health practitioners;

(7) The incidental exchange of advice or support by persons who do not represent themselves as engaging in mental health practice, including participation in self-help groups when

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the leaders of such groups receive no compensation for their participation and do not represent themselves as mental health practitioners or their services as mental health practice;

(8) Any person providing emergency crisis intervention or referral services or limited services supporting a service plan developed by and delivered under the supervision of a licensed mental health practitioner, licensed physician, or a psychologist licensed to engage in the practice of psychology if such persons are not represented as being licensed mental health practitioners or their services are not represented as mental health practice; or

(9) Staff employed in a program designated by an agency of state government to provide rehabilitation and support services to individuals with mental illness from completing a rehabilitation assessment or preparing, implementing, and evaluating an individual rehabilitation plan.

Sec. 746. Section 71-1,314, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,314 (1) On and after September 1, 1994, no person shall hold himself or herself out as a mental health practitioner unless he or she is licensed as such by the department.~~ A person shall be qualified to be a licensed mental health practitioner if he or she:

~~(a)~~ (1) Has received a master's or doctorate degree that consists of course work and training which was primarily therapeutic mental health in content and included a practicum or internship and was from an approved educational program. Practicums or internships completed after September 1, 1995, must include a

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minimum of three hundred clock hours of direct client contact under the supervision of a qualified physician, a licensed psychologist, or a licensed mental health practitioner;

~~(b)~~ (2) Has successfully completed three thousand hours of supervised experience in mental health practice of which fifteen hundred hours were in direct client contact in a setting where mental health services were being offered and the remaining fifteen hundred hours included, but were not limited to, review of client records, case conferences, direct observation, and video observation. For purposes of this subdivision, supervised ~~shall mean~~ means monitored by a qualified physician, a licensed clinical psychologist, or a certified master social worker, certified professional counselor, or marriage and family therapist qualified for certification on September 1, 1994, for any hours completed before such date or by a qualified physician, a psychologist licensed to engage in the practice of psychology, or a licensed mental health practitioner for any hours completed after such date, including evaluative face-to-face contact for a minimum of one hour per week. Such three thousand hours shall be accumulated after completion of the master's or doctorate degree and during the five years immediately preceding the application for licensure; and

~~(c)~~ (3) Has satisfactorily passed an examination approved by the board. An individual who by reason of educational background is eligible for certification as a certified master social worker, a certified professional counselor, or a certified marriage and family therapist shall take and pass a certification examination approved by the board before becoming licensed as a mental health

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practitioner.

~~(2) For a period of one year following September 1, 1994:~~

~~(a) An individual who is certified on September 1, 1994, as a certified master social worker or certified professional counselor can be licensed as a mental health practitioner by making application to the department and paying the licensure fee;~~

~~(b) An individual who has a mental health-related master's degree, as determined by the board, and five years experience providing mental health services may, upon successful completion of the examination for licensure as a mental health practitioner, be licensed as a mental health practitioner; and~~

~~(c) An individual who obtains certification as a marriage and family therapist by September 1, 1995, can be licensed as a mental health practitioner by making application to the department and paying the licensure fee.~~

~~(3) An individual who, within one year after June 17, 1997, demonstrates to the board that he or she was certified as a master social worker or professional counselor shall be licensed as a mental health practitioner by making application to the department and paying the licensure fee.~~

~~(4) The application for a mental health practitioner license shall include the applicant's social security number.~~

Sec. 747. Section 71-1,314.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,314.01~~ (1) A person who needs to obtain the required three thousand hours of supervised experience in mental health practice as specified in section ~~71-1,314~~ 746 of this act to

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qualify for a mental health practitioner license shall obtain a provisional mental health practitioner license. To qualify for a provisional mental health practitioner license, such person shall:

(a) Have a master's or doctorate degree that consists of course work and training which was primarily therapeutic mental health in content and included a practicum or internship and was from an approved educational program as specified in such section;

~~(b)(i) Apply within sixty days after September 13, 1997, if the three thousand hours of supervised experience were being earned on September 13, 1997; or~~

~~(ii)~~ (b) Apply ~~at any time following September 13, 1997, but~~ prior to earning the three thousand hours of supervised experience;~~,~~ ~~if such experience was not being earned on September 13, 1997;~~ and

(c) Pay the provisional mental health practitioner license fee.

(2) A provisional mental health practitioner license shall expire upon receipt of licensure as a mental health practitioner or five years after the date of issuance, whichever comes first.

(3) A person who holds a provisional mental health practitioner license shall inform all clients that he or she holds a provisional license and is practicing mental health under supervision and shall identify the supervisor. Failure to make such disclosure is a ground for discipline as set forth in section ~~71-147~~762 of this act.

Sec. 748. The department, with the recommendation of the

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board, may issue a license by endorsement to an individual who meets the licensure requirements of the Mental Health Practice Act or substantially equivalent requirements as determined by the department, with the recommendation of the board.

Sec. 749. Section 71-1,317, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,317~~ The Legislature finds that certified social workers and certified master social workers provide a wide range of psychosocial assessment, intervention, and support services that do not constitute the clinical treatment services of licensed mental health practitioners, psychologists, or physicians. The Legislature therefor finds that it is appropriate to provide for certification of social workers and master social workers.

Sec. 750. Section 71-1,318, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,318 After September 1, 1994, no person may represent himself or herself~~The requirement to be certified as a social worker ~~unless he or she is certified to practice social work~~ pursuant to the Uniform ~~Licensing Law, except that nothing in this section~~Credentialing Act in order to represent himself or herself as a social worker shall not be construed to prevent:

(1) Qualified members of other professions, including, but not limited to, licensed physicians, registered or licensed practical nurses, attorneys, marriage and family therapists, psychologists, psychotherapists, vocational guidance counselors, school psychologists, members of the clergy, court employees, or other persons ~~licensed or certified under Chapter 71, article~~

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~~1,~~ credentialed under the Uniform Credentialing Act from doing work consistent with the scope of practice of their respective professions, except that such qualified members shall not hold themselves out to the public by title as being engaged in the practice of social work; or

(2) The activities and services of a student or intern in social work practice who is pursuing a course of study in an approved educational program if the activities and services constitute a part of his or her supervised course of study or experience for certification and are performed under the supervision of a certified master social worker and the person is identified by an appropriate title as a social work student or intern. For purposes of this subdivision, supervision ~~shall mean~~ means that written records of services or procedures are examined and evaluative interviews are conducted relative thereto by a certified master social worker.

Sec. 751. Section 71-1,319, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,319~~ (1) A person shall be qualified to be a certified master social worker if he or she:

(a) Has a doctorate or a master's degree in social work from an approved educational program;

(b) Has had a minimum of at least three thousand hours of experience, in addition to the master's or doctorate degree, in social work under the supervision as defined in section ~~71-1,318~~ 750 of this act of a certified master social worker;

(c) Provides evidence to the ~~board~~ department that he or

she meets the requirements of subdivisions (1)(a) and (1)(b) of this section; and

(d) Completes an application ~~which includes his or her social security number~~ and satisfactorily passes an examination approved by the board.

~~The department, upon the recommendation of the board, may adopt and promulgate rules and regulations defining the experience required under subdivision (1)(b) of this section.~~

(2) A person shall be qualified to be a certified social worker if he or she provides evidence to the board that he or she has a baccalaureate or master's degree in social work from an approved educational program and completes an application form. ~~which includes the applicant's social security number.~~

Sec. 752. Section 71-1,319.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,319.01~~ (1) A person who needs to obtain the required three thousand hours of supervised experience in social work as specified in section ~~71-1,319~~ 751 of this act to qualify for certification as a master social worker shall obtain a provisional certification as a master social worker. To qualify for a provisional certification as a master social worker, such person shall:

(a) Have a doctorate or master's degree in social work from an approved educational program; and

~~(b)(i) Apply within sixty days after September 13, 1997, if the three thousand hours of supervised experience were being earned on September 13, 1997; or~~

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~~(ii)~~ (b) Apply ~~at any time after September 13, 1997, but~~ prior to earning the three thousand hours of supervised experience.~~, if such experience was not being earned on September 13, 1997; and~~

~~(c) Pay the required fee.~~

(2) A provisional master social worker certification shall expire upon receipt of certification as a master social worker or five years after the date of issuance, whichever comes first.

(3) A person who holds a provisional certification as a master social worker shall inform all clients that he or she holds a provisional certification and is practicing social work under supervision and shall identify the supervisor. Failure to make such disclosure is a ground for discipline as set forth in section ~~71-147~~762 of this act.

Sec. 753. The department, with the recommendation of the board, may issue a certificate by endorsement to represent oneself as a certified marriage and family therapist, a certified professional counselor, or a social worker to an individual who meets the requirements of the Mental Health Practice Act relating to marriage and family therapy, professional counseling, or social work, as appropriate, or substantially equivalent requirements as determined by the department, with the recommendation of the board.

Sec. 754. Section 71-1,323, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,323~~ Nothing in ~~sections 71-1,317 to 71-1,322~~ the Mental Health Practice Act shall be construed to require the State

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of Nebraska, any agency of the State of Nebraska, or any of the entities which operate under rules and regulations of a state agency, which either employ or contract for the services of social services workers, to employ or contract with only persons certified pursuant to ~~such sections~~ the act for the performance of any of the professional activities enumerated in section ~~71-1,311~~743 of this act.

Sec. 755. Section 71-1,325, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,325~~ A person shall be qualified to be a certified professional counselor if he or she:

(1) Has received a master's degree from an approved educational program;

(2) Has had three thousand hours of experience in professional counseling approved by the board after receipt of the master's degree; and

(3) Completes an application ~~which includes his or her social security number~~ and satisfactorily passes an examination approved by the board.

~~The department, upon the recommendation of the board, may adopt and promulgate rules and regulations prescribing the experience required under subdivision (2) of this section.~~

Sec. 756. Section 71-1,329, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,329 (1) A person who applies to the department for certification as a marriage and family therapist within one year or less after September 1, 1994, shall be qualified for such~~

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~~certification if he or she:~~

~~(a) Meets the requirements of subsection (2) of this section; or~~

~~(b)(i)(A) Provides evidence to the board that he or she has a master's or doctoral degree in marriage and family therapy from an educational program approved by the board or from any program in marriage and family therapy in which the person was enrolled between January 1, 1975, and August 31, 1991; or~~

~~(B) Provides evidence to the board that he or she has a master's or doctoral degree in a field determined by the board to be related to marriage and family therapy, such as social work, psychology, sociology, human services, human development, family relations, or counseling, and has been actively engaged in the practice of marriage and family therapy for at least three thousand hours; and~~

~~(ii) Provides evidence to the board that he or she has been actually engaged in the practice of marriage and family therapy for at least twenty hours per week for at least three of the seven years prior to making such application.~~

~~(2)~~ (1) A person who applies to the department for certification as a marriage and family therapist ~~more than one year after September 1, 1994,~~ shall be qualified for such certification if he or she:

(a) Provides evidence to the ~~board~~ department that he or she has a master's or doctoral degree in marriage and family therapy from a program approved by the board or a graduate degree in a field determined by the board to be related to marriage and

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family therapy and graduate-level course work determined by the board to be equivalent to a master's degree in marriage and family therapy;

(b) Provides evidence to the ~~board~~ department that he or she has had at least three thousand hours of experience in marriage and family therapy under a qualified supervisor ~~as defined in subsection (4) of this section~~ following receipt of the graduate degree; and

(c) Completes an application ~~which includes his or her social security number~~ and passes an examination approved by the board.

~~(3) Upon payment of the required fee and the provision of evidence to the board of his or her professional education, training, experience, and qualifications to practice marriage and family therapy, a certificate to practice as a certified marriage and family therapist shall be issued to any applicant who applies to the department for a certificate and satisfies the educational requirements of subsection (1) or (2) of this section. An applicant shall submit all materials as the board or department may require to determine his or her qualifications for a certificate to practice as a certified marriage and family therapist and to determine his or her compliance with the requirements of this section. Failure to comply with these provisions shall be sufficient grounds to reject an application for a certificate to practice as a certified marriage and family therapist under this section.~~

~~(4)~~ (2) For purposes of this section:

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(a) Actively engaged in the practice of marriage and family therapy may include (i) services and activities provided under the direct supervision of a person with at least a master's degree in marriage and family therapy from a program approved by the board or (ii) services and activities that are classified by title or by description of duties and responsibilities as marriage and family therapy practice;

(b) Qualified supervisor ~~shall~~ ~~mean~~ means a licensed mental health practitioner, a psychologist licensed to engage in the practice of psychology, or a licensed physician who meets supervisory standards established by rules and regulations of the board and the department; and

(c) Supervision ~~shall~~ ~~mean~~ means face-to-face contact between an applicant and a qualified supervisor during which the applicant apprises the supervisor of the diagnosis and treatment of each client, the clients' cases are discussed, the supervisor provides the applicant with oversight and guidance in treating and dealing with clients, and the supervisor evaluates the applicant's performance. In order for a supervised period of time to be credited toward the time of supervision required by ~~subdivision (2)(b)~~ subsection (1) of this section, it shall consist of the following:

(i) A minimum of a ratio of two hours of supervision per fifteen hours of the applicant's contact with clients;

(ii) Focus on raw data from the applicant's clinical work which is made directly available to the supervisor through such means as written clinical materials, direct observation, and video

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and audio recordings;

(iii) A process which is distinguishable from personal psychotherapy or didactic instruction; and

(iv) A proportion of individual and group supervision as determined by the rules and regulations of the board.

Sec. 757. Section 71-1,332, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,332~~ Nothing in ~~sections~~ ~~71-1,329~~ ~~to~~ ~~71-1,332~~ the Mental Health Practice Act shall be construed to require the State of Nebraska, any agency of the State of Nebraska, or any of the entities which operate under rules and regulations of a state agency, which employ or contract for the services of marriage and family therapists, to employ or contract with only persons certified pursuant to ~~this~~ ~~section~~ the act for the performance of any of the professional activities enumerated in section ~~71-1,311~~743 of this act.

Sec. 758. The department shall establish and collect fees for credentialing under the Mental Health Practice Act as provided in sections 54 to 60 of this act.

Sec. 759. Section 71-1,335, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,335~~ No person licensed or certified pursuant to ~~sections~~ ~~71-1,295~~ ~~to~~ ~~71-1,338~~ the Mental Health Practice Act shall disclose any information he or she may have acquired from any person consulting him or her in his or her professional capacity except:

(1) With the written consent of the person or, in

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the case of death or disability, of the person's personal representative, any other person authorized to sue on behalf of the person, or the beneficiary of an insurance policy on the person's life, health, or physical condition. When more than one person in a family receives therapy conjointly, each such family member who is legally competent to execute a waiver shall agree to the waiver referred to in this subdivision. Without such a waiver from each family member legally competent to execute a waiver, a practitioner shall not disclose information received from any family member who received therapy conjointly;

(2) As such privilege is limited by the laws of the State of Nebraska or as the ~~Board of Mental Health Practice~~ board may determine by rule and regulation;

(3) When the person waives the privilege by bringing charges against the licensee; or

(4) When there is a duty to warn under the limited circumstances set forth in section ~~71-1,336~~760 of this act.

Sec. 760. Section 71-1,336, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,336~~ (1) There shall be no monetary liability on the part of, and no cause of action shall arise against, any person who is licensed or certified pursuant to ~~sections 71-1,295 to 71-1,338~~ the Mental Health Practice Act for failing to warn of and protect from a patient's threatened violent behavior or failing to predict and warn of and protect from a patient's violent behavior except when the patient has communicated to the mental health practitioner a serious threat of physical violence against himself, herself, or

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a reasonably identifiable victim or victims.

(2) The duty to warn of or to take reasonable precautions to provide protection from violent behavior shall arise only under the limited circumstances specified in subsection (1) of this section. The duty shall be discharged by the mental health practitioner if reasonable efforts are made to communicate the threat to the victim or victims and to a law enforcement agency.

(3) No monetary liability and no cause of action shall arise under section ~~71-1,335~~ 759 of this act against a licensee or certificate holder for information disclosed to third parties in an effort to discharge a duty arising under subsection (1) of this section according to the provisions of subsection (2) of this section.

Sec. 761. Section 71-1,337, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,337~~ The ~~Board of Mental Health Practice~~ board shall adopt a code of ethics which is essentially in agreement with the current code of ethics of the national and state associations of the specialty professions included in mental health practice and which the board deems necessary to assure adequate protection of the public in the provision of mental health services to the public. A violation of the code of ethics shall be considered an act of unprofessional conduct.

The board shall ensure through the code of ethics and the rules and regulations adopted and promulgated under ~~sections 71-1,295 to 71-1,338~~ the Mental Health Practice Act that persons licensed or certified pursuant to ~~sections 71-1,295 to 71-1,338~~

the act limit their practice to demonstrated areas of competence as documented by relevant professional education, training, and experience.

Intentional failure by a mental health practitioner to report known acts of unprofessional conduct by a mental health practitioner to the department or the board shall be considered an act of unprofessional conduct and shall be grounds for disciplinary action under appropriate sections of the Uniform ~~Licensing Law~~ Credentialing Act unless the mental health practitioner has acquired such knowledge in a professional relationship otherwise protected by confidentiality.

Sec. 762. In addition to the grounds for disciplinary action found in sections 81 and 82 of this act, a credential subject to the Mental Health Practice Act may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 99 of this act when the applicant or licensee fails to disclose the information required by section 747 or 752 of this act.

Sec. 763. Section 71-1,132.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.01~~ Sections ~~71-1,132.01 to 71-1,132.53~~763 to 798 of this act shall be known and may be cited as the Nurse Practice Act.

Sec. 764. For purposes of the Nurse Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 765 to 774 of this act apply.

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Sec. 765. Assigning means appointing or designating another individual the responsibility for the performance of nursing interventions.

Sec. 766. Board means the Board of Nursing.

Sec. 767. Delegating means transferring to another individual the authority, responsibility, and accountability to perform nursing interventions.

Sec. 768. Directing means managing, guiding, and supervising the nursing interventions performed by another individual.

Sec. 769. Executive director means the executive director of the board.

Sec. 770. License, for purposes of discipline, includes the multistate licensure privilege to practice granted by the Nurse Licensure Compact. If the multistate licensure privilege is restricted due to disciplinary action by the home state, the department may, upon request by the individual, grant the authority to practice in this state.

Sec. 771. Licensed practitioner means a person lawfully authorized to prescribe medications or treatments.

Sec. 772. Practice of nursing means the performance for compensation or gratuitously of any act expressing judgment or skill based upon a systematized body of nursing knowledge. Such acts include the identification of and intervention in actual or potential health problems of individuals, families, or groups, which acts are directed toward maintaining health status, preventing illness, injury, or infirmity, improving health

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status, and providing care supportive to or restorative of life and well-being through nursing assessment and through the execution of nursing care and of diagnostic or therapeutic regimens prescribed by any person lawfully authorized to prescribe. Each nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. Licensed nurses may use the services of unlicensed individuals to provide assistance with personal care and activities of daily living.

Sec. 773. (1) Practice of nursing by a licensed practical nurse means the assumption of responsibilities and accountability for nursing practice in accordance with knowledge and skills acquired through an approved program of practical nursing. A licensed practical nurse may function at the direction of a licensed practitioner or a registered nurse.

(2) Such responsibilities and performances of acts must utilize procedures leading to predictable outcomes and must include, but not be limited to:

(a) Contributing to the assessment of the health status of individuals and groups;

(b) Participating in the development and modification of a plan of care;

(c) Implementing the appropriate aspects of the plan of care;

(d) Maintaining safe and effective nursing care rendered directly or indirectly;

(e) Participating in the evaluation of response to interventions; and

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(f) Assigning and directing nursing interventions that may be performed by others and that do not conflict with the Nurse Practice Act.

Sec. 774. (1) The practice of nursing by a registered nurse means assuming responsibility and accountability for nursing actions.

(2) Nursing actions include, but are not limited to:

(a) Assessing human responses to actual or potential health conditions;

(b) Establishing nursing diagnoses;

(c) Establishing goals and outcomes to meet identified health care needs;

(d) Establishing and maintaining a plan of care;

(e) Prescribing nursing interventions to implement the plan of care;

(f) Implementing the plan of care;

(g) Teaching health care practices;

(h) Delegating, directing, or assigning nursing interventions that may be performed by others and that do not conflict with the Nurse Practice Act;

(i) Maintaining safe and effective nursing care rendered directly or indirectly;

(j) Evaluating responses to interventions, including, but not limited to, performing physical and psychological assessments of patients under restraint and seclusion as required by federal law, if the registered nurse has been trained in the use of emergency safety intervention;

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(k) Teaching theory and practice of nursing;

(l) Conducting, evaluating, and utilizing nursing research;

(m) Administering, managing, and supervising the practice of nursing; and

(n) Collaborating with other health professionals in the management of health care.

Sec. 775. Section 71-1,132.07, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,132.07~~ (1) ~~The Board of Nursing is established.~~ The board shall consist of eight registered nurse members, two licensed practical nurse members, and two ~~consumer~~ public members.~~, all of whom shall be appointed by the State Board of Health.~~ The registered nurses on the ~~Board of Nursing~~board shall be from the following areas: (a) One practical nurse educator; (b) one associate degree or diploma nurse educator; (c) one baccalaureate nurse educator; (d) two nursing service administrators; (e) two staff nurses; and (f) one advanced practice registered nurse. ~~The nursing service administrators, the staff nurses, and the licensed practical nurses shall be equally~~

(2) The State Board of Health shall attempt to ensure that the membership of the Board of Nursing is representative of acute care, long-term care, and community-based care. ~~All congressional districts shall be equally represented on the board~~A minimum of three and a maximum of five members shall be appointed from each congressional district, and each member shall have been a bona fide resident of the congressional district from which he or

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she is appointed for a period of at least one year prior to the time of the appointment of such member.

~~(2) The terms of office of all board members shall be staggered terms of four years each as the State Board of Health determines.~~

~~(3) At the expiration of the term of any member, the State Board of Health may consult with appropriate nursing organizations regarding candidates for appointment. Appointments shall be made on or before December 1 of each year. In order to be considered for reappointment, a candidate must currently meet all criteria for initial appointment. Vacancies occurring on the Board of Nursing shall be filled for the unexpired terms by appointments made by the State Board of Health. No member shall serve more than two consecutive terms on the Board of Nursing. Any board member initially appointed for less than a full term shall be eligible to serve for two additional consecutive full terms.~~

~~(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) All members of the board are immune from individual~~

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~~civil liability while acting within the scope of their duties as board members.~~

~~(6) If the entire board, an individual member, or a staff member is sued, the Attorney General shall appoint an attorney to represent the involved parties.~~

~~(7) 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. 776. Section 71-1,132.08, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,132.08~~ (1) Each licensed practical nurse educator on the board shall (a) be a registered nurse currently licensed in the state, (b) have graduated with a ~~baccalaureate~~ graduate degree in nursing or a related field of study, (c) have had a minimum of ~~three~~ five years' experience in administration, teaching, or consultation in practical nurse education, and (d) be currently employed as a practical nurse educator.

(2) Each associate degree or diploma nurse educator on the board and the baccalaureate nurse educator on the board shall (a) be a registered nurse currently licensed in the state, (b) have graduated with a ~~master's~~ graduate degree in nursing, (c) have had a minimum of five years' experience in administration, teaching, or consultation in nursing education, and (d) be currently employed in the field being represented.

(3) Each staff nurse on the board shall (a) be a registered nurse currently licensed in the state, (b) have had a

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minimum of five years' experience in nursing, and (c) be currently employed as a staff nurse in the provision of patient care services.

(4) Each nursing service administrator on the board shall (a) be a registered nurse currently licensed in the state, (b) have had a minimum of five years' experience in nursing service administration, and (c) be currently employed in such field.

(5) Each licensed practical nurse member shall (a) have completed at least four years of high school study, (b) be licensed as a licensed practical nurse in this state, (c) have obtained a certificate or diploma from a state-approved practical nursing program, (d) have been actively engaged in practical nursing for at least five years, and (e) be currently employed in the provision of patient care services as a licensed practical nurse in the state.

(6) Each ~~consumer~~ public member shall ~~(a) not have been involved in providing health care services in this state for at least three years prior to his or her appointment, (b) be of voting age, and (c) be a resident of the state~~meet the requirements of section 68 of this act.

(7) The advanced practice registered nurse on the board shall (a) have a minimum of five years' experience as an advanced practice registered nurse, (b) be currently employed as an advanced practice registered nurse, and (c) be licensed as an advanced practice registered nurse.

(8) Members serving on the operative date of this section may complete their respective terms even if they do not meet the requirements for appointment as changed by this legislative

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bill.~~For purposes of this section, current employment means having practiced no less than two thousand hours in the two years preceding appointment.~~

Sec. 777. Section 71-1,132.31, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.31~~ (1) The ~~board~~ department shall appoint an executive director who is a registered nurse currently licensed in this state and who has a graduate degree in nursing. The executive director shall have a minimum of five years' experience within the last ten years in the areas of administration, teaching, or consultation in the field of nursing. The salary of the executive director shall be fixed by the department and be competitive with salaries for similar positions of responsibility which require similar education and experience. The executive director shall not be a member of the board. The executive director shall be administrator of the Nurse Licensure Compact. As administrator, the executive director shall give notice of withdrawal to the executive heads of all other party states within thirty days after the effective date of any statute repealing the compact enacted by the Legislature pursuant to Article X of the compact. The executive director serving on the operative date of this section may continue serving until replaced by the department pursuant to this section.

(2) The department shall appoint a practice consultant and an education consultant, each of whom is a registered nurse currently licensed in this state and has a minimum of five years' experience. On and after January 1, 1995, any person newly appointed to these positions shall also have a graduate degree in

nursing. The salaries for these positions shall be fixed by the department and be competitive with salaries for similar positions of responsibility which require similar education. The nursing education consultant and nursing practice consultant shall not be members of the board.

(3) The department shall appoint one or more nurse investigators to conduct investigations of violations of the Nurse Practice Act. Each nurse investigator shall be a registered nurse currently licensed in this state and have a minimum of five years' experience in nursing practice. The nurse investigators shall not be members of the board.

Sec. 778. Section 71-1,132.11, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,132.11 The board may adopt, promulgate, and revise, with the approval of the department, such rules and regulations consistent with the Nurse Practice Act as may be necessary to carry the act into effect. All such rules and regulations shall be published and distributed. The~~ In addition to the duties listed in sections 28 and 64 of this act, the board shall:

(1) Adopt reasonable and uniform standards for nursing practice and nursing education;

(2) If requested, issue or decline to issue advisory opinions defining acts which in the opinion of the board are or are not permitted in the practice of nursing. ~~as defined in section 71-1,132.05.~~ Such opinions shall be considered informational only and are nonbinding. Practice-related information provided by the board to registered nurses or licensed practical nurses licensed

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under the ~~act~~ Nurse Practice Act shall be made available by the board on request to nurses practicing in this state under a license issued by a state that is a party to the Nurse Licensure Compact;

(3) Establish rules and regulations for approving and classifying programs preparing nurses, taking into consideration administrative and organizational patterns, the curriculum, students, student services, faculty, and instructional resources and facilities, and provide surveys for each educational program as determined by the board;

(4) Approve educational programs which meet the requirements of the ~~act~~Nurse Practice Act;

(5) Keep a record of all its proceedings and compile an annual report for distribution;

~~(6) Establish continuing competency requirements. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a licensee may select as an alternative to continuing education;~~

~~(7)~~ (6) Adopt rules and regulations establishing standards for delegation of nursing activities, including training or experience requirements, competency determination, and nursing supervision;

~~(8) Make recommendations in accordance with section 71-168.01 regarding licensure and disciplinary dispositions for individuals who have violated the act and upon the grounds provided in the Uniform Licensing Law;~~

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~~(9)~~ (7) Collect data regarding nursing;

~~(10)~~ (8) Provide consultation and conduct conferences, forums, studies, and research on nursing practice and education;

~~(11)~~ (9) Join organizations that develop and regulate the national nursing licensure examinations and exclusively promote the improvement of the legal standards of the practice of nursing for the protection of the public health, safety, and welfare;

~~(12) Appoint special purpose groups or ad hoc groups to advise the board~~(10) Administer the Licensed Practical Nurse-Certified Practice Act; and

~~(13)~~ (11) Administer the Nurse Licensure Compact. In reporting information to the coordinated licensure information system under Article VII of the compact, the department may disclose personal identifying information about a nurse, including his or her social security number.

Sec. 779. Section 71-1,132.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.04~~ In the interest of health and morals and the safeguarding of life, any person practicing or offering to practice nursing in this state for compensation or gratuitously, except as provided in section ~~71-1,132.06~~780 of this act, shall submit satisfactory evidence as provided in the Nurse Practice Act that he or she is qualified to so practice and is licensed as provided by the act. Except as provided in section ~~71-1,132.06~~780 of this act, the practice or attempted practice of nursing, the holding out or attempted holding out of oneself as a registered nurse or a licensed practical nurse, or the use of any title,

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abbreviation, card, or device to indicate that such a person is practicing nursing is unlawful unless such person has been duly licensed and registered according to the provisions of the act. The practice of nursing by any such unlicensed person or by a nurse whose license has been suspended, revoked, or expired or is on ~~a lapsed or~~ inactive status is declared to be a danger to the public health and welfare.

~~In addition to any other civil, criminal, or disciplinary remedy, the Attorney General, the board, the county attorney of any county in which a person is practicing or purporting to practice nursing without a valid license, or any citizen may, in accordance with the laws of this state governing injunction, maintain an action to enjoin that person from practicing nursing until such person obtains a valid license.~~

~~An injunction without bond may be obtained by the board for enforcement of the act.~~

Sec. 780. Section 71-1,132.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.06~~ The Nurse Practice Act confers no authority to practice medicine or surgery. The act does not prohibit:

(1) Home care provided by parents, foster parents, family, or friends so long as any such person does not represent or hold himself or herself out to be a nurse or use any designation in connection with his or her name which tends to imply that he or she is licensed to practice under the act;

(2) Christian Science nursing consistent with the theology of Christian Science provided by a Christian Science nurse

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who does not hold himself or herself out as a registered nurse or a licensed practical nurse;

(3) Auxiliary patient care services provided by persons carrying out duties under the direction of a licensed practitioner;

(4) Auxiliary patient care services provided by persons carrying out interventions for the support of nursing service as delegated by a registered nurse or as assigned and directed by a licensed practical nurse licensed under the act;

(5) The gratuitous rendering of assistance by anyone in the case of an emergency;

(6) Nursing by any legally licensed nurse of any other state whose engagement requires him or her to (a) accompany and care for a patient temporarily residing in this state during the period of one such engagement not to exceed six months in length, (b) transport patients into, out of, or through this state provided each transport does not exceed twenty-four hours, (c) provide patient care during periods of transition following transport, (d) provide educational programs or consultative services within this state for a period not to exceed fourteen consecutive days if neither the education nor the consultation includes the provision or the direction of patient care, and (e) provide nursing care in the case of a disaster. These exceptions do not permit a person to represent or hold himself or herself out as a nurse licensed to practice in this state;

(7) Nursing services rendered by a student enrolled in an approved program of nursing when the services are a part of the student's course of study; or

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(8) The practice of nursing by any legally licensed nurse of another state who is employed by the United States Government or any bureau, division, or agency of the United States Government while in the discharge of his or her official duties or, if permitted by federal law, as a citizen of a foreign country temporarily residing in Nebraska for a period not to exceed one year for the purpose of postgraduate study, certified to be such by an appropriate agency satisfactory to the board.

Sec. 781. Section 71-1,132.30, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.30~~ (1) The Nurse Practice Act ~~confers no authority to practice medicine or surgery. The act~~ does not prohibit performance of health maintenance activities by a designated care aide for a competent adult at the direction of such adult or at the direction of a caretaker for a minor child or incompetent adult.

(2) Health maintenance activities are those activities which enable the minor child or adult to live in his or her home and community. Such activities are those specialized procedures, beyond activities of daily living, which the minor child or adult is unable to perform for himself or herself and which the attending physician or registered nurse determines can be safely performed in the home and community by a designated care aide as directed by a competent adult or caretaker.

(3) A competent adult is someone who has the capability and capacity to make an informed decision.

(4) For purposes of this section, caretaker means a

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person who ~~(1)~~ (a) is directly and personally involved in providing care for a minor child or incompetent adult and ~~(2)~~ (b) is the parent, foster parent, family member, friend, or legal guardian of such minor child or incompetent adult.

Sec. 782. Section 71-1,132.13, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.13~~ An applicant for a license to practice as a registered nurse shall ~~file with the department a written application for a license and~~ submit satisfactory proof that the applicant ~~is of good moral character,~~ has completed four years of high school study or its equivalent as determined by the board~~,~~ and has completed the basic professional curriculum in and holds a diploma from an accredited program of registered nursing approved by the board. There is no minimum age requirement for licensure as a registered nurse. Graduates of foreign nursing programs shall pass the Canadian Nurses Association examination or hold a certificate from the Commission on Graduates of Foreign Nursing Schools. ~~Such application shall be made upon a form prescribed and approved by the department, verified by the applicant's oath, and accompanied by an application fee established and collected as provided in section 71-162. The application shall include the applicant's social security number.~~

Sec. 783. Section 71-1,132.37, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.37~~ An applicant for a license to practice as a licensed practical nurse shall ~~file with the department a written application for a license which shall include the~~

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~~applicant's social security number, pay the fee established as provided in section 71-162, and~~ submit satisfactory proof that the applicant~~:(1) Is of good moral character;(2) Has~~ has completed four years of high school study or its equivalent as determined by the board~~;~~ and~~(3) Has~~ has completed the basic curriculum in and holds a diploma from an approved program of nursing. There is no minimum age requirement for licensure as a licensed practical nurse.

Sec. 784. Section 71-1,132.14, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.14~~ An applicant for a license as a registered nurse or as a licensed practical nurse shall pass an examination ~~in such subjects as the board may determine. The department shall give notice of the time and place of all examinations required by the Nurse Practice Act. Upon the applicant's passing such examination and meeting all other requirements for licensure, the department, upon the recommendation of the board, shall issue to the applicant a license to practice nursing as a registered nurse or as a licensed practical nurse~~as prescribed by the board in rules and regulations.

Sec. 785. Section 71-1,132.15, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.15 The department may issue a license to practice nursing as a registered nurse or as a licensed practical nurse by endorsement to an applicant who has been duly licensed as a registered nurse or a licensed practical nurse under the laws of another state or territory, if in the opinion of the department, upon the recommendation of the board, the applicant meets the~~

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~~qualifications required of registered nurses or licensed practical nurses in this state.~~An applicant for a license by endorsement as a registered nurse or a licensed practical nurse shall meet the continuing competency requirements for renewal in addition to the requirements of section 44 of this act.

Sec. 786. Section 71-1,132.19, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.19~~ Before recognizing a home state license to practice nursing issued by a state which is a party to the Nurse Licensure Compact, the board shall determine that such state's qualifications for a nursing license are substantially equivalent to or more stringent than the minimum qualifications for issuance of a Nebraska license under the Nurse Practice Act.

Sec. 787. Section 71-1,132.16, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.16~~ (1) A temporary ~~permit~~ license to practice nursing may be issued to:

~~(1)~~ (a) An individual seeking to obtain licensure or reinstatement of his or her license as a registered nurse or licensed practical nurse when he or she has not practiced nursing in the last five years. ~~Such permit~~ A temporary license issued under this subdivision is valid only for the duration of the review course of study and only for nursing practice required for the review course of study;

~~(2)~~ (b) Graduates of approved programs of nursing who have passed the licensure examination, pending the completion of application for Nebraska licensure as a registered nurse or

licensed practical nurse. ~~Such~~ ~~permit~~ A temporary license issued under this subdivision is valid for a period not to exceed sixty days; or

~~(3)~~ (c) Nurses currently licensed in another state as either a registered nurse or a licensed practical nurse who have graduated from an educational program approved by the board, pending completion of application for Nebraska licensure as a registered nurse or licensed practical nurse. ~~Such~~ ~~permit~~ A temporary license issued under this subdivision shall be valid for a period not to exceed sixty days.

~~Temporary~~ ~~permits~~ (2) A temporary license issued pursuant to this section may be extended by the department, with the recommendation ~~with~~ ~~the~~ ~~concurrence~~ of the board.

(3) An individual holding a temporary permit to practice nursing on December 1, 2008, shall be deemed to be holding a temporary license under this section on such date. The permitholder may continue to practice under such temporary permit as a temporary license until it would have expired under its terms or after any period of extension under subsection (2) of this section.

Sec. 788. Any licensed practical nurse or registered nurse whose license has been placed on inactive status due to a change in primary state of residence under the Nurse Licensure Compact may apply to reinstate his or her license upon (1) change in primary state of residence back to Nebraska or to another noncompact state, (2) meeting the continuing competency requirements, and (3) paying the renewal fee.

Sec. 789. The department shall establish and collect fees

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for credentialing under the Nurse Practice Act as provided in sections 54 to 60 of this act.

Sec. 790. Section 71-1,132.17, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.17~~ (1) In the interest of public safety and consumer awareness, it is unlawful for any person to use the title nurse in reference to himself or herself in any capacity, except individuals who are or have been licensed as a registered nurse or a licensed practical nurse. A Christian Science nurse may refer to himself or herself only as a Christian Science nurse.

(2) The terms "nurse", "registered nurse", and "licensed practical nurse" include persons licensed as registered nurses or licensed practical nurses by a state that is a party to the Nurse Licensure Compact. Unless the context otherwise indicates or unless doing so would be inconsistent with the compact, nurses practicing in this state under a license issued by a state that is a party to the compact have the same rights and obligations as imposed by the laws of this state on licensees licensed under the Nurse Practice Act. The department has the authority to determine whether a right or obligation imposed on licensees applies to nurses practicing in this state under a license issued by a state that is a party to the compact, unless that determination is inconsistent with the compact.

Sec. 791. Section 71-1,132.18, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,132.18~~ Any person who holds a license to practice as a registered nurse in this state has the right to use the title

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Registered Nurse and the abbreviation R.N. No other person shall assume or use such title or abbreviation or any words, letters, signs, or devices to indicate that the person using the same is authorized to practice registered nursing.

Sec. 792. Section 71-1,132.41, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.41~~ Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title Licensed Practical Nurse and the abbreviation L.P.N. No other person shall assume or use such title or abbreviation or any words, letters, signs, or devices to indicate that the person using the same is authorized to practice practical nursing in this state.

Sec. 793. Section 71-1,132.38, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.38~~ (1) In order to effectuate the transition into compact administration, the board shall require all licensees entering into or becoming subject to an order of probation or other disciplinary action that limits practice or requires monitoring to agree, as of the date of the order, not to practice in any other state which is a party to the Nurse Licensure Compact during the term of such probation or disciplinary action without prior authorization from the other party state.

(2) Any licensee subject to disciplinary action, such as revocation, suspension, probation, or any other action which affects a licensee's authorization to practice, on the effective date of entering the compact, is not entitled to a multistate

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license privilege while such disciplinary action is in effect unless practice in another state is authorized by this state and any other state in which the licensee wishes to practice.

Sec. 794. Section 71-1,132.24, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.24~~ An institution desiring to conduct a program of nursing shall apply to the board and submit evidence to the board that it is prepared to carry out the prescribed basic nursing curriculum and to meet the other standards established by the Nurse Practice Act and by the board.

Sec. 795. Section 71-1,132.25, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.25~~ An application to conduct a program of nursing shall be made in writing upon a form to be approved and furnished by the board.

Sec. 796. Section 71-1,132.26, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.26~~ A survey of the program institution shall be made by the executive director or other representative appointed by the board, who shall submit a written report of the survey to the board. If, in the opinion of the board, the program meets the requirements for approval, ~~it~~ the board shall approve the program.

Sec. 797. Section 71-1,132.27, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.27~~ The board shall, through ~~its~~ the executive director or other representative appointed by the board, survey all programs of nursing in the state at time intervals to be determined

by the board through rules and regulations. Written reports of such surveys shall be submitted to the board. The board shall act on the report to grant or deny continuing approval of the program.

Sec. 798. Section 71-1,132.28, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,132.28~~ If the board determines that any approved program of nursing is not maintaining the standards required by the statutes, rules, and regulations, notice in writing, specifying the defect or defects, shall be immediately given to the program. A program which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be discontinued after hearing.

Sec. 799. Section 71-1704, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1704~~ Sections ~~71-1704~~ ~~to~~ ~~71-1726.02~~ 799 to 823 of this act shall be known and may be cited as the Nurse Practitioner Practice Act.

Sec. 800. Section 71-1706, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1706~~ For purposes of the Nurse Practitioner Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions ~~provided~~found in sections ~~71-1707~~ ~~to~~ ~~71-1717~~ ~~shall~~ 801 to 812 of this act apply.

Sec. 801. Section 71-1716.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1716.02~~ Approved certification program means a certification process for nurse practitioners utilized by an

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approved certifying body that (1) requires evidence of completion of a formal program of study in the nurse practitioner clinical specialty, (2) requires successful completion of a nationally recognized certification examination developed by the approved certifying body, (3) provides an ongoing recertification program, and (4) is approved by the board.

Sec. 802. Section 71-1716.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1716.01~~ Approved certifying body means a national certification organization which certifies qualified licensed nurses for advanced practice in a clinical specialty area and which (1) requires eligibility criteria related to education and practice, (2) offers an examination in an advanced nursing area which meets current psychometric guidelines and tests, and (3) is approved by the board.

Sec. 803. Section 71-1717, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1717~~ Approved nurse practitioner program means a program which:

(1) Is a minimum of one full-time academic year or nine months in length and includes both a didactic component and a preceptorship of five hundred contact hours;

(2) Includes, but is not limited to, instruction in biological, behavioral, and health sciences relevant to practice as a nurse practitioner in a specific clinical area; and

(3) For the specialties of women's health and neonatal, grants a post-master certificate, master's degree, or doctoral

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degree for all applicants who graduated on or after July 1, 2007, and for all other specialties, grants a post-master certificate, master's degree, or doctoral degree for all applicants who graduated on or after July 19, 1996.

Sec. 804. Section 71-1708, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1708~~ Board means the Board of Advanced Practice Registered Nurses.

Sec. 805. Section 71-1709.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1709.01~~ Boards means the Board of Advanced Practice Registered Nurses and the Board of Nursing of the State of Nebraska.

Sec. 806. Section 71-1716, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1716~~ Collaboration means a process and relationship in which a nurse practitioner, together with other health professionals, delivers health care within the scope of authority of the various clinical specialty practices.

Sec. 807. Section 71-1709.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1709.02~~ Consultation means a process whereby a nurse practitioner seeks the advice or opinion of a physician or another health care practitioner.

Sec. 808. Section 71-1716.03, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1716.03~~ (1) Integrated practice agreement means a

written agreement between a nurse practitioner and a collaborating physician in which the nurse practitioner and the collaborating physician provide for the delivery of health care through an integrated practice. The integrated practice agreement shall provide that the nurse practitioner and the collaborating physician will practice collaboratively within the framework of their respective scopes of practice. Each provider shall be responsible for his or her individual decisions in managing the health care of patients. Integrated practice includes consultation, collaboration, and referral.

(2) The nurse practitioner and the collaborating physician shall have joint responsibility for patient care, based upon the scope of practice of each practitioner. The collaborating physician shall be responsible for supervision of the nurse practitioner to ensure the quality of health care provided to patients.

(3) For purposes of this section:

~~(1)~~(a) Collaborating physician means a physician or osteopathic physician licensed in Nebraska and practicing in the same geographic area and practice specialty, related specialty, or field of practice as the nurse practitioner; and

~~(2)~~ (b) Supervision means the ready availability of the collaborating physician for consultation and direction of the activities of the nurse practitioner within the nurse practitioner's defined scope of practice.

Sec. 809. Section 71-1712, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-1712~~ Licensed practitioner means any podiatrist, dentist, physician, or osteopathic physician licensed to prescribe, diagnose, and treat as provided in ~~section~~ ~~71-173,~~ ~~71-183,~~ ~~71-1,102,~~ ~~or~~ ~~71-1,137~~the Uniform Credentialing Act.

Sec. 810. Section 71-1707, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1707~~ Nurse practitioner means a registered nurse ~~who~~ ~~meets~~ ~~the~~ ~~requirements~~ ~~established~~certified as described in section ~~71-1722~~ ~~and~~ ~~who~~ ~~holds~~ ~~a~~ ~~certificate~~ ~~issued~~ ~~under~~ ~~the~~ ~~Nurse~~ ~~Practitioner~~ ~~Act~~815 of this act and licensed under the Advanced Practice Registered Nurse Practice Act to practice as a nurse practitioner.

Sec. 811. Section 71-1714, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1714~~ Preceptorship means the clinical practice component of an educational program for the preparation of nurse practitioners.

Sec. 812. Section 71-1716.05, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1716.05~~ Referral means a process whereby a nurse practitioner directs the patient to a physician or other health care practitioner for management of a particular problem or aspect of the patient's care.

Sec. 813. Section 71-1721, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1721~~ ~~(1)~~ ~~Until~~ ~~July~~ ~~1,~~ ~~2007,~~ ~~an~~ ~~advanced~~ ~~practice~~ ~~registered~~ ~~nurse~~ ~~may~~ ~~provide~~ ~~health~~ ~~care~~ ~~services~~ ~~within~~ ~~specialty~~

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~~areas. An advanced practice registered nurse shall function by establishing collaborative, consultative, and referral networks as appropriate with other health care professionals. Patients who require care beyond the scope of practice of an advanced practice registered nurse shall be referred to an appropriate health care provider. Advanced practice registered nurse practice means health promotion, health supervision, illness prevention and diagnosis, treatment, and management of common health problems and chronic conditions, including:~~

~~(a) Assessing patients, ordering diagnostic tests and therapeutic treatments, synthesizing and analyzing data, and applying advanced nursing principles;~~

~~(b) Dispensing, incident to practice only, sample medications which are provided by the manufacturer and are provided at no charge to the patient; and~~

~~(c) Prescribing therapeutic measures and medications relating to health conditions within the scope of practice. Any limitation on the prescribing authority of the advanced practice registered nurse for controlled substances listed in Schedule II of section 28-405 shall be recorded in the integrated practice agreement established pursuant to section 71-1716.03.~~

~~(2) On and after July 1, 2007, a~~(1) A nurse practitioner may provide health care services within specialty areas. A nurse practitioner shall function by establishing collaborative, consultative, and referral networks as appropriate with other health care professionals. Patients who require care beyond the scope of practice of a nurse practitioner shall be referred to an

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appropriate health care provider.

(2) Nurse practitioner practice means health promotion, health supervision, illness prevention and diagnosis, treatment, and management of common health problems and chronic conditions, including:

(a) Assessing patients, ordering diagnostic tests and therapeutic treatments, synthesizing and analyzing data, and applying advanced nursing principles;

(b) Dispensing, incident to practice only, sample medications which are provided by the manufacturer and are provided at no charge to the patient; and

(c) Prescribing therapeutic measures and medications relating to health conditions within the scope of practice. Any limitation on the prescribing authority of the nurse practitioner for controlled substances listed in Schedule II of section 28-405 shall be recorded in the integrated practice agreement established pursuant to section ~~71-1716.03~~808 of this act.

(3) ~~On and after July 1, 2007, a~~A nurse practitioner who has proof of a current certification from an approved certification program in a psychiatric or mental health specialty may manage the care of patients committed under the Nebraska Mental Health Commitment Act. Patients who require care beyond the scope of practice of a nurse practitioner who has proof of a current certification from an approved certification program in a psychiatric or mental health specialty shall be referred to an appropriate health care provider.

Sec. 814. Section 71-1726.01, Revised Statutes Cumulative

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Supplement, 2006, is amended to read:

~~71-1726.01~~ The Nurse Practitioner Practice Act does not prohibit the performance of activities of a nurse practitioner by an unlicensed person if performed:

(1) In an emergency situation;

(2) By a legally qualified person from another state employed by the United States Government and performing official duties in this state;

(3) By a person enrolled in an approved nurse practitioner program for the preparation of nurse practitioners as part of that approved program; and

(4) By a person holding a temporary ~~permit~~ license pursuant to section ~~71-1724.01~~816 of this act.

Sec. 815. Section 71-1722, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1722 Requirements for certification~~An applicant for licensure under the Advanced Practice Registered Nurse Practice Act as a nurse practitioner shall ~~be the following~~have:

(1) A license as a registered nurse in the State of Nebraska or the authority based upon the Nurse Licensure Compact to practice as a registered nurse in Nebraska;

~~(2) A completed application which includes the applicant's social security number;~~

~~(3) A certification fee established and collected as provided in section 71-162;~~

~~(4)~~ (2) Evidence of having successfully completed a graduate-level program in the clinical specialty area of nurse

practitioner practice, which program is accredited by a national accrediting body;

~~(5)~~ (3) Evidence of having successfully completed thirty contact hours of education in pharmacotherapeutics;

~~(6)~~ (4) Submission of proof of having passed an examination pertaining to the specific nurse practitioner role in nursing adopted or approved by the board with the approval of the department. Such examination may include any recognized national credentialing examination for nurse practitioners conducted by an approved certifying body which administers an approved certification program; and

~~(7)~~ (5) If more than five years have elapsed since the completion of the nurse practitioner program or since the applicant has practiced in the specific nurse practitioner role, the applicant shall meet the requirements in subdivisions (1) through ~~(6)~~ (4) of this section and provide evidence of continuing competency as required by the board. ~~pursuant to section 71-17,135.~~

Sec. 816. Section 71-1724.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1724.01~~ The department may grant a temporary ~~permit~~ license as a nurse practitioner for up to one hundred twenty days upon application:

(1) To graduates of an approved nurse practitioner program pending results of the first credentialing examination following graduation;

(2) ~~For one hundred twenty days to~~To a nurse practitioner lawfully authorized to practice in another state pending completion

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of the application for a Nebraska ~~certificate~~license; and

(3) To applicants for purposes of a reentry program or supervised practice as part of continuing competency activities established by the board. ~~pursuant to section 71-17,135.~~

A temporary license issued pursuant to this section may be extended for up to one year with the approval of the board. An individual holding a temporary permit as a nurse practitioner on December 1, 2008, shall be deemed to be holding a temporary license under this section on such date. The permitholder may continue to practice under such temporary permit as a temporary license until it would have expired under its terms.

Sec. 817. Section 71-1724, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1724 Renewal of a certificate~~To renew a license as a nurse practitioner, the applicant shall have: ~~shall be at the same time and in the same manner as renewal of a license as a registered nurse and shall require:~~

~~(1) A license as a registered nurse in the State of Nebraska or the authority based on the Nurse Licensure Compact to practice as a registered nurse in Nebraska;~~

~~(2) Documentation of continuing competency upon completion of continuing competency activities established by the board pursuant to section 71-17,135;~~

~~(3)~~ (1) Documentation of a minimum of two thousand eighty hours of practice as a nurse practitioner within the five years immediately preceding renewal. These practice hours shall fulfill the requirements of the practice hours required for

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registered nurse renewal. Practice hours as an advanced practice registered nurse prior to July 1, 2007, shall be used to fulfill the requirements of this section; and

~~(4)~~ (2) Proof of current certification in the specific nurse practitioner clinical specialty area by an approved certification program.~~;~~ ~~and~~

~~(5) Payment of a biennial renewal fee established and collected as provided in section 71-162.~~

Sec. 818. Section 71-1725.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1725.01 (1)~~ A nurse practitioner's ~~certificate lapses~~ license expires if he or she ~~(a)~~ does not ~~have a current~~ renew his or her license to practice as a registered nurse or is not authorized to practice as a registered nurse in this state under the Nurse Licensure Compact.~~an advanced practice registered nurse or has had his or her license to practice as a registered nurse or an advanced practice registered nurse denied, refused renewal, suspended, or revoked or (b) renews his or her license to practice as a registered nurse or an advanced practice registered nurse but does not renew his or her nurse practitioner's certificate.~~

~~(2) When a nurse practitioner's certificate lapses, the right of the person whose certificate has lapsed to represent himself or herself as a nurse practitioner and to practice the activities for which a certificate is required terminates. To restore the certificate to active status, the person shall meet the requirements for renewal which are in effect at the time that he or she wishes to restore the certificate and shall pay the renewal fee~~

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~~and the late fee established and collected as provided in section 71-162.~~

Sec. 819. INTENTIONALLY LEFT BLANK

Sec. 820. Section 71-1723.04, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1723.04~~ (1) Nurse practitioners shall maintain in effect professional liability insurance with such coverage and limits as may be established by the board.

(2) If a nurse practitioner renders services in a hospital or other health care facility, he or she shall be subject to the rules and regulations of that facility. Such rules and regulations may include, but need not be limited to, reasonable requirements that the nurse practitioner and all collaborating licensed practitioners maintain professional liability insurance with such coverage and limits as may be established by the hospital or other health care facility upon the recommendation of the medical staff.

Sec. 821. Section 71-1723.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1723.01 A person licensed as an advanced practice registered nurse in this state on July 1, 2007, shall be issued a license by the department as an advanced practice registered nurse under the Advanced Practice Registered Nurse Licensure Act and shall be issued a certificate by the department as a nurse practitioner under the Nurse Practitioner Act on such date.~~ A person ~~certified~~ licensed as a nurse practitioner in this state may use the title nurse practitioner and the abbreviation NP.

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Sec. 822. Section 71-1723.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1723.02~~ (1) ~~A~~ Prior to commencing practice as a nurse practitioner, an individual (a) who has a master's degree or doctorate degree in nursing and has completed an approved nurse practitioner program, (b) who can demonstrate separate course work in pharmacotherapeutics, advanced health assessment, and pathophysiology or psychopathology, and (c) who has completed a minimum of two thousand hours of practice under the supervision of a physician shall ~~(i)~~ submit to the department an integrated practice agreement with a collaborating physician and ~~(ii)~~ furnish proof of professional liability insurance required under section ~~71-1723.04 prior to commencing practice~~820 of this act.

(2) A nurse practitioner who needs to obtain the two thousand hours of supervised practice required under subdivision (1)(c) of this section shall (a) submit to the department one or more integrated practice agreements with a collaborating physician, (b) furnish proof of jointly approved protocols with a collaborating physician which shall guide the nurse practitioner's practice, and (c) furnish proof of professional liability insurance required under section ~~71-1723.04~~820 of this act.

(3) If, after a diligent effort to obtain an integrated practice agreement, a nurse practitioner is unable to obtain an integrated practice agreement with one physician, the board may waive the requirement of an integrated practice agreement upon a showing that the applicant (a) meets the requirements of subsection (1) of this section, (b) has made a diligent effort to obtain

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an integrated practice agreement, and (c) will practice in a geographic area where there is a shortage of health care services.

Sec. 823. Section 71-1723.03, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1723.03~~ Nothing in the Nurse Practitioner Practice Act shall prohibit a nurse practitioner from consulting or collaborating with and referring patients to health care providers not included in the nurse practitioner's integrated practice agreement.

Sec. 824. Sections 824 to 848 of this act shall be known and may be cited as the Nursing Home Administrator Practice Act.

Sec. 825. For purposes of the Nursing Home Administrator Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 826 to 839 of this act apply.

Sec. 826. Accredited institution means a postsecondary educational institution approved by the board.

Sec. 827. Administrator or nursing home administrator means any individual who meets the education and training requirements of section 842 of this act and is responsible for planning, organizing, directing, and controlling the operation of a nursing home or an integrated system or who in fact performs such functions, whether or not such functions are shared by one or more other persons. Notwithstanding this section or any other provision of law, the administrator of an intermediate care facility for the mentally retarded may be either a licensed nursing home administrator or a qualified mental retardation professional.

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Sec. 828. Administrator-in-training means a person who is undergoing training to become a nursing home administrator and is directly supervised in a nursing home by a certified preceptor.

Sec. 829. Board means the Board of Nursing Home Administration.

Sec. 830. Certified preceptor means a person who is currently licensed by the State of Nebraska as a nursing home administrator, has three years of experience as a nursing home administrator, has practiced within the last two years in a nursing home, and is approved by the department to supervise an administrator-in-training or a person in a mentoring program.

Sec. 831. Core educational requirements means courses necessary for licensure as a nursing home administrator and includes courses in patient care and services, social services, financial management, administration, and rules, regulations, and standards relating to the operation of a health care facility.

Sec. 832. Degree or advanced degree means a baccalaureate, master's, or doctorate degree from an accredited institution and which includes studies in the core educational requirements.

Sec. 833. Degree or advanced degree in health care means a baccalaureate, master's, or doctorate degree from an accredited institution in health care, health care administration, or services.

Sec. 834. Integrated system means a health and human services organization offering different levels of licensed care or treatment on the same premises.

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Sec. 835. Internship means that aspect of the educational program of the associate degree in long-term care administration which allows for practical experience in a nursing home and occurs under the supervision of a certified preceptor.

Sec. 836. Nursing degree means a degree or diploma in nursing from an accredited program of nursing approved by the Board of Nursing.

Sec. 837. Nursing home or home for the aged or infirm means any institution or facility licensed as a nursing facility or a skilled nursing facility by the department pursuant to the Health Care Facility Licensure Act, whether proprietary or nonprofit, including, but not limited to, homes for the aged or infirm owned or administered by the federal or state government or an agency or political subdivision thereof.

Sec. 838. Previous work experience means at least two years working full time in a nursing home or previous work experience in health care administration.

Sec. 839. Previous work experience in health care administration means at least two years working full time as an administrator or director of nursing of a hospital with a long-term care unit or assisted-living facility or director of nursing in a nursing home.

Sec. 840. Section 71-6065, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-6065~~ (1) The ~~Board of Examiners in Nursing Home Administration is created. The board shall be under the supervision of the department and~~ board shall consist of ~~a designated~~

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~~representative of the Policy Cabinet described in section 81-3009 and the following~~ seven professional members and two public members appointed ~~by the State Board of Health~~pursuant to section 61 of this act. The members shall meet the requirements of sections 67 and 68 of this act.

(2) The professional members shall consist of: (a) Two members who hold active licenses and are currently employed in the management, operation, or ownership of proprietary homes for the aged or infirm or nursing homes that serve the aged or infirm in Nebraska; (b) two members who hold active licenses and are currently employed in the management or operation of a nonprofit home for the aged or infirm or nursing home or hospital caring for chronically ill or infirm, aged patients; (c) one member who is a member of the faculty of a college or university located in the state who is actively engaged in a teaching program relating to business administration, social work, gerontology, or some other aspect of the administration of health care facilities; (d) one member who is a licensed physician and surgeon with a demonstrated interest in long-term care; and (e) one member who is a licensed registered nurse.~~; and (f) two members who are laypersons, at least the age of majority, residents of this state for at least five years preceding appointment, and representative of consumer viewpoints. The members of the board shall serve as members of such board until the expiration of their respective terms or until their successors have been appointed and qualified. Each appointed member who is an administrator shall be licensed pursuant to sections 71-6053 to 71-6068.~~

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~~(2) The appointed members shall be appointed for terms of three years, and the terms shall be staggered so that the terms of three appointed members of the board expire each year. The term of each member shall commence on the first day of December following the expiration of the term of the member whom such person succeeds. A vacancy in any appointive position on the board shall be filled for the unexpired portion of the term by appointment by the State Board of Health in the same manner as original appointments are made. Appointed members shall serve until their successors are appointed and qualified.~~

~~(3) The State Board of Health shall have power to remove from office at any time any member of the board 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 may be suspended or revoked, or for a lack of licensure.~~

~~(4) 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. 841. Section 71-6062, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-6062~~ Each ~~home for the aged or infirm or~~ nursing home within the state shall be operated under the supervision of an administrator duly licensed in the manner provided in ~~sections~~

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~~71-6053 to 71-6068~~the Nursing Home Administrator Practice Act. If there is a vacancy in the position of licensed administrator of a nursing home, the owner, governing body, or other appropriate authority of the nursing home may select a person to apply for a provisional license in nursing home administration to serve as the administrator of such facility.

Sec. 842. Section 71-6054, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-6054 (1)(a)~~ (1) The ~~board~~ department shall issue a license to an applicant who submits ~~(i)~~ (a) satisfactory evidence of completion of ~~(A)~~ (i) an associate degree which includes the core educational requirements and an administrator-in-training program under a certified preceptor, ~~(B)~~ (ii) a degree or an advanced degree and a mentoring program under a certified preceptor, ~~(C)~~ (iii) a nursing degree, previous work experience in health care administration, and a mentoring program under a certified preceptor, ~~(D)~~ (iv) a degree or an advanced degree in health care and previous work experience in health care administration, or ~~(E)~~ (v) an associate degree which includes the core educational requirements, previous work experience, and a mentoring program under a certified preceptor, ~~(ii)~~ and (b) evidence of successful passage of the National Association of Boards of Examiners for Nursing Home Administration written examination.~~, and (iii) his or her social security number.~~

(2) The ~~board~~ department shall license administrators in accordance with ~~sections 71-6053 to 71-6068~~ the Nursing Home Administrator Practice Act and standards, rules, and

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regulations adopted and promulgated by the ~~board pursuant to such sections~~department, with the recommendation of the board. The license shall not be transferable or assignable.

(3) Each administrator shall be responsible for and oversee the operation of only one licensed facility or one integrated system, except that an administrator may make application to the ~~board~~ department for approval to be responsible for and oversee the operations of a maximum of three licensed facilities if such facilities are located within two hours' travel time of each other or to act in the dual role of administrator and department head but not in the dual role of administrator and director of nursing. In reviewing the application, the ~~board~~ department may consider the proximity of the facilities and the number of licensed beds in each facility. An administrator responsible for and overseeing the operations of any integrated system is subject to disciplinary action against his or her license for any regulatory violations within each system.

~~(b)~~ (4)(a) Notwithstanding the provisions of ~~sections 71-6053 to 71-6068~~the Nursing Home Administrator Practice Act, the ~~board~~ department shall issue a license as a nursing home administrator to an applicant who will function as the administrator of a facility caring primarily for persons with head injuries and associated disorders who submits satisfactory evidence that he or she (i) has at least two years of experience working with persons with head injuries or severe physical disabilities, at least one of which was spent in an administrative capacity, (ii) is (A) a psychologist with at least a master's degree

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in psychology from an accredited college or university and has specialized training or one year of experience working with persons with traumatic head injury or severe physical disability, (B) a physician licensed under the Uniform ~~Licensing~~ ~~Law~~ Credentialing Act to practice medicine and surgery or psychiatry and has specialized training or one year of experience working with persons with traumatic head injury or severe physical disability, (C) an educator with at least a master's degree in education from an accredited college or university and has specialized training or one year of experience working with persons with traumatic head injury or severe physical disability, or (D) a certified social worker, a certified master social worker, or a licensed mental health practitioner certified or licensed under the Uniform ~~Licensing~~ ~~Law~~ Credentialing Act and has at least three years of social work or mental health practice experience and specialized training or one or more years of experience working with persons who have experienced traumatic head injury or are severely physically disabled, and (iii) is of good moral character. The applicant shall also provide his or her social security number.

(b) A license issued pursuant to this ~~subdivision~~ subsection shall be issued without examination and without the requirement of completion of an administrator-in-training or mentoring program. Such license may be renewed without the completion of any continuing competency requirements.

~~(2) Licenses may be denied, suspended, limited, refused renewal, or revoked by the department for due cause which shall include: (a) Fraud in procuring a license; (b) immoral,~~

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~~unprofessional, or dishonorable conduct; (c) habitual intoxication or addiction to the use of drugs; (d) distribution of intoxicating liquors or drugs for other than lawful purposes; (e) conviction of a felony; (f) physical or mental incapacity to perform professional duties; (g) violation of any provision of sections 71-6053 to 71-6068 or standards, rules, and regulations adopted and promulgated thereunder or of any law or standards, rules, and regulations adopted and promulgated by the department relating to the proper administration and management of a home for the aged or infirm or nursing home; (h) commission of any of the acts or offenses set forth in sections 71-147 and 71-148; and (i) failure to pay the required fees. Except in cases of failure to pay the required fees, no license shall be denied, suspended, limited, refused renewal, or revoked except after due notice and opportunity for a hearing. Disciplinary actions and proceedings shall be conducted as specified in the Uniform Licensing Law. Any denial, suspension, limitation, refusal of renewal, or revocation of such license may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. A person whose license has been revoked, suspended, or limited may petition the board for reinstatement in the manner provided by sections 71-161.04 to 71-161.06.~~

Sec. 843. Section 71-6055, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-6055~~ (1) Except as provided in ~~subdivisions (1)(a)(i)(D) and (1)(b)~~ subdivision (1)(a)(iv) and subsection (4) of section ~~71-6054~~842 of this act, in order for a person to become

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licensed as a nursing home administrator, he or she shall complete an administrator-in-training program or a mentoring program. The administrator-in-training program shall occur in a ~~home for the aged or infirm or~~ nursing home under the direct supervision of a certified preceptor, and it may be gained as an internship which is part of an approved associate degree. A mentoring program shall occur in a ~~home for the aged or infirm or~~ nursing home under the supervision of a certified preceptor. The certified preceptor in a mentoring program need not be at such facility during the period of such supervision but shall be available to assist with questions or problems as needed. A mentoring program may be gained as an internship which is part of a degree or advanced degree. A person in a mentoring program may apply for a provisional license as provided in section ~~71-6063~~846 of this act.

(2) An applicant may begin his or her administrator-in-training or mentoring program upon application to the ~~board~~ department with the required fee, evidence that he or she has completed at least fifty percent of the core educational requirements, and evidence of an agreement between the certified preceptor and the applicant for at least six hundred forty hours of training and experience, to be gained in not less than four months. Such training shall occur in a Nebraska-licensed ~~home for the aged or infirm or~~ nursing home under a certified preceptor.

(3) The certified preceptor shall submit a report to the department by the fifth day of each month for the duration of the administrator-in-training or mentoring program, describing the nature and extent of training completed to date. At the

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conclusion of the program, the certified preceptor shall report to the department whether the applicant has successfully completed the board's approved course for such program. With the concurrence of the certified preceptor, the applicant may remain in such program until successfully completed or may reapply to enter another administrator-in-training or mentoring program.

(4)(a) The administrator-in-training or mentoring program shall occur under the supervision of a certified preceptor. An applicant to become a certified preceptor shall (i) be currently licensed as a nursing home administrator in the State of Nebraska, (ii) have three years of experience as a nursing home administrator in the five years immediately preceding certification, and (iii) complete a preceptor training course approved by the board.

~~(b)(i)~~(b) All preceptor certificates shall expire on December 31 of every fourth year beginning December 31, 2000. ~~The procedures for renewal shall be in the same manner as section 71-6061. Each certified preceptor shall, in the period since his or her certificate was issued or last renewed, complete at least twelve hours of preceptor training approved by the board. Each certified preceptor shall submit evidence, on forms provided by the department, that he or she has satisfied the requirements of this subsection before his or her certificate is renewed. Such evidence shall be submitted at the time application for renewal of a certificate is made.~~ Before acting on ~~the~~an application for renewal, the board shall review the performance of the applicant. Such review may include consideration of survey and complaint information, student evaluations, and any other related information

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deemed relevant by the board. The board may deny ~~the~~an application for renewal upon a finding that the applicant's performance has been unsatisfactory based on such review.

~~(ii) When any certificate holder fails, within thirty days of the expiration of a certificate, to submit the twelve hours of preceptor training, the department shall revoke such certificate after notice and opportunity for hearing. In order for a preceptor certification to be reinstated, the applicant must meet the requirements of this subsection.~~

Sec. 844. Section 71-6056, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-6056~~ The ~~board~~ department may issue a license by endorsement to any person who holds a current nursing home administrator license from another jurisdiction and is at least nineteen years old.

Sec. 845. Section 71-6058, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-6058~~ Any person desiring to take the examination for a nursing home administrator license ~~shall apply to the board at least thirty days prior to examination on a form provided by the department and sworn to by the applicant. Such application shall be accompanied by the examination fee and such documents and affidavits as are necessary to show the eligibility of the candidates to take such examination. An applicant~~ may request to take the ~~next regularly scheduled~~ examination any time after receiving notification of registration as an administrator-in-training or a person in a mentoring program,

but the license shall not be issued until the board receives documentation of completion of the administrator-in-training or mentoring program and completion of all licensure requirements.

Sec. 846. Section 71-6063, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-6063~~ (1) ~~If there is a vacancy in the position of licensed administrator of a home for the aged or infirm or nursing home, the owner, governing body, or other appropriate authority of the home for the aged or infirm or nursing home may select a~~ A person selected to apply for a provisional license in nursing home administration to serve as the administrator of such facility shall apply to the department. Such license, if issued, shall be valid for no more than one hundred eighty calendar days and may be issued to an individual not otherwise qualified for licensure as a nursing home administrator in order to maintain the daily operations of the facility and may not be renewed. The ~~board~~ department may grant an extension not to exceed ninety days if the person seeking the provisional license is in a mentoring program.

(2) The ~~board~~ department may issue a provisional license to an individual who has applied for a mentoring program. Such provisional license will allow the applicant to serve as administrator in the specified facility for one hundred eighty calendar days and may not be renewed. The board may grant an extension not to exceed ninety days if the person seeking the provisional license is in a mentoring program.

(3) An applicant for a provisional license under this section shall: (a) Be at least twenty-one years of age; (b) be

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employed on a full-time basis of not less than forty hours per week to perform the duties of the nursing home administrator; and (c) have no history of unprofessional conduct or denial or disciplinary action against a nursing home administrator license or a license to practice any other profession by any lawful licensing authority. ~~for reasons outlined in subsection (2) of section 71-6054.~~

Sec. 847. Section 71-6060, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-6060 (1) Except as provided in subdivision (1)(b) of section 71-6054, each administrator holding an active license shall, on or before December 31 of each even-numbered year, complete continuing competency activities as required by the board pursuant to section 71-6067 as a prerequisite for the Nebraska licensee's next subsequent biennial license renewal. Each licensee shall document as required by the department that he or she has complied with the requirements set forth in this section during the preceding two-year period. Each licensee shall be responsible for maintaining in his or her personal files records of compliance with the continuing competency requirements. Licensees who have not complied with such requirements shall not be issued a renewal license unless exempt for any of the following reasons:~~

~~(a) The licensee served in the regular armed forces of the United States during any part of the twenty-four months immediately preceding the Nebraska license renewal date;~~

~~(b) The licensee submits proof that he or she was suffering from a serious or disabling illness or physical disability which prevented his or her compliance with the~~

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~~continuing competency requirements preceding the Nebraska license renewal date;~~

~~(c) The licensee was first licensed within the twenty-four months immediately preceding the Nebraska license renewal date; or~~

~~(d) The licensee did not reside in Nebraska during the twenty-four months immediately preceding the Nebraska license renewal date.~~

~~(2) An individual licensed pursuant to sections 71-6053 to 71-6068 may request to have his or her license placed on inactive status upon its expiration. The request shall be submitted to the department in writing, along with payment of the inactive status fee. The department shall notify the licensee in writing of the acceptance or denial of such request. If placed on inactive status, the license may remain in such status for an indefinite period of time. An inactive license may be placed on active status upon completion by the licensee of all continuing competency requirements in effect at the time of such request and payment of the license renewal fee then due.~~

~~(3)~~ Providers of continuing competency activities or licensees may submit courses for review and approval by the board. Each provider or licensee applying for approval of continuing competency activities shall pay an application fee ~~established and collected as provided in section 71-162~~ for each program, seminar, or course submitted for review.

Sec. 848. <u>The department shall establish and collect fees for credentialing under the Nursing Home Administrator Practice Act</u>

as provided in sections 54 to 60 of this act.

Sec. 849. Section 71-6101, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-6101~~ Sections ~~71-6101 to 71-6123~~ 849 to 879 of this act shall be known and may be cited as the Occupational Therapy Practice Act.

Sec. 850. Section 71-6102, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-6102~~ In order to (1) safeguard the public health, safety, and welfare, (2) protect the public from being misled by incompetent, unscrupulous, and unauthorized persons, (3) assure the highest degree of professional conduct on the part of occupational therapists and occupational therapy assistants, and (4) assure the availability of occupational therapy services of high quality to persons in need of such services, it is the purpose of the Occupational Therapy Practice Act to provide for the regulation of occupational therapists.

Sec. 851. Section 71-6103, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-6103~~ For purposes of the Occupational Therapy Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 852 to 862 of this act apply.~~:~~

~~(1) Active license means the license of a person who is acting, practicing, functioning, and working in compliance with the requirements of a license;~~

~~(2) Association means a recognized national or state~~

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~~association for occupational therapy;~~

~~(3) Board means the Board of Occupational Therapy Practice established by section 71-6115;~~

~~(4) Credentialing means the process of obtaining state approval to provide health care services or human services or to change aspects of a current approval and includes, but is not limited to, granting permission to use a protected title that signifies that a person is qualified to provide the services within the scope of practice of a profession;~~

~~(5) Deep thermal agent modalities means therapeutic ultrasound and phonophoresis. Deep thermal agent modalities does not include the use of diathermy or lasers;~~

~~(6) Department means the Department of Health and Human Services Regulation and Licensure;~~

~~(7) Electrotherapeutic agent modalities means neuromuscular electrical stimulation, transcutaneous electrical nerve stimulation, and iontophoresis. Electrotherapeutic agent modalities does not include the use of ultraviolet light;~~

~~(8) Mechanical devices means intermittent compression devices. Mechanical devices does not include devices to perform spinal traction;~~

~~(9) Occupational therapist means a person holding an active license to practice occupational therapy;~~

~~(10)(a) Occupational therapy means the use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process in order to maximize independent~~

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~~function, prevent further disability, and achieve and maintain health and productivity.~~

~~(b) Occupational therapy encompasses evaluation, treatment, and consultation and may include (i) remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological, or neurological processes, (ii) adaptation of task, process, or the environment, or the teaching of compensatory techniques, in order to enhance performance, (iii) disability prevention methods and techniques which facilitate the development or safe application of performance skills, and (iv) health promotion strategies and practices which enhance performance abilities;~~

~~(11) Occupational therapy aide means a person who is not licensed by the board and who provides supportive services to occupational therapists and occupational therapy assistants;~~

~~(12) Occupational therapy assistant means a person holding an active license to assist in the practice of occupational therapy;~~

~~(13) Physical agent modalities means modalities that produce a biophysiological response through the use of water, temperature, sound, electricity, or mechanical devices; and~~

~~(14) Superficial thermal agent modalities means hot packs, cold packs, ice, fluidotherapy, paraffin, water, and other commercially available superficial heating and cooling technologies.~~

Sec. 852. Association means a recognized national or state association for occupational therapy.

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Sec. 853. Board means the Board of Occupational Therapy Practice.

Sec. 854. Deep thermal agent modalities means therapeutic ultrasound and phonophoresis. Deep thermal agent modalities does not include the use of diathermy or lasers.

Sec. 855. Electrotherapeutic agent modalities means neuromuscular electrical stimulation, transcutaneous electrical nerve stimulation, and iontophoresis. Electrotherapeutic agent modalities does not include the use of ultraviolet light.

Sec. 856. Mechanical devices means intermittent compression devices. Mechanical devices does not include devices to perform spinal traction.

Sec. 857. Occupational therapist means a person holding a current license to practice occupational therapy.

Sec. 858. (1) Occupational therapy means the use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process in order to maximize independent function, prevent further disability, and achieve and maintain health and productivity.

(2) Occupational therapy encompasses evaluation, treatment, and consultation and may include (a) remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological, or neurological processes, (b) adaptation of task, process, or the environment, or the teaching of compensatory techniques, in order to enhance performance, (c) disability prevention methods and

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techniques which facilitate the development or safe application of performance skills, and (d) health promotion strategies and practices which enhance performance abilities.

Sec. 859. Occupational therapy aide means a person who is not licensed under the Occupational Therapy Practice Act and who provides supportive services to occupational therapists and occupational therapy assistants.

Sec. 860. Occupational therapy assistant means a person holding a current license to assist in the practice of occupational therapy.

Sec. 861. Physical agent modalities means modalities that produce a biophysiological response through the use of water, temperature, sound, electricity, or mechanical devices.

Sec. 862. Superficial thermal agent modalities means hot packs, cold packs, ice, fluidotherapy, paraffin, water, and other commercially available superficial heating and cooling technologies.

Sec. 863. Section 71-6115, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-6115 The Board of Occupational Therapy Practice is established.~~ The board shall consist of at least four members appointed ~~by the State Board of Health, all of whom shall be residents of this state~~pursuant to section 61 of this act. ~~Any statewide association of occupational therapists may submit a list of names of qualified persons from which the State Board of Health may choose members of the Board of Occupational Therapy Practice.~~ Three of the persons appointed shall have been engaged in rendering

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services to the public, teaching, or research in occupational therapy for at least five years immediately preceding their appointments. Two of the persons appointed shall be occupational therapists and one shall be either an occupational therapist or an occupational therapy assistant and all shall be holders of active licenses issued under the Occupational Therapy Practice Act during their terms. ~~The fourth member shall be a member of the public with an interest in the rights of the consumers of health services. The members of the board shall serve five-year terms, except that the initial members of the board shall serve as follows: The member of the public shall serve one year and the remaining members shall serve terms of two, three, and four years as the State Board of Health shall designate. The term of each member shall commence on December 1 following the expiration of the preceding term. No person shall serve more than two full consecutive terms on the board. The State Board of Health shall fill any vacancy for an unexpired term in the same manner as the initial appointment. The members shall not receive compensation but shall be reimbursed for their actual expenses incurred while in the performance of their duties in the same manner as state employees pursuant to sections 81-1174 to 81-1177. The board shall annually elect a chairperson and such other officers as it deems necessary and shall meet at least once per year or more as the department and board shall determine. Members of the board may be removed from office on the grounds and in the manner provided by section 71-118~~One of the persons appointed shall be a public member who meets the requirements of section 68 of this act.

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Sec. 864. Section 71-6104, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-6104~~ No person may represent himself or herself to be a licensed occupational therapist or occupational therapy assistant unless he or she is licensed in accordance with the Occupational Therapy Practice Act. Nothing in such act shall be construed to prevent:

(1) Any person licensed in this state pursuant to ~~Chapter 71~~the Uniform Credentialing Act from engaging in the profession or occupation for which he or she is licensed;

(2) The activities and services of any person employed as an occupational therapist or occupational therapy assistant by the armed forces, the United States Department of Veterans Affairs, or the United States Public Health Service if such person provides occupational therapy solely under the direction or control of the organization by which he or she is employed;

(3) The activities and services of any person pursuing an accredited course of study leading to a degree or certificate in occupational therapy if such activities and services constitute a part of a supervised course of study and if such a person is designated by a title which clearly indicates his or her status as a student or trainee;

(4) The activities and services of any person fulfilling the supervised fieldwork experience requirements of sections ~~71-6106 and 71-6107~~ 866 and 867 of this act if such activities and services constitute a part of the experience necessary to meet the requirements of such sections; or

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(5) Qualified members of other professions or occupations, including, but not limited to, recreation specialists or therapists, special education teachers, independent living specialists, work adjustment trainers, caseworkers, and persons pursuing courses of study leading to a degree or certification in such fields, from doing work similar to occupational therapy which is consistent with their training if they do not represent themselves by any title or description to be occupational therapists.

Sec. 865. Section 71-6105, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-6105~~ Any person who has applied to take the examination under section ~~71-6106~~ ~~or~~ ~~71-6107~~866 or 867 of this act and who has completed the education and experience requirements of the Occupational Therapy Practice Act may be granted a temporary ~~permit~~ license to practice as an occupational therapist or an occupational therapy assistant. A temporary ~~permit~~ license shall allow the person to practice only in association with a licensed occupational therapist and shall be valid until the date on which the results of the next licensure examination are available to the department. The temporary ~~permit~~ license shall not be renewed if the applicant has failed the examination. The ~~permit~~ temporary license may be extended ~~at the discretion~~ by the department, with the recommendation of the board. ~~with the approval of the department.~~ In no case may a temporary ~~permit~~ license be extended beyond one year.

An individual holding a temporary permit on December 1,

2008, shall be deemed to be holding a temporary license under the Occupational Therapy Practice Act on such date. The permitholder may continue to practice under such temporary permit as a temporary license until it would have expired under its terms.

Sec. 866. Section 71-6106, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-6106~~ (1) An applicant applying for a license as an occupational therapist shall ~~file a written application, which shall include the applicant's social security number, in the manner and on forms provided by the department, showing~~ show to the satisfaction of the department that he or she:

(a) Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the department and accredited by a nationally recognized medical association or nationally recognized occupational therapy association;

(b) Has successfully completed a period of supervised fieldwork experience at an educational institution approved by the department and where the applicant's academic work was completed or which is part of a training program approved by such educational institution. A minimum of six months of supervised fieldwork experience shall be required for an occupational therapist; and

(c) Has passed an examination as provided in section ~~71-6108~~868 of this act.

(2) Residency in this state shall not be a requirement of licensure. A corporation, partnership, limited liability company, or association shall not be licensed as an occupational therapist

pursuant to the Occupational Therapy Practice Act.

Sec. 867. Section 71-6107, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-6107~~ (1) An applicant applying for a license as an occupational therapy assistant shall ~~file a written application in the manner and on forms provided by the department, showing~~show to the satisfaction of the department that he or she:

(a) Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the department and accredited by a nationally recognized medical association or nationally recognized occupational therapy association;

(b) Has successfully completed a period of supervised fieldwork experience at an educational institution approved by the department and where the applicant's academic work was completed or which is part of a training program approved by such educational institution. A minimum of two months of supervised fieldwork experience shall be required for an occupational therapy assistant; and

(c) Has passed an examination as provided in section ~~71-6108~~868 of this act.

(2) Residency in this state shall not be a requirement of licensure as an occupational therapy assistant. A corporation, partnership, limited liability company, or association shall not be licensed as an occupational therapy assistant pursuant to the Occupational Therapy Practice Act.

Sec. 868. Section 71-6108, Reissue Revised Statutes of

Nebraska, is amended to read:

~~71-6108~~ (1) Each applicant for licensure pursuant to the Occupational Therapy Practice Act shall be examined by a written examination which tests his or her knowledge of the basic and clinical sciences relating to occupational therapy and occupational therapy theory and practice including, but not limited to, professional skills and judgment in the utilization of occupational therapy techniques and methods and such other subjects as the board may deem useful to determine the applicant's fitness to practice. The board shall approve the examination and establish standards for acceptable performance. The board may choose a nationally standardized occupational therapist and occupational therapy assistant entry-level examination.

(2) Applicants for licensure shall be examined at a time and place and under such supervision as the board may determine. ~~The board shall notify all applicants by mail of the time and place of the examination.~~

~~(3) The department may adopt and promulgate rules and regulations to provide for the review of procedures for the development and administration of examinations and to protect the security of the content of examination questions and answers. The department shall not enter into an agreement to adopt an examination from a national testing service without first obtaining from that service detailed documentation of the process of examination development and maintenance.~~

Sec. 869. Section 71-6113, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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~~71-6113 (1)(a) Licenses issued under the Occupational Therapy Practice Act shall be subject to biennial renewal and shall expire August 1 of each even-numbered year unless renewed in the manner provided by section 71-110 upon completion of the continuing competency activities as required under subsection (2) of this section and upon payment of the renewal fee established as provided in section 71-162.~~

~~(b) A licensee whose license is revoked for nonpayment of the biennial renewal fee as provided in section 71-110 may be reinstated upon the recommendation of the board and the payment of the required fees established as provided in section 71-162, except that no reinstatement of a license may be granted more than five years after its expiration.~~

~~(2)(a) Each Nebraska-licensed occupational therapist in active practice within the State of Nebraska shall, on or before August 1 of each even-numbered year, complete continuing competency activities as required by the board as a prerequisite to renewal of his or her license.~~

~~(b) Each Nebraska-licensed occupational therapy assistant in active practice within the State of Nebraska shall, on or before August 1 of each even-numbered year, complete continuing competency activities as required by the board as a prerequisite to renewal of his or her license.~~

~~(3) Every occupational therapist and occupational therapy assistant shall provide documentation of completing such continuing competency activities as required by the board.~~

~~The board shall biennially select, in a random manner, a~~

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~~representative sample of the license renewal applications for audit of compliance with continuing competency requirements.~~

~~(4)~~ The department, ~~on~~with the recommendation of the board, may waive continuing competency requirements, in part or in total, for any two-year licensing period when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements as provided in section 49 of this act. ~~Such~~ In addition to circumstances determined by the department to be beyond the licensee's control pursuant to such section, such circumstances shall include situations in which:

~~(a)~~ (1) The licensee holds a Nebraska license but does not reside or practice in Nebraska;

~~(b) The licensee has served in the regular armed forces of the United States during part of the twenty-four months immediately preceding the license renewal date;~~

~~(c)~~ (2) The licensee has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required continuing competency activities during the twenty-four months preceding the license renewal date; and

~~(d) The licensee has been initially licensed by the board within the twenty-four months immediately preceding the license renewal date; and~~

~~(e)~~ (3) The licensee has successfully completed two or more semester hours of formal credit instruction biennially offered by an accredited school or college which contributes to meeting the requirements of an advanced degree in a postgraduate program

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relating to occupational therapy.

Sec. 870. An applicant for licensure to practice as an occupational therapist who has met the education and examination requirements in section 866 of this act or to practice as an occupational therapist assistant who has met the education and examination requirements in section 867 of this act, who passed the examination more than three years prior to the time of application for licensure, and who is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 48 of this act.

Sec. 871. An applicant for licensure to practice as an occupational therapist or to practice as an occupational therapist assistant who has met the requirements for endorsement in section 44 of this act but is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 48 of this act.

Sec. 872. Section 71-6114, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-6114~~ The department shall establish and collect fees for credentialing activities under the Occupational Therapy Practice Act as provided in ~~section 71-162~~sections 54 to 60 of this

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act.

Sec. 873. Section 71-6117, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-6117~~ An occupational therapy aide shall function under the guidance and responsibility of an occupational therapist and may be supervised by an occupational therapist or an occupational therapy assistant for specifically selected routine tasks for which the aide has been trained and has demonstrated competence. The aide shall comply with supervision requirements developed by the board. The board shall develop supervision requirements for aides which are consistent with prevailing professional standards.

Sec. 874. Section 71-6118, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-6118~~ An occupational therapist may perform the following services:

(1) Evaluate, develop, improve, sustain, or restore skills in activities of daily living, work activities, or productive activities, including instrumental activities of daily living, and play and leisure activities;

(2) Evaluate, develop, remediate, or restore sensorimotor, cognitive, or psychosocial components of performance;

(3) Design, fabricate, apply, or train in the use of assistive technology or orthotic devices and train in the use of prosthetic devices;

(4) Adapt environments and processes, including the application of ergonomic principles, to enhance performance and safety in daily life roles;

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(5) If certified pursuant to section ~~71-6122~~878 of this act, apply physical agent modalities as an adjunct to or in preparation for engagement in occupations when applied by a practitioner who has documented evidence of possessing the theoretical background and technical skills for safe and competent use;

(6) Evaluate and provide intervention in collaboration with the client, family, caregiver, or others;

(7) Educate the client, family, caregiver, or others in carrying out appropriate nonskilled interventions; and

(8) Consult with groups, programs, organizations, or communities to provide population-based services.

Sec. 875. Section 71-6119, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-6119~~ An occupational therapy assistant may deliver occupational therapy services enumerated in section ~~71-6118~~ 874 of this act in collaboration with and under the supervision of an occupational therapist.

Sec. 876. Section 71-6120, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-6120~~ (1) An occupational therapist may accept a referral from a licensed health care professional for the purpose of evaluation and rehabilitative treatment which may include, but not be limited to, consultation, rehabilitation, screening, prevention, and patient education services.

(2) Referrals may be for an individual case or may be for an established treatment program that includes occupational therapy

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services. If programmatic, the individual shall meet the criteria for admission to the program and protocol for the treatment program shall be established by the treatment team members.

(3) Referrals shall be in writing, except that oral referrals may be accepted if they are followed by a written and signed request of the person making the referral within thirty days after the day on which the patient consults with the occupational therapist.

Sec. 877. Section 71-6121, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-6121~~ The public may have direct access to occupational therapy services.

Sec. 878. Section 71-6122, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-6122~~ (1) In order to apply physical agent modalities, an occupational therapist shall be certified pursuant to this section. The department shall issue a certificate to an occupational therapist to administer a physical agent modality if the occupational therapist:

(a) Has successfully completed a training course approved by the board and passed an examination approved by the board on the physical agent modality;

(b) Is certified as a hand therapist by the Hand Therapy Certification Commission or other equivalent entity recognized by the board;

(c) Has a minimum of five years of experience in the use of the physical agent modality and has passed an examination

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approved by the board on the physical agent modality; or

(d) Has completed education during a basic educational program which included demonstration of competencies for application of the physical agent modality.

(2) The department shall issue a certificate to authorize an occupational therapy assistant to set up and implement treatment using superficial thermal agent modalities if the occupational therapy assistant has successfully completed a training course approved by the board and passed an examination approved by the board. Such set up and implementation shall only be done under the onsite supervision of an occupational therapist certified to administer superficial thermal agent modalities.

(3) An occupational therapist shall not delegate evaluation, reevaluation, treatment planning, and treatment goals for physical agent modalities to an occupational therapy assistant.

Sec. 879. Section 71-6123, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-6123~~ (1) The ~~department, with the approval of the~~ board~~,~~ shall adopt and promulgate rules and regulations ~~necessary to administer the Occupational Therapy Practice Act to protect the public health, safety, and welfare and to insure, to the greatest extent possible, the efficient, adequate, and safe practice of occupational therapy.(2) The rules and regulations shall include (a) definitions of unprofessional conduct, (b) definitions of conflicts of interest for members of the board and procedures in the case such a conflict arises, (c)~~ regarding role delineation for occupational therapy assistants~~,~~ and ~~(d)~~ continuing competency

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requirements. Continuing education is sufficient to meet continuing competency requirements. Such requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section ~~71-161.09~~ 48 of this act which a licensed person may select as an alternative to continuing education.

~~(3) Except as provided in subsection (4) of this section, the department, with the approval of the board, shall adopt and promulgate rules and regulations to implement Laws 2004, LB 1005, and shall provide for the changes regarding scope of practice to be implemented for licensees as soon as the rules and regulations become effective.~~

~~(4)~~ (2) The board may adopt and promulgate rules and regulations governing the training courses for an occupational therapist to be certified to administer a physical agent modality. The board may adopt and promulgate rules and regulations governing the training course for an occupational therapy assistant to be certified to set up and implement superficial thermal agent modalities. In adopting such rules and regulations, the board shall give consideration to the levels of training and experience which are required, in the opinion of the board, to protect the public health, safety, and welfare and to insure, to the greatest extent possible, the efficient, adequate, and safe practice of occupational therapy. Such rules and regulations shall include the approval of examinations and the passing score for such examinations for certification. ~~Any person who was practicing as (a) an occupational therapist and administering physical agent~~

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~~modalities or (b) an occupational therapy assistant setting up and implementing superficial thermal agent modalities prior to July 16, 2004, may continue to administer such modalities until July 1, 2006. After July 1, 2006, any person who wishes to administer such modalities shall obtain certification as provided by section 71-6122.~~

~~(5) Rules and regulations adopted and promulgated pursuant to the Occupational Therapy Practice Act prior to July 16, 2004, shall continue in effect until revised, amended, repealed, or nullified pursuant to law.~~

Sec. 880. Sections 880 to 904 of this act shall be known and may be cited as the Optometry Practice Act.

Sec. 881. Section 71-1,135.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~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~~Credentialing Act, 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 ~~71-1,135.02~~sections 893 to 895 of this act; and

(2) That it is in the public interest that no optometrist licensed pursuant to the Uniform ~~Licensing Law~~ Credentialing Act use pharmaceutical agents for diagnostic or therapeutic purposes

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unless he or she has taken the examination prescribed in section ~~71-1,135~~ 888 of this act after August 25, 1989, or unless he or she is certified pursuant to ~~section~~ ~~71-1,135.02~~sections 893 to 895 of this act.

Sec. 882. For purposes of the Optometry Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 883 to 885 of this act apply.

Sec. 883. Board means the Board of Optometry.

Sec. 884. Section 71-1,135.01, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) Pharmaceutical agents, for diagnostic purposes, means anesthetics, cycloplegics, and mydriatics.~~;~~ ~~and~~

(2) Pharmaceutical agents, for therapeutic purposes, means topical ophthalmic pharmaceutical agents which treat eye diseases, 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, ocular adnexa, or visual system, or oral pharmaceutical agents for the treatment of diseases or infections of the eye, ocular adnexa, or visual system, or oral anti-inflammatory agents to treat conditions of the eye, ocular adnexa, or visual system, excluding steroids and immunosuppressive agents.

Sec. 885. Section 71-1,133, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-1,133 For purposes of the Uniform Licensing Law, the~~(1) The practice of optometry means one or a combination of the following, without the use of surgery:

~~(1)~~ (a) The examination of the human eye to diagnose, treat, or refer for consultation or treatment any abnormal condition of the human eye, ocular adnexa, or visual system;

~~(2)~~ (b) The employment of instruments, devices, pharmaceutical agents, other than oral therapeutic agents used in the treatment of glaucoma, and procedures intended for the purpose of investigating, examining, diagnosing, treating, managing, or correcting visual defects or abnormal conditions of the human eye, ocular adnexa, or visual system or for the removal of superficial eyelid, conjunctival, and corneal foreign bodies and the ordering of procedures and laboratory tests rational to the diagnosis of conditions or diseases of the human eye, ocular adnexa, or visual system; or

~~(3)~~ (c) The prescribing and application of lenses, devices containing lenses, prisms, contact lenses, ophthalmic devices excluding laser surgery, orthoptics, vision training, pharmaceutical agents, and prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye, ocular adnexa, or visual system.

(2) The practice of optometry does not include the treatment of infantile/congenital glaucoma which means the condition is present at birth.

Sec. 886. The board shall consist of four members, including three licensed optometrists and one public member.

Sec. 887. Section 71-1,134, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,134~~ The practice of optometry ~~under sections 71-1,133 to 71-1,136.09~~ shall not be construed to:

(1) Include merchants or dealers who sell glasses as merchandise in an established place of business or who sell contact lenses from a prescription for contact lenses written by an optometrist or a person licensed to practice medicine and surgery and who do not profess to be optometrists or practice optometry; ~~as defined in section 71-1,133;~~

(2) Restrict, expand, or otherwise alter the scope of practice governed by other statutes; or

(3) Include the performance by an optometric assistant, under the supervision of a licensed optometrist, of duties prescribed in accordance with rules and regulations adopted and promulgated by the department, with the ~~upon~~ recommendation of the ~~Board of Optometry~~board.

Sec. 888. Section 71-1,135, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,135~~ Every applicant for a license to practice optometry shall: (1) Present proof that he or she is a graduate of an accredited school or college of optometry; and (2) pass an examination approved by the ~~Board of Optometry~~board. After August 25, 1989, the examination shall cover all subject matter included in the practice of optometry ~~as defined in section 71-1,133~~ for applicants who have graduated from an accredited optometry school after such date. After October 1, 1997, the examination shall

cover all subject matter included in the practice of optometry for applicants who have graduated from an accredited optometry school after such date.

Sec. 889. In addition to the requirements of section 44 of this act, an applicant for licensure by endorsement must have been actively engaged in the practice of optometry for at least one of the three years immediately preceding the application for licensure by endorsement.

Sec. 890. Section 71-1,135.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,135.04~~ In issuing a license or renewal, the ~~Board of Optometry~~ department shall state whether such person licensed in the practice of optometry has been certified to use pharmaceutical agents pursuant to section ~~71-1,135.02~~ 893, 894, or 895 of this act 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)~~ (1)(b) of section ~~71-1,133~~ 885 of this act or therapeutic use of such agents as provided in subdivision ~~(2) or (3)~~ (1)(b) or (c) of section ~~71-1,133~~885 of this act.

Sec. 891. Section 71-1,136.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,136.01 Each Nebraska-licensed optometrist in active practice within the State of Nebraska shall, on or before August 1 of each even-numbered year, complete continuing competency activities as required by the Board of Optometry pursuant to section 71-161.09 as a prerequisite for the licensee's next subsequent license renewal~~The department, with the recommendation

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of the board, may waive continuing competency requirements, in part or in total, for any two-year licensing period when a credential holder submits documentation that circumstances beyond his or her control prevented completion of such requirements as provided in section 49 of this act. In addition to circumstances determined by the department to be beyond the credential holder's control pursuant to such section, such circumstances shall include situations in which:

(1) The credential holder has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required continuing competency activities during the twenty-four months preceding the renewal date; and

(2) The credential holder was initially licensed within the twenty-six months immediately preceding the renewal date.

Sec. 892. The department shall establish and collect fees for credentialing under the Optometry Practice Act as provided in sections 54 to 60 of this act.

Sec. 893. Section 71-1,135.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,135.02~~ ~~(1)(a)~~ (1) No optometrist licensed in this state, except an optometrist who has been certified by the department prior to April 30, 1987, or by another state with substantially equivalent requirements for certification as determined by the ~~department upon recommendation of the Board of Optometry~~board to use topical ocular pharmaceutical agents for diagnostic purposes prior to April 30, 1987, shall use topical

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ocular pharmaceutical agents for diagnostic purposes authorized under subdivision ~~(2)~~ (1)(b) of section ~~71-1,133~~ 885 of this act unless such person ~~(i)~~ (a) submits to the ~~board the required fee and~~department evidence of satisfactory completion of a pharmacology course at an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education, (b) ~~and approved by the Department of Health and Human Services Regulation and Licensure,~~ ~~(ii)~~ passes an examination approved by the ~~department~~board, and ~~(iii)~~ (c) has been certified by the ~~department upon~~Department of Health and Human Services Regulation and Licensure, with the recommendation of the board, as qualified to use topical ocular pharmaceutical agents for diagnostic purposes.

~~(b)~~ (2) The ~~department~~ board may approve for certification pursuant to subdivision ~~(1)(a)(i)~~ (1)(a) of this section a pharmacology course if such course includes:

~~(i)~~ (a) A study of ocular anesthetics, mydriatics, cycloplegics, ocular toxicity of pharmaceutical agents, ocular allergies of ocular agents, and pharmacologic effects of ocular drug substances;

~~(ii)~~ (b) The consideration of the mechanism of action of anesthetics, cycloplegics, and mydriatics in human beings and the uses of such substances in the diagnosis of occurring ocular disorders;

~~(iii)~~ (c) At least one hundred hours of classroom education, clinical training, and examination; and

~~(iv)~~ (d) The correlation of the utilization of

pharmaceutical agents and optical instrumentation and procedures.

~~(c)~~ (3) The ~~department~~ board may approve for certification pursuant to subdivision ~~(1)(a)(ii)~~ (1)(b) of this section an examination if such examination is:

~~(i)~~ (a) Based upon the competencies taught in a pharmacology course; and

~~(ii)~~ (b) Administered by an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education. ~~and approved by the Department of Health and Human Services Regulation and Licensure.~~

~~(2)(a) No optometrist licensed in this state on or after April 30, 1987, shall use topical ocular pharmaceutical agents for therapeutic purposes authorized under subdivision (3) of section 71-1,133 unless such person (i) submits to the board the required fee and evidence of satisfactory completion of a minimum of one hundred hours since January 1, 1984, of which forty hours shall be classroom education and sixty hours shall be supervised clinical training as it applies to optometry with particular emphasis on the examination, diagnosis, and treatment of the eye, ocular adnexa, and visual system offered by a school or college approved by the department, (ii) passes an examination approved by the department, (iii) has been certified by the department upon the recommendation of the board to use topical ocular pharmaceutical agents for therapeutic purposes, and (iv) has been certified by the department upon the recommendation of the board to use topical ocular pharmaceutical agents for diagnostic purposes.~~

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~~(b) The department may approve for certification pursuant to subdivision (2)(a)(i) of this section a therapeutic course or courses of instruction, from an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education, that have been completed after January 1, 1984. Such course or courses shall include, but not be limited to:~~

~~(i) Review of general pharmacology and therapeusis;~~

~~(ii) Review of ocular therapeutic pharmacology;~~

~~(iii) Diagnosis and treatment of diseases of the eye, ocular adnexa, and visual system;~~

~~(iv) Diagnosis of corneal disease and trauma including corneal foreign bodies;~~

~~(v) Diagnosis and treatment of anterior segment eye diseases;~~

~~(vi) Clinical procedures related to the diagnosis and treatment of the eye, ocular adnexa, and visual system;~~

~~(vii) Ocular manifestations of systemic disease;~~

~~(viii) Review of systemic disease syndromes;~~

~~(ix) Ocular therapy including management of acute systemic emergencies; and~~

~~(x) Consultation criteria in ocular disease and trauma.~~

~~(3)(a) An optometrist who is licensed and certified to use pharmaceutical agents for therapeutic purposes on July 15, 1998, who graduated from an accredited school of optometry prior to January 1, 1996, shall complete the educational requirements relative to the treatment of glaucoma, as determined by the board,~~

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~~prior to January 1, 2000, and shall complete such educational requirements prior to treating glaucoma. Failure to complete such education prior to January 1, 2000, shall result in the revocation of the licensee's certification to use pharmaceutical agents for therapeutic purposes.~~

~~(b) An optometrist who applies for licensure on or after July 15, 1998, who graduated from an accredited school of optometry prior to January 1, 1996, shall complete the educational requirements relative to the treatment of glaucoma, as determined by the board, prior to being issued a license to practice optometry.~~

~~(c) An optometrist who graduated from an accredited school of optometry after January 1, 1996, shall be deemed to have met the educational requirements for certification to use pharmaceutical agents for therapeutic purposes which includes the treatment and management of glaucoma.~~

Sec. 894. (1) No optometrist licensed in this state on or after April 30, 1987, shall use topical ocular pharmaceutical agents for therapeutic purposes authorized under subdivision (1)(c) of section 885 of this act unless such person (a) submits to the department evidence of satisfactory completion of a minimum of one hundred hours since January 1, 1984, of which forty hours shall be classroom education and sixty hours shall be supervised clinical training as it applies to optometry with particular emphasis on the examination, diagnosis, and treatment of the eye, ocular adnexa, and visual system offered by a school or college approved by the board, (b) passes an examination approved by the board, (c) has

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been certified by the department, with the recommendation of the board, to use topical ocular pharmaceutical agents for therapeutic purposes, and (d) has been certified by the department, with the recommendation of the board, to use topical ocular pharmaceutical agents for diagnostic purposes.

(2) The board may approve for certification pursuant to subdivision (1)(a) of this section a therapeutic course or courses of instruction, from an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education, that have been completed after January 1, 1984. Such course or courses shall include, but not be limited to:

(a) Review of general pharmacology and therapeusis;

(b) Review of ocular therapeutic pharmacology;

(c) Diagnosis and treatment of diseases of the eye, ocular adnexa, and visual system;

(d) Diagnosis of corneal disease and trauma including corneal foreign bodies;

(e) Diagnosis and treatment of anterior segment eye diseases;

(f) Clinical procedures related to the diagnosis and treatment of the eye, ocular adnexa, and visual system;

(g) Ocular manifestations of systemic disease;

(h) Review of systemic disease syndromes;

(i) Ocular therapy including management of acute systemic emergencies; and

(j) Consultation criteria in ocular disease and trauma.

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Sec. 895. (1) An optometrist who is licensed and certified to use pharmaceutical agents for therapeutic purposes on July 15, 1998, who graduated from an accredited school of optometry prior to January 1, 1996, shall complete the educational requirements relative to the treatment of glaucoma, as approved by the board, prior to January 1, 2000, and shall complete such educational requirements prior to treating glaucoma. Failure to complete such education prior to January 1, 2000, shall result in the revocation of the licensee's certification to use pharmaceutical agents for therapeutic purposes.

(2) An optometrist who applies for licensure on or after July 15, 1998, who graduated from an accredited school of optometry prior to January 1, 1996, shall complete the educational requirements relative to the treatment of glaucoma, as approved by the board, prior to being issued a license to practice optometry.

(3) An optometrist who graduated from an accredited school of optometry after January 1, 1996, shall be deemed to have met the educational requirements for certification to use pharmaceutical agents for therapeutic purposes which includes the treatment and management of glaucoma.

Sec. 896. Section 71-1,135.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,135.03~~ (1) No course or courses in pharmacology shall be approved by the ~~department upon the recommendation of the Board of Optometry~~board unless taught by an institution which is accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education

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and the transcript credit for the course or courses is certified to the board by the institution.

(2) No course of instruction in the treatment of glaucoma shall be approved by ~~the department upon the recommendation of~~ the board unless it is taught by an institution that is recognized by the United States Department of Education or its successor and the content for the course is certified to the board by the institution as being comparable in content to a course of instruction in the treatment of glaucoma required by other professional boards for licensees or registrants allowed to treat glaucoma in the scope of their professional practice.

Sec. 897. Section 71-1,136, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,136~~ No school of optometry shall be approved by the ~~Department of Health and Human Services Regulation and Licensure~~ board as an accredited school unless the school is accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education.

Sec. 898. Section 71-1,135.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,135.06~~ (1) 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.

(2) A licensed optometrist who administers or prescribes

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pharmaceutical agents for the treatment of glaucoma 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 the examination and treatment of glaucoma.

Sec. 899. Section 71-1,135.07, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,135.07~~ Any licensed optometrist may employ optometric assistants. Such assistants, under the supervision of a licensed optometrist, may perform such duties as are prescribed in accordance with rules and regulations adopted and promulgated by the department, with the ~~upon~~ recommendation of the ~~Board of Optometry~~board.

Sec. 900. Section 71-1,136.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,136.04~~ No agencies of the state or its subdivisions administering relief, public assistance, public welfare assistance, or other health service under the laws of this state, including the public schools, shall in the performance of their duties, interfere with any patient's freedom of choice in the selection of practitioners licensed to perform examinations for refractions or corrections within the field for which their respective licenses entitle them to practice.

Sec. 901. Section 71-1,136.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,136.05~~ There is hereby established the Nebraska Optometry Education Assistance Contract Program for the purpose

of providing opportunities for citizens of this state desiring to pursue study in the field of optometry at accredited schools and colleges outside the state.

Sec. 902. Section 71-1,136.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,136.06~~ The program established by section ~~71-1,136.05~~ 901 of this act shall be administered by the Board of Regents of the University of Nebraska. The ~~board~~ Board of Regents shall adopt appropriate rules and regulations to carry out ~~the provisions of sections 71-1,136.05 to 71-1,136.08~~ sections 901 to 904 of this act and negotiate contract arrangements with accredited schools and colleges of optometry, as provided in section ~~71-1,136~~897 of this act, for the admission and education of qualified applicants who are citizens of Nebraska and who have demonstrated their interest, aptitude, and readiness for study in the field of optometry. The ~~board~~ Board of Regents shall require reports each year from institutions receiving payments showing the progress and suitability of each student being aided and containing such other information as ~~the~~ such board ~~may deem~~ deems proper.

Sec. 903. Section 71-1,136.07, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,136.07~~ The total number of students receiving annual financial payments made under sections ~~71-1,136.05 to 71-1,136.08~~ 901 to 904 of this act shall not exceed sixty students during any school year. No more than fifteen of these students shall be students enrolling in a college of optometry for their first year of instruction.

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Sec. 904. Section 71-1,136.08, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,136.08~~ Financial assistance under sections ~~71-1,136.05~~ ~~to~~ ~~71-1,136.08~~ 901 to 904 of this act shall be continued not to exceed four years until the enrolled student has received a degree in optometry. Contracts with schools and colleges shall set forth terms and provisions for continuation of such payments.

Sec. 905. Sections 905 to 1001 of this act shall be known and may be cited as the Pharmacy Practice Act.

Sec. 906. For purposes of the Pharmacy Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 907 to 952 of this act apply.

Sec. 907. Section 71-1,147.20, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.20~~ Accredited hospital or clinic ~~shall~~ ~~mean~~ means a hospital or clinic ~~accredited~~ ~~by~~ ~~the~~ ~~department~~ ~~upon~~ ~~recommendation~~ ~~of~~ approved by the board.

Sec. 908. Section 71-1,146, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,146~~ An accredited pharmacy program ~~shall~~ ~~be~~ means one approved by the board upon the recommendation of the accrediting committee of the Accreditation Council for Pharmacy Education. It shall be a pharmacy program which maintains at least a three-year course in pharmacy, consisting of not less than thirty-two weeks of instruction each school year. Such pharmacy

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program shall require as a condition to enrollment therein two full years of college or university credit. The combined course shall consist of five years of college or university credit each year of which shall consist of not less than thirty-two weeks of instruction.

Sec. 909. Section 71-1,147.21, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.21~~ Accredited school or college of pharmacy ~~shall~~ ~~mean~~means a school or college of pharmacy or a department of pharmacy of a university approved by the board pursuant to ~~the provisions of~~ section ~~71-1,146~~908 of this act.

Sec. 910. Administer means to directly apply a drug or device by injection, inhalation, ingestion, or other means to the body of a patient or research subject.

Sec. 911. Administration means the act of (1) administering, (2) keeping a record of such activity, and (3) observing, monitoring, reporting, and otherwise taking appropriate action regarding desired effect, side effect, interaction, and contraindication associated with administering the drug or device.

Sec. 912. Board means the Board of Pharmacy.

Sec. 913. Caregiver means any person acting as an agent on behalf of a patient or any person aiding and assisting a patient.

Sec. 914. Chart order means an order for a drug or device issued by a practitioner for a patient who is in the hospital where the chart is stored or for a patient receiving detoxification treatment or maintenance treatment pursuant to section 28-412.

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Chart order does not include a prescription.

Sec. 915. Compounding means the preparation of components into a drug product (1) as the result of a practitioner's medical order or initiative occurring in the course of practice based upon the relationship between the practitioner, patient, and pharmacist or (2) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing. Compounding includes the preparation of drugs or devices in anticipation of receiving medical orders based upon routine, regularly observed prescribing patterns.

Sec. 916. Delegated dispensing means the practice of pharmacy by which one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more persons pursuant to sections 976 to 993 of this act under a protocol which provides that such person may perform certain dispensing functions authorized by the pharmacist or pharmacists under certain specified conditions and limitations.

Sec. 917. Deliver or delivery means to actually, constructively, or attempt to transfer a drug or device from one person to another, whether or not for consideration.

Sec. 918. Device means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is prescribed by a practitioner and dispensed by a pharmacist or other person authorized by law to do so.

Sec. 919. Dialysis drug or device distributor means a manufacturer or wholesaler who provides dialysis drugs, solutions,

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supplies, or devices, to persons with chronic kidney failure for self-administration at the person's home or specified address, pursuant to a prescription.

Sec. 920. Dialysis drug or device distributor worker means a person working for a dialysis drug or device distributor with a delegated dispensing permit who has completed the approved training and has demonstrated proficiency to perform the task or tasks of assembling, labeling, or delivering drugs or devices pursuant to a prescription.

Sec. 921. (1) Dispense or dispensing means interpreting, evaluating, and implementing a medical order, including preparing and delivering a drug or device to a patient or caregiver in a suitable container appropriately labeled for subsequent administration to, or use by, a patient.

(2) Dispensing includes (a) dispensing incident to practice, (b) dispensing pursuant to a delegated dispensing permit, (c) dispensing pursuant to a medical order, and (d) any transfer of a prescription drug or device to a patient or caregiver other than by administering.

Sec. 922. Distribute means to deliver a drug or device, other than by administering or dispensing.

Sec. 923. Drugs, medicines, and medicinal substances means (1) articles recognized in the official United States Pharmacopoeia, the Homeopathic Pharmacopoeia of the United States, the official National Formulary, or any supplement to any of them, (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in humans or animals, (3)

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articles, except food, intended to affect the structure or any function of the body of a human or an animal, (4) articles intended for use as a component of any articles specified in subdivision (1), (2), or (3) of this section, except any device or its components, parts, or accessories, and (5) prescription drugs or devices.

Sec. 924. Electronic signature has the same meaning as in section 86-621.

Sec. 925. Electronic transmission means transmission of information in electronic form. Electronic transmission may include computer-to-computer transmission or computer-to-facsimile transmission.

Sec. 926. Facility means a health care facility as defined in section 71-413.

Sec. 927. Facsimile means a copy generated by a system that encodes a document or photograph into electrical signals, transmits those signals over telecommunications lines, and reconstructs the signals to create an exact duplicate of the original document at the receiving end.

Sec. 928. Section 71-1,147.19, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.19~~ Graduate pharmacy education or approved program ~~shall~~ ~~mean~~means a period of supervised educational training by a graduate of an accredited school or college of pharmacy, which training has been approved by ~~the~~ ~~department~~ ~~upon~~ ~~recommendation~~ ~~of~~ the board.

Sec. 929. Hospital has the same meaning as in section

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Sec. 930. Labeling means the process of preparing and affixing a label to any drug container or device container, exclusive of the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law or regulation.

Sec. 931. Medical gas distributor means a person who dispenses medical gases to a patient or ultimate user but does not include a person who manufactures medical gases or a person who distributes, transfers, delivers, dispenses, or sells medical gases to a person other than a patient or ultimate user.

Sec. 932. Medical order means a prescription, a chart order, or an order for pharmaceutical care issued by a practitioner.

Sec. 933. Nonprescription drugs means nonnarcotic medicines or drugs which may be sold without a medical order and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the laws and regulations of this state and the federal government.

Sec. 934. Patient counseling means the verbal communication by a pharmacist, pharmacist intern, or practitioner, in a manner reflecting dignity and the right of the patient to a reasonable degree of privacy, of information to the patient or caregiver in order to improve therapeutic outcomes by maximizing proper use of prescription drugs and devices and also includes the duties set out in section 973 of this act.

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Sec. 935. (1) Pharmaceutical care means the provision of drug therapy for the purpose of achieving therapeutic outcomes that improve a patient's quality of life. Such outcomes include (a) the cure of disease, (b) the elimination or reduction of a patient's symptomatology, (c) the arrest or slowing of a disease process, or (d) the prevention of a disease or symptomatology.

(2) Pharmaceutical care includes the process through which the pharmacist works in concert with the patient and his or her caregiver, physician, or other professionals in designing, implementing, and monitoring a therapeutic plan that will produce specific therapeutic outcomes for the patient.

Sec. 936. Pharmacist means any person who is licensed by the State of Nebraska to practice pharmacy.

Sec. 937. Pharmacist in charge means a pharmacist who is designated on a pharmacy license or designated by a hospital as being responsible for the practice of pharmacy in the pharmacy for which a pharmacy license is issued and who works within the physical confines of such pharmacy for a majority of the hours per week that the pharmacy is open for business averaged over a twelve-month period or thirty hours per week, whichever is less.

Sec. 938. Pharmacist intern means a person who meets the requirements of section 958 of this act.

Sec. 939. Pharmacy has the same meaning as in section 71-425.

Sec. 940. Pharmacy technician means an individual at least eighteen years of age who is a high school graduate or officially recognized by the State Department of Education as

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possessing the equivalent degree of education, who has never been convicted of any drug-related misdemeanor or felony, and who, under the written control procedures and guidelines of an employing pharmacy, may perform those functions which do not require professional judgment and which are subject to verification to assist a pharmacist in the practice of pharmacy.

Sec. 941. (1) Practice of pharmacy means (a) the interpretation, evaluation, and implementation of a medical order, (b) the dispensing of drugs and devices, (c) drug product selection, (d) the administration of drugs or devices, (e) drug utilization review, (f) patient counseling, (g) the provision of pharmaceutical care, and (h) the responsibility for compounding and labeling of dispensed or repackaged drugs and devices, proper and safe storage of drugs and devices, and maintenance of proper records.

(2) The active practice of pharmacy means the performance of the functions set out in this section by a pharmacist as his or her principal or ordinary occupation.

Sec. 942. Practitioner means a certified registered nurse anesthetist, a certified nurse midwife, a dentist, an optometrist, a nurse practitioner, a physician assistant, a physician, a podiatrist, or a veterinarian.

Sec. 943. Prescribe means to issue a medical order.

Sec. 944. Prescription means an order for a drug or device issued by a practitioner for a specific patient, for emergency use, or for use in immunizations. Prescription does not include a chart order.

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Sec. 945. Prescription drug or device or legend drug or device means:

(1) A drug or device which is required under federal law to be labeled with one of the following statements prior to being dispensed or delivered:

(a) Caution: Federal law prohibits dispensing without prescription;

(b) Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian; or

(c) "Rx Only"; or

(2) A drug or device which is required by any applicable federal or state law to be dispensed pursuant only to a prescription or chart order or which is restricted to use by practitioners only.

Sec. 946. Public health clinic means the department, any county, city-county, or multicounty health department, or any private not-for-profit family planning clinic licensed as a health clinic as defined in section 71-416.

Sec. 947. Public health clinic worker means a person in a public health clinic with a delegated dispensing permit who has completed the approved training and has demonstrated proficiency to perform the task of dispensing authorized refills of oral contraceptives pursuant to a written prescription.

Sec. 948. Signature means the name, word, or mark of a person written in his or her own hand with the intent to authenticate a writing or other form of communication or a digital signature which complies with section 86-611 or an electronic

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signature.

Sec. 949. Supervision means the immediate personal guidance and direction by the licensed pharmacist on duty in the facility of the performance by a pharmacy technician of authorized activities or functions subject to verification by such pharmacist, except that when a pharmacy technician performs authorized activities or functions to assist a pharmacist on duty in the facility when the prescribed drugs or devices will be administered by a licensed staff member or consultant or by a licensed physician assistant to persons who are patients or residents of a facility, the activities or functions of such pharmacy technician shall only be subject to verification by a pharmacist on duty in the facility.

Sec. 950. Section 71-1,147.18, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.18~~ Temporary educational permit ~~shall mean~~ means a permit to practice pharmacy in a supervised educational program approved by the board.

Sec. 951. Verification means the confirmation by a supervising pharmacist of the accuracy and completeness of the acts, tasks, or functions undertaken by a pharmacy technician to assist the pharmacist in the practice of pharmacy.

Sec. 952. Written control procedures and guidelines means the document prepared and signed by the pharmacist in charge and approved by the board which specifies the manner in which basic levels of competency of pharmacy technicians employed by the pharmacy are determined, the manner in which supervision is provided, the manner in which the functions of pharmacy technicians

are verified, the maximum ratio of pharmacy technicians to one pharmacist used in the pharmacy, and guidelines governing the use of pharmacy technicians and the functions which they may perform.

Sec. 953. The board shall be composed of five members, including four actively practicing pharmacists, at least one of whom practices within the confines of a hospital, and one public member who is interested in the health of the people of Nebraska.

Sec. 954. Section 71-1,143, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,143~~ As authorized by the Uniform ~~Licensing Law~~Credentialing Act, the practice of pharmacy may be engaged in by a pharmacist, a pharmacist intern, or a practitioner with a pharmacy license. The practice of pharmacy shall not be construed to include:

(1) Persons who sell, offer, or expose for sale completely denatured alcohol or concentrated lye, insecticides, and fungicides in original packages;

(2) Practitioners, other than veterinarians, certified nurse midwives, certified registered nurse anesthetists, and nurse practitioners, who dispense drugs or devices as an incident to the practice of their profession, except that if such practitioner regularly engages in dispensing such drugs or devices to his or her patients for which such patients are charged, such practitioner shall obtain a pharmacy license;

(3) Persons who sell, offer, or expose for sale nonprescription drugs or proprietary medicines, the sale of which is not in itself a violation of the Nebraska Liquor Control Act;

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(4) Medical representatives, detail persons, or persons known by some name of like import, but only to the extent of permitting the relating of pharmaceutical information to health care professionals;

(5) Licensed veterinarians practicing within the scope of their profession;

(6) Certified nurse midwives, certified registered nurse anesthetists, and nurse practitioners who dispense sample medications which are provided by the manufacturer and are dispensed at no charge to the patient;

(7) Hospitals engaged in the compounding and dispensing of drugs and devices pursuant to chart orders for persons registered as patients and within the confines of the hospital, except that if a hospital engages in such compounding and dispensing for persons not registered as patients and within the confines of the hospital, such hospital shall obtain a pharmacy license or delegated dispensing permit;

(8) Optometrists who prescribe or dispense eyeglasses or contact lenses to their own patients;

(9) Registered nurses employed by a hospital who administer pursuant to a chart order, or procure for such purpose, single doses of drugs or devices from original drug or device containers or properly labeled prepackaged drug or device containers to persons registered as patients and within the confines of the hospital;

(10) Persons employed by a facility where dispensed drugs and devices are delivered from a pharmacy for pickup by a patient

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or caregiver and no dispensing or storage of drugs or devices occurs; and

(11) Persons who sell or purchase medical products, compounds, vaccines, or serums used in the prevention or cure of animal diseases and maintenance of animal health if such medical products, compounds, vaccines, or serums are not sold or purchased under a direct, specific, written medical order of a licensed veterinarian.

Sec. 955. Section 71-1,143.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,143.01~~ (1) Every applicant for examination and licensure as a pharmacist shall be ~~not less than twenty-one years of age, of good moral character and temperate habits,~~ a graduate of an accredited pharmacy program, ~~recognized by the board,~~ except that an applicant who is a graduate of a pharmacy program located outside of the United States and which is not accredited shall be deemed to have satisfied the requirement of being a graduate of an accredited pharmacy program upon providing evidence satisfactory to the department, with the recommendation of the board, of graduation from such foreign pharmacy program and upon successfully passing an equivalency examination approved by the board.

(2) Every applicant shall (a) file proof of sufficient internship experience in pharmacy, under the supervision of a licensed pharmacist, as may be required by the department, with the recommendation of the board, which shall comply with national requirements for internship as set forth by the National Association of Boards of Pharmacy, (b) have satisfactorily

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completed at least five years of college of which at least three years shall have been in an accredited pharmacy program, ~~and~~ (c) pass an examination ~~satisfactory~~ ~~to~~ approved by the board, and (d) present proof satisfactory to the department, with the recommendation of the board, that he or she (i) has passed an examination approved by the board within the last three years, (ii) has been in the active practice of the profession of pharmacy in another state, territory, or the District of Columbia for one year within the three years immediately preceding the application for licensure, (iii) has become board-certified in a specialty recognized by the Board of Pharmaceutical Specialties within the seven years immediately preceding the application for licensure, or (iv) has completed continuing competency in pharmacy that is approved by the Board of Pharmacy.

(3) Proof of the qualifications for licensure prescribed in this section shall be made to the satisfaction of the department, with the recommendation of the board, substantiated by proper affidavits. In all cases the actual time of attendance in an accredited pharmacy program shall be certified by the appropriate school, college, or university authority by the issuance of the degree granted to a graduate of such school, college, or university. Service and experience in pharmacy under the supervision of a licensed pharmacist, as required in this section, shall be predominantly related to the practice of pharmacy and shall include the keeping of records and the making of reports required under state and federal statutes. The ~~Department of Health and Human Services Regulation and Licensure~~department, ~~upon~~with

the recommendation of the board, shall adopt and promulgate rules and regulations as may be required to establish standards for internship which shall comply with national requirements to effect reciprocity with other states which have similar requirements for licensure. ~~The required fee for pharmacy internship shall accompany the application.~~

Sec. 956. Every applicant for licensure as a pharmacist shall be required to attain a grade to be determined by the board in an examination in pharmacy and a grade of seventy-five in an examination in jurisprudence of pharmacy.

Sec. 957. Section 71-1,143.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,143.02 Notwithstanding the provisions of sections 71-103 and 71-1,143.01, a~~A temporary pharmacist license may be granted to persons meeting all of the qualifications for ~~such~~ a pharmacist license except the requirement that they be citizens of the United States. Such temporary license shall be issued for a period of one year from the date of issuance and may be renewed each year thereafter for four additional years, and if the person so licensed has not become a citizen of the United States within five years of the date such temporary license was issued, such license shall terminate and the person so licensed shall have no further right to practice pharmacy in this state. If a temporary pharmacist licensee becomes a citizen of the United States while a temporary pharmacist license is in force and provides evidence thereof to the department, a pharmacist license may be issued in place of such temporary license and no additional fee shall be

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charged unless such temporary license had already expired, in which case a renewal fee shall be charged. The applicant for a temporary pharmacist license shall submit proof of his or her eligibility and intent to become a citizen of the United States. The fees to be paid and procedures for the denial, suspension, revocation, or reinstatement of such temporary license shall be the same as for a pharmacist license.

Sec. 958. Section 71-1,144, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,144~~ (1) A pharmacist intern shall be (a) a student currently enrolled in an accredited pharmacy program, (b) a graduate of an accredited pharmacy program serving his or her internship, or (c) a graduate of a pharmacy program located outside the United States which is not accredited and who has successfully passed equivalency examinations approved by the board. Intern registration based on enrollment in or graduation from an accredited pharmacy program shall expire not later than fifteen months after the date of graduation or at the time of professional licensure, whichever comes first. Intern registration based on graduation from a pharmacy program located outside of the United States which is not accredited shall expire not later than fifteen months after the date of issuance of the registration or at the time of professional licensure, whichever comes first.

(2) A pharmacist intern may compound and dispense drugs or devices and fill prescriptions only in the presence of and under the immediate personal supervision of a licensed pharmacist. Such licensed pharmacist shall either be (a) the person to whom the

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pharmacy license is issued or a person in the actual employ of the pharmacy licensee or (b) the delegating pharmacist designated in a delegated dispensing agreement by a hospital with a delegated dispensing permit.

Sec. 959. Section 71-1,147.22, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.22~~ The department, ~~upon~~with the recommendation of the board, shall have authority to issue temporary educational permits to qualified applicants in accordance with the ~~provisions of sections 71-1,147.17 to 71-1,147.32~~Pharmacy Practice Act.

Sec. 960. Section 71-1,147.23, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.23~~ The holder of a temporary educational permit shall be entitled to practice pharmacy while serving in a supervised educational program or in an approved graduate pharmacy education program conducted by an accredited hospital or clinic in the State of Nebraska or by an accredited school or college of pharmacy in the State of Nebraska. The holder of a temporary educational permit shall not be qualified to engage in the practice of pharmacy outside of the assigned training program or outside the confines of the accredited hospital or clinic or the accredited school or college.

Sec. 961. Section 71-1,147.24, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.24~~ Before any temporary educational permit is issued pursuant to ~~sections 71-1,147.17 to 71-1,147.32~~the Pharmacy Practice Act, the department, ~~upon~~with the recommendation of the

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board, shall determine that the applicant for such permit ~~is of good moral character and that such applicant has otherwise~~ has met all of the requirements of ~~sections 71-1,147.17 to 71-1,147.32~~ the act relating to issuing any such permit.

Sec. 962. Section 71-1,147.25, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.25~~ Except as otherwise provided by law, the holder of any temporary educational permit shall be subject to all of the rules and regulations prescribed for pharmacists regularly licensed in the State of Nebraska and such other rules and regulations as may be adopted by the department, ~~upon~~with the recommendation of the board, with respect to such permits in order to carry out the purposes of ~~sections 71-1,147.17 to 71-1,147.32~~the Pharmacy Practice Act.

Sec. 963. Section 71-1,147.26, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.26~~ The duration of any temporary educational permit issued pursuant to ~~sections 71-1,147.17 to 71-1,147.32~~ the Pharmacy Practice Act shall be determined by the ~~Department of Health and Human Services Regulation and Licensure~~ department but in no case shall it be in excess of one year. The permit may be renewed from time to time at the discretion of the ~~Department of Health and Human Services Regulation and Licensure~~ department but in no case shall it be renewed for more than five one-year periods.

Sec. 964. Section 71-1,147.27, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.27~~ The department, with the recommendation of

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the board, may issue to all qualified graduates of accredited colleges of pharmacy, who are eligible for the examination provided for in section ~~71-1,143.01~~955 of this act, and who make application for such examination, a temporary educational permit.~~,~~ ~~without charge.~~ Such permit shall be issued only for the duration of the time between the date of the examination and the date of licensure granted as a result of such examination. ~~Any person issued a temporary educational permit, without charge, shall meet all requirements provided for in sections 71-1,147.17 to 71-1,147.32, except payment of the required fee, and such exemption is only for the period of time between examination date and licensing date and for only those individuals who take the examination as provided in section 71-1,143.01.~~

Sec. 965. Section 71-1,147.28, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.28~~ Before granting any temporary educational permit, the ~~Department of Health and Human Services Regulation and Licensure~~ department shall ascertain by evidence satisfactory to the department, with the recommendation of the board, that an accredited hospital or clinic or an accredited school or college of pharmacy in the State of Nebraska has requested the issuance of a temporary educational permit for an applicant to serve as a graduate student in its approved program for the period involved. Any application for the issuance of such permit shall be signed by the applicant requesting that such permit be issued to him or her and shall designate the specified approved graduate pharmacy educational program with respect to which such permit shall apply.

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Sec. 966. Section 71-1,147.29, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.29~~ The recommendation of the board to the department for the issuance of any temporary educational permits shall be made at regular meetings of the board, but the chairperson or one other member of the board, as specifically selected by the members of the board, and its executive secretary, jointly shall have the power to recommend to the department the issuance of such permits between the meetings of the board.~~,~~ ~~which permits shall be subject to approval or disapproval at the next meeting of the board.~~

Sec. 967. Section 71-1,147.30, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.30~~ The recipient of a temporary educational permit shall pay the required fee.

Sec. 968. Section 71-1,147.31, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.31~~ Any temporary educational permit granted under the authority of ~~sections 71-1,147.17 to 71-1,147.32~~ the Pharmacy Practice Act may be suspended, limited, or revoked by the department, ~~upon~~with the recommendation of the board, at any time upon a finding that the reasons for issuing such permit no longer exist or that the person to whom such permit has been issued is no longer qualified to hold such permit or for any reason for which a pharmacist license could be suspended, limited, or revoked. A hearing on the suspension, limitation, or revocation of the temporary educational permit by the department shall be held

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in the same manner as for the denial of a pharmacist license. The final order of the ~~Director of Regulation and Licensure~~ director may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 969. Section 71-1,147.32, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.32~~ The holder of a temporary educational permit shall not be entitled to a pharmacist license in the State of Nebraska unless and until such individual meets all of the requirements of law for issuing such pharmacist license.

Sec. 970. Section 71-1,143.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,143.03~~ Unless specifically limited by the board or the department, a pharmacist may (1) engage in the practice of pharmacy, (2) use the abbreviation R.P. or the title licensed pharmacist, (3) enter into delegated dispensing agreements, and (4) possess, without dispensing, prescription drugs and devices, including controlled substances, for purposes of administration.

Sec. 971. Section 71-1,147, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147~~ (1) Except as provided for pharmacy technicians in section ~~71-1,147.33~~ 994 of this act and for individuals authorized to dispense under a delegated dispensing permit, no person other than a licensed pharmacist, a pharmacist intern, or a practitioner with a pharmacy license shall provide pharmaceutical care, compound and dispense drugs or devices, or dispense pursuant to a medical order. Notwithstanding any other provision of law

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to the contrary, a pharmacist or pharmacist intern may dispense drugs or devices pursuant to a medical order of a practitioner authorized to prescribe in another state if such practitioner could be authorized to prescribe such drugs or devices in this state.

(2) Except as provided for pharmacy technicians in section ~~71-1,147.33~~ 994 of this act and for individuals authorized to dispense under a delegated dispensing permit, it shall be unlawful for any person to permit or direct a person who is not a pharmacist intern, a licensed pharmacist, or a practitioner with a pharmacy license to provide pharmaceutical care, compound and dispense drugs or devices, or dispense pursuant to a medical order.

(3) It shall be unlawful for any person to coerce or attempt to coerce a pharmacist to enter into a delegated dispensing agreement or to supervise any pharmacy technician for any purpose or in any manner contrary to the professional judgment of the pharmacist. Violation of this subsection by a health care professional regulated pursuant to the ~~provisions of Chapter 71~~ Uniform Credentialing Act shall be considered an act of unprofessional conduct. A violation of this subsection by a facility shall be prima facie evidence in an action against the license of the facility pursuant to the Health Care Facility Licensure Act. Any pharmacist subjected to coercion or attempted coercion pursuant to this subsection has a cause of action against the person and may recover his or her damages and reasonable attorney's fees.

(4) Violation of this section by an unlicensed person shall be a Class III misdemeanor.

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Sec. 972. Section 71-1,147.36, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.36~~ (1) Information with regard to a patient maintained by a pharmacist pursuant to ~~sections~~ ~~71-1,142~~ ~~to~~ ~~71-1,151~~ the Pharmacy Practice Act shall be privileged and confidential and may be released only to (a) the patient or the caregiver of the patient or others authorized by the patient or his or her legal representative, (b) a physician treating the patient, (c) other physicians or pharmacists when, in the professional judgment of the pharmacist, such release is necessary to protect the patient's health or well-being, or (d) other persons or governmental agencies authorized by law to receive such information.

(2) Nothing in this section shall prohibit the release of confidential information to researchers conducting biomedical, pharmaco-epidemiologic, or pharmaco-economic research pursuant to health research approved by an institutional review board which is established in accordance with 21 C.F.R. parts 50 and 56 or 45 C.F.R. part 46, as such parts existed on ~~May~~ ~~1,~~ ~~2001~~April 1, 2006.

Sec. 973. Section 71-1,147.35, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,147.35~~ (1)(a) Prior to the dispensing or the delivery of a drug or device pursuant to a medical order to a patient or caregiver, a pharmacist shall in all care settings conduct a prospective drug utilization review. Such prospective drug utilization review shall involve monitoring the patient-specific medical history described in subdivision (b) of

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this subsection and available to the pharmacist at the practice site for:

(i) Therapeutic duplication;

(ii) Drug-disease contraindications;

(iii) Drug-drug interactions;

(iv) Incorrect drug dosage or duration of drug treatment;

(v) Drug-allergy interactions; and

(vi) Clinical abuse or misuse.

(b) A pharmacist conducting a prospective drug utilization review shall ensure that a reasonable effort is made to obtain from the patient, his or her caregiver, or his or her practitioner and to record and maintain records of the following information to facilitate such review:

(i) The name, address, telephone number, date of birth, and gender of the patient;

(ii) The patient's history of significant disease, known allergies, and drug reactions and a comprehensive list of relevant drugs and devices used by the patient; and

(iii) Any comments of the pharmacist relevant to the patient's drug therapy.

(c) The assessment of data on drug use in any prospective drug utilization review shall be based on predetermined standards, approved by ~~the department upon the recommendation of~~ the board.

(2)(a) Prior to the dispensing or delivery of a drug or device pursuant to a prescription, the pharmacist shall ensure that a verbal offer to counsel the patient or caregiver is made. The counseling of the patient or caregiver by the pharmacist shall be

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on elements which, in the exercise of the pharmacist's professional judgment, the pharmacist deems significant for the patient. Such elements may include, but need not be limited to, the following:

(i) The name and description of the prescribed drug or device;

(ii) The route of administration, dosage form, dose, and duration of therapy;

(iii) Special directions and precautions for preparation, administration, and use by the patient or caregiver;

(iv) Common side effects, adverse effects or interactions, and therapeutic contraindications that may be encountered, including avoidance, and the action required if such effects, interactions, or contraindications occur;

(v) Techniques for self-monitoring drug therapy;

(vi) Proper storage;

(vii) Prescription refill information; and

(viii) Action to be taken in the event of a missed dose.

(b) The patient counseling provided for in this subsection shall be provided in person whenever practical or by the utilization of telephone service which is available at no cost to the patient or caregiver.

(c) Patient counseling shall be appropriate to the individual patient and shall be provided to the patient or caregiver.

(d) Written information may be provided to the patient or caregiver to supplement the patient counseling provided for in this subsection but shall not be used as a substitute for such

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patient counseling. If written information is provided, it shall also include all information found on the prescription label.

(e) This subsection shall not be construed to require a pharmacist to provide patient counseling when:

(i) The patient or caregiver refuses patient counseling;

(ii) The pharmacist, in his or her professional judgment, determines that patient counseling may be detrimental to the patient's care or to the relationship between the patient and his or her practitioner;

(iii) The patient is a patient or resident of a health care facility or health care service licensed under the Health Care Facility Licensure Act to whom prescription drugs or devices are administered by a licensed or certified staff member or consultant or a certified physician's assistant; or

(iv) The practitioner authorized to prescribe drugs or devices specifies that there shall be no patient counseling unless he or she is contacted prior to such patient counseling. The prescribing practitioner shall specify such prohibition in an oral prescription or in writing on the face of a written prescription, including any prescription which is received by facsimile or electronic transmission. The pharmacist shall note "Contact Before Counseling" on the face of the prescription if such is communicated orally by the prescribing practitioner.

Sec. 974. Section 71-1,146.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,146.01~~ (1) All medical orders shall be valid for the period stated in the medical order, except that (a) if the medical

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order is for a controlled substance listed in section 28-405, such period shall not exceed six months from the date of issuance at which time the medical order shall expire and (b) if the medical order is for a drug or device which is not a controlled substance listed in section 28-405 or is an order issued by a practitioner for pharmaceutical care, such period shall not exceed twelve months from the date of issuance at which time the medical order shall expire.

(2) Prescription drugs or devices may only be dispensed by a pharmacist or pharmacist intern pursuant to a medical order, by an individual dispensing pursuant to a delegated dispensing permit, or as otherwise provided in section ~~71-1,143~~954 of this act. Notwithstanding any other provision of law to the contrary, a pharmacist or a pharmacist intern may dispense drugs or devices pursuant to a medical order or an individual dispensing pursuant to a delegated dispensing permit may dispense drugs or devices pursuant to a medical order. ~~Sections 71-1,142 to 71-1,151~~ The Pharmacy Practice Act shall not be construed to require any pharmacist or pharmacist intern to dispense any drug or device pursuant to any medical order. A pharmacist or pharmacist intern shall retain the professional right to refuse to dispense.

(3) Except as otherwise provided in section 28-414, a practitioner or the practitioner's agent may transmit a medical order to a pharmacist or pharmacist intern by the following means: (a) In writing, (b) orally, (c) by facsimile or electronic transmission of a medical order signed by the practitioner, or (d) by facsimile or electronic transmission of a medical order which

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is not signed by the practitioner. Such order shall be treated the same as an oral medical order.

(4) Except as otherwise provided in section 28-414, any medical order transmitted by facsimile or electronic transmission shall (a) be transmitted by the practitioner or the practitioner's agent directly to a pharmacist or pharmacist intern in a licensed pharmacy of the patient's choice. No intervening person shall be permitted access to the medical order to alter such order or the licensed pharmacy chosen by the patient. Such medical order may be transmitted through a third-party intermediary who shall facilitate the transmission of the order from the practitioner or practitioner's agent to the pharmacy, (b) identify the transmitter's telephone number or other suitable information necessary to contact the transmitter for written or oral confirmation, the time and date of the transmission, the identity of the pharmacy intended to receive the transmission, and other information as required by law, and (c) serve as the original medical order if all other requirements of this subsection are satisfied. Medical orders transmitted by electronic transmission shall be signed by the practitioner either with an electronic signature or a digital signature.

(5) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of any medical order transmitted by facsimile or electronic transmission.

Sec. 975. Section 71-1,146.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,146.02~~ Original prescription information for any

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controlled substances listed in Schedule III, IV, or V of section 28-405 and other prescription drugs or devices not listed in section 28-405 may be transferred between pharmacies for the purpose of refill dispensing on a one-time basis, except that pharmacies electronically accessing a real-time, on-line data base may transfer up to the maximum refills permitted by law and as authorized by the prescribing practitioner on the face of the prescription. Transfers are subject to the following:

(1) The transfer is communicated directly between two pharmacists or pharmacist interns except when the pharmacies can use a real-time, on-line data base;

(2) The transferring pharmacist or pharmacist intern indicates void on the record of the prescription except when a single refill is transferred for emergency or traveling purposes;

(3) The transferring pharmacist or pharmacist intern indicates on the record of the prescription the name, the address, and, if a controlled substance, the Drug Enforcement Administration number of the pharmacy to which the information was transferred, the name of the pharmacist or pharmacist intern receiving the information, the date of transfer, and the name of the transferring pharmacist or pharmacist intern;

(4) The receiving pharmacist or pharmacist intern indicates on the record of the transferred prescription that the prescription is transferred;

(5) The transferred prescription includes the following information:

(a) The date of issuance of the original prescription;

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(b) The original number of refills authorized;

(c) The date of original dispensing;

(d) The number of valid refills remaining;

(e) The date and location of last refill; and

(f) The name, the address, and, if a controlled substance, the Drug Enforcement Administration number of the pharmacy from which the transfer was made, the name of the pharmacist or pharmacist intern transferring the information, the original prescription number, and the date of transfer; and

(6) Both the original and transferred prescriptions must be maintained by the transferring and receiving pharmacy for a period of five years from the date of transfer.

Sec. 976. Section 71-1,147.62, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.62~~ A pharmacist may delegate certain specified dispensing tasks and functions under specified conditions and limitations to another person by entering into a delegated dispensing agreement which serves as the basis for a delegated dispensing permit. A delegated dispensing agreement shall include the address of the site where the dispensing will occur, the name and license number of each pharmacist who will assume the responsibilities of the delegating pharmacist, the name and signature of any individual who will be dispensing pursuant to such agreement, the manner in which inspections must be conducted and documented by the delegating pharmacist, and any other information required by the board. A delegated dispensing agreement shall not become effective until a delegated dispensing permit based upon

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such agreement is issued by the department, with the recommendation of the board, pursuant to section ~~71-1,147.63~~977 of this act.

Sec. 977. Section 71-1,147.63, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.63~~ (1) Any person who has entered into a delegated dispensing agreement pursuant to section ~~71-1,147.62~~ 976 of this act may apply to the department for a delegated dispensing permit. An applicant shall apply at least thirty days prior to the anticipated date for commencing delegated dispensing activities. Each applicant shall (a) file an application as prescribed by the department and a copy of the delegated dispensing agreement and (b) pay any fees required by the department. A hospital applying for a delegated dispensing permit shall not be required to pay an application fee if it has a pharmacy license under the Health Care Facility Licensure Act.

(2) The department shall issue or renew a delegated dispensing permit to an applicant if the department, with the recommendation of the board, determines that:

(a) The application and delegated dispensing agreement comply with ~~sections 71-1,147.42 to 71-1,147.64~~the Pharmacy Practice Act;

(b) The public health and welfare is protected and public convenience and necessity is promoted by the issuance of such permit. If the applicant is a hospital, public health clinic, dialysis drug or device distributor, or medical gas distributor, the department shall find that the public health and welfare is protected and public convenience and necessity is promoted. For any

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other applicant, the department may, in its discretion, require the submission of documentation to demonstrate that the public health and welfare is protected and public convenience and necessity is promoted by the issuance of the delegated dispensing permit; and

(c) The applicant has complied with any inspection requirements pursuant to section ~~71-1,147.64~~978 of this act.

(3) In addition to the requirements of subsection (2) of this section, a public health clinic (a) shall apply for a separate delegated dispensing permit for each clinic maintained on separate premises even though such clinic is operated under the same management as another clinic and (b) shall not apply for a separate delegated dispensing permit to operate an ancillary facility. For purposes of this subsection, ancillary facility means a delegated dispensing site which offers intermittent services, which is staffed by personnel from a public health clinic for which a delegated dispensing permit has been issued, and at which no legend drugs or devices are stored.

(4) A delegated dispensing permit shall not be transferable. Such permit shall expire annually on July 1 unless renewed by the department. The department, with the recommendation of the board, may adopt and promulgate rules and regulations to reinstate expired permits upon payment of a late fee.

Sec. 978. Section 71-1,147.64, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.64~~ (1) Before a delegated dispensing permit may be issued by the department, with the recommendation of the board, a pharmacy inspector of the board shall conduct an onsite

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inspection of the delegated dispensing site. A hospital applying for a delegated dispensing permit shall not be subject to an initial inspection or inspection fees pursuant to this subsection if the delegated dispensing site was inspected by the department pursuant to licensure under the Health Care Facility Licensure Act.

(2) Each permittee shall have the delegated dispensing site inspected at least once on an annual basis. Such inspection may be conducted by self-inspection or other compliance assurance modalities, when approved by the board, as authorized in the rules and regulations of the department. A hospital with a delegated dispensing permit shall not be subject to annual inspections or inspection fees pursuant to this subsection if the delegated dispensing site was inspected by the department pursuant to licensure under the Health Care Facility Licensure Act.

(3) Any applicant or permittee who fails to meet the requirements of the board or department to dispense drugs or devices pursuant to a delegated dispensing permit shall, prior to dispensing (a) have the delegated dispensing site reinspected by a pharmacy inspector of the board and (b) pay any reinspection fees.

(4) The department, with the recommendation of the board, shall set inspection fees by rule and regulation not to exceed the fees established for pharmacy inspections required to obtain a pharmacy license under the Health Care Facility Licensure Act. The department shall remit inspection fees to the State Treasurer for credit to the Professional and Occupational Credentialing Cash Fund.

Sec. 979. Section 71-1,147.42, Reissue Revised Statutes

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of Nebraska, is amended to read:

~~71-1,147.42~~ If a complaint is filed against a delegated dispensing permittee or any staff member, volunteer, or consultant in association with work performed under a delegated dispensing permit and if the complaint is found to be valid, the cost of investigating the complaint and any followup inspections shall be calculated by the board based upon the actual costs incurred and the cost shall be borne by the permittee being investigated. All costs collected by the department shall be remitted to the State Treasurer for credit to the Professional and Occupational Credentialing Cash Fund. If the complaint is not found to be valid, the cost of the investigation shall be paid from the fund.

Sec. 980. Section 71-1,147.43, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.43~~ The department, with the recommendation of the board, may deny an application for a delegated dispensing permit, revoke, limit, or suspend a delegated dispensing permit, or refuse renewal of a delegated dispensing permit for a violation of section ~~71-147~~ ~~or~~ ~~71-148~~ 81 or 82 of this act or for any violation of ~~sections~~ ~~71-1,142~~ ~~to~~ ~~71-1,151~~ the Pharmacy Practice Act and any rules and regulations adopted and promulgated by the department, with the recommendation of the board, pursuant to ~~such~~ ~~sections~~the act.

Sec. 981. Section 71-1,147.44, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.44~~ (1) If the department, with the recommendation of the board, determines to deny an application for

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a delegated dispensing permit or to revoke, limit, suspend, or refuse renewal of a delegated dispensing permit, the department shall send to the applicant or permittee, by certified mail, a notice setting forth the particular reasons for the determination. The denial, limitation, suspension, revocation, or refusal of renewal shall become final thirty days after the mailing of the notice unless the applicant or permittee, within such thirty-day period, requests a hearing in writing. The applicant or permittee shall be given a fair hearing before the department and may present such evidence as may be proper. On the basis of such evidence, the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by certified mail to the applicant or permittee. The decision shall become final thirty days after a copy of such decision is mailed unless the applicant or permittee within such thirty-day period appeals the decision pursuant to section ~~71-1,147.46~~983 of this act.

(2) The procedure governing hearings authorized by this section shall be in accordance with rules and regulations adopted and promulgated by the department. A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed a fee at a rate prescribed by the rules and regulations adopted and promulgated by the department. The proceedings shall be summary in nature and triable as equity actions. Affidavits may be received in evidence in the discretion of the ~~Director of Regulation and Licensure~~director. The department

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shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party.

Sec. 982. Section 71-1,147.45, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.45~~ (1) Upon the completion of any hearing pursuant to section ~~71-1,147.44~~981 of this act, the ~~Director of Regulation and Licensure~~ director shall have the authority through entry of an order to exercise in his or her discretion any or all of the following powers:

(a) Issue a censure against the permittee;

(b) Place the permittee on probation;

(c) Place a limitation or limitations on the permit and upon the right of the permittee to dispense drugs or devices to the extent, scope, or type of operation, for such time, and under such conditions as the director finds necessary and proper. The director shall consult with the board in all instances prior to issuing an order of limitation;

(d) Impose a civil penalty not to exceed twenty thousand dollars. The amount of the civil penalty, if any, shall be based on the severity of the violation. If any violation is a repeated or continuing violation, each violation or each day a violation continues shall constitute a separate violation for the purpose of computing the applicable civil penalty, if any;

(e) Enter an order of suspension of the permit;

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(f) Enter an order of revocation of the permit; and

(g) Dismiss the action.

(2) The permittee shall not dispense drugs or devices after a permit is revoked or during the time for which the permit is suspended. If a permit is suspended, the suspension shall be for a definite period of time to be fixed by the director. The permit shall be automatically reinstated upon the expiration of such period if the current renewal fees have been paid. If the permit is revoked, the revocation shall be permanent.~~, except that at any time after the expiration of two years, application may be made for reinstatement by any permittee whose permit has been revoked. The application shall be addressed to the director but may not be received or filed by him or her unless accompanied by a written recommendation of reinstatement by the board. The department may adopt and promulgate the necessary rules and regulations concerning notice and hearing of such application.~~

(3) Any civil penalty assessed and unpaid under this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. The department shall within thirty days after receipt remit any collected civil penalty to the State Treasurer for ~~credit to the permanent school fund~~distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 983. Section 71-1,147.46, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-1,147.46~~ (1) A petition for the revocation or suspension of a delegated dispensing permit may be filed by the Attorney General or by the county attorney in the county in which the permittee resides or is dispensing pursuant to a delegated dispensing permit. The petition shall be filed with the board and shall be entitled In the Matter of the Revocation (or suspension) of the Permit of (name of permittee) to dispense drugs and devices. It shall state the charges against the permittee with reasonable definiteness. Upon approval of such petition by the board, it shall be forwarded to the department which shall make an order fixing a time and place for hearing thereon, which shall not be less than ten days nor more than thirty days thereafter. Notice of the filing of such petition and of the time and place of hearing shall be served upon the permittee at least ten days before such hearing.

(2) The notice of charges may be served by any sheriff or constable or by any person especially appointed by the department. The order of revocation or suspension of a permit shall be entered on record and the name of such permittee stricken from the roster of permittees, and the permittee shall not engage in the dispensing of drugs and devices after revocation of the permit or during the time for which it is suspended.

(3) Any permittee shall have the right of appeal from an order of the department denying, revoking, suspending, or refusing renewal of a delegated dispensing permit. The appeal shall be in accordance with the Administrative Procedure Act.

Sec. 984. Section 71-1,147.47, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-1,147.47~~ When appropriate, the Attorney General, ~~upon~~with the recommendation of the board, shall initiate criminal charges against pharmacists or other persons who knowingly permit individuals dispensing pursuant to a delegated dispensing permit to perform professional duties which require the expertise or professional judgment of a pharmacist.

Sec. 985. Section 71-1,147.48, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.48~~ (1) ~~Upon~~With the recommendation of the board, the ~~Director of Regulation and Licensure~~ director shall approve a formulary to be used by individuals dispensing pursuant to a delegated dispensing permit. A formulary shall consist of a list of drugs or devices appropriate to delegated dispensing activities authorized by the delegated dispensing permit. Except as otherwise provided in this section, if the board finds that a formulary would be unnecessary to protect the public health and welfare and promote public convenience and necessity, the board shall recommend that no formulary be approved.

(2)(a) ~~Upon~~With the recommendation of the board, which shall be based on the recommendations of the Public Health Clinic Formulary Advisory Committee, the director shall approve the formulary to be used by public health clinics dispensing pursuant to a delegated dispensing permit.

(b) The formulary for a public health clinic shall consist of a list of drugs and devices for contraception, sexually transmitted diseases, and vaginal infections which may be dispensed and stored, patient instruction requirements which

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shall include directions on the use of drugs and devices, potential side effects and drug interactions, criteria for contacting the on-call pharmacist, and accompanying written patient information.

(c) In no event shall the director approve for inclusion in the formulary any drug or device not approved by the committee or exclude any of the provisions for patient instruction approved by the board.

(d) Drugs and devices with the following characteristics shall not be eligible to be included in the formulary:

(i) Controlled substances;

(ii) Drugs with significant dietary interactions;

(iii) Drugs with significant drug-drug interactions; and

(iv) Drugs or devices with complex counseling profiles.

(3)(a) ~~Upon~~With the recommendation of the board, the director shall approve a formulary to be used by dialysis drug or device distributors.

(b) The formulary for a dialysis drug or device distributor shall consist of a list of drugs, solutions, supplies, and devices for the treatment of chronic kidney failure which may be dispensed and stored.

(c) In no event shall the director approve for inclusion in the formulary any drug or device not approved by the board.

(d) Controlled substances shall not be eligible to be included in the formulary.

Sec. 986. Section 71-1,147.50, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.50~~ (1) Each delegated dispensing permittee shall

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have an actively practicing Nebraska-licensed pharmacist listed as the delegating pharmacist in the delegated dispensing agreement. The delegating pharmacist shall be responsible for all activities set forth in his or her delegated dispensing agreement. The delegating pharmacist shall approve and maintain a policy and procedure manual governing those aspects of the practice of pharmacy covered by the delegated dispensing agreement.

(2) The delegating pharmacist for a public health clinic or a dialysis drug or device distributor shall be physically in the clinic or distributor's facility at least once every thirty days. The delegating pharmacist shall conduct and document monthly inspections of all activities and responsibilities listed in subsection (3) of this section and under his or her delegated dispensing agreement.

(3) The delegating pharmacist for a public health clinic shall be responsible for the security, environment, inventory, and record keeping of all drugs and devices received, stored, or dispensed by the public health clinic. The delegating pharmacist for a dialysis drug or device distributor shall be responsible for the distribution, record keeping, labeling, and delivery of all drugs and devices dispensed by the dialysis drug or device distributor.

Sec. 987. Section 71-1,147.52, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.52~~ The delegating pharmacist or the on-call pharmacist shall not be held liable for acts or omissions on the part of an individual dispensing pursuant to the delegated

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dispensing permit.

Sec. 988. Section 71-1,147.53, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.53~~ Under a delegated dispensing permit for a public health clinic, approved formulary drugs and devices may be dispensed by a public health clinic worker or a health care professional licensed in Nebraska to practice medicine and surgery or licensed in Nebraska as a registered nurse, licensed practical nurse, or physician assistant without the onsite services of a pharmacist if:

(1) The initial dispensing of all prescriptions for approved formulary drugs and devices is conducted by a health care professional licensed in Nebraska to practice medicine and surgery or pharmacy or licensed in Nebraska as a registered nurse, licensed practical nurse, or physician assistant;

(2) The drug or device is dispensed pursuant to a prescription written on site by a practitioner;

(3) The only prescriptions to be refilled under the delegated dispensing permit are prescriptions for oral contraceptives;

(4) Prescriptions are accompanied by patient instructions and written information approved by the ~~Director of Regulation and Licensure~~director;

(5) The dispensing of authorized refills of oral contraceptives is done by a licensed health care professional listed in subdivision (1) of this section or by a public health clinic worker;

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(6) All drugs or devices are prepackaged by the manufacturer or at a public health clinic by a pharmacist into the quantity to be prescribed and dispensed at the public health clinic;

(7) All drugs and devices stored, received, or dispensed under the authority of public health clinics are properly labeled at all times. For purposes of this subdivision, properly labeled means that the label affixed to the container prior to dispensing contains the following information:

(a) The name of the manufacturer;

(b) The lot number and expiration date from the manufacturer or, if prepackaged by a pharmacist, the lot number and calculated expiration date. Calculated expiration date means the expiration date on the manufacturer's container or one year from the date the drug is repackaged, whichever is earlier;

(c) Directions for patient use;

(d) The quantity of drug in the container;

(e) The name, strength, and dosage form of the drug; and

(f) Auxiliary labels as needed for proper adherence to any prescription;

(8) The following additional information is added to the label of each container when the drug or device is dispensed:

(a) The patient's name;

(b) The name of the prescribing health care professional;

(c) The prescription number;

(d) The date dispensed; and

(e) The name and address of the public health clinic;

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(9) The only drugs and devices allowed to be dispensed or stored by public health clinics appear on the formulary approved pursuant to section ~~71-1,147.48~~985 of this act; and

(10) At any time that dispensing is occurring from a public health clinic, the delegating pharmacist for the public health clinic or on-call pharmacist in Nebraska is available, either in person or by telephone, to answer questions from clients, staff, public health clinic workers, or volunteers. This availability shall be confirmed and documented at the beginning of each day that dispensing will occur. The delegating pharmacist or on-call pharmacist shall inform the public health clinic if he or she will not be available during the time that his or her availability is required. If a pharmacist is unavailable, no dispensing shall occur.

Sec. 989. Section 71-1,147.54, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.54~~ No person shall act as a public health clinic worker in a public health clinic or as a dialysis drug or device distributor worker for a dialysis drug or device distributor unless the person:

(1) Is at least eighteen years of age;

(2) Has earned a high school diploma or the equivalent;

(3) Has completed approved training as provided in section ~~71-1,147.55~~990 of this act; and

(4) Has demonstrated proficiency as provided in section ~~71-1,147.56~~991 of this act.

Sec. 990. Section 71-1,147.55, Reissue Revised Statutes

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of Nebraska, is amended to read:

~~71-1,147.55~~ (1) A delegating pharmacist shall conduct the training of public health clinic workers. The training shall be approved in advance by ~~the department upon the recommendation of~~ the board. The board shall base its ~~recommendation~~ approval upon the standards determined by the Public Health Clinic Formulary Advisory Committee.

(2) A delegating pharmacist shall conduct training of dialysis drug or device distributor workers. The training shall be based upon the standards approved by ~~the department upon recommendation of~~ the board.

(3) The public health clinic, the dialysis drug or device distributor, and the delegating pharmacist shall be responsible to assure that approved training has occurred and is documented.

Sec. 991. Section 71-1,147.56, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.56~~ (1) A public health clinic worker or dialysis drug or device distributor worker shall demonstrate proficiency to the delegating pharmacist, according to the standards ~~determined by the department upon recommendation of~~ approved by the board. The delegating pharmacist shall document proficiency for each worker. In addition, a public health clinic worker shall be supervised by a licensed health care professional specified in subdivision (1) of section ~~71-1,147.53~~ 988 of this act for the first month that such worker is dispensing refills of oral contraceptives.

(2) Following initial training and proficiency demonstration, the public health clinic worker or dialysis drug or

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device distributor worker shall demonstrate continued proficiency at least annually. A dialysis drug or device distributor worker shall attend annual training programs taught by a pharmacist. Documentation of such training shall be maintained in the worker's employee file.

(3) The public health clinic or dialysis drug or device distributor for which a public health clinic worker or dialysis drug or device distributor worker is working shall be liable for acts or omissions on the part of such worker.

Sec. 992. Section 71-1,147.57, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.57~~ A delegating pharmacist shall conduct the training of all licensed health care professionals specified in subdivision (1) of section ~~71-1,147.53~~ 988 of this act and who are dispensing pursuant to the delegated dispensing permit of a public health clinic. The training shall be approved in advance by ~~the department upon the recommendation of~~ the board. The board shall base its ~~recommendation~~ approval upon the standards determined by the Public Health Clinic Formulary Advisory Committee.

Sec. 993. Section 71-1,147.59, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.59~~ (1) The board may appoint formulary advisory committees as deemed necessary for the determination of formularies for delegated dispensing permittees.

(2) The Public Health Clinic Formulary Advisory Committee is created. The committee shall consist of eight members as follows:

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(a) Two members designated by the board;

(b) Two members who are employees of the department with knowledge of and interest in reproductive health and sexually transmitted diseases;

(c) Two members who are licensed pharmacists in this state and who are selected by the ~~Director of Regulation and Licensure~~director. The Nebraska Pharmacists Association may submit to the director a list of five persons of recognized ability in the profession. If such a list is submitted, the director shall consider the names on such list and may appoint one or more of the persons so named. The director may appoint any qualified person even if such person is not named on the list submitted by the association; and

(d) Two members who are employees of public health clinics which hold or will hold a delegated dispensing permit and who are selected by the director from names recommended by such public health clinics.

(3) Designations and recommendations shall be made and submitted to the director in July prior to the third quarter meeting of the committee. Members shall serve for terms of two years each beginning with the third quarter meeting. Members may serve for consecutive terms as approved by the director. The director may remove a member of the committee for inefficiency, neglect of duty, or misconduct in office.

Sec. 994. Section 71-1,147.33, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,147.33~~ (1) A pharmacy technician shall only perform

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tasks which do not require professional judgment and which are subject to verification to assist a pharmacist in the practice of pharmacy.

(2) The functions and tasks which shall not be performed by pharmacy technicians or individuals dispensing pursuant to a delegated dispensing permit include, but are not limited to:

(a) Receiving oral medical orders from a practitioner or his or her agent;

(b) Providing patient counseling;

(c) Performing any evaluation or necessary clarification of a medical order or performing any functions other than strictly clerical functions involving a medical order;

(d) Supervising or verifying the tasks and functions of pharmacy technicians;

(e) Interpreting or evaluating the data contained in a patient's record maintained pursuant to section ~~71-1,147.35~~973 of this act;

(f) Releasing any confidential information maintained by the pharmacy;

(g) Performing any professional consultations; and

(h) Drug product selecting, with regard to an individual medical order, in accordance with the Nebraska Drug Product Selection Act.

(3) The ~~Director of Regulation and Licensure~~ director shall, ~~upon~~with the recommendation of the board, waive any of the limitations in subsection (2) of this section for purposes of a scientific study of the role of pharmacy technicians approved

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by the board. Such study shall be based upon providing improved patient care or enhanced pharmaceutical care. Any such waiver shall state the length of the study and shall require that all study data and results be made available to the board upon the completion of the study. Nothing in this subsection shall require the board to approve any study proposed by this subsection.

(4) The pharmacy employing pharmacy technicians shall be responsible for the supervision and performance of such technicians.

(5) The pharmacist in charge shall be responsible for the practice of pharmacy and the establishment of written control procedures and guidelines governing the qualifications, onsite training, functions, supervision, and verification of the performance of pharmacy technicians. The supervision of such technicians at the place of employment shall be performed by the licensed pharmacist who is on duty in the facility with the pharmacy technicians.

(6)(a) Each pharmacy shall document, in a manner and method specified in the written control procedures and guidelines, the basic competence of the pharmacy technician prior to performance of tasks and functions by such technician. Such basic competence shall include, but not be limited to:

(i) Basic pharmaceutical nomenclature;

(ii) Metric system measures, both liquid and solid;

(iii) The meaning and use of Roman numerals;

(iv) Abbreviations used for dosages and directions to patients;

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(v) Basic medical terms, including terms relating to ailments, diseases, or infirmities;

(vi) The use and operation of automated dispensing and record-keeping systems if used by the employing pharmacy;

(vii) Applicable statutes, rules, and regulations governing the preparation, compounding, dispensing, and distribution of drugs or devices, record keeping with regard to such functions, and the employment, use, and functions of pharmacy technicians; and

(viii) The contents of the written control procedures and guidelines.

(b) Written control procedures and guidelines shall specify the functions that pharmacy technicians may perform in the employing pharmacy. The written control procedures and guidelines shall specify the means used by the employing pharmacy to verify that the prescribed drug or device, the dosage form, and the directions provided to the patient or caregiver conform to the medical order authorizing the drug or device to be dispensed.

(c) The written control procedures and guidelines shall specify the manner in which the verification made prior to dispensing is documented.

(7) Each pharmacy or facility shall, before using pharmacy technicians, file with the board a copy of its written control procedures and guidelines and receive approval of its written control procedures and guidelines from the board. The board shall, within ninety days from the filing of such written control procedures and guidelines, review and either approve or

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disapprove them. The board shall notify the pharmacy or facility of the approval or disapproval. The board or its representatives shall have access to the approved written control procedures and guidelines upon request. Any written control procedures and guidelines for supportive pharmacy personnel that were filed by a pharmacy and approved by the board prior to May 26, 1999, shall be deemed to be approved and to apply to pharmacy technicians.

(8) Any hospital using supportive pharmacy personnel prior to June 11, 1993, and using pharmacy technicians on or after May 1, 2001, shall file a copy of written control procedures and guidelines with the board by February 1, 2002, or such hospital shall be in violation of subsection (2) of section ~~71-1,147~~971 of this act.

(9)(a) If pharmacy technicians perform functions requiring professional judgment and licensure as a pharmacist, perform functions not specified under approved written control procedures and guidelines, or perform functions without supervision and such acts are known to the pharmacist supervising the pharmacy technicians or the pharmacist in charge or are of such a nature that they should have been known to a reasonable person, such acts may be considered acts of unprofessional conduct on the part of the pharmacist supervising the pharmacy technicians or the pharmacist in charge pursuant to section ~~71-147~~ 81 of this act against whom disciplinary measures may be taken.

(b) Acts described in subdivision (a) of this subsection may be grounds for the department, ~~upon~~with the recommendation of the board, to apply to the district court in the judicial district

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in which the pharmacy is located for an order to cease and desist from the performance of any unauthorized acts. On or at any time after such application the court may, in its discretion, issue an order restraining such pharmacy or its agents or employees from the performance of unauthorized acts. After a full hearing the court shall either grant or deny the application. Such order shall continue until the court, after a like hearing, finds the basis for such order has been removed.

Sec. 995. Section 71-1,147.34, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.34~~ (1) Disciplinary action may be taken against the license of the employing pharmacy or the license of the hospital pursuant to the Health Care Facility Licensure Act, or against the license of the pharmacist in charge pursuant to section ~~71-155~~89 of this act, for the failure to submit written control procedures and guidelines and to receive board approval prior to the employment of pharmacy technicians.

(2) Disciplinary action may be taken in accordance with section ~~71-155~~ 89 of this act against the supervising pharmacist who is on duty in the pharmacy and is responsible for the supervision of pharmacy technicians for his or her failure or the failure of the pharmacists or pharmacy technicians to follow approved written control procedures and guidelines.

(3) Disciplinary action may be taken in accordance with section ~~71-155~~ 89 of this act against the supervising pharmacist who is on duty in the pharmacy and is responsible for the supervision of pharmacy technicians for any failure to properly

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verify the accuracy and completeness of the acts, tasks, or functions undertaken by pharmacy technicians, which failure results in a discrepancy in the dispensing process.

(4) Disciplinary action may be taken in accordance with section ~~71-155~~ 89 of this act against the license of a pharmacist in charge, or in accordance with the Health Care Facility Licensure Act against the license of the pharmacy or the hospital, for the hiring and employment of an individual to serve as a pharmacy technician when the pharmacist, pharmacy, or hospital knew or reasonably should have known that such individual was not qualified by law to so serve.

Sec. 996. The department shall establish and collect fees for credentialing under the Pharmacy Practice Act as provided in sections 54 to 60 of this act.

Sec. 997. Section 71-1,148, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,148~~ The department, ~~upon~~with the recommendation of the board, shall adopt and promulgate rules and regulations as deemed necessary to implement sections ~~71-1,142 to 71-1,151,~~ 71-2401 to 71-2405~~,~~ and 71-2501 to 71-2512, the Mail Service Pharmacy Licensure Act, the Nebraska Drug Product Selection Act, the Pharmacy Practice Act, and the Uniform Controlled Substances Act. The minimum standards and requirements for the practice of pharmacy, including dispensing pursuant to a delegated dispensing permit, shall be consistent with the minimum standards and requirements established by the department for pharmacy licenses under the Health Care Facility Licensure Act.

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Sec. 998. Section 71-1,149, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,149~~ The department may place under seal all drugs or devices that are owned by or in the possession, custody, or control of a licensee or permittee under ~~sections~~ ~~71-1,142~~ ~~to~~ ~~71-1,151~~ the Pharmacy Practice Act at the time his or her license or permit is suspended or revoked or at the time the board or department refuses to renew his or her license or permit. Except as otherwise provided in this section, drugs or devices so sealed shall not be disposed of until appeal rights under the Administrative Procedure Act have expired or an appeal filed pursuant to the act has been determined. The court involved in an appeal filed pursuant to the Administrative Procedure Act may order the department during the pendency of the appeal to sell sealed drugs or devices that are perishable. The proceeds of such a sale shall be deposited with the court.

Sec. 999. Only a licensed pharmacist who is or who has been engaged in the active practice of pharmacy shall be appointed by the department to serve as a pharmacy inspector with the consent and approval of the board.

Sec. 1000. Section 71-1,147.15, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,147.15~~ It shall be unlawful to distribute, dispense, or vend any drug by automatic or vending machine, except that this ~~prohibition~~ section shall not apply to a facility.

Sec. 1001. Section 71-1,147.13, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-1,147.13~~ Any person who does or commits any of the acts or things prohibited by ~~sections~~ ~~71-1,142~~ ~~to~~ ~~71-1,151~~ the Pharmacy Practice Act or otherwise violates any of the provisions thereof shall be guilty of a Class II misdemeanor except as otherwise specifically provided.

Sec. 1002. Section 71-1,362, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,362~~ Sections ~~71-1,362~~ ~~to~~ ~~71-1,389~~1002 to 1031 of this act shall be known and may be cited as the Physical Therapy Practice Act.

Sec. 1003. Section 71-1,363, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,363~~ The purpose of the Physical Therapy Practice Act is to update and recodify statutes relating to the practice of physical therapy. Nothing in the act shall be construed to expand the scope of practice of physical therapy as it existed prior to July 14, 2006.

Sec. 1004. Section 71-1,364, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,364~~ For purposes of the Physical Therapy Practice Act, the definitions found in sections ~~71-1,365~~ ~~to~~ ~~71-1,380~~1005 to 1019 of this act apply.

Sec. 1005. Section 71-1,365, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,365~~ Approved educational program means a program for the education and training of physical therapists and physical therapist assistants approved by the board pursuant to section

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~~71-1,388~~1027 of this act.

Sec. 1006. Section 71-1,366, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,366~~ Board means the Board of Physical Therapy.

Sec. 1007. Section 71-1,368, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,368~~ Direct supervision means supervision in which the supervising practitioner is physically present and immediately available and does not include supervision provided by means of telecommunication.

Sec. 1008. Section 71-1,369, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,369~~ Evaluation means the process of making clinical judgments based on data gathered from examination of a patient.

Sec. 1009. Section 71-1,370, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,370~~ General supervision means supervision either onsite or by means of telecommunication.

Sec. 1010. Section 71-1,371, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,371~~ Jurisdiction of the United States means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any American territory.

Sec. 1011. Section 71-1,372, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,372~~ Mobilization or manual therapy means a group of techniques comprising a continuum of skilled passive movements to

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the joints or related soft tissues, or both, throughout the normal physiological range of motion that are applied at varying speeds and amplitudes, without limitation.

Sec. 1012. Section 71-1,373, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,373~~ Non-treatment-related tasks means clerical, housekeeping, facility maintenance, or patient transportation services related to the practice of physical therapy.

Sec. 1013. Section 71-1,374, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,374~~ Physical therapist means a person licensed to practice physical therapy under the Physical Therapy Practice Act.

Sec. 1014. Section 71-1,375, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,375~~ Physical therapist assistant means a person certified as a physical therapist assistant under the Physical Therapy Practice Act.

Sec. 1015. Section 71-1,376, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,376~~ Physical therapy or physiotherapy means:

(1) Examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations, and disabilities or other conditions related to health and movement and, through analysis of the evaluative process, developing a plan of therapeutic intervention and prognosis while assessing the ongoing effects of the intervention;

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(2) Alleviating impairment, functional limitation, or disabilities by designing, implementing, or modifying therapeutic interventions which may include any of the following: Therapeutic exercise; functional training in home, community, or work integration or reintegration related to physical movement and mobility; therapeutic massage; mobilization or manual therapy; recommendation, application, and fabrication of assistive, adaptive, protective, and supportive devices and equipment; airway clearance techniques; integumentary protection techniques; nonsurgical debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient-related instruction; but which does not include the making of a medical diagnosis;

(3) Purchasing, storing, and administering topical and aerosol medication in compliance with applicable rules and regulations of the Board of Pharmacy regarding the storage of such medication;

(4) Reducing the risk of injury, impairment, functional limitation, or disability, including the promotion and maintenance of fitness, health, and wellness; and

(5) Engaging in administration, consultation, education, and research.

Sec. 1016. Section 71-1,377, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,377~~ Physical therapy aide means a person who is trained under the direction of a physical therapist and who performs treatment-related and non-treatment-related tasks.

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Sec. 1017. Section 71-1,378, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,378~~ Student means a person enrolled in an approved educational program.

Sec. 1018. Section 71-1,379, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,379~~ Testing means standard methods and techniques used to gather data about a patient. Testing includes surface electromyography and, subject to approval of the board, fine wire electromyography. Testing excludes diagnostic needle electromyography.

Sec. 1019. Section 71-1,380, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,380~~ Treatment-related tasks means activities related to the practice of physical therapy that do not require the clinical decisionmaking of a physical therapist or the clinical problem solving of a physical therapist assistant.

Sec. 1020. Section 71-1,381, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,381~~ (1) No person may practice physical therapy, hold oneself out as a physical therapist or physiotherapist, or use the abbreviation PT in this state without being licensed by the department. No person may practice as a physical therapist assistant, hold oneself out as a physical therapist assistant, or use the abbreviation PTA in this state without being certified by the department.

(2) A physical therapist may use the title physical

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therapist or physiotherapist and the abbreviation PT in connection with his or her name or place of business. A physical therapist assistant may use the title physical therapist assistant and the abbreviation PTA in connection with his or her name.

(3) No person who offers or provides services to another or bills another for services shall characterize such services as physical therapy or physiotherapy unless such services are provided by a physical therapist or a physical therapist assistant acting under the general supervision of a physical therapist.

Sec. 1021. Section 71-1,382, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,382~~ The following classes of persons shall not be construed to be engaged in the unauthorized practice of physical therapy:

(1) A member of another profession who is credentialed by the department and who is acting within the scope of practice of his or her profession;

(2) A student in an approved educational program who is performing physical therapy or related services within the scope of such program and under the direct supervision of a physical therapist;

(3) A person practicing physical therapy or as a physical therapist assistant in this state pursuant to federal regulations for state licensure of health care providers for the United States Armed Forces, the United States Public Health Service, or the United States Department of Veterans Affairs;

(4) A person credentialed to practice physical therapy

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or as a physical therapist assistant in another jurisdiction of the United States or in another country who is teaching physical therapy or demonstrating or providing physical therapy or related services in connection with an educational program in this state;

(5) A person credentialed to practice physical therapy in another jurisdiction of the United States or in another country who, by contract or employment, is providing physical therapy or related services in this state to individuals affiliated with established athletic teams, athletic organizations, or performing arts companies while such teams, organizations, or companies are present and temporarily practicing, competing, or performing in this state; or

(6) A person employed by a school district, educational service unit, or other public or private educational institution or entity serving pre-kindergarten through twelfth grade students who is providing personal assistance services, including mobility and transfer activities, such as assisting with ambulation with and without aids; positioning in adaptive equipment; application of braces; encouraging active range-of-motion exercises; assisting with passive range-of-motion exercises; assisting with transfers with or without mechanical devices; and such other personal assistance services based on individual needs as are suitable to providing an appropriate educational program.

Sec. 1022. Section 71-1,383, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,383~~ Every applicant for a license to practice physical therapy shall:

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(1) Present proof of completion of an approved educational program;

(2) In the case of an applicant who has been trained as a physical therapist in a foreign country, (a) present documentation of completion of a course of professional instruction substantially equivalent to an approved program accredited by the Commission on Accreditation in Physical Therapy Education or by an equivalent accrediting agency as determined by the board and (b) present proof of proficiency in the English language; and

(3) Successfully complete an examination approved by the department, with the ~~upon~~ recommendation of the board.

Sec. 1023. Section 71-1,384, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,384~~ Every applicant for a certificate to practice as a physical therapist assistant shall:

(1) Present proof of completion of an approved educational program; and

(2) Successfully complete an examination approved by the department, with the ~~upon~~ recommendation of the board.

Sec. 1024. An applicant for licensure to practice as a physical therapist who has met the education and examination requirements in section 1022 of this act, who passed the examination more than three years prior to the time of application for licensure, and who is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency

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requirements approved by the board pursuant to section 48 of this act.

Sec. 1025. An applicant for licensure to practice as a physical therapist who has met the requirements for endorsement in section 44 of this act but is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 48 of this act.

Sec. 1026. The department shall establish and collect fees for credentialing activities as provided in sections 54 to 60 of this act.

Sec. 1027. Section 71-1,388, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,388~~ The board may approve programs for physical therapy or physical therapist assistant education and training. Such approval may be based on the program's accreditation by the Commission on Accreditation in Physical Therapy Education or equivalent standards established by the board.

Sec. 1028. Section 71-1,385, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,385~~ (1) A physical therapist assistant may perform physical therapy services under the general supervision of a physical therapist, except that no physical therapist assistant shall perform the following:

(a) Interpretation of physician referrals;

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(b) Development of a plan of care;

(c) Initial evaluations or reevaluation of patients;

(d) Readjustment of a plan of care without consultation with the supervising physical therapist; or

(e) Discharge planning for patients.

(2) A physical therapist may provide general supervision for no more than two physical therapist assistants. A physical therapist shall not establish a satellite office at which a physical therapist assistant provides care without the general supervision of the physical therapist.

(3) A physical therapist shall reevaluate or reexamine on a regular basis each patient receiving physical therapy services from a physical therapist assistant under the general supervision of the physical therapist.

(4) A supervising physical therapist and the physical therapist assistant under general supervision shall review the plan of care on a regular basis for each patient receiving physical therapy services from the physical therapist assistant.

(5) A physical therapist assistant may document physical therapy services provided by the physical therapist assistant without the signature of the supervising physical therapist.

(6) A physical therapist assistant may act as a clinical instructor for physical therapist assistant students in an approved educational program.

Sec. 1029. Section 71-1,386, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,386~~ (1) For each patient under his or her care, a

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physical therapist shall:

(a) Be responsible for managing all aspects of physical therapy services provided to the patient and assume legal liability for physical therapy and related services provided under his or her supervision;

(b) Provide an initial evaluation and documentation of the evaluation;

(c) Provide periodic reevaluation and documentation of the reevaluation;

(d) Provide documentation for discharge, including the patient's response to therapeutic intervention at the time of discharge; and

(e) Be responsible for accurate documentation and billing for services provided.

(2) For each patient under his or her care on each date physical therapy services are provided to such patient, a physical therapist shall:

(a) Provide all therapeutic interventions that require the expertise of a physical therapist; and

(b) Determine the appropriate use of physical therapist assistants or physical therapy aides.

Sec. 1030. Section 71-1,387, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,387~~ A physical therapy aide may perform treatment-related and non-treatment-related tasks under the supervision of a physical therapist or a physical therapist assistant.

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Sec. 1031. INTENTIONALLY LEFT BLANK

Sec. 1032. Sections 1032 to 1043 of this act shall be known and may be cited as the Podiatry Practice Act.

Sec. 1033. For purposes of the Podiatry Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 1034 to 1036 of this act apply.

Sec. 1034. Board means the Board of Podiatry.

Sec. 1035. Podiatrist means a physician of the foot, ankle, and related governing structures.

Sec. 1036. Practice of podiatry means the diagnosis or medical, physical, or surgical treatment of the ailments of the human foot, ankle, and related governing structures except (1) the amputation of the forefoot, (2) the general medical treatment of any systemic disease causing manifestations in the foot, and (3) the administration of anesthetics other than local.

Sec. 1037. Section 71-173, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-173 For purposes of the Uniform Licensing Law:~~

~~(1)~~ The following persons shall be deemed to be practicing podiatry: Persons who publicly profess to be podiatrists or who publicly profess to assume the duties incident to the practice of podiatry.~~;~~

~~(2) Practice of podiatry means the diagnosis or medical, physical, or surgical treatment of the ailments of the human foot, ankle, and related governing structures except (a) the amputation of the forefoot, (b) the general medical treatment of~~

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~~any systemic disease causing manifestations in the foot, and (c) the administration of anesthetics other than local; and~~

~~(3) Podiatrist means a physician of the foot, ankle, and related governing structures.~~

Sec. 1038. Section 71-174, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-174 Section 71-173~~ The Podiatry Practice Act shall not be construed to include (1) licensed physicians and surgeons or licensed osteopathic physicians, (2) physicians and surgeons of the United States Army, Navy, or Public Health Service when acting in the line of duty in this state, (3) students who have not graduated from a school of podiatry and are enrolled in an approved and accredited school of podiatry when the services performed are a part of the course of study and are under the direct supervision of a licensed podiatrist, or (4) graduates of a school of podiatry currently enrolled in a postgraduate residency program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

Sec. 1039. Section 71-175, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-175~~ Every applicant for an initial license to practice podiatry shall (1) present proof of graduation from a school of chiropody or podiatry approved by ~~the department on recommendation of the Board of Podiatry~~board, (2) present proof of completion of a minimum one-year postgraduate residency program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association, ~~and~~ (3) pass a written examination which

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consists of (a) parts I and II of the examination given by the National Board of Podiatric Medical Examiners and (b) the written examination ~~prescribed~~ approved by the Board of Podiatry, and (4) present proof satisfactory to the board that he or she, within two years immediately preceding the application for licensure, (a) has been in the active practice of the profession of podiatry under a license in another state or territory of the United States or the District of Columbia for a period of one year, (b) has completed at least one year of a postgraduate residency program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association, or (c) has completed continuing competency in podiatry approved by the board. ~~Every applicant for a license to practice podiatry shall be required to pay the required fee.~~

Sec. 1040. The department shall establish and collect fees for credentialing under the Podiatry Practice Act as provided in sections 54 to 60 of this act.

Sec. 1041. Section 71-176, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-176~~ No school of podiatry shall be approved ~~and accredited~~by the board unless ~~said~~the school is accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

Sec. 1042. Section 71-174.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-174.02~~ A podiatrist shall not perform surgery on the ankle other than in a licensed hospital or ambulatory surgical center, and a podiatrist who performs surgery on the ankle in

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a licensed hospital or ambulatory surgical center shall have successfully completed an advanced postdoctoral surgical residency program of at least one year's duration which is recognized as suitable for that purpose by the ~~Board of Podiatry~~board.

No podiatrist initially licensed in this state on or after September 1, 2001, shall perform surgery on the ankle unless such person has successfully completed an advanced postdoctoral surgical residency program of at least two years' duration which is recognized as suitable for that purpose by the ~~Board of Podiatry~~board.

Sec. 1043. Section 71-176.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-176.01~~ (1) ~~On and after January 1, 1996, a~~A person employed exclusively in the office or clinic of a licensed podiatrist shall not perform any of the functions described in ~~subsection (2) of~~ section ~~71-3515.01~~660 of this act as a part of such employment unless the person is (a) licensed as a limited radiographer under the ~~Radiation Control~~Medical Radiography Practice Act or (b) certified as provided in this section.

(2) The ~~Board of Podiatry~~department, with the recommendation of the board, may certify a person to perform medical radiography on the anatomical regions of the ankle and foot if such person (a) has completed a fifteen-hour course of instruction, approved by the board, on radiation hygiene and podiatric radiological practices, including radiation health and safety, lower extremity anatomy, physics, concepts, physiology, techniques, positioning, equipment maintenance, and minimization

of radiation exposure, and (b) passed a competency examination approved by the board. A person who has not passed the competency examination after three attempts shall successfully complete a remedial course of instruction in medical radiography, approved by the board, prior to any further attempts to pass the competency examination.

Sec. 1044. Sections 1044 to 1075 of this act shall be known and may be cited as the Psychology Practice Act.

Sec. 1045. Section 71-1,206.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.01~~ For purposes of ~~sections~~ ~~71-1,206.01~~ ~~to~~ ~~71-1,206.35~~the Psychology Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections ~~71-1,206.02~~ ~~to~~ ~~71-1,206.10~~ ~~shall~~ ~~be~~ ~~used~~1046 to 1053 of this act apply.

Sec. 1046. Section 71-1,206.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.02~~ Board ~~shall~~ ~~mean~~means the Board of ~~Psychologists~~Psychology.

Sec. 1047. Section 71-1,206.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.03~~ Client or patient ~~shall~~ ~~mean~~means a recipient of psychological services within the context of a professional relationship. In the case of individuals with legal guardians, including minors and incompetent adults, the legal guardian shall also be considered a client or patient for decisionmaking purposes.

Sec. 1048. Section 71-1,206.04, Reissue Revised Statutes

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of Nebraska, is amended to read:

~~71-1,206.04~~ Code of conduct ~~shall~~ ~~mean~~means that set of regulatory rules of professional conduct which has been adopted by the board ~~pursuant~~ ~~to~~ ~~section~~ ~~71-1,206.12~~ to protect the public welfare by providing rules that govern a professional's behavior in the professional relationship.

Sec. 1049. Section 71-1,206.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.06~~ Institution of higher education ~~shall~~ ~~mean~~means a university, professional school, or other institution of higher learning that:

(1) In the United States, is regionally accredited by a regional or professional accrediting organization recognized by the United States Department of Education;

(2) In Canada, holds a membership in the Association of Universities and Colleges of Canada; or

(3) In other countries, is accredited by the respective official organization having such authority.

Sec. 1050. Section 71-1,206.07, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.07~~ Mental and emotional disorder ~~shall~~ ~~mean~~means a clinically significant behavioral or psychological syndrome or pattern that occurs in a person and is associated with present distress or disability or with significantly increased risk of suffering death, pain, disability, or an important loss of freedom. Such disorders may take many forms and have varying causes but must be considered a manifestation of behavioral, psychological,

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or biological dysfunction in the person. Reasonable descriptions of the kinds and degrees of mental and emotional disorders may be found in the revisions of accepted nosologies such as the International Classification of Diseases and the Diagnostic and Statistical Manual of Mental Disorders.

Sec. 1051. Section 71-1,206.08, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.08~~ (1) Practice of psychology ~~shall~~ ~~mean~~ means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, or procedures for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health.

(2) The practice of psychology ~~shall~~ ~~include~~includes, but is not ~~be~~ limited to, psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and psychophysiological and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; diagnosis and treatment of mental and emotional disorders, alcoholism and substance abuse, disorders of habit or conduct, and the psychological aspects of physical illness, accident, injury, or disability; psychoeducational evaluation, therapy, remediation, and consultation; and supervision of qualified individuals performing services specified in this section.

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(3) Psychological services may be rendered to individuals, families, groups, organizations, institutions, and the public. The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is received for services rendered.

Sec. 1052. Section 71-1,206.09, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.09~~ Psychologist ~~shall mean~~ means a person licensed to engage in the practice of psychology in this or another jurisdiction. The terms certified, registered, chartered, or any other term chosen by a jurisdiction to authorize the autonomous practice of psychology shall be considered equivalent terms.

Sec. 1053. Section 71-1,206.10, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.10~~ Representation as a psychologist ~~shall mean~~ means that the person uses any title or description of services which incorporates the words psychology, psychological, or psychologist or which implies that he or she possesses expert qualification in any area of psychology or that the person offers to individuals or to groups of individuals services defined as the practice of psychology.

Sec. 1054. Section 71-1,206.14, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,206.14~~ (1) Unless otherwise expressly stated, references to licensed psychologists in the Nebraska Mental Health Commitment Act, in the Psychology Practice Act, in the Sex Offender Commitment Act, ~~in sections 71-1,206.01 to 71-1,206.35,~~ and in

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section 44-513 ~~shall~~ ~~mean~~means only psychologists licensed under section ~~71-1,206.15~~ ~~or~~ ~~71-1,206.17~~ ~~or~~ ~~subdivisions~~ ~~(2)~~ ~~and~~ ~~(3)~~ ~~of~~ ~~section~~ ~~71-1,206.18~~1057 of this act and ~~shall~~does not mean persons holding a special license under ~~subdivision~~ ~~(1)~~ ~~of~~ ~~section~~ ~~71-1,206.18~~ ~~or~~ ~~under~~ ~~section~~ ~~71-1,206.19~~section 1059 of this act or holding a provisional license under ~~sections~~ ~~71-1,206.32~~ ~~to~~ ~~71-1,206.35~~the Psychology Practice Act.

(2) Any reference to a person certified to practice clinical psychology under the law in effect immediately prior to September 1, 1994, and any equivalent reference under the law of another jurisdiction, including, but not limited to, certified clinical psychologist, health care practitioner in psychology, or certified health care provider, shall be construed to refer to a psychologist licensed under the Uniform ~~Licensing~~ ~~Law~~Credentialing Act except for persons licensed under ~~subdivision~~ ~~(1)~~ ~~of~~ ~~section~~ ~~71-1,206.18~~ ~~or~~ ~~under~~ ~~section~~ ~~71-1,206.19~~section 1059 of this act or holding a provisional license under ~~sections~~ ~~71-1,206.32~~ ~~to~~ ~~71-1,206.35~~the Psychology Practice Act.

Sec. 1055. The board shall consist of five professional members and two public members appointed pursuant to section 61 of this act. The members shall meet the requirements of sections 67 and 68 of this act, except that two of the five years of experience for professional members may have been served in teaching or research.

Sec. 1056. Section 71-1,206.25, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.25~~ ~~(1)~~ Nothing in ~~sections~~ ~~71-1,206.01~~ ~~to~~

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~~71-1,206.35~~ the Psychology Practice Act shall be construed to prevent:

(1) The ~~the~~ teaching of psychology, the conduct of psychological research, or the provision of psychological services or consultation to organizations or institutions if such teaching, research, or service does not involve the delivery or supervision of direct psychological services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services, without regard to the source or extent of payment for services rendered. Nothing in ~~such sections~~ the act shall prevent the provision of expert testimony by psychologists who are otherwise exempted by ~~such sections~~the act. Persons holding a doctoral degree in psychology from an institution of higher education may use the title psychologist in conjunction with the activities permitted by this ~~subsection.~~subdivision;

(2) ~~Nothing in sections 71-1,206.01 to 71-1,206.35 shall be construed to prevent members~~ Members of other recognized professions that are licensed, certified, or regulated under the laws of this state from rendering services consistent with their professional training and code of ethics and within the scope of practice as set out in the statutes regulating their professional practice if they do not represent themselves to be psychologists;~~.~~

(3) Duly~~Nothing in sections 71-1,206.01 to 71-1,206.35 shall be construed to prevent duly~~ recognized members of the clergy from functioning in their ministerial capacity if they do not represent themselves to be psychologists or their services as psychological;~~.~~

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(4) Persons~~Nothing in sections 71-1,206.01 to 71-1,206.35 shall be construed to prevent persons~~ who are certified as school psychologists by the State Board of Education from using the title school psychologist and practicing psychology as defined in ~~such sections~~ the Psychology Practice Act if such practice is restricted to regular employment within a setting under the jurisdiction of the State Board of Education. Such individuals shall be employees of the educational setting and not independent contractors providing psychological services to educational settings; or~~.~~

(5) Any~~Nothing in sections 71-1,206.01 to 71-1,206.35 shall be construed to prevent any~~ of the following persons from engaging in activities defined as the practice of psychology if they do not represent themselves by the title psychologist, if they do not use terms other than psychological trainee, psychological intern, psychological resident, or psychological assistant to refer to themselves, and if they perform their activities under the supervision and responsibility of a psychologist in accordance with the rules and regulations ~~of the board~~adopted and promulgated under the Psychology Practice Act:

(a) A matriculated graduate student in psychology whose activities constitute a part of the course of study for a graduate degree in psychology at an institution of higher education;

(b) An individual pursuing postdoctoral training or experience in psychology, including persons seeking to fulfill the requirements for licensure under ~~sections 71-1,206.01 to 71-1,206.35~~the act; or

(c) An individual with a master's degree in clinical,

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counseling, or educational psychology or an educational specialist degree in school psychology who administers and scores and may develop interpretations of psychological testing under the supervision of a psychologist. Such individuals shall be deemed to be conducting their duties as an extension of the legal and professional authority of the supervising psychologist and shall not independently provide interpretive information or treatment recommendations to clients or other health care professionals prior to obtaining appropriate supervision. The department, with the recommendation of the board, may adopt and promulgate rules and regulations governing the conduct and supervision of persons referred to in this subdivision, including the number of such persons that may be supervised by a licensed psychologist. Persons who have carried out the duties described in this subdivision as part of their employment in institutions accredited by the Department of Health and Human Services, the State Department of Education, or the Department of Correctional Services for a period of two years prior to September 1, 1994, may use the title psychologist associate in the context of their employment in such settings. Use of the title shall be restricted to duties described in this subdivision, and the title shall be used in its entirety. Partial or abbreviated use of the title and use of the title beyond what is specifically authorized in this subdivision shall constitute the unlicensed practice of psychology.

Sec. 1057. Section 71-1,206.15, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.15~~ An applicant for licensure as a psychologist

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shall:

(1) Possess a doctoral degree from a program of graduate study in professional psychology from an institution of higher education. The degree shall be obtained from a program of graduate study in psychology that meets the standards of accreditation adopted by the American Psychological Association. Any applicant from a doctoral program in psychology that does not meet such standards shall present a certificate of retraining from a program of respecialization that does meet such standards;

(2) Prior to taking the examination, demonstrate that he or she has completed two years of supervised professional experience. One year of such experience shall be an internship meeting the standards of accreditation adopted by the American Psychological Association, and one year shall be supervised postdoctoral experience. The criteria for appropriate supervision shall be ~~in accordance with rules and regulations adopted and promulgated~~ determined by the board. Postdoctoral experience shall be compatible with the knowledge and skills acquired during formal doctoral or postdoctoral education in accordance with professional requirements and relevant to the intended area of practice; and

(3) Pass an examination. The board shall approve and the board or department shall administer examinations to qualified applicants on at least an annual basis. The board shall determine the subject matter and scope of the examination and shall require a written~~, and may require an oral,~~ examination, an oral examination, or both a written examination and an oral examination of each candidate for licensure. The board may ~~adopt and~~ approve a national

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standardized examination and any examination developed by the board.

Sec. 1058. Section 71-1,206.16, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.16~~ The ~~board~~ department may waive all or portions of the examination required by section ~~71-1,206.15~~ 1057 of this act (1) if a psychologist has been licensed in another jurisdiction and if the requirements for licensure in that jurisdiction are equal to or exceed the requirements for licensure in Nebraska, (2) for psychologists meeting the requirements of section ~~71-1,206.20~~1060 of this act, or (3) for an applicant who is board-certified in an area of professional psychology by the American Board of Professional Psychology.

Sec. 1059. Section 71-1,206.18, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,206.18 Except as provided in this section, a person licensed as a psychologist under the law in effect immediately prior to September 1, 1994, but not certified in clinical psychology:~~

(1) ~~Shall be issued a special license to practice psychology that continues existing requirements for supervision.~~ Any psychological practice that involves the diagnosis and treatment of major mental and emotional disorders by a person holding a special license shall be done under the supervision of a licensed psychologist ~~approved by the board in accordance with regulations developed~~as determined by the board. A psychologist ~~licensed under this subdivision~~holding a special license shall not

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supervise mental health practitioners or independently evaluate persons under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act. ~~Supervisory relationships shall be registered with the board by a notarized letter signed by both the supervisor and supervisee. The letter~~

(2) An application for a supervisory relationship shall be submitted to the department. The application shall contain:

(a) A general description of the supervisee's practice and the plan of supervision;

(b) A statement by the supervisor that he or she has the necessary experience and training to supervise this area of practice; and

(c) A statement by the supervisor that he or she accepts the legal and professional responsibility for the supervisee's practice with individuals having major mental and emotional disorders.

(3) Psychologists practicing with special licenses may continue to use the title licensed psychologist but shall disclose supervisory relationships to clients or patients for whom supervision is required and to third-party payors when relevant. Psychologists who wish to continue supervisory relationships existing immediately prior to September 1, 1994, with qualified physicians may do so if a letter as described in this ~~subdivision is~~section as it existed prior to the operative date of this section was received by the board within three months after ~~such date;~~September 1, 1994.

~~(2) May apply for licensure before December 1, 1995,~~

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~~by demonstrating that he or she has rendered psychological diagnostic and treatment services as the major element of his or her employment in an educational, correctional, or health care setting for at least four years after licensure. A psychologist demonstrating such experience shall be deemed to have met equivalent requirements for licensure to those required by section 71-1,206.15 and shall be eligible for renewal of licensure in accordance with the Uniform Licensing Law. For purposes of this subdivision:~~

~~(a) Educational settings shall be those which are part of a university or state college and those regulated by the State Department of Education;~~

~~(b) Correctional settings shall be those under the jurisdiction of the Department of Correctional Services; and~~

~~(c) Health care settings shall be hospitals, skilled nursing facilities, clinics, and mental health centers licensed by the Department of Health and Human Services Regulation and Licensure and accredited by the Joint Commission on Hospital Accreditation, by the Commission on Accreditation of Rehabilitation Facilities, by the Department of Health and Human Services, or by a similar or an equivalent accrediting body as determined by the board.~~

~~The four-year period shall be continuous and represent four years of full-time employment or a combination of half-time and full-time employment that totals four years. For purposes of this subdivision, year shall mean a calendar year except for educational settings that may define the employment year in~~

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~~nine-month increments. In no case shall an applicant receive four years of credit for experience accrued in less than four calendar years; or~~

~~(3) May apply for licensure within three months of September 1, 1994, by demonstrating that he or she has been employed as full-time faculty in a program of graduate education in psychology approved by the American Psychological Association for a period not less than five years after licensure. A person demonstrating such employment shall be deemed to have met equivalent requirements for licensure under section 71-1,206.15 and shall be eligible for renewal of licensure in accordance with the Uniform Licensing Law.~~

~~A person licensed but not certified to practice clinical psychology under the law in effect immediately prior to September 1, 1994, who has failed the examination for clinical certification shall not be eligible to apply under subdivisions (2) and (3) of this section. The board may deny an application under such subdivisions if the applicant has had any action taken against him or her for violations of the laws licensing psychologists by the board or the boards of other jurisdictions. Such person shall be granted a special license under subdivision (1) of this section.~~

Sec. 1060. Section 71-1,206.20, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.20~~ Notwithstanding section ~~71-1,206.15~~1057 of this act, the ~~board~~ department shall license an applicant who:

(1) Has at least twenty years of licensure to practice psychology in a United States or Canadian jurisdiction when the

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license was based on a doctoral degree;

(2) Has had no disciplinary sanction during the entire period of licensure; and

(3) Has passed the Nebraska board-developed examination.

Sec. 1061. Section 71-1,206.21, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.21~~ Notwithstanding section ~~71-1,206.15~~1057 of this act, the ~~board~~ department may issue a license as a psychologist to any individual who qualifies for such a license pursuant to an agreement of reciprocity entered into by the department, with the recommendation of the board, with the board or boards of another jurisdiction or multiple jurisdictions.

Sec. 1062. Section 71-1,206.22, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.22~~ Nothing in ~~sections~~ ~~71-1,206.15~~ ~~to~~ ~~71-1,206.21~~ the Psychology Practice Act shall be construed to prohibit the practice of psychology in this state by a person holding a doctoral degree in psychology from an institution of higher education who is licensed as a psychologist under the laws of another jurisdiction if the requirements for a license in the other jurisdiction are equal to or exceed the requirements for licensure in Nebraska and if the person provides no more than an aggregate of thirty days of professional services as a psychologist per year as defined in the rules and regulations. ~~of the board.~~ Psychologists practicing under this section shall notify the ~~board~~ department of the nature and location of their practice and provide evidence of their licensure in another jurisdiction.

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Upon determination that the applicant has met the requirements of this section, the ~~board~~ department shall issue a letter permitting the practice. An individual's permission to practice under this section may be revoked if it is determined by the department that he or she has engaged in conduct defined as illegal, unprofessional, or unethical under the statutes, rules, or regulations governing the practice of psychology in Nebraska.

Sec. 1063. Section 71-1,206.23, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.23~~ A psychologist licensed under the laws of another jurisdiction may be authorized by the ~~board~~ department to practice psychology for a maximum of one year if the psychologist has made application to the ~~board~~ department for licensure and has met the educational and experience requirements for licensure in Nebraska, if the requirements for licensure in the former jurisdiction are equal to or exceed the requirements for licensure in Nebraska, and if the psychologist is not the subject of a past or pending disciplinary action in another jurisdiction. Denial of licensure shall terminate this authorization.

Sec. 1064. The department, with the recommendation of the board, may issue a license by endorsement to practice as a psychologist to a person who meets the requirements of the Psychology Practice Act or substantially equivalent requirements as determined by the department, with the recommendation of the board.

Sec. 1065. Section 71-1,206.32, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.32~~ A person who needs to obtain the required one

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year of supervised postdoctoral experience in psychology pursuant to subdivision (2) of section ~~71-1,206.15~~ 1057 of this act shall obtain a provisional license to practice psychology. An applicant for a provisional license to practice psychology shall:

(1) Have a doctoral degree from an institution of higher education in a program of graduate study in professional psychology that meets the standards of accreditation adopted by the American Psychological Association or its equivalent. If the program is not accredited by the American Psychological Association, it is the responsibility of the applicant to provide evidence of equivalence. Any applicant from a program that does not meet such standards shall present a certificate of retraining from a program of respecialization that does meet such standards;

(2) Have completed one year of supervised professional experience in an internship as provided in subdivision (2) of section ~~71-1,206.15~~1057 of this act;

~~(3)(a) Apply within sixty days after August 28, 1999, if the applicant is then in the year of registered supervised postdoctoral experience on such date; or~~

~~(b) Apply at any time after August 28, 1999, but~~ (3) Apply prior to beginning the year of registered supervised postdoctoral experience; and ~~if the applicant is not in such year on such date;~~

~~(4) Be of good moral character; and~~

~~(5)~~(4) Submit to the department:

~~(a) A verified complete application on a form provided by the department;~~

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~~(b)~~(a) An official transcript showing proof of a doctoral degree in psychology from an institution of higher education;

~~(c)~~(b) A certified copy of the applicant's birth certificate or other evidence of having attained the age of ~~majority~~nineteen years; and

~~(d)~~(c) A registration of supervisory relationship pursuant to ~~subdivision (1) of section 71-1,206.18; and~~section 1059 of this act.

~~(e) The required provisional license fee as established by the department.~~

Sec. 1066. Section 71-1,206.33, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.33~~ The department shall approve or deny a complete application for a provisional license to practice psychology within one hundred fifty days after receipt of the application.

Sec. 1067. Section 71-1,206.34, Revised Statutes Cumulative Supplement, 2006 , is amended to read:

~~71-1,206.34~~ A psychologist practicing with a provisional license shall use the title Provisionally Licensed Psychologist. A provisionally licensed psychologist shall disclose supervisory relationships to clients or patients for whom supervision is required and to third parties when relevant. A provisionally licensed psychologist shall not supervise other mental health professionals or independently evaluate persons under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act.

Sec. 1068. Section 71-1,206.35, Reissue Revised Statutes

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of Nebraska, is amended to read:

~~71-1,206.35~~ A provisional license to practice psychology expires upon receipt of a license to practice psychology or two years after the date of issuance, whichever occurs first.

Sec. 1069. The department shall establish and collect fees for credentialing under the Psychology Practice Act as provided in sections 54 to 60 of this act.

Sec. 1070. In addition to the grounds for disciplinary action found in sections 81 and 82 of this act, a credential subject to the Psychology Practice Act may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 99 of this act when the applicant or licensee fails to disclose the information required by section 1067 of this act.

Sec. 1071. Section 71-1,206.24, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.24~~ The board shall ensure through rules and regulations and enforcement that psychologists limit their practice to demonstrated areas of competence as documented by relevant professional education, training, and experience.

Sec. 1072. Section 71-1,206.26, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.26~~ A psychologist and anyone under his or her supervision shall conduct his or her professional activities in conformity with the code of conduct. ~~Any person found guilty of or entering a plea of no contest to any of the acts or offenses specified in section 71-147 or 71-148 or violations of the code of~~

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~~conduct shall pay the cost of all expenses of investigation and prosecution of his or her case to the board.~~

Sec. 1073. Section 71-1,206.27, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.27~~ (1) It shall be a violation of ~~sections 71-1,206.01 to 71-1,206.35~~ the Psychology Practice Act for any person not licensed in accordance with ~~such sections~~ the act to represent himself or herself as a psychologist. It shall be a violation of ~~such sections~~ the act for any person not licensed in accordance with ~~such sections~~ the act to engage in the practice of psychology whether practicing as an individual, firm, partnership, limited liability company, corporation, agency, or other entity.

(2) Any person who represents himself or herself as a psychologist in violation of ~~such sections~~ the act or who engages in the practice of psychology in violation of ~~such sections~~ the act shall be guilty of a Class II misdemeanor. Each day of violation shall constitute a separate offense.

(3) Any person filing or attempting to file, as his or her own, a diploma or license of another or a forged affidavit of identification shall be guilty of a Class IV felony.

~~It shall be unlawful for a person whose license to practice psychology has been suspended or revoked to practice psychology in this state. The board may issue, with or without reexamination, a new license to such a person whenever it deems such course safe and just.~~

Sec. 1074. Section 71-1,206.29, Reissue Revised Statutes of Nebraska, is amended to read:

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~~71-1,206.29~~ (1) The confidential relations and communications between psychologists and their clients and patients shall be on the same basis as those between physicians and their clients and patients as provided in section 27-504.

(2) In judicial proceedings, whether civil, criminal, or juvenile, in legislative and administrative proceedings, and in proceedings preliminary and ancillary thereto, a client or patient, or his or her legal guardian or personal representative, may refuse to disclose or may prevent the disclosure of confidential information, including information contained in administrative records, communicated to a psychologist, or to a person reasonably believed by the client or patient to be a psychologist, or the psychologist's or person's agents, for the purpose of diagnosis, evaluation, or treatment of any mental and emotional disorder. In the absence of evidence to the contrary, the psychologist shall be presumed to be authorized to claim the privilege on the client's or patient's behalf.

(3) This privilege may not be claimed by the client or patient, or on his or her behalf by authorized persons, in the following circumstances:

~~(1)~~ (a) When abuse or harmful neglect of children, the elderly, or disabled or incompetent individuals is known or reasonably suspected;

~~(2)~~ (b) When the validity of a will of a former client or patient of the psychologist is contested;

~~(3)~~ (c) When such information is necessary for the psychologist to defend against a malpractice action brought by the

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client or patient;

~~(4)~~ (d) When an immediate threat of physical violence against a readily identifiable victim is disclosed to the psychologist;

~~(5)~~ (e) When an immediate threat of self-inflicted injury is disclosed to the psychologist;

~~(6)~~ (f) When the client or patient, by alleging mental or emotional damages in litigation, puts his or her mental state in issue;

~~(7)~~ (g) When the client or patient is examined pursuant to court order;

~~(8)~~ (h) When the purpose of the proceeding is to substantiate and collect on a claim for mental or emotional health services rendered to the client or patient or any other cause of action arising out of the professional relationship; or

~~(9)~~ (i) In the context of investigations and hearings brought by the client or patient and conducted by the ~~board~~department, when violations of ~~sections 71-1,206.01 to 71-1,206.35~~ the Psychology Practice Act are at issue.

Sec. 1075. Section 71-1,206.30, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,206.30~~ (1) No monetary liability and no cause of action shall arise against any psychologist for failing to warn of and protect from a client's or patient's threatened violent behavior or failing to predict and warn of and protect from a client's or patient's violent behavior except when the client or patient has communicated to the psychologist a serious threat

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of physical violence against a reasonably identifiable victim or victims.

(2) The duty to warn of or to take reasonable precautions to provide protection from violent behavior shall arise only under the limited circumstances specified in subsection (1) of this section. The duty shall be discharged by the psychologist if reasonable efforts are made to communicate the threat to the victim or victims and to a law enforcement agency.

(3) No monetary liability and no cause of action shall arise against any person who is a psychologist for a confidence disclosed to third parties in an effort to discharge a duty arising under subsection (1) of this section in accordance with subsection (2) of this section.

Sec. 1076. Sections 1076 to 1091 of this act shall be known and may be cited as the Respiratory Care Practice Act.

Sec. 1077. For purposes of the Respiratory Care Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 1078 to 1081 of this act apply.

Sec. 1078. Board means the Board of Respiratory Care Practice.

Sec. 1079. Medical director means a licensed physician who has the qualifications as described in section 1089 of this act.

Sec. 1080. Respiratory care means the health specialty responsible for the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities

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associated with the cardiopulmonary system. Respiratory care shall not be limited to a hospital setting and shall include the therapeutic and diagnostic use of medical gases, administering apparatus, humidification and aerosols, ventilatory assistance and ventilatory control, postural drainage, chest physiotherapy and breathing exercises, respiratory rehabilitation, cardiopulmonary resuscitation, and maintenance of nasal or oral endotracheal tubes. Respiratory care shall also include the administration of aerosol and inhalant medications to the cardiorespiratory system and specific testing techniques employed in respiratory care to assist in diagnosis, monitoring, treatment, and research. Such techniques shall include, but not be limited to, measurement of ventilatory volumes, pressures, and flows, measurement of physiologic partial pressures, pulmonary function testing, and hemodynamic and other related physiological monitoring of the cardiopulmonary system.

Sec. 1081. Section 71-1,227, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,227 As used in sections 71-1,227 to 71-1,236, unless the context otherwise requires:~~

~~(1) Board shall mean the Board of Respiratory Care Practice;~~

~~(2) Medical director shall mean a licensed physician who has the qualifications as described in section 71-1,229;~~

~~(3) Respiratory care shall mean the health specialty responsible for the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system. Respiratory care shall~~

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~~not be limited to a hospital setting and shall include the therapeutic and diagnostic use of medical gases, administering apparatus, humidification and aerosols, ventilatory assistance and ventilatory control, postural drainage, chest physiotherapy and breathing exercises, respiratory rehabilitation, cardiopulmonary resuscitation, and maintenance of nasal or oral endotracheal tubes. It shall also include the administration of aerosol and inhalant medications to the cardiorespiratory system and specific testing techniques employed in respiratory care to assist in diagnosis, monitoring, treatment, and research. Such techniques shall include, but not be limited to, measurement of ventilatory volumes, pressures, and flows, measurement of physiologic partial pressures, pulmonary function testing, and hemodynamic and other related physiological monitoring of the cardiopulmonary system; and~~

~~(4)~~ Respiratory care practitioner ~~shall mean~~means:

~~(a)~~ (1) Any person employed in the practice of respiratory care who has the knowledge and skill necessary to administer respiratory care to patients of all ages with varied cardiopulmonary diseases and to patients in need of critical care and who is capable of serving as a resource to the physician and other health professionals in relation to the technical aspects of respiratory care including effective and safe methods for administering respiratory care; and

~~(b)~~ (2) A person capable of supervising, directing, or teaching less skilled personnel in the provision of respiratory care services.

Sec. 1082. Membership on the board shall consist of

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two respiratory care practitioners, one physician, and one public member.

Sec. 1083. Section 71-1,235, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,235 Sections 71-1,227 to 71-1,236~~ The Respiratory Care Practice Act shall not prohibit:

(1) The practice of respiratory care which is an integral part of the program of study by students enrolled in approved respiratory care education programs;

(2) The gratuitous care, including the practice of respiratory care, of the ill by a friend or member of the family or by a person who is not licensed to practice respiratory care if such person does not represent himself or herself as a respiratory care practitioner;

(3) The practice of respiratory care by nurses, physicians, physician assistants, physical therapists, or any other professional licensed under the Uniform ~~Licensing Law~~ Credentialing Act when such practice is within the scope of practice for which that person is licensed;

(4) The practice of any respiratory care practitioner of this state or any other state or territory while employed by the federal government or any bureau or division thereof while in the discharge of his or her official duties;

(5) Techniques defined as pulmonary function testing and the administration of aerosol and inhalant medications to the cardiorespiratory system as it relates to pulmonary function technology administered by a registered pulmonary function

technologist credentialed by the National Board for Respiratory Care or a certified pulmonary function technologist credentialed by the National Board for Respiratory Care; or

(6) The performance of oxygen therapy or the initiation of noninvasive positive pressure ventilation by a registered polysomnographic technologist relating to the study of sleep disorders if such procedures are performed or initiated under the supervision of a licensed physician at a facility accredited by the American Academy of Sleep Medicine.

Sec. 1084. Section 71-1,231, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,231~~ (1) An applicant for a license to practice respiratory care shall submit to the ~~board~~ department written evidence~~,~~ ~~verified~~ ~~by~~ ~~oath,~~ that the applicant has completed a respiratory care educational program accredited by the ~~American Medical Association's Committee on Allied Health Education and Accreditation~~ Commission on Accreditation of Allied Health Education Programs in collaboration with the ~~Joint Review Committee for Respiratory Therapy Education~~ Committee on Accreditation for Respiratory Care or its successor or by an accrediting agency approved by the ~~department~~board.

(2) In order to be licensed, initial applicants shall pass an examination approved by ~~the department on the recommendation of~~ the board.

Sec. 1085. Section 71-1,233, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,233~~ The ~~board shall, with the approval of the~~

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department, with the recommendation of the board, shall issue a license to perform respiratory care to an applicant who, on or before July 17, 1986, has passed the Certified Respiratory Therapy Technician or Registered Respiratory Therapist examination administered by the National Board for Respiratory Care or the appropriate accrediting agency acceptable to the ~~department~~board.

Sec. 1086. An applicant for licensure to practice respiratory care who has met the education and examination requirements in section 1084 of this act, who passed the examination more than three years prior to the time of application for licensure, and who is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 48 of this act.

Sec. 1087. An applicant for licensure to practice respiratory care who has met the requirements for endorsement in section 44 of this act but is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 48 of this act.

Sec. 1088. The department shall establish and collect fees for credentialing under the Respiratory Care Practice Act as provided in sections 54 to 60 of this act.

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Sec. 1089. Section 71-1,229, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,229~~ Any health care facility or home care agency providing inpatient or outpatient respiratory care service shall designate a medical director, who shall be a licensed physician who has special interest and knowledge in the diagnosis and treatment of respiratory problems. Such physician shall (1) be an active medical staff member of a licensed health care facility, (2) whenever possible be qualified by special training or experience in the management of acute and chronic respiratory disorders, and (3) be competent to monitor and assess the quality, safety, and appropriateness of the respiratory care services which are being provided. The medical director shall be accessible to and assure the competency of respiratory care practitioners and shall require that respiratory care be ordered by a physician who has medical responsibility for any patient that needs such care.

Sec. 1090. Section 71-1,230, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,230~~ The practice of respiratory care shall be performed only under the direction of a medical director and upon the order of a licensed physician.

Sec. 1091. Section 71-1,236, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,236~~ In the event a respiratory care practitioner renders respiratory care in a hospital or health care facility, he or she shall be subject to the rules and regulations of that facility. Such rules and regulations may include, but not

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be limited to, reasonable requirements that the respiratory care practitioner maintain professional liability insurance with such coverage and limits as may be established by the hospital or other health care facility upon the recommendation of the medical staff.

Sec. 1092. Section 71-1,153, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,153~~ Sections ~~71-1,152.01~~ ~~to~~ ~~71-1,166~~1092 to 1121 of this act shall be known and may be cited as the ~~Nebraska~~ Veterinary Medicine and Surgery Practice Act.

Sec. 1093. For purposes of the Veterinary Medicine and Surgery Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 1094 to 1109 of this act apply.

Sec. 1094. Accredited school of veterinary medicine means:

(1) One approved by the board;

(2) A veterinary college or division of a university or college that offers the degree of Doctor of Veterinary Medicine or its equivalent; and

(3) One that conforms to the standards required for accreditation by the American Veterinary Medical Association.

Sec. 1095. Animal means any animal other than man and includes birds, fish, and reptiles, wild or domestic, living or dead, except domestic poultry.

Sec. 1096. Approved veterinary technician program means:

(1) One approved by the board;

(2) A school or college that offers the degree of

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Veterinary Technician, a degree in veterinary technology, or the equivalent; and

(3) One that conforms to the standards required for accreditation by the American Veterinary Medical Association.

Sec. 1097. Board means the Board of Veterinary Medicine and Surgery.

Sec. 1098. Direct supervision means that the supervisor is on the premises and is available to the veterinary technician or unlicensed assistant who is treating the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task.

Sec. 1099. Immediate supervision means that the supervisor is on the premises and is in direct eyesight and hearing range of the animal and the veterinary technician or unlicensed assistant who is treating the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task.

Sec. 1100. Indirect supervision means that the supervisor is not on the premises but is easily accessible and has given written or oral instructions for treatment of the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task.

Sec. 1101. Licensed veterinarian means a person who is validly and currently licensed to practice veterinary medicine and

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surgery in this state.

Sec. 1102. Licensed veterinary technician means an individual who is validly and currently licensed as a veterinary technician in this state.

Sec. 1103. Practice of veterinary medicine and surgery means:

(1) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury, or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for testing for pregnancy or fertility or for correcting sterility or infertility. The acts described in this subdivision shall not be done without a valid veterinarian-client-patient relationship;

(2) To render advice or recommendation with regard to any act described in subdivision (1) of this section;

(3) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subdivision (1) of this section; and

(4) To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subdivision (1) of this section.

Sec. 1104. Supervisor means a licensed veterinarian or licensed veterinary technician as required by statute or rule or

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regulation for the particular delegated task being performed by a veterinary technician or unlicensed assistant.

Sec. 1105. Unlicensed assistant means an individual who is not a licensed veterinarian or a licensed veterinary technician who is working in veterinary medicine.

Sec. 1106. Veterinarian means a person who has received a degree of Doctor of Veterinary Medicine from an accredited school of veterinary medicine or its equivalent.

Sec. 1107. Veterinarian-client-patient relationship means that:

(1) The veterinarian has assumed the responsibility for making clinical judgments regarding the health of the animal and the need for medical treatment, and the client has agreed to follow the veterinarian's instructions;

(2) The veterinarian has sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal or by medically appropriate and timely visits to the premises where the animal is kept; and

(3) The veterinarian is readily available or has arranged for emergency coverage and for followup evaluation in the event of adverse reactions or the failure of the treatment regimen.

Sec. 1108. Veterinary medicine and surgery includes veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine.

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Sec. 1109. Veterinary technician means an individual who has received a degree in veterinary technology from an approved veterinary technician program or its equivalent.

Sec. 1110. The board shall consist of five members, including three licensed veterinarians, one licensed veterinary technician, and one public member.

Sec. 1111. Section 71-1,152.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,152.01~~ The purpose of the ~~Board of Veterinary Medicine and Surgery~~board is to: (1) Provide for the health, safety, and welfare of the citizens; (2) insure that veterinarians serving the public meet minimum standards of proficiency and competency; (3) insure that schools of veterinary medicine and surgery meet the educational needs of the students and qualify students to serve the public in a safe and efficient manner; and (4) control the field of veterinary medicine and surgery in the interest of consumer protection.

Sec. 1112. Section 71-1,155, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,155~~ No person may practice veterinary medicine and surgery in the state who is not a licensed veterinarian. The ~~Nebraska~~ Veterinary Medicine and Surgery Practice Act shall not be construed to prohibit:

(1) An employee of the federal, state, or local government from performing his or her official duties;

(2) A person who is a ~~regular~~ student in a veterinary school from performing duties or actions assigned by his or her

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instructors or from working under the direct supervision of a licensed veterinarian; ~~during a school vacation period;~~

(3) A person who is a ~~regular~~ student in ~~a veterinary technician school~~an approved veterinary technician program from performing duties or actions assigned by his or her instructors or from working under the direct supervision of a licensed veterinarian ~~during a school vacation period~~or a licensed veterinary technician;

(4) Any merchant or manufacturer from selling feed or feeds whether medicated or nonmedicated;

(5) A veterinarian regularly licensed in another state from consulting with a licensed veterinarian in this state;

(6) Any merchant or manufacturer from selling from his or her established place of business medicines, appliances, or other products used in the prevention or treatment of animal diseases or any merchant or manufacturer's representative from conducting educational meetings to explain the use of his or her products or from investigating and advising on problems developing from the use of his or her products;

(7) An owner of livestock or a bona fide farm or ranch employee from performing any act of vaccination, surgery, pregnancy testing, or the administration of drugs in the treatment of domestic animals under his or her custody or ownership nor the exchange of services between persons or bona fide employees who are principally farm or ranch operators or employees in the performance of these acts;

(8) A member of the faculty of a veterinary school

or veterinary science department from performing his or her regular functions, or a person lecturing or giving instructions or demonstrations at a veterinary school or veterinary science department or in connection with a continuing competency activity;

(9) Any person from selling or applying any pesticide, insecticide, or herbicide;

(10) Any person from engaging in bona fide scientific research which reasonably requires experimentation involving animals;

(11) Any person from treating or in any manner caring for domestic chickens, turkeys, or waterfowl, which are specifically exempted from the ~~Nebraska~~ Veterinary Medicine and Surgery Practice Act; or

(12) Any person from performing dehorning or castrating livestock, not to include equidae.

For purposes of the ~~Nebraska~~ Veterinary Medicine and Surgery Practice Act, castration shall be limited to the removal or destruction of male testes.

Sec. 1113. Section 71-1,158, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,158 (1) Any person desiring~~ Each applicant for a license to practice veterinary medicine and surgery in this state shall present to the department:~~make written application to the board. The application shall include:~~

~~(a) Proof that the applicant is twenty-one years of age or more;~~

~~(b) Information indicating that the applicant is a person~~

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~~of good moral character;~~

~~(c)~~ (1) Proof that the applicant is a graduate of an accredited school of veterinary medicine or holds a certificate issued by an entity that determines educational equivalence approved by the ~~department upon recommendation of the board~~ indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited college of veterinary medicine; ~~and~~

~~(d)~~ (2) Proof that the applicant has passed an examination approved by the board; and

(3) Such other information and proof as the department, with the recommendation of the board, may require by rule and regulation.

~~(2) The application shall be accompanied by the required fee.~~

~~(3) If the board determines that the applicant possesses the proper qualifications, the board shall admit the applicant to the next examination, or if the applicant is eligible for a license without examination under section 71-1,160, the board may forthwith recommend that he or she be issued a license. If an applicant is found not qualified to take the examination or for a license without examination, the board shall immediately notify the applicant in writing of such finding and the grounds therefor.~~

Sec. 1114. Section 71-1,157, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,157~~ Any person holding a valid license to practice veterinary medicine and surgery in this state on October 23,

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1967, shall be recognized as a licensed veterinarian and shall be entitled to retain such status so long as he or she complies with the ~~Nebraska~~ Veterinary Medicine and Surgery Practice Act and the provisions of the Uniform ~~Licensing~~ ~~Law~~Credentialing Act relating to veterinary medicine and surgery.

Sec. 1115. Section 71-1,163, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,163~~ A license to practice veterinary medicine and surgery may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section ~~71-155~~ 99 of this act when the applicant or licensee is guilty of any of the acts or offenses specified in sections ~~71-147~~ ~~and~~ ~~71-148~~ 81 and 82 of this act and for any of the following reasons:

(1) Fraud or dishonesty in the application or reporting of any test for disease in animals;

(2) Failure to keep veterinary premises and equipment in a clean and sanitary condition;

(3) Failure to report, as required by law, or making false report of, any contagious or infectious disease;

(4) Dishonesty or gross negligence in the inspection of foodstuffs or the issuance of health or inspection certificates; or

(5) Cruelty to animals.

Sec. 1116. Section 71-1,165, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,165~~ ~~(1)~~ To be a licensed veterinary technician in this state, an individual shall ~~meet~~ ~~one~~ ~~of~~ ~~the~~ ~~following~~

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~~requirements:(a)~~ ~~Be~~ (1) be a graduate of an ~~American~~ ~~Veterinary~~ ~~Medical~~ ~~Association~~ approved veterinary technician program and (2) receive a passing score on ~~the~~ a national examination ~~for~~ ~~such~~ ~~program~~ ~~as~~ ~~determined~~ approved by the board.~~;~~

~~(b)~~ ~~On~~ ~~July~~ ~~13,~~ ~~2000,~~ ~~be~~ ~~an~~ ~~approved~~ ~~animal~~ ~~technician~~ ~~certified~~ ~~under~~ ~~sections~~ ~~71-1,168~~ ~~to~~ ~~71-1,185~~ ~~as~~ ~~such~~ ~~sections~~ ~~existed~~ ~~prior~~ ~~to~~ ~~such~~ ~~date;~~ ~~or~~

~~(c)~~ ~~Have~~ ~~at~~ ~~least~~ ~~five~~ ~~years~~ ~~or~~ ~~more~~ ~~full-time~~ ~~experience~~ ~~working~~ ~~with~~ ~~a~~ ~~veterinarian,~~ ~~be~~ ~~employed~~ ~~by~~ ~~a~~ ~~veterinarian~~ ~~on~~ ~~July~~ ~~13,~~ ~~2000,~~ ~~and~~ ~~within~~ ~~three~~ ~~years~~ ~~after~~ ~~such~~ ~~date~~ ~~receive~~ ~~a~~ ~~passing~~ ~~score~~ ~~on~~ ~~the~~ ~~national~~ ~~examination~~ ~~described~~ ~~in~~ ~~subdivision~~ ~~(1)(a)~~ ~~of~~ ~~this~~ ~~section~~ ~~as~~ ~~determined~~ ~~by~~ ~~the~~ ~~board.~~

~~(2)~~ ~~A~~ ~~veterinary~~ ~~technician~~ ~~license~~ ~~shall~~ ~~be~~ ~~renewed~~ ~~biennially.~~ ~~Each~~ ~~licensed~~ ~~veterinary~~ ~~technician~~ ~~shall~~ ~~be~~ ~~required~~ ~~to~~ ~~complete~~ ~~continuing~~ ~~competency~~ ~~activities~~ ~~as~~ ~~required~~ ~~by~~ ~~the~~ ~~board~~ ~~pursuant~~ ~~to~~ ~~section~~ ~~71-161.09~~ ~~as~~ ~~a~~ ~~prerequisite~~ ~~for~~ ~~the~~ ~~licensee's~~ ~~next~~ ~~subsequent~~ ~~license~~ ~~renewal.~~

Sec. 1117. Section 71-1,166, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-1,166~~ The department, with the recommendation of the board, shall adopt and promulgate rules and regulations providing for (1) licensure of veterinary technicians meeting the requirements of section ~~71-1,165~~ 1116 of this act and (2) standards for the level of supervision required for particular delegated animal health care tasks and which determine which tasks may be performed by a veterinary technician and by unlicensed assistants. The level of supervision may be immediate supervision,

direct supervision, or indirect supervision as determined by the department, with the recommendation of the board, based upon the complexity and requirements of the task.

Sec. 1118. (1) An applicant for a license by endorsement to practice veterinary medicine and surgery shall meet the requirements set out in section 44 of this act and shall have been actively engaged in the practice of such profession at least one of the three years immediately preceding the application under a license in another state or territory of the United States, the District of Columbia, or a Canadian province.

(2) An applicant for a license by endorsement to practice as a veterinary technician shall meet the requirements set out in section 44 of this act and shall have been actively engaged in the practice of such profession at least one of the three years immediately preceding the application under a license in another state or territory of the United States, the District of Columbia, or a Canadian province.

Sec. 1119. The department shall establish and collect fees for credentialing under the Veterinary Medicine and Surgery Practice Act as provided in sections 54 to 60 of this act.

Sec. 1120. (1) Only a licensed veterinarian may advertise or offer his or her services in a manner calculated to lead others to believe that he or she is a licensed veterinarian.

(2) Only a licensed veterinary technician may advertise or offer his or her services in a manner calculated to lead others to believe that he or she is a licensed veterinary technician.

Sec. 1121. Section 71-1,164, Reissue Revised Statutes of

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Nebraska, is amended to read:

~~71-1,164~~ Unless required by any state or local law for contagious or infectious disease reporting or other public health and safety purpose, no veterinarian licensed under the ~~Nebraska~~ Veterinary Medicine and Surgery Practice Act shall be required to disclose any information concerning the veterinarian's care of an animal except under a written authorization or other waiver by the veterinarian's client or pursuant to a court order or a subpoena. A veterinarian who releases information under a written authorization or other waiver by the client or pursuant to a court order or a subpoena is not liable to the client or any other person. The privilege provided by this section is waived to the extent that the veterinarian's client or the owner of the animal places the veterinarian's care and treatment of the animal or the nature and extent of injuries to the animal at issue in any civil or criminal proceeding. For purposes of this section, veterinarian includes the employees or agents of the licensed veterinarian while acting for or on behalf of such veterinarian.

Sec. 1122. Section 12-1208, Revised Statutes Cumulative Supplement, 2006, is amended to read:

12-1208 (1) Upon notification pursuant to section 12-1206, the society shall promptly assist in examining the discovered material to attempt to determine its origin and identity.

(2) If the society finds that the discovered human skeletal remains or burial goods are of non-American-Indian origin with a known or unknown identity, it shall notify the county

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attorney of the finding. Upon receipt of the finding, the county attorney shall cause the remains and associated burial goods to be interred in consultation with the county coroner. Reburial shall be in accordance with the wishes and at the expense of any known relatives in the order listed by section ~~71-1339~~566 of this act or, if no relatives are known, in an appropriate cemetery at the expense of the county in which the remains were discovered after a one-year scientific study period if such study period is considered necessary or desirable by the society. In no case shall any human skeletal remains that are reasonably identifiable as to familial or tribal origin be displayed by any entity which receives funding or official recognition from the state or any of its political subdivisions. In situations in which human skeletal remains or burial goods that are unidentifiable as to familial or tribal origin are clearly found to be of extremely important, irreplaceable, and intrinsic scientific value, the remains or goods may be curated by the society until the remains or goods may be reinterred as provided in this subsection without impairing their scientific value.

(3) If the society finds that the discovered human skeletal remains or burial goods are of American Indian origin, it shall promptly notify in writing the Commission on Indian Affairs and any known relatives in the order listed in section ~~71-1339~~ 566 of this act or, if no relatives are known, any Indian tribes reasonably identified as tribally linked to such remains or goods in order to ascertain and follow the wishes of the relative or Indian tribe, if any, as to reburial or other disposition. Reburial

by any such relative or Indian tribe shall be by and at the expense of such relative or Indian tribe. In cases in which reasonably identifiable American Indian human skeletal remains or burial goods are unclaimed by the appropriate relative or Indian tribe, the society shall notify all other Indian tribes which can reasonably be determined to have lived in Nebraska in order to ascertain and follow the wishes of the tribe as to reburial or other disposition. Reburial by any such tribe shall be by and at the expense of the tribe. If such remains or goods are unclaimed by the appropriate tribe, the remains or goods shall be reburied, as determined by the commission, by one of the four federally recognized Indian tribes in Nebraska.

Sec. 1123. Section 25-12,123, Reissue Revised Statutes of Nebraska, is amended to read:

25-12,123 The proceedings and records of a peer review committee of a state or local association or society composed of health practitioners licensed pursuant to the ~~provisions of Chapter 71, article 1,~~ Uniform Credentialing Act shall be held in confidence and shall not be subject to discovery or introduction into evidence in any civil action against a person licensed pursuant to ~~section 71-102~~ the act arising out of the matters which are the subject of evaluation and review by such committee. No person who was in attendance at a meeting of such committee shall be permitted or required to testify in any such civil action as to any evidence or other matters produced or presented during the proceedings of such committee or as to any findings, recommendations, evaluations, opinions, or other actions

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of such committee or any members thereof, except that information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any such civil action merely because they were presented during proceedings of such committee. Any documents or records which have been presented to the review committee by any witness shall be returned to the witness, if requested by him or her or if ordered to be produced by a court in any action, with copies thereof to be retained by the committee at its discretion. Any person who testifies before such committee or who is a member of such committee shall not be prevented from testifying as to matters within his or her knowledge, but such witness cannot be asked about his or her testimony before such a committee or opinions formed as a result of such committee hearings. Nothing in this section shall prohibit a court of record, after a hearing and for good cause arising from extraordinary circumstances being shown, from ordering the disclosure of such proceedings, minutes, records, reports, or communications.

Sec. 1124. Section 25-21,188.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

25-21,188.02 (1) A person credentialed under the Uniform ~~Licensing~~ ~~Law~~Credentialing Act to practice as a physician, osteopathic physician, pharmacist, dentist, physician assistant, nurse, or physical therapist who, without the expectation or receipt of monetary or other compensation either directly or indirectly, provides professional services, of a kind which are eligible for reimbursement under the medical assistance program

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established pursuant to the Medical Assistance Act, as a volunteer in a free clinic or other facility operated by a not-for-profit organization as defined in section 25-21,190, by an agency of the state, or by any political subdivision shall be immune from civil liability for any act or omission which results in damage or injury unless such damage or injury was caused by the willful or wanton act or omission of such practitioner.

(2) The individual immunity granted by subsection (1) of this section shall not extend to any act or omission of such practitioner which results in damage or injury if:

(a) The free clinic or other facility is operated by a licensed hospital;

(b) The practitioner has been disciplined by the professional board having oversight over that practitioner in the previous five years at the time of the act or omission causing injury; or

(c) The damage or injury is caused by such practitioner (i) during the operation of any motor vehicle, airplane, or boat or (ii) while impaired by alcohol or any controlled substance enumerated in section 28-405.

Sec. 1125. Section 25-21,247, Reissue Revised Statutes of Nebraska, is amended to read:

25-21,247 (1) For purposes of this section, health care payor shall include, but not be limited to:

(a) An insurer;

(b) A health maintenance organization;

(c) Medicare or medicaid;

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(d) A legal entity which is self-insured and provides health care benefits for its employees; or

(e) A person responsible for administering the payment of health care expenses for another person or entity.

(2) Any health care payor or employee thereof who has reasonable cause to believe that there has been a violation of section ~~71-147~~ ~~or~~ ~~71-148~~ 81 or 82 of this act or a fraudulent insurance act described in the Insurance Fraud Act or section 28-631 may discuss or inquire of other health care payors about such violation or act. Any health care payor or employee so discussing or inquiring or responding to such an inquiry from another health care payor shall be immune from criminal penalty or from civil liability for slander, libel, defamation, or breach of the physician-patient privilege if the discussion, inquiry, or response is made in good faith without reckless disregard for the truth.

Sec. 1126. Section 27-504, Reissue Revised Statutes of Nebraska, is amended to read:

27-504 (1) As used in this rule:

(a) A patient is a person who consults or is examined or interviewed by a physician for purposes of diagnosis or treatment of his or her physical, mental, or emotional condition;

(b) A physician is (i) a person authorized to practice medicine in any state or nation or who is reasonably believed by the patient so to be or (ii) a person licensed as a psychologist under the laws of any state or nation who devotes all or a part of his or her time to the practice of psychology;

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(c) A client is a person who consults or is interviewed by a professional counselor for professional counseling as defined in section ~~71-1,310~~742 of this act;

(d) A professional counselor is a person certified as a professional counselor pursuant to ~~sections 71-1,310, 71-1,324 to 71-1,328, and 71-1,333~~section 755 of this act; and

(e) A communication is confidential if not intended to be disclosed to third persons other than those present to further the interest of (i) the patient in the consultation, examination, or interview, persons reasonably necessary for the transmission of the communication, or persons who are participating in the diagnosis and treatment under the direction of the physician, including members of the patient's family, or (ii) the client participating in professional counseling by a professional counselor.

(2)(a) A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purposes of diagnosis or treatment of his or her physical, mental, or emotional condition among himself or herself, his or her physician, or persons who are participating in the diagnosis or treatment under the direction of the physician, including members of the patient's family.

(b) A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made during counseling between himself or herself, his or her professional counselor, or persons who are participating in the counseling under the direction of the professional counselor, including members of the client's family.

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(3) The privilege may be claimed by the patient or client, by his or her guardian or conservator, or by the personal representative of a deceased patient or client. The person who was the physician or professional counselor may claim the privilege but only on behalf of the patient or client. His or her authority so to do is presumed in the absence of evidence to the contrary.

(4)(a) There is no privilege under this rule for communications relevant to an issue in proceedings to hospitalize the patient for physical, mental, or emotional illness if the physician, in the course of diagnosis or treatment, has determined that the patient is in need of hospitalization or if a professional counselor deems it necessary to refer a client to determine if there is need for hospitalization.

(b) If the judge orders an examination of the physical, mental, or emotional condition of the patient, communications made in the course thereof are not privileged under this rule with respect to the particular purpose for which the examination is ordered unless the judge orders otherwise.

(c) There is no privilege under this rule as to communications relevant to an issue of the physical, mental, or emotional condition of the patient in any proceeding in which he or she relies upon the condition as an element of his or her claim or defense or, after the patient's death, in any proceeding in which any party relies upon the condition as an element of his or her claim or defense.

(d) There is no privilege under this rule in any judicial proceedings under the Nebraska Juvenile Code regarding injuries

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to children, incompetents, or disabled persons or in any criminal prosecution involving injury to any such person or the willful failure to report any such injuries.

(e) There is no privilege under this rule in any judicial proceeding regarding unlawfully obtaining or attempting to obtain (i) a controlled substance, (ii) a written or oral prescription for a controlled substance, or (iii) the administration of a controlled substance from a practitioner. For purposes of this subdivision, the definitions found in section 28-401 shall apply.

Sec. 1127. Section 28-328, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-328 (1) No partial-birth abortion shall be performed in this state, unless such procedure is necessary to save the life of the mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(2) The intentional and knowing performance of an unlawful partial-birth abortion in violation of subsection (1) of this section is a Class III felony.

(3) No woman upon whom an unlawful partial-birth abortion is performed shall be prosecuted under this section or for conspiracy to violate this section.

(4) The intentional and knowing performance of an unlawful partial-birth abortion shall result in the automatic suspension and revocation of an attending physician's license to practice medicine in Nebraska by the Director of Regulation and Licensure pursuant to sections ~~71-147~~ ~~to~~ ~~71-161.20~~ <u>80 to 105 of</u>

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this act.

(5) Upon the filing of criminal charges under this section by the Attorney General or a county attorney, the Attorney General shall also file a petition to suspend and revoke the attending physician's license to practice medicine pursuant to section ~~71-1508~~9 of this act. A hearing on such administrative petition shall be set in accordance with section ~~71-1539~~1 of this act. At such hearing, the attending physician shall have the opportunity to present evidence that the physician's conduct was necessary to save the life of a mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. A defendant against whom criminal charges are brought under this section may bring a motion to delay the beginning of the trial until after the entry of an order by the Director of Regulation and Licensure pursuant to section ~~71-1559~~9 of this act. The findings of the Director of Regulation and Licensure as to whether the attending physician's conduct was necessary to save the life of a mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, shall be admissible in the criminal proceedings brought pursuant to this section.

Sec. 1128. Section 28-401, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-401 As used in the Uniform Controlled Substances Act, unless the context otherwise requires:

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(1) Administer shall mean to directly apply a controlled substance by injection, inhalation, ingestion, or any other means to the body of a patient or research subject;

(2) Agent shall mean an authorized person who acts on behalf of or at the direction of another person but shall not include a common or contract carrier, public warehouse keeper, or employee of a carrier or warehouse keeper;

(3) Administration shall mean the Drug Enforcement Administration, United States Department of Justice;

(4) Controlled substance shall mean a drug, biological, substance, or immediate precursor in Schedules I to V of section 28-405. Controlled substance shall not include distilled spirits, wine, malt beverages, tobacco, or any nonnarcotic substance if such substance may, under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on January 1, 2003, and the law of this state, be lawfully sold over the counter without a prescription;

(5) Counterfeit substance shall mean a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser;

(6) Department shall mean the Department of Health and

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Human Services Regulation and Licensure;

(7) Division of Drug Control shall mean the personnel of the Nebraska State Patrol who are assigned to enforce the Uniform Controlled Substances Act;

(8) Dispense shall mean to deliver a controlled substance to an ultimate user or a research subject pursuant to a medical order issued by a practitioner authorized to prescribe, including the packaging, labeling, or compounding necessary to prepare the controlled substance for such delivery;

(9) Distribute shall mean to deliver other than by administering or dispensing a controlled substance;

(10) Prescribe shall mean to issue a medical order;

(11) Drug shall mean (a) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them, (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals, and (c) substances intended for use as a component of any article specified in subdivision (a) or (b) of this subdivision, but shall not include devices or their components, parts, or accessories;

(12) Deliver or delivery shall mean the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship;

(13) Marijuana shall mean all parts of the plant of the genus cannabis, whether growing or not, the seeds thereof,

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and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds, but shall not include the mature stalks of such plant, hashish, tetrahydrocannabinols extracted or isolated from the plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, or the sterilized seed of such plant which is incapable of germination. When the weight of marijuana is referred to in the Uniform Controlled Substances Act, it shall mean its weight at or about the time it is seized or otherwise comes into the possession of law enforcement authorities, whether cured or uncured at that time;

(14) Manufacture shall mean the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and shall include any packaging or repackaging of the substance or labeling or relabeling of its container. Manufacture shall not include the preparation or compounding of a controlled substance by an individual for his or her own use, except for the preparation or compounding of components or ingredients used for or intended to be used for the manufacture of methamphetamine, or the preparation, compounding, conversion, packaging, or labeling of a controlled substance: (a) By a practitioner as an incident to his or her prescribing, administering, or dispensing of a controlled substance in the course of his or her professional practice; or

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(b) by a practitioner, or by his or her authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale;

(15) Narcotic drug shall mean any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (a) Opium, opium poppy and poppy straw, coca leaves, and opiates; (b) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates; or (c) a substance and any compound, manufacture, salt, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subdivisions (a) and (b) of this subdivision, except that the words narcotic drug as used in the Uniform Controlled Substances Act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

(16) Opiate shall mean any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. Opiate shall not include the dextrorotatory isomer of 3-methoxy-n methylmorphinan and its salts. Opiate shall include its racemic and levorotatory forms;

(17) Opium poppy shall mean the plant of the species Papaver somniferum L., except the seeds thereof;

(18) Poppy straw shall mean all parts, except the seeds,

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of the opium poppy after mowing;

(19) Person shall mean any corporation, association, partnership, limited liability company, or one or more individuals;

(20) Practitioner shall mean a physician, a physician assistant, a dentist, a veterinarian, a pharmacist, a podiatrist, an optometrist, a certified nurse midwife, a certified registered nurse anesthetist, a nurse practitioner, a scientific investigator, a pharmacy, a hospital, or any other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe, conduct research with respect to, or administer a controlled substance in the course of practice or research in this state, including an emergency medical service as defined in section ~~71-5175~~496 of this act;

(21) Production shall include the manufacture, planting, cultivation, or harvesting of a controlled substance;

(22) Immediate precursor shall mean a substance which is the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit such manufacture;

(23) State shall mean the State of Nebraska;

(24) Ultimate user shall mean a person who lawfully possesses a controlled substance for his or her own use, for the use of a member of his or her household, or for administration to an animal owned by him or her or by a member of his or her household;

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(25) Hospital shall have the same meaning as in section 71-419;

(26) Cooperating individual shall mean any person, other than a commissioned law enforcement officer, who acts on behalf of, at the request of, or as agent for a law enforcement agency for the purpose of gathering or obtaining evidence of offenses punishable under the Uniform Controlled Substances Act;

(27) Hashish or concentrated cannabis shall mean: (a) The separated resin, whether crude or purified, obtained from a plant of the genus cannabis; or (b) any material, preparation, mixture, compound, or other substance which contains ten percent or more by weight of tetrahydrocannabinols;

(28) Exceptionally hazardous drug shall mean (a) a narcotic drug, (b) thiophene analog of phencyclidine, (c) phencyclidine, (d) amobarbital, (e) secobarbital, (f) pentobarbital, (g) amphetamine, or (h) methamphetamine;

(29) Imitation controlled substance shall mean a substance which is not a controlled substance but which, by way of express or implied representations and consideration of other relevant factors including those specified in section 28-445, would lead a reasonable person to believe the substance is a controlled substance. A placebo or registered investigational drug manufactured, distributed, possessed, or delivered in the ordinary course of practice or research by a health care professional shall not be deemed to be an imitation controlled substance;

(30)(a) Controlled substance analogue shall mean a substance (i) the chemical structure of which is substantially

similar to the chemical structure of a Schedule I or Schedule II controlled substance as provided in section 28-405 or (ii) which has a stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system of a Schedule I or Schedule II controlled substance as provided in section 28-405. A controlled substance analogue shall, to the extent intended for human consumption, be treated as a controlled substance under Schedule I of section 28-405 for purposes of the Uniform Controlled Substances Act; and

(b) Controlled substance analogue shall not include (i) a controlled substance, (ii) any substance generally recognized as safe and effective within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on January 1, 2003, (iii) any substance for which there is an approved new drug application, or (iv) with respect to a particular person, any substance if an exemption is in effect for investigational use for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on January 1, 2003, to the extent conduct with respect to such substance is pursuant to such exemption;

(31) Anabolic steroid shall mean any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids), that promotes muscle growth and includes any controlled substance in Schedule III(d) of section 28-405. Anabolic steroid shall not

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include any anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and has been approved by the Secretary of Health and Human Services for such administration, but if any person prescribes, dispenses, or distributes such a steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subdivision;

(32) Chart order shall mean an order for a controlled substance issued by a practitioner for a patient who is in the hospital where the chart is stored or for a patient receiving detoxification treatment or maintenance treatment pursuant to section 28-412. Chart order shall not include a prescription;

(33) Medical order shall mean a prescription, a chart order, or an order for pharmaceutical care issued by a practitioner;

(34) Prescription shall mean an order for a controlled substance issued by a practitioner. Prescription shall not include a chart order;

(35) Registrant shall mean any person who has a controlled substances registration issued by the state or the administration;

(36) Reverse distributor shall mean a person whose primary function is to act as an agent for a pharmacy, wholesaler, manufacturer, or other entity by receiving, inventorying, and managing the disposition of outdated, expired, or otherwise nonsaleable controlled substances;

(37) Signature shall mean the name, word, or mark of

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a person written in his or her own hand with the intent to authenticate a writing or other form of communication or a digital signature which complies with section 86-611 or an electronic signature;

(38) Facsimile shall mean a copy generated by a system that encodes a document or photograph into electrical signals, transmits those signals over telecommunications lines, and reconstructs the signals to create an exact duplicate of the original document at the receiving end;

(39) Electronic signature shall have the definition found in section 86-621; and

(40) Electronic transmission shall mean transmission of information in electronic form. Electronic transmission may include computer-to-computer transmission or computer-to-facsimile transmission.

Sec. 1129. Section 28-401.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-401.01 Sections 28-401 to 28-456.01 <u>and sections 1132 to 1135 of this act</u> shall be known and may be cited as the Uniform Controlled Substances Act.

Sec. 1130. Section 28-409, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-409 (1) A registration pursuant to section 28-408 to prescribe, administer, manufacture, distribute, or dispense a controlled substance may be denied, suspended, revoked, or renewal refused by the department upon a finding that the applicant or registrant:

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(a) Has falsified any application filed pursuant to the Uniform Controlled Substances Act or required by the act;

(b) Has been convicted of a felony subsequent to being granted a registration pursuant to section 28-408 under any law of the United States or of any state or has been convicted of a violation relating to any substance defined in the act as a controlled substance subsequent to being granted a registration pursuant to section 28-408 under any law of the United States or of any state;

(c) Has had his or her federal registration suspended or revoked by competent federal authority and is no longer authorized by federal law to engage in the prescribing, manufacturing, distribution, or dispensing of controlled substances;

(d) Is guilty of any of the acts or offenses listed in section ~~71-147~~ 81 of this act for which disciplinary measures may be taken against his or her license, certificate, or registration to practice and which have a rational connection with his or her fitness to prescribe, administer, or dispense a controlled substance. The department may automatically revoke or suspend the registration of a practitioner who has had his or her license, certificate, or registration to practice revoked or suspended and is no longer authorized to prescribe, administer, or dispense under the laws of this state or who has had his or her license, certificate, or registration to practice limited or restricted and is no longer authorized to prescribe, administer, or dispense controlled substances under the laws of this state;

(e) Is habitually intoxicated or is dependent upon or

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actively addicted to alcohol or any controlled substance or narcotic drug; or

(f) Has violated the Uniform Controlled Substances Act or any rules or regulations adopted and promulgated pursuant to the act.

(2) The department may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(3) A person whose registration or renewal has been denied, revoked, or suspended shall be afforded an opportunity for a hearing in accordance with the Administrative Procedure Act. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under the Uniform Controlled Substances Act or any law of the state, except that such proceedings may be consolidated with proceedings under ~~section 71-155 or sections 71-161.12 to 71-161.18~~the Uniform Credentialing Act. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing, except in cases when the department finds that there is an imminent danger to the public health or safety.

(4) The department may suspend any registration simultaneously with the institution of proceedings under this section or when renewal of registration is refused in cases when the department finds that there is an imminent danger to the public health or safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review

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thereof, unless sooner withdrawn by the department or dissolved by a court of competent jurisdiction.

(5) In the event the department suspends or revokes a registration granted under section 28-408, all controlled substances owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may in the discretion of the department be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances may be forfeited to the state.

(6) The administration shall be promptly notified of all orders limiting, suspending, or revoking registration.

Sec. 1131. Section 28-414, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-414 (1)(a) Except as otherwise provided in this subsection or section 28-412 or when administered directly by a practitioner to an ultimate user, a controlled substance listed in Schedule II of section 28-405 shall not be dispensed without the written prescription bearing the signature of a practitioner authorized to prescribe. No medical order for a controlled substance listed in Schedule II of section 28-405 shall be filled more than six months from the date of issuance. A prescription for a controlled substance listed in Schedule II of section 28-405

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shall not be refilled.

(b) In emergency situations as defined by rule and regulation of the department, a controlled substance listed in Schedule II of section 28-405 may be dispensed pursuant to a facsimile of a written, signed prescription bearing the word "emergency" or pursuant to an oral prescription reduced to writing in accordance with subdivision (3)(b) of this section, except for the prescribing practitioner's signature, and bearing the word "emergency".

(c) In nonemergency situations:

(i) A controlled substance listed in Schedule II of section 28-405 may be dispensed pursuant to a facsimile of a written, signed prescription if the original written, signed prescription is presented to the pharmacist for review before the controlled substance is dispensed, except as provided in subdivision (1)(c)(ii) or (1)(c)(iii) of this section;

(ii) A narcotic drug listed in Schedule II of section 28-405 may be dispensed pursuant to a facsimile of a written, signed prescription (A) to be compounded for direct parenteral administration to a patient for the purpose of home infusion therapy or (B) for administration to a patient in a hospice licensed under the Health Care Facility Licensure Act or certified under Title XVIII of the federal Social Security Act, as such title existed on May 1, 2001, and bearing the words "hospice patient";

(iii) A controlled substance listed in Schedule II of section 28-405 may be dispensed pursuant to a facsimile of a written, signed prescription for administration to a resident of a

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long-term care facility; and

(iv) For purposes of subdivisions (1)(c)(ii) and (1)(c)(iii) of this section, a facsimile of a written, signed prescription shall serve as the original written prescription and shall be maintained in accordance with subdivision (3)(a) of this section.

(d)(i) A prescription for a controlled substance listed in Schedule II of section 28-405 may be partially filled if the pharmacist does not supply the full quantity prescribed and he or she makes a notation of the quantity supplied on the face of the prescription. The remaining portion of the prescription may be filled within seventy-two hours of the first partial filling. The pharmacist shall notify the prescribing practitioner if the remaining portion of the prescription is not or cannot be filled within such period. No further quantity may be supplied after such period without a new written, signed prescription.

(ii) A prescription for a controlled substance listed in Schedule II of section 28-405 written for a patient in a long-term care facility or for a patient with a medical diagnosis documenting a terminal illness may be partially filled. Such prescription shall bear the words "terminally ill" or "long-term care facility patient" on its face. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist shall contact the prescribing practitioner prior to partially filling the prescription. Both the pharmacist and the prescribing practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. For each

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partial filling, the dispensing pharmacist shall record on the back of the prescription or on another appropriate record, uniformly maintained and readily retrievable, the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. The total quantity of controlled substances listed in Schedule II which is dispensed in all partial fillings shall not exceed the total quantity prescribed. A prescription for a Schedule II controlled substance for a patient in a long-term care facility or a patient with a medical diagnosis documenting a terminal illness is valid for sixty days from the date of issuance or until discontinuance of the prescription, whichever occurs first.

(2)(a) Except as otherwise provided in this subsection or when administered directly by a practitioner to an ultimate user, a controlled substance listed in Schedule III, IV, or V of section 28-405 shall not be dispensed without a written or oral medical order. Such medical order is valid for six months after the date of issuance. Authorization from a practitioner authorized to prescribe is required to refill a prescription for a controlled substance listed in Schedule III, IV, or V of section 28-405. Such prescriptions shall not be refilled more than five times within six months after the date of issuance. Original prescription information for any controlled substance listed in Schedule III, IV, or V of section 28-405 may be transferred between pharmacies for purposes of refill dispensing pursuant to section ~~71-1,146.02~~975 of this act.

(b) A controlled substance listed in Schedule III, IV, or

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V of section 28-405 may be dispensed pursuant to a facsimile of a written, signed prescription. The facsimile of a written, signed prescription shall serve as the original written prescription for purposes of this subsection and shall be maintained in accordance with the provisions of subdivision (3)(c) of this section.

(c) A prescription for a controlled substance listed in Schedule III, IV, or V of section 28-405 may be partially filled if (i) each partial filling is recorded in the same manner as a refilling, (ii) the total quantity dispensed in all partial fillings does not exceed the total quantity prescribed, and (iii) each partial filling is dispensed within six months after the prescription was issued.

(3)(a) Prescriptions for all controlled substances listed in Schedule II of section 28-405 shall be kept in a separate file by the dispensing practitioner and shall be maintained for a minimum of five years. The practitioner shall make all such files readily available to the department and law enforcement for inspection without a search warrant.

(b) All prescriptions for controlled substances listed in Schedule II of section 28-405 shall contain the name and address of the patient, the name and address of the prescribing practitioner, the Drug Enforcement Administration number of the prescribing practitioner, the date of issuance, and the prescribing practitioner's signature. The practitioner filling such prescription shall write the date of filling and his or her own signature on the face of the prescription. If the prescription is for an animal, it shall also state the name and address of the

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owner of the animal and the species of the animal.

(c) Prescriptions for all controlled substances listed in Schedule III, IV, or V of section 28-405 shall be filed separately from other prescriptions in a single file by the dispensing practitioner and shall be maintained for a minimum of five years. The practitioner shall make all such files readily available to the department and law enforcement for inspection without a search warrant.

(d) All prescriptions for controlled substances listed in Schedule III, IV, or V of section 28-405 shall contain the name and address of the patient, the name and address of the prescribing practitioner, the Drug Enforcement Administration number of the prescribing practitioner, the date of issuance, and for written prescriptions, the prescribing practitioner's signature. If the prescription is for an animal, it shall also state the owner's name and address and species of the animal.

(e) A registrant who is the owner of a controlled substance may transfer:

(i) Any controlled substance listed in Schedule I or II of section 28-405 to another registrant as provided by law or by rule and regulation of the department; and

(ii) Any controlled substance listed in Schedule III, IV, or V of section 28-405 to another registrant if such owner complies with subsection (4) of section 28-411.

(f)(i) The owner of any stock of controlled substances may cause such controlled substances to be destroyed pursuant to this subdivision when the need for such substances ceases.

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Complete records of controlled substances destruction pursuant to this subdivision shall be maintained by the registrant for five years from the date of destruction.

(ii) When the owner is a registrant:

(A) Controlled substances listed in Schedule II, III, IV, or V of section 28-405 may be destroyed by a pharmacy inspector, by a reverse distributor, or by the federal Drug Enforcement Administration. Upon destruction, any forms required by the administration to document such destruction shall be completed;

(B) Liquid controlled substances in opened containers which originally contained fifty milliliters or less or compounded liquid controlled substances within the facility where they were compounded may be destroyed if witnessed by two members of the healing arts and recorded in accordance with subsection (4) of section 28-411; or

(C) Solid controlled substances in opened unit-dose containers or which have been adulterated within a hospital where they were to be administered to patients at such hospital may be destroyed if witnessed by two members of the healing arts and recorded in accordance with subsection (4) of section 28-411.

(iii) When the owner is a patient, such owner may transfer the controlled substances to a pharmacy for immediate destruction by two responsible parties acting on behalf of the pharmacy, one of whom must be a member of the healing arts.

(iv) When the owner is a resident of a long-term care facility or hospital, the long-term care facility or hospital shall assure that controlled substances are destroyed as follows:

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(A) If the controlled substance is listed in Schedule II or III of section 28-405, the destruction shall be witnessed by an employee pharmacist or a consultant pharmacist and a member of the healing arts; or

(B) If the controlled substance is listed in Schedule IV or V of section 28-405, the destruction shall be witnessed by an employee pharmacist or a consultant pharmacist and another responsible adult.

(g) Before dispensing any controlled substance listed in Schedule II, III, IV, or V of section 28-405, the dispensing practitioner shall affix a label to the container in which the controlled substance is dispensed. Such label shall bear the name and address of the pharmacy or dispensing practitioner, the name of the patient, the date of filling, the consecutive number of the prescription under which it is recorded in the practitioner's prescription files, the name of the prescribing practitioner, and the directions for use of the controlled substance. Unless the prescribing practitioner writes "do not label" or words of similar import on the original written prescription or so designates in an oral prescription, such label shall also bear the name of the controlled substance.

(4) For purposes of this section, long-term care facility has the same meaning as long-term care hospital in section 71-422 and includes an intermediate care facility for the mentally retarded as defined in section 71-421.

Sec. 1132. <u>Every licensee subject to the Uniform Controlled Substances Act shall be subject to and comply with</u>

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sections 127 to 129 of this act relating to reporting and investigations.

Sec. 1133. (1) A health care facility licensed under the Health Care Facility Licensure Act or a peer review organization or professional association relating to a profession regulated under the Uniform Controlled Substances Act shall report to the department, on a form and in the manner specified by the department, any facts known to the facility, organization, or association, including, but not limited to, the identity of the credential holder and consumer, when the facility, organization, or association:

(a) Has made payment due to adverse judgment, settlement, or award of a professional liability claim against it or a licensee, including settlements made prior to suit, arising out of the acts or omissions of the licensee; or

(b) Takes action adversely affecting the privileges or membership of a licensee in such facility, organization, or association due to alleged incompetence, professional negligence, unprofessional conduct, or physical, mental, or chemical impairment.

The report shall be made within thirty days after the date of the action or event.

(2) A report made to the department under this section shall be confidential. The facility, organization, association, or person making such report shall be completely immune from criminal or civil liability of any nature, whether direct or derivative, for filing a report or for disclosure of documents, records, or

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other information to the department under this section. Nothing in this subsection shall be construed to require production of records protected by section 25-12,123, 71-2048, or 71-7903 or patient safety work product under the Patient Safety Improvement Act except as otherwise provided in any of such sections or such act.

(3) Any health care facility, peer review organization, or professional association that fails or neglects to make a report or provide information as required under this section is subject to a civil penalty of five hundred dollars for the first offense and a civil penalty of up to one thousand dollars for a subsequent offense. Any civil penalty collected under this subsection shall be remitted to the State Treasurer to be disposed of in accordance with Article VII, section 5, of the Constitution of Nebraska.

(4) For purposes of this section, the department shall accept reports made to it under the Nebraska Hospital-Medical Liability Act or in accordance with national practitioner data bank requirements of the federal Health Care Quality Improvement Act of 1986, as the act existed on January 1, 2007, and may require a supplemental report to the extent such reports do not contain the information required by the department.

Sec. 1134. (1) Unless such knowledge or information is based on confidential medical records protected by the confidentiality provisions of the federal Public Health Services Act, 42 U.S.C. 290dd-2, and federal administrative rules and regulations, as such act and rules and regulations existed on January 1, 2007:

(a) Any insurer having knowledge of any violation of any

provision of the Uniform Controlled Substances Act governing the profession of the person being reported whether or not such person is licensed shall report the facts of such violation as known to such insurer to the department; and

(b) All insurers shall cooperate with the department and provide such information as requested by the department concerning any possible violations by any person required to be licensed whether or not such person is licensed.

(2) Such reporting shall be done on a form and in the manner specified pursuant to sections 133 and 134 of this act. Such reports shall be subject to sections 135 to 139 of this act.

Sec. 1135. The clerk of any county or district court in this state shall report to the department the conviction of any person licensed by the department under the Uniform Controlled Substances Act of any felony or of any misdemeanor involving the use, sale, distribution, administration, or dispensing of a controlled substance, alcohol or chemical impairment, or substance abuse and shall also report a judgment against any such licensee arising out of a claim of professional liability. The Attorney General or city or county prosecutor prosecuting any such criminal action and plaintiff in any such civil action shall provide the court with information concerning the license of the defendant or party. Notice to the department shall be filed within thirty days after the date of conviction or judgment in a manner agreed to by the director and the State Court Administrator.

Sec. 1136. Section 28-1013, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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28-1013 Sections 28-1008 to 28-1017 shall not apply to:

(1) Care or treatment of an animal by a veterinarian licensed under the ~~Nebraska~~ Veterinary Medicine and Surgery Practice Act;

(2) Commonly accepted care or treatment of a police animal by a law enforcement officer in the normal course of his or her duties;

(3) Research activity carried on by any research facility currently meeting the standards of the federal Animal Welfare Act, 7 U.S.C. 2131 et seq., as such act existed on January 1, 2003;

(4) Commonly accepted practices of hunting, fishing, or trapping;

(5) Commonly accepted practices occurring in conjunction with rodeos, animal racing, or pulling contests;

(6) Humane killing of an animal by the owner or by his or her agent or a veterinarian upon the owner's request;

(7) Commonly accepted practices of animal husbandry with respect to farm animals, including their transport from one location to another and nonnegligent actions taken by personnel or agents of the Nebraska Department of Agriculture or the United States Department of Agriculture in the performance of duties prescribed by law;

(8) Use of reasonable force against an animal, other than a police animal, which is working, including killing, capture, or restraint, if the animal is outside the owned or rented property of its owner or custodian and is injuring or posing an immediate threat to any person or other animal;

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(9) Killing of house or garden pests;

(10) Commonly followed practices occurring in conjunction with the slaughter of animals for food or byproducts; and

(11) Commonly accepted animal training practices.

Sec. 1137. Section 28-1301, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-1301 (1) The definitions found in section 12-1204 shall apply to this section.

(2) Except as provided in subsection (3) of this section, a person commits the offense of removing, abandoning, or concealing human skeletal remains or burial goods if he or she:

(a) Knowingly digs up, disinters, removes, or carries away from its place of deposit or burial any such remains or goods, attempts to do the same, or aids, incites, assists, encourages, or procures the same to be done;

(b) Knowingly throws away or abandons any such remains or goods in any place other than a regular place for burial and under a proper death certificate issued under section ~~71-182~~ ~~or~~ 257 of this act or section 71-605; or

(c) Receives, conceals, purchases, sells, transports, trades, or disposes of any such remains or goods if the person knows or has reason to know that such remains or goods have been dug up, disinterred, or removed from their place of deposit or burial or have not been reported in a proper death certificate issued under section ~~71-182~~ ~~or~~ 257 of this act or section 71-605, attempts to do the same, or aids, incites, assists, encourages, or procures the same to be done.

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(3) This section shall not apply to: (a) A body authorized to be surrendered for purposes of dissection as provided by law; (b) the body of any person directed to be delivered by competent authority for purposes of dissection; (c) the officers of any lawfully constituted cemetery acting under the direction of the board of trustees in removing any human skeletal remains or burial goods from one place of burial in the cemetery to another place in the same cemetery when disinterment and reinterment permits are secured and return made pursuant to section 71-605; (d) any person removing the human skeletal remains or burial goods of a relative or intimate friend from one place of burial in any lawfully constituted cemetery to another when consent for such removal has been obtained from the lawfully constituted authority thereof and permits for disinterment and reinterment secured and return made pursuant to section 71-605; (e) any professional archaeologist engaged in an otherwise lawful and scholarly excavation of a nonburial site who unintentionally encounters human skeletal remains or associated burial goods if the archaeologist complies with the notification requirements of the Unmarked Human Burial Sites and Skeletal Remains Protection Act; or (f) any archaeological excavation by the Nebraska State Historical Society or its designee in the course of execution of the duties of the society if any human skeletal remains or associated burial goods discovered during such excavation are disposed of pursuant to section 12-1208.

(4) Violation of this section shall be a Class IV felony.

Sec. 1138. Section 29-2261, Revised Statutes Cumulative

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Supplement, 2006, is amended to read:

29-2261 (1) Unless it is impractical to do so, when an offender has been convicted of a felony other than murder in the first degree, the court shall not impose sentence without first ordering a presentence investigation of the offender and according due consideration to a written report of such investigation. When an offender has been convicted of murder in the first degree and (a) a jury renders a verdict finding the existence of one or more aggravating circumstances as provided in section 29-2520 or (b)(i) the information contains a notice of aggravation as provided in section 29-1603 and (ii) the offender waives his or her right to a jury determination of the alleged aggravating circumstances, the court shall not commence the sentencing determination proceeding as provided in section 29-2521 without first ordering a presentence investigation of the offender and according due consideration to a written report of such investigation.

(2) A court may order a presentence investigation in any case, except in cases in which an offender has been convicted of a Class IIIA misdemeanor, a Class IV misdemeanor, a Class V misdemeanor, a traffic infraction, or any corresponding city or village ordinance.

(3) The presentence investigation and report shall include, when available, an analysis of the circumstances attending the commission of the crime, the offender's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, and personal habits, and any other matters that the probation officer deems

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relevant or the court directs to be included. All local and state police agencies and Department of Correctional Services adult correctional facilities shall furnish to the probation officer copies of such criminal records, in any such case referred to the probation officer by the court of proper jurisdiction, as the probation officer shall require without cost to the court or the probation officer.

Such investigation shall also include:

(a) Any written statements submitted to the county attorney by a victim; and

(b) Any written statements submitted to the probation officer by a victim.

(4) If there are no written statements submitted to the probation officer, he or she shall certify to the court that:

(a) He or she has attempted to contact the victim; and

(b) If he or she has contacted the victim, such officer offered to accept the written statements of the victim or to reduce such victim's oral statements to writing.

For purposes of subsections (3) and (4) of this section, the term victim shall be as defined in section 29-119.

(5) Before imposing sentence, the court may order the offender to submit to psychiatric observation and examination for a period of not exceeding sixty days or such longer period as the court determines to be necessary for that purpose. The offender may be remanded for this purpose to any available clinic or mental hospital, or the court may appoint a qualified psychiatrist to make the examination. The report of the examination shall be submitted

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to the court.

(6) Any presentence report or psychiatric examination shall be privileged and shall not be disclosed directly or indirectly to anyone other than a judge, probation officers to whom an offender's file is duly transferred, the probation administrator or his or her designee, or others entitled by law to receive such information, including personnel and mental health professionals for the Nebraska State Patrol specifically assigned to sex offender registration and community notification for the sole purpose of using such report or examination for assessing risk and for community notification of registered sex offenders. For purposes of this subsection, mental health professional means (a) a practicing physician licensed to practice medicine in this state under the ~~provisions of section 71-102~~Medicine and Surgery Practice Act, (b) a practicing psychologist licensed to engage in the practice of psychology in this state as provided in section ~~71-1,206.14~~1054 of this act, or (c) a practicing mental health professional licensed or certified in this state as provided in ~~section 71-1,333~~the Mental Health Practice Act. The court may permit inspection of the report or examination of parts thereof by the offender or his or her attorney, or other person having a proper interest therein, whenever the court finds it is in the best interest of a particular offender. The court may allow fair opportunity for an offender to provide additional information for the court's consideration.

(7) If an offender is sentenced to imprisonment, a copy of the report of any presentence investigation or psychiatric examination shall be transmitted immediately to the Department of

Correctional Services. Upon request, the Board of Parole or the Office of Parole Administration may receive a copy of the report from the department.

(8) Notwithstanding subsection (6) of this section, the Nebraska Commission on Law Enforcement and Criminal Justice under the direction and supervision of the Chief Justice of the Supreme Court shall have access to presentence investigations and reports for the sole purpose of carrying out the study required under subdivision (7) of section 81-1425. The commission shall treat such information as confidential, and nothing identifying any individual shall be released by the commission.

(9) Notwithstanding subsection (6) of this section, the Supreme Court or an agent of the Supreme Court acting under the direction and supervision of the Chief Justice shall have access to psychiatric examinations and presentence investigations and reports for research purposes. The Supreme Court and its agent shall treat such information as confidential and nothing identifying any individual shall be released.

Sec. 1139. Section 29-4013, Revised Statutes Cumulative Supplement, 2006, is amended to read:

29-4013 (1) The Nebraska State Patrol shall adopt and promulgate rules and regulations to carry out the registration provisions of the Sex Offender Registration Act.

(2)(a) The Nebraska State Patrol shall adopt and promulgate rules and regulations for the release of information pursuant to section 29-4009.

(b) The rules and regulations adopted by the Nebraska

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State Patrol shall identify and incorporate factors relevant to the sex offender's risk of recidivism. Factors relevant to the risk of recidivism include, but are not limited to:

(i) Conditions of release that minimize the risk of recidivism, including probation, parole, counseling, therapy, or treatment;

(ii) Physical conditions that minimize the risk of recidivism, including advanced age or debilitating illness; and

(iii) Any criminal history of the sex offender indicative of a high risk of recidivism, including:

(A) Whether the conduct of the sex offender was found to be characterized by repetitive and compulsive behavior;

(B) Whether the sex offender committed the sexual offense against a child;

(C) Whether the sexual offense involved the use of a weapon, violence, or infliction of serious bodily injury;

(D) The number, date, and nature of prior offenses;

(E) Whether psychological or psychiatric profiles indicate a risk of recidivism;

(F) The sex offender's response to treatment;

(G) Any recent threats by the sex offender against a person or expressions of intent to commit additional crimes; and

(H) Behavior of the sex offender while confined.

(c) The procedures for release of information established by the Nebraska State Patrol shall provide for three levels of notification by the law enforcement agency in whose jurisdiction the sex offender is to be released depending on the risk of

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recidivism by the sex offender as follows:

(i) If the risk of recidivism is low, other law enforcement agencies shall be notified;

(ii) If the risk of recidivism is moderate, in addition to the notice required by subdivision (i) of this subdivision, schools, day care centers, health care facilities providing services to children or vulnerable adults, and religious and youth organizations shall be notified; and

(iii) If the risk of recidivism is high, in addition to the notice required by subdivisions (i) and (ii) of this subdivision, the public shall be notified through means designed to reach members of the public, which are limited to direct contact, news releases, a method utilizing a telephone system, or the Internet. The Nebraska State Patrol shall provide notice of sex offenders with a high risk of recidivism to at least one legal newspaper published in and of general circulation in the county where the offender is registered or, if none is published in the county, in a legal newspaper of general circulation in such county. If any means of notification proposes a fee for usage, then nonprofit organizations holding a certificate of exemption under section 501(c) of the Internal Revenue Code shall not be charged.

(d) The Nebraska State Patrol shall establish procedures for the evaluation of the risk of recidivism and implementation of community notification that promote the uniform application of the notification rules and regulations required by this section.

(e) The Nebraska State Patrol or a designee shall assign a notification level, based upon the risk of recidivism, to all

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persons required to register under the act.

(f) Personnel and mental health professionals for the sex offender registration and community notification division of the Nebraska State Patrol shall have access to all documents that are generated by any governmental agency that may have bearing on sex offender risk assessment and community notification pursuant to this section. This may include, but is not limited to, law enforcement reports, presentence reports, criminal histories, or birth certificates. The division shall not be charged for access to documents under this subdivision. Access to such documents will ensure that a fair risk assessment is completed using the totality of all information available. For purposes of this subdivision, mental health professional means (i) a practicing physician licensed to practice medicine in this state under the ~~provisions of section 71-102~~Medicine and Surgery Practice Act, (ii) a practicing psychologist licensed to engage in the practice of psychology in this state as provided in section ~~71-1,206.14~~1054 of this act, or (iii) a practicing mental health professional licensed or certified in this state as provided in ~~section 71-1,333~~the Mental Health Practice Act.

(3) Nothing in subsection (2) of this section shall be construed to prevent law enforcement officers from providing community notification concerning any person who poses a danger under circumstances that are not provided for in the ~~act~~Sex Offender Registration Act.

Sec. 1140. Section 43-129, Reissue Revised Statutes of Nebraska, is amended to read:

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43-129 If at any time an individual licensed to practice medicine and surgery pursuant to ~~sections 71-1,102 to 71-1,107.14~~ the Medicine and Surgery Practice Act or licensed to engage in the practice of psychology pursuant to ~~sections 71-1,206.01 to 71-1,206.35~~the Psychology Practice Act, through his or her professional relationship with an adopted person, determines that information contained on the original birth certificate of the adopted person may be necessary for the treatment of the health of the adopted person, whether physical or mental in nature, he or she may petition a court of competent jurisdiction for the release of the information contained on the original birth certificate, and the court may release the information on good cause shown.

Sec. 1141. Section 43-146.03, Reissue Revised Statutes of Nebraska, is amended to read:

43-146.03 If at any time an individual licensed to practice medicine and surgery pursuant to ~~sections 71-1,102 to 71-1,107.14~~ the Medicine and Surgery Practice Act or licensed to engage in the practice of psychology pursuant to ~~sections 71-1,206.01 to 71-1,206.35~~the Psychology Practice Act, through his or her professional relationship with an adopted person, determines that information contained on the original birth certificate of the adopted person may be necessary for the treatment of the health of the adopted person, whether physical or mental in nature, he or she may petition a court of competent jurisdiction for the release of the information contained on the original birth certificate, and the court may release the information on good cause shown.

Sec. 1142. Section 43-1302, Revised Statutes Cumulative

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Supplement, 2006, is amended to read:

43-1302 (1)(a) Until January 1, 2006, the State Foster Care Review Board shall be comprised of nine members to be appointed by the Governor, subject to confirmation by a majority of the members elected to the Legislature. At least one member shall be an attorney with legal expertise in child welfare. Two members shall be from each of the three congressional districts as they existed on January 1, 1982. In addition to the six members representative of the congressional districts, three members shall be appointed by the Governor from a group consisting of all the chairpersons of the local boards, and one such chairperson shall be appointed from each such congressional district. The appointment of a member of a local board to the state board shall not create a vacancy on the local board. Members other than those appointed from the group consisting of all the chairpersons of the local boards shall be appointed to three-year terms, and those members appointed from the group consisting of all the chairpersons of local boards shall be appointed to two-year terms. No person shall serve on the state board for more than six consecutive years. No person employed by a child-caring agency, a child-placing agency, or a court shall be appointed to the state board.

(b) On and after January 1, 2006, the State Foster Care Review Board shall be comprised of eleven members appointed by the Governor with the approval of a majority of the members elected to the Legislature, consisting of: Three members of local foster care review boards, one from each congressional district; one practitioner of pediatric medicine, licensed under

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the Uniform ~~Licensing~~ ~~Law~~Credentialing Act; one practitioner of child clinical psychology, licensed under the Uniform ~~Licensing~~ ~~Law~~Credentialing Act; one social worker certified under the Uniform ~~Licensing~~ ~~Law~~Credentialing Act, with expertise in the area of child welfare; one attorney who is or has been a guardian ad litem; one representative of a statewide child advocacy group; one director of a child advocacy center; one director of a court appointed special advocate program; and one member of the public who has a background in business or finance.

The terms of members appointed pursuant to this subdivision shall be three years, except that of the initial members of the state board, one-third shall be appointed for terms of one year, one-third for terms of two years, and one-third for terms of three years, as determined by the Governor. No person appointed by the Governor to the state board shall serve more than two consecutive three-year terms. An appointee to a vacancy occurring from an unexpired term shall serve out the term of his or her predecessor. Members whose terms have expired shall continue to serve until their successors have been appointed and qualified. Members serving on the state board on December 31, 2005, shall continue in office until the members appointed under this subdivision take office. The members of the state board shall, to the extent possible, represent the three congressional districts equally.

(2) The state board shall select a chairperson, vice-chairperson, and such other officers as the state board deems necessary. Members of the state board shall be reimbursed for their

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actual and necessary expenses as provided in sections 81-1174 to 81-1177. The state board shall employ or contract for services from such persons as are necessary to aid it in carrying out its duties.

Sec. 1143. Section 44-526, Revised Statutes Cumulative Supplement, 2006, is amended to read:

44-526 For purposes of the Standardized Health Claim Form Act:

(1) Ambulatory surgical facility shall mean a facility, not a part of a hospital, which provides surgical treatment to patients not requiring hospitalization and which is licensed as a health clinic as defined by section 71-416 but shall not include the offices of private physicians or dentists whether for individual or group practice;

(2) Health care shall mean any treatment, procedure, or intervention to diagnose, cure, care for, or treat the effects of disease or injury or congenital or degenerative condition;

(3) Health care practitioner shall mean an individual or group of individuals in the form of a partnership, limited liability company, or corporation licensed, certified, or otherwise authorized or permitted by law to administer health care in the course of professional practice and shall include the health care professions and occupations which are regulated in ~~Chapter 71~~the Uniform Credentialing Act;

(4) Hospital shall mean a hospital as defined by section 71-419 except state hospitals administered by the Department of Health and Human Services;

(5) Institutional care providers shall mean all

facilities licensed or otherwise authorized or permitted by law to administer health care in the ordinary course of business and shall include all health care facilities defined in the Health Care Facility Licensure Act;

(6) Issuer shall mean an insurance company, fraternal benefit society, health maintenance organization, third-party administrator, or other entity reimbursing the costs of health care expenses;

(7) Medicaid shall mean the medical assistance program pursuant to the Medical Assistance Act;

(8) Medicare shall mean Title XVIII of the federal Social Security Act, 42 U.S.C. 1395 et seq., as amended; and

(9) Uniform claim form shall mean the claim forms and electronic transfer procedures developed pursuant to section 44-527.

Sec. 1144. Section 44-792, Reissue Revised Statutes of Nebraska, is amended to read:

44-792 For purposes of sections 44-791 to 44-795:

(1) Health insurance plan means (a) any group sickness and accident insurance policy, group health maintenance organization contract, or group subscriber contract delivered, issued for delivery, or renewed in this state and (b) any self-funded employee benefit plan to the extent not preempted by federal law. Health insurance plan includes any group policy, group contract, or group plan offered or administered by the state or its political subdivisions. Health insurance plan does not include group policies providing coverage for a specified disease,

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accident-only coverage, hospital indemnity coverage, disability income coverage, medicare supplement coverage, long-term care coverage, or other limited-benefit coverage. Health insurance plan does not include any policy, contract, or plan covering an employer group that covers fewer than fifteen employees;

(2) Mental health condition means any condition or disorder involving mental illness that falls under any of the diagnostic categories listed in the Mental Disorders Section of the International Classification of Disease;

(3) Mental health professional means (a) a practicing physician licensed to practice medicine in this state under the ~~provisions of section 71-102~~Medicine and Surgery Practice Act, (b) a practicing psychologist licensed to engage in the practice of psychology in this state as provided in section ~~71-1,206.14~~1054 of this act, or (c) a practicing mental health professional licensed or certified in this state as provided in ~~section 71-1,333~~the Psychology Practice Act;

(4) Rate, term, or condition means lifetime limits, annual payment limits, and inpatient or outpatient service limits. Rate, term, or condition does not include any deductibles, copayments, or coinsurance; and

(5)(a) Serious mental illness means, prior to January 1, 2002, (i) schizophrenia, (ii) schizoaffective disorder, (iii) delusional disorder, (iv) bipolar affective disorder, (v) major depression, and (vi) obsessive compulsive disorder; and

(b) Serious mental illness means, on and after January 1, 2002, any mental health condition that current medical science

affirms is caused by a biological disorder of the brain and that substantially limits the life activities of the person with the serious mental illness. Serious mental illness includes, but is not limited to (i) schizophrenia, (ii) schizoaffective disorder, (iii) delusional disorder, (iv) bipolar affective disorder, (v) major depression, and (vi) obsessive compulsive disorder.

Sec. 1145. Section 44-2804, Reissue Revised Statutes of Nebraska, is amended to read:

44-2804 Physician shall mean a person with an unlimited license to practice medicine in this state pursuant to ~~sections 71-1,102 to 71-1,107.14~~ the Medicine and Surgery Practice Act or a person with a license to practice osteopathic medicine or osteopathic medicine and surgery in this state pursuant to sections ~~71-1,137 to 71-1,141~~693 to 697 of this act.

Sec. 1146. Section 44-2902, Reissue Revised Statutes of Nebraska, is amended to read:

44-2902 Any ten or more physicians licensed under ~~sections 71-1,102 to 71-1,107.14~~ the Medicine and Surgery Practice Act may incorporate a mutual insurance association to insure member physicians, their professional corporations, partnerships, limited liability companies, agents, and employees against liability arising from rendering or failing to render professional services in the treatment or care of patients.

Sec. 1147. Section 44-32,170, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,170 Any health maintenance organization authorized under the Health Maintenance Organization Act shall not be deemed

to be practicing medicine and shall be exempt from ~~sections 71-1,102 to 71-1,107.14~~ the Medicine and Surgery Practice Act relating to the practice of medicine.

Sec. 1148. Section 44-4110, Reissue Revised Statutes of Nebraska, is amended to read:

44-4110 All providers of health services in Nebraska may develop preferred provider organizations and contract with insurers and participants in insurance arrangements if such providers have met all licensure and certification requirements necessary to practice a specific profession or to operate a specific health care facility pursuant to ~~Chapter 71~~the Health Care Facility Licensure Act and the Uniform Credentialing Act. An organization of preferred providers may limit itself to one or more specific professions or specialties within a profession, as defined in ~~Chapter 71~~the Uniform Credentialing Act, and may limit the number of participating providers to that required to adequately meet the need for its particular program and the purpose of sections 44-4101 to 44-4113 to furnish health services in a manner reasonably expected to contain or lower costs.

Sec. 1149. Section 46-602, Revised Statutes Cumulative Supplement, 2006, is amended to read:

46-602 (1) Each water well completed in this state on or after July 1, 2001, excluding test holes and dewatering wells to be used for less than ninety days, shall be registered with the Department of Natural Resources as provided in this section within sixty days after completion of construction of the water well. The licensed water well contractor as defined in section 46-1213

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constructing the water well, or the owner of the water well if the owner constructed the water well, shall file the registration on a form made available by the department and shall also file with the department the information from the well log required pursuant to section 46-1241. The department shall, by January 1, 2002, provide licensed water well contractors with the option of filing such registration forms electronically. No signature shall be required on forms filed electronically. The fee required by subsection (3) of section 46-1224 shall be the source of funds for any required fee to a contractor which provides the on-line services for such registration. Any discount in the amount paid the state by a credit card, charge card, or debit card company or a third-party merchant bank for such registration fees shall be deducted from the portion of the registration fee collected pursuant to section 46-1224.

(2)(a) If the newly constructed water well is a replacement water well, the registration form shall include (i) the registration number of the water well being replaced, if applicable, and (ii) the date the original water well was decommissioned or a certification that the water well will be decommissioned within one hundred eighty days or a certification that the original water well will be modified and equipped to pump fifty gallons per minute or less and will be used only for livestock, monitoring, observation, or any other nonconsumptive use or de minimus use approved by the applicable natural resources district.

(b) For purposes of this section, replacement water well means a water well which is constructed to provide water for

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the same purpose as the original water well and is operating in accordance with any applicable permit from the department and any applicable rules and regulations of the natural resources district and, if the purpose is for irrigation, the replacement water well delivers water to the same tract of land served by the original water well and (i) replaces an abandoned water well within three years after the last operation of the abandoned water well and the original water well is decommissioned either before or within one hundred eighty days after such construction, (ii) replaces a water well that has not been abandoned but will not be used after construction of the new water well and the original water well will be decommissioned within one hundred eighty days after such construction, except that in the case of a municipal water well, the original municipal water well may be used after construction of the new water well but shall be decommissioned within one year after completion of the replacement water well, or (iii) will continue to be used but will be modified and equipped within one hundred eighty days after such construction of the replacement water well to pump fifty gallons per minute or less and will be used only for livestock, monitoring, observation, or any other nonconsumptive or de minimus use and approved by the applicable natural resources district.

(c) No water well shall be registered as a replacement water well until the Department of Natural Resources has received a properly completed notice of decommissioning for the water well being replaced on a form made available by the department, or properly completed notice, prepared in accordance with subsection

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(7) of this section, of the modification and equipping of the original water well to pump fifty gallons per minute or less for use only for livestock, monitoring, observation, or any other nonconsumptive or de minimus use approved by the applicable natural resources district. Such notices, as required, shall be completed by (i) the licensed water well contractor as defined in section 46-1213 who decommissions the water well or modifies and equips the water well, (ii) the licensed pump installation contractor as defined in section 46-1209 who decommissions the water well or modifies and equips the water well, or (iii) the owner if the owner decommissions a driven sandpoint well which is on land owned by him or her for farming, ranching, or agricultural purposes or as his or her place of abode. The Department of Health and Human Services Regulation and Licensure shall, by rule and regulation, determine which contractor or owner shall be responsible for such notice in situations in which more than one contractor or owner may be required to provide notice under this subsection.

(3) For a series of two or more water wells completed and pumped into a common carrier as part of a single site plan for irrigation purposes, a registration form and a detailed site plan shall be filed for each water well. The registration form shall include the registration numbers of other water wells included in the series if such water wells are already registered.

(4) A series of water wells completed for purposes of installation of a ground heat exchanger for a structure for utilizing the geothermal properties of the ground shall be considered as one water well. One registration form and a detailed

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site plan shall be filed for each such series.

(5) One registration form shall be required along with a detailed site plan which shows the location of each such water well in the site and a log from each such water well for water wells constructed as part of a single site plan for (a) monitoring ground water, obtaining hydrogeologic information, or extracting contaminants from the ground, (b) water wells constructed as part of remedial action approved by the Department of Environmental Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, and (c) water well owners who have a permit issued pursuant to the Industrial Ground Water Regulatory Act and also have an underground injection control permit issued by the Department of Environmental Quality.

(6) The Department of Natural Resources shall be notified by the owner of any change in the ownership of a water well required to be registered under this section. Notification shall be in such form and include such evidence of ownership as the Director of Natural Resources by rule and regulation directs. The department shall use such notice to update the registration on file. The department shall not collect a fee for the filing of the notice.

(7) The licensed water well contractor or licensed pump installation contractor responsible therefor shall notify the department within sixty days on a form provided by the department of any pump installation or any modifications to the construction of the water well or pump, after the initial registration of the well. For a change of use resulting in modification and equipping of an original water well which is being replaced in

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accordance with subsection (2) of this section, the licensed water well contractor or licensed pump installation contractor shall notify the department within sixty days on a form provided by the department of the water well and pump modifications and equipping of the original water well. A water well owner shall notify the department within sixty days on a form provided by the department of any other changes or any inaccuracies in recorded water well information, including, but not limited to, changes in use. The department shall not collect a fee for the filing of the notice.

(8) Whenever a water well becomes an illegal water well as defined in section 46-706, the owner of the water well shall either correct the deficiency that causes the well to be an illegal water well or shall cause the proper decommissioning of the water well in accordance with rules and regulations adopted pursuant to the Water Well Standards and Contractors' ~~Licensing~~Practice Act. The licensed water well contractor who decommissions the water well, the licensed pump installation contractor who decommissions the water well, or the owner if the owner decommissions a driven sandpoint well which is on land owned by him or her for farming, ranching, or agricultural purposes or as his or her place of abode, shall provide a properly completed notice of abandonment to the Department of Natural Resources within sixty days. The Department of Health and Human Services Regulation and Licensure shall, by rule and regulation, determine which contractor or owner shall be responsible for such notice in situations in which more than one contractor or owner may be required to provide notice under this subsection. The Department of Natural Resources shall not collect a

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fee for the filing of the notice.

(9) Except for water wells which are used solely for domestic purposes and were constructed before September 9, 1993, and for test holes and dewatering wells used for less than ninety days, each water well which was completed in this state before July 1, 2001, and which is not registered on that date shall be an illegal water well until it is registered with the Department of Natural Resources. Such registration shall be completed by a licensed water well contractor or by the current owner of the water well, shall be on forms provided by the department, and shall provide as much of the information required by subsections (1) through (5) of this section for registration of a new water well as is possible at the time of registration.

(10) Water wells which are or were used solely for injecting any fluid other than water into the underground water reservoir, which were constructed before July 16, 2004, and which have not been properly decommissioned on or before July 16, 2004, shall be registered on or before July 1, 2005.

Sec. 1150. Section 46-602.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

46-602.01 Prior to commencing construction of or installation of a pump in a water well in a management area or completing a notice of modification and change of use in lieu of decommissioning of a water well as part of a water well replacement procedure, a licensed water well contractor as defined in section 46-1213 or a licensed pump installation contractor as defined in section 46-1209 shall take those steps necessary to satisfy himself

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or herself that the person for whom the well is to be constructed, the modification and change of use is to be completed, or the pump installed has obtained a permit as required by the Nebraska Ground Water Management and Protection Act. The permit issued by the natural resources district as required by the act may (1) further define a replacement water well in accordance with the act so long as any further definition is not inconsistent with section 46-602, (2) impose restrictions on consumptive use, or (3) impose additional restrictions based on historic consumptive use.

Any person who commences or causes construction of or installation of a pump in a water well for which the required permit has not been obtained or who knowingly furnishes false information regarding such permit shall be guilty of an offense punishable as provided in section 46-613.02.

Sec. 1151. Section 46-604, Reissue Revised Statutes of Nebraska, is amended to read:

46-604 The Director of Natural Resources shall retain the registration form required by section 46-602 and shall make a copy available to the natural resources district within which the water well is located, to the owner of the water well, and to the licensed water well contractor as defined in section 46-1213.

Sec. 1152. Section 46-1201, Reissue Revised Statutes of Nebraska, is amended to read:

46-1201 Sections 46-1201 to 46-1241 and section 1167 of this act shall be known and may be cited as the Water Well Standards and Contractors' ~~Licensing~~ Practice Act.

Sec. 1153. Section 46-1202, Reissue Revised Statutes of

Nebraska, is amended to read:

46-1202 The purposes of the Water Well Standards and Contractors' ~~Licensing~~ Practice Act are to: (1) Provide for the protection of ground water through the licensing and regulation of water well contractors, ~~and~~ pump installation contractors, ~~and the certification of~~ water well drilling supervisors, pump installation supervisors, water well monitoring technicians, and natural resources ground water technicians in the State of Nebraska; (2) protect the health and general welfare of the citizens of the state; (3) protect ground water resources from potential pollution by providing for proper siting and construction of water wells and proper decommissioning of water wells; and (4) provide data on potential water supplies through well logs which will promote the economic and efficient utilization and management of the water resources of the state.

Sec. 1154. Section 46-1203, Reissue Revised Statutes of Nebraska, is amended to read:

46-1203 For purposes of the Water Well Standards and Contractors' ~~Licensing~~ Practice Act, unless the context otherwise requires, the definitions found in sections 46-1204.01 to 46-1216 shall be used.

Sec. 1155. Section 46-1204.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-1204.01 Abandoned water well means any water well (1) the use of which has been accomplished or permanently discontinued, (2) which has been decommissioned as described in the rules and regulations of the Department of Health and Human

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Services Regulation and Licensure, and (3) for which the notice of abandonment required by subsection (2) of section 46-602 has been filed with the Department of Natural Resources by the licensed water well contractor or licensed pump installation contractor who decommissioned the water well or by the water well owner if the owner decommissioned the water well.

Sec. 1156. Section 46-1205, Reissue Revised Statutes of Nebraska, is amended to read:

46-1205 Board ~~shall~~ ~~mean~~ means the Water Well Standards and Contractors' Licensing Board. ~~created~~ ~~in~~ ~~section~~ ~~46-1217.~~

Sec. 1157. Section 46-1205.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-1205.01 ~~Certified~~ Licensed natural resources ground water technician means a natural resources ground water technician who has taken a training course, passed an examination based on the training course, and received a ~~certificate~~ license from the department indicating that he or she is a ~~certified~~ licensed natural resources ground water technician.

Sec. 1158. Section 46-1207.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-1207.01 (1) Illegal water well ~~shall~~ ~~mean~~ means any water well which has not been properly decommissioned and which meets any of the following conditions:

(a) The water well is in such a condition that it cannot be placed in active or inactive status;

(b) Any necessary operating equipment has been removed and the well has not been placed in inactive status;

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(c) The water well is in such a state of disrepair that continued use for the purpose for which it was constructed is impractical;

(d) The water well was constructed after October 1, 1986, but not constructed by a licensed water well contractor or by an individual on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode;

(e) The water well poses a health or safety hazard;

(f) The water well is an illegal water well in accordance with section 46-706; or

(g) The water well has been constructed after October 1, 1986, and such well is not in compliance with the standards developed under the Water Well Standards and Contractors' ~~Licensing~~ Practice Act.

(2) Whenever the department classifies a water well as an illegal water well, the landowner may petition the department to reclassify the water well as an active status water well, an inactive status water well, or an abandoned water well.

Sec. 1159. Section 46-1209, Reissue Revised Statutes of Nebraska, is amended to read:

46-1209 ~~Pump~~ Licensed pump installation contractor means an individual who has obtained a license from the department and who is a~~the~~ principal officer, director, manager, or owner-operator of any business engaged in the installation of pumps and pumping equipment or the decommissioning of water wells. ~~Pump installation contractor does not include: (1) An individual who installs or~~

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~~repairs pumps and pumping equipment for a water well, or who decommissions a driven sandpoint well, which is on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode; (2) a pump installation supervisor; or (3) an individual who repairs pumps and pumping equipment at a location other than a water well location.~~

Sec. 1160. Section 46-1210, Reissue Revised Statutes of Nebraska, is amended to read:

46-1210 ~~Pump~~ Licensed pump installation supervisor means any individual who has obtained a license from the department and who is engaged in the installation of pumps and pumping equipment or the decommissioning of water wells. Such supervisor may have discretionary and supervisory authority over other employees of a pump installation contractor. ~~Pump installation supervisor does not include: (1) An individual who installs or repairs pumps or pumping equipment for a water well, or decommissions a driven sandpoint well, which is on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode; (2) an individual who repairs pumps and pumping equipment at a location other than a water well location; or (3) any licensed pump installation contractor.~~

Sec. 1161. Section 46-1213, Reissue Revised Statutes of Nebraska, is amended to read:

46-1213 ~~Water~~ Licensed water well contractor means an individual who has obtained a license from the department and who is a~~the~~ principal officer, director, manager, or owner-operator of any business engaged in the construction or decommissioning

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of water wells. ~~Water well contractor does not include: (1) An individual who constructs a water well, or who decommissions a driven sandpoint well, which is on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode; or (2) a water well drilling supervisor.~~

Sec. 1162. Section 46-1214, Reissue Revised Statutes of Nebraska, is amended to read:

46-1214 ~~Water~~ Licensed water well drilling supervisor means any individual who has obtained a license from the department and who is engaged in the construction or decommissioning of water wells. Such supervisor may have discretionary and supervisory authority over other employees of a water well contractor. ~~Water well drilling supervisor does not include: (1) An individual who constructs a water well, or decommissions a driven sandpoint well, which is on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode; or (2) any licensed water well contractor.~~

Sec. 1163. Section 46-1214.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-1214.01 ~~Water~~ Licensed water well monitoring technician means any individual who has obtained a license from the department and who is engaged solely in the measuring of ground water levels, the collection of ground water samples from existing water wells, or the inspection of installed water well equipment or pumping systems. A licensed water well monitoring technician shall not supervise the work of others.~~Water well monitoring technician~~

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~~does not include: (1) An individual who constructs or decommissions a water well or installs or repairs pumps or pumping equipment or a water well; (2) a natural resources ground water technician; or (3) an individual who carries out the measurement, sampling, or inspection of a water well which is on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode.~~

Sec. 1164. Section 46-1217, Revised Statutes Cumulative Supplement, 2006, is amended to read:

46-1217 (1) There is hereby created a Water Well Standards and Contractors' Licensing Board. The board shall be composed of ten members, six of whom shall be appointed by the Governor as follows: ~~(1) A~~(a) A licensed water well contractor representing irrigation water well contractors, ~~(2) a~~(b) a licensed water well contractor representing domestic water well contractors, ~~(3) a~~(c) a licensed water well contractor representing municipal and industrial water well contractors, ~~(4) a~~(d) a licensed pump installation contractor, ~~(5)~~(e) a manufacturer or supplier of water well or pumping equipment, and ~~(6)~~(f) a holder of a license ~~or certificate~~ issued under the Water Well Standards and Contractors' ~~Licensing~~Practice Act employed by a natural resources district. The Director of ~~Health and Human Services~~ Regulation and Licensure or his or her designated representative, the Director of Environmental Quality or his or her designated representative, the Director of Natural Resources or his or her designated representative, and the director of the Conservation and Survey Division of the University of Nebraska or his or her designated representative shall also

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serve as members of the board.

(2) Each member shall be a resident of the state. Each ~~appointed member of the board~~industry representative shall have had at least five years of experience in the business of his or her category prior to appointment and shall be actively engaged in such business at the time of appointment and while serving on the board. Each member representing a category subject to licensing under the Water Well Standards and Contractors' ~~Licensing~~Practice Act~~, with the exception of members initially appointed,~~ shall be licensed by the department pursuant to such act. In making appointments, the Governor may consider recommendations made by the trade associations of each category.

Sec. 1165. Section 46-1218, Reissue Revised Statutes of Nebraska, is amended to read:

46-1218 ~~The Governor shall make the first appointments to the board within sixty days after October 1, 1986. Successors to the first appointees to the board shall be appointed for four-year terms. Two of the initial appointees shall serve terms of two years and two of the initial appointees shall serve terms of three years as determined by lot. The term of the remaining initial appointee shall be four years.~~ (1) The terms of members of the board appointed pursuant to subdivisions (1)(e) and (f) of section 46-1217 shall be extended by one year to five-year terms, and the successors to members appointed pursuant to subdivisions (1)(a) through (f) of such section shall be appointed for five-year terms. No appointed member shall be appointed to serve ~~three~~ more than two consecutive full ~~four-year~~ five-year terms.

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(2) Each appointed member shall hold office until the expiration of his or her term or until a successor has been appointed and qualified. Any vacancy occurring in the appointed board membership, other than by expiration of a term, shall be filled within sixty days by the Governor by appointment from the appropriate category for the unexpired term.

Sec. 1166. Section 46-1219, Reissue Revised Statutes of Nebraska, is amended to read:

46-1219 (1)~~The board shall meet within sixty days after the appointment of its members and thereafter at such other times as is deemed necessary or advisable.~~ Special meetings of the board shall be called upon the written request of any three members of the board. The place of all meetings shall be at the offices of the department, unless otherwise determined by the board. ~~At the first meeting of the board, a chairperson and vice-chairperson shall be selected.~~

(2) A majority of the members of the board shall constitute a quorum for the transaction of business. Every act of a majority of the total number of members of the board shall be deemed to be an act of the board.

Sec. 1167. (1) All water well construction and monitoring, pump and pumping equipment installation and repair, and decommissioning shall be accomplished following the standards developed under the Water Well Standards and Contractors' Practice Act.

(2) A licensed water well contractor may have supervisory authority over all employees.

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(3) A licensed water well supervisor shall work under the supervision of a licensed water well contractor and may have supervisory authority over noncredentialed employees.

(4) A licensed pump installation contractor may have supervisory authority over all employees.

(5) A licensed pump installation supervisor shall work under the supervision of a licensed pump installation contractor and may have supervisory authority over noncredentialed employees.

(6) A licensed water well monitoring technician may work independently and shall not have supervisory authority.

(7) A licensed natural resources ground water technician may work independently and shall not have supervisory authority over any credentialed or noncredentialed persons.

(8) An individual who owns land and uses it for farming, ranching, or agricultural purposes or as his or her place of abode may, on such land, construct a water well, install a pump in a well, or decommission a driven sandpoint well.

Sec. 1168. Section 46-1223, Reissue Revised Statutes of Nebraska, is amended to read:

46-1223 ~~(1) The department with the assistance of the board shall cause examination to be made of applicants for licensure or certification. The board shall determine the type, categories, contents, and required passing grade of examinations to be administered to applicants for licensing or certification. Examinations shall be held at such times and places as the department, with the advice of the board, may determine. The department shall act within ninety days upon all completed~~

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~~applications for licensure or certification.~~

~~(2)~~ (1) Examinations for water well monitoring technicians shall be designed and adopted to examine the knowledge of the applicant regarding the minimum standards for water wells and water well pumps, the geological characteristics of the state, measuring ground water levels, and water sampling practices and techniques. Examinations for natural resources ground water technicians shall examine the knowledge of the applicant regarding inspection of chemigation systems, measuring and recording static water levels, inspecting and servicing flow meters, and water sampling practices and techniques. All other examinations shall be designed and adopted to examine the knowledge of the applicant regarding the minimum standards for water wells and water well pumps, the geological characteristics of the state, current drilling or pump installation practices and techniques, and such other knowledge as deemed appropriate by the board. ~~The board may adopt any nationally developed standard examinations as constituting part or all of the Nebraska examinations.~~

~~(3)~~ (2) An examinee who fails to pass the initial examination may retake such examination without charge at any regularly scheduled examination held within ~~four~~twelve months after failing to pass the initial examination, except that when a national standardized examination is utilized which requires the payment of a fee to purchase such examination, the board shall require the applicant to pay the appropriate examination fee whether an initial examination or a retake of an examination is involved.

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~~(4)~~ (3) In cases of hardship, the board may provide and direct that special arrangements for administering examinations be utilized. The board may also provide for temporary hardship licensing without examination due to the death of the current license holder or for other good cause shown.

Sec. 1169. Section 46-1223.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-1223.01 The department shall develop a ~~certification~~ program that is designed to train individuals to become ~~certified~~licensed natural resources ground water technicians. Such course shall be developed by the department in consultation with the natural resources districts. Such course shall include inspection of chemigation systems, measuring and recording static water levels, inspecting and servicing flow meters, and taking water samples. Training sessions shall not be less than two hours and shall not exceed eight hours. ~~At the end of the training session, individuals taking the training shall be required to take a written examination.~~

Sec. 1170. Section 46-1224, Reissue Revised Statutes of Nebraska, is amended to read:

46-1224 (1) Except as otherwise provided in subsections (2) through (4) of this section, the board shall set reasonable fees in an amount calculated to recover the costs incurred by the department and the board in administering and carrying out the purposes of the Water Well Standards and Contractors' ~~Licensing~~ Practice Act. Such fees shall be paid to the department and remitted to the State Treasurer for credit to the Water Well

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Standards and Contractors' Licensing Fund, which fund is hereby created. Such fund shall be used by the department and the board for the purpose of administering the Water Well Standards and Contractors' ~~Licensing~~ Practice Act. Additionally, such fund shall be used to pay any required fee to a contractor which provides the on-line services for registration of water wells. Any discount in the amount paid the state by a credit card, charge card, or debit card company or a third-party merchant bank for such registration fees shall be deducted from the portion of the registration fee collected pursuant to this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) Fees for credentialing individuals under the Water Well Standards and Contractors' ~~Licensing~~ Practice Act shall be established and collected as provided in ~~section 71-162~~sections 54 to 60 of this act.

(3) The board shall set a fee of not less than twenty-five dollars and not more than forty dollars for each water well which is required to be registered and which is designed and constructed to pump less than fifty gallons per minute and each monitoring and observation well and a fee of not less than forty dollars and not more than eighty dollars for each water well which is required to be registered and which is designed and constructed to pump fifty gallons per minute or more. For water wells permitted pursuant to the Industrial Ground Water Regulatory Act, the fee set pursuant to this subsection shall be collected

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for each of the first ten such water wells registered, and for each group of ten or fewer such water wells registered thereafter, the fee shall be collected as if only one water well was being registered. For a series of two or more water wells completed and pumped into a common carrier, as defined in section 46-601.01, as part of a single site plan for irrigation purposes, the fee set pursuant to this subsection shall be collected for each of the first two such water wells registered. For a series of water wells completed for purposes of installation of a ground heat exchanger for a structure for utilizing the geothermal properties of the ground, the fee set pursuant to this subsection shall be collected as if only one water well was being registered. For water wells constructed as part of a single site plan for monitoring ground water, obtaining hydrogeologic information, or extracting contaminants from the ground and for water wells constructed as part of remedial action approved by the Department of Environmental Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, the fee set pursuant to this subsection shall be collected for each of the first five such water wells registered, and for each group of five or fewer such water wells registered thereafter, the fee shall be collected as if only one water well was being registered. The fees shall be remitted to the Director of Natural Resources with the registration form required by section 46-602 and shall be in addition to the fee in section 46-606. The director shall remit the fee to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund.

(4) The board shall set an application fee for a

declaratory ruling or variance of not less than fifty dollars and not more than one hundred dollars. The fee shall be remitted to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund.

Sec. 1171. Section 46-1225, Reissue Revised Statutes of Nebraska, is amended to read:

46-1225 ~~(1)~~ The board shall adopt ~~and~~ ~~promulgate~~ rules and regulations to establish continuing competency requirements for persons licensed ~~or~~ ~~certified~~ under the Water Well Standards and Contractors' ~~Licensing~~ Practice Act. Continuing education is sufficient to meet continuing competency requirements. Such requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section ~~71-161.09~~ 48 of this act which a licensed ~~or~~ ~~certified~~ person may select as an alternative to continuing education.

~~(2) Each renewal applicant shall, on or before the date of expiration of his or her license or certificate, complete documentation as required by the board that he or she has complied with the continuing competency requirements during the preceding period. Any licensee or certificate holder who has not complied with the continuing competency requirements shall not be issued a renewal license or certificate, unless he or she is exempted from the continuing competency requirements or he or she is unable to comply with the requirements due to circumstances beyond his or her control as determined by the board. Procedures for refusal of renewal of licenses and certificates or reinstatement of licenses and certificates shall be in accordance with section 46-1237.~~

Sec. 1172. Section 46-1227, Reissue Revised Statutes of Nebraska, is amended to read:

46-1227 The department, with the ~~advice and consent~~approval of the board, shall adopt and promulgate uniform rules and regulations, in accordance with the rules and regulations adopted and promulgated pursuant to sections 46-602 and 81-1505, for the establishment of standards for the (1) construction of water wells, (2) installation of pumps and pumping equipment, and (3) decommissioning water wells. Such rules, regulations, and standards may recognize differing hydrologic and geologic conditions, may recognize differing uses of any developed supplies, and shall be designed to promote efficient methods of operation and prevent water wells from becoming a source of contamination to the aquifer. Such standards shall be applicable whether such activities are carried out by a licensed water well contractor, a licensed pump installation contractor, a licensed water well drilling supervisor, a licensed pump installation supervisor, or any other person. Nothing in this section shall be construed to require that the department adopt, promulgate, or amend rules and regulations for programs in existence on October 1, 1986.

Sec. 1173. Section 46-1229, Reissue Revised Statutes of Nebraska, is amended to read:

46-1229 Any person desiring to engage in the construction of water wells, the installation of pumps and pumping equipment, or the decommissioning of water wells shall make initial application for a license to the department in accordance with section 32 of

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this act. ~~Each such application shall include satisfactory evidence that the applicant is at least the age of majority and is of good moral character. The department shall charge an application fee established as provided in section 71-162 for the filing of such application. The department shall not act upon any application until the application fee for such license has been paid.~~ A license to engage in the construction or decommissioning of water wells or the installation of pumps and pumping equipment shall be issued to every applicant who demonstrates professional competence by successfully passing the examination prescribed in section 46-1223~~,~~ ~~pays the appropriate license fee,~~ and otherwise complies with the Uniform Credentialing Act, the Water Well Standards and Contractors' ~~Licensing~~ Practice Act and all standards, rules, and regulations adopted and promulgated pursuant to such ~~act~~acts. Applicants shall receive licenses for any category or combination of categories for which they have successfully passed the required examination. ~~If the applicant is an individual, the application shall include the applicant's social security number.~~

Sec. 1174. Section 46-1230, Reissue Revised Statutes of Nebraska, is amended to read:

46-1230 Each applicant for ~~licensing or relicensing as a~~ an initial license as a licensed water well contractor or as a licensed pump installation contractor shall furnish proof to the department that there is in force a policy of public liability and property damage insurance issued to the applicant in an amount established by the department by rules and regulations sufficient to protect the public interest. Proof of insurance shall

be maintained and submitted annually for the term of the active license.

Sec. 1175. Section 46-1231, Reissue Revised Statutes of Nebraska, is amended to read:

46-1231 Each water well drilling supervisor, pump installation supervisor, natural resources ground water technician, and water well monitoring technician shall make application for a ~~certificate of competence~~ license in his or her respective trade. ~~The application shall include the applicant's social security number. Such application shall be made to the department which shall charge an application fee established as provided in section 71-162 for the filing of such application, and the department shall not act upon any application until the application fee for such certificate has been paid.~~ A ~~certificate~~license shall be issued to every applicant who successfully passes the examination for such ~~certificate, pays the appropriate certification fee,~~license and otherwise complies with the Uniform Credentialing Act, the Water Well Standards and Contractors' ~~Licensing~~ Practice Act and all standards, rules, and regulations adopted and promulgated pursuant to such ~~act~~acts. Any individual employed by a licensed water well contractor or a licensed pump installation contractor who is not deemed to qualify as a licensed water well drilling supervisor or licensed pump installation supervisor may ~~make application for a certificate of competence~~ apply for a license in his or her respective trade in the same manner as the licensed water well drilling supervisor or the licensed pump installation supervisor. A supervisor holding a certificate of competence in his or her

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respective trade on December 1, 2008, shall be deemed to be licensed as a supervisor in such trade on such date. A technician holding a certificate of competence in his or her respective trade on December 1, 2008, shall be deemed to be licensed as a technician in such trade on such date.

Sec. 1176. Section 46-1233, Reissue Revised Statutes of Nebraska, is amended to read:

46-1233 ~~No water well shall be constructed, no pump or pumping equipment shall be installed, and no water well shall be decommissioned by a person engaged in the construction of water wells or installation of pumps and pumping equipment unless the construction, installation, or decommissioning is carried out or supervised by a licensed water well contractor, water well drilling supervisor, pump installation contractor, or pump installation supervisor.~~ (1) Any person constructing a water well, installing or repairing pumps onsite, or decommissioning a water well shall do such work in accordance with the rules and regulations developed under the Water Well Standards and Contractors' Practice Act.

(2) A water well shall be constructed, pumps and pumping equipment shall be installed and repaired onsite, and water wells shall be decommissioned by a licensed contractor or supervisor or a person working directly under the supervision of a licensed contractor or supervisor, except that an individual may construct a water well or install and repair pumps and pumping equipment onsite on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode. No water well shall be opened or the seal broken by any

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person other than an owner of the water well unless (a) the opening or breaking of the seal is carried out by a licensed water well monitoring technician or a licensed natural resources ground water technician, (b) the opening or breaking of the seal is carried out by a licensed operator of a public water system in the course of his or her employment or someone under his or her supervision, or (c) a state electrical inspector in the course of his or her employment.

(3) For purposes of this section, supervision means the ready availability of the person licensed ~~or certified~~ pursuant to the Water Well Standards and Contractors' ~~Licensing~~ Practice Act for consultation and direction of the activities of any person not licensed ~~or certified~~ who assists in the construction of a water well, the installation of pumps and pumping equipment, or decommissioning of a water well. Contact with the licensed contractor or ~~certified~~ supervisor by telecommunication shall be sufficient to show ready availability.

Sec. 1177. Section 46-1235, Reissue Revised Statutes of Nebraska, is amended to read:

46-1235 In cases other than those relating to failure to meet the requirements for an initial license, ~~or an initial certificate,~~ the department may deny, refuse renewal of, suspend, or revoke licenses ~~or certificates~~ or may take other disciplinary action in accordance with section 99 of this act for the grounds found in sections 81 and 85 of this act and for any of the following acts or offenses:

~~(1) Practice of fraud or deceit in obtaining a license or~~

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~~certificate;~~

~~(2)~~ (1) Violation of the Water Well Standards and Contractors' ~~Licensing~~ Practice Act or any standards, rules, or regulations adopted and promulgated pursuant to such act;

~~(3) Incompetence or gross negligence in the performance of any activity for which licenses or certificates are issued pursuant to the act;~~

~~(4)~~ (2) Conduct or practices detrimental to the health or safety of persons hiring the services of the licensee ~~or certificate holder~~ or of members of the general public;

~~(5) Practice of the trade fraudulently, beyond the authorized scope, or with manifest incapacity;~~

~~(6) Practice of the trade while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, or physical disability;~~

~~(7) Permitting, aiding, or abetting the practice of the trade or the performance of activities requiring a license or certificate by a person not licensed or certified to do so;~~

~~(8) Having had a license or certificate denied, refused renewal, limited, suspended, or revoked or having been disciplined in any other manner by another state or jurisdiction to practice water well construction, water well drilling, water well decommissioning, or pump installation based upon acts by the applicant, licensee, or certificate holder similar to acts described in this section. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license or certificate or the taking of other disciplinary~~

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~~action by another state or jurisdiction shall be conclusive evidence;~~

~~(9) Unprofessional conduct as may be defined in rules and regulations of the board with approval of the department;~~

~~(10)~~ (3) Practice of the trade while the license ~~or certificate~~ to do so is suspended or practice of the trade in contravention of any limitation placed upon the license; ~~or certificate;~~

~~(11)~~ (4) Failing to file a water well registration required by subsection (1), (2), (3), (4), or (5) of section 46-602 or failing to file a notice required by subsection (7) of such section; or

~~(12)~~ (5) Failing to file a properly completed notice of abandonment of a water well required by subsection (8) of section 46-602.

~~A licensee or certificate holder shall not engage in the practice of the trade after a license or certificate is revoked or during the time for which it is suspended. If a license or certificate is suspended, the suspension shall be for a definite period of time to be fixed by the Director of Regulation and Licensure, and such license or certificate shall be automatically reinstated upon the expiration of such period if the current renewal fee has been paid. If such license or certificate is revoked, such revocation shall be for one year.~~

Sec. 1178. Section 46-1238, Revised Statutes Cumulative Supplement, 2006, is amended to read:

46-1238 Any person who fails to employ or use at least

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one individual appropriately licensed ~~or certified~~ and available or any person who engages, without a license ~~or certificate~~ for such activities, in the construction of water wells, the installation of pumps and pumping equipment, the decommissioning of water wells, or the measuring of ground water levels, the collection of ground water samples from existing water wells, or the inspection of installed water well equipment, pumping systems, or chemigation regulation devices, in addition to the other penalties provided in the Uniform Credentialing Act or the Water Well Standards and Contractors' ~~Licensing~~Practice Act, may be enjoined from continuing such activities.

Sec. 1179. Section 46-1239, Revised Statutes Cumulative Supplement, 2006, is amended to read:

46-1239 Any person who fails to employ or use at least one individual appropriately licensed ~~or certified~~ and available or any person who engages, without a license ~~or certificate~~ for such activities, in the construction of water wells, the installation of pumps and pumping equipment, or the decommissioning of water wells is guilty of a Class II misdemeanor or subject to a civil penalty of not more than one thousand dollars for each day the violation occurs.

Any civil penalty assessed and unpaid shall constitute a debt to the state which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. An action to collect a civil penalty shall be brought within two years of the alleged violation

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providing the basis of the penalty, except that if the cause of action is not discovered and could not be reasonably discovered within the two-year period, the action may be commenced within two years after the date of discovery or after the date of discovery of facts which would reasonably lead to discovery, whichever is earlier. The department shall remit the civil penalty to the State Treasurer, within thirty days after receipt, for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 1180. Section 46-1240, Reissue Revised Statutes of Nebraska, is amended to read:

46-1240 Any person who engages in or any person who employs or uses a person who engages in the construction of water wells, the installation of pumps and pumping equipment, the decommissioning of water wells, or the measuring of ground water levels, the collection of ground water samples from existing water wells, or the inspection of installed water well equipment, pumping systems, or chemigation regulation devices or who fails to decommission or decommissions an illegal water well without complying with the standards adopted and promulgated pursuant to the Water Well Standards and Contractors' ~~Licensing~~ Practice Act shall be guilty of a Class III misdemeanor or subject to a civil penalty of not more than five hundred dollars for each day an intentional violation occurs and may be enjoined from continuing such activity, including a mandatory injunction.

Any civil penalty assessed and unpaid shall constitute a debt to the state which may be collected in the manner of a lien

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foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. An action to collect a civil penalty shall be brought within two years of the alleged violation providing the basis of the penalty, except that if the cause of action is not discovered and could not be reasonably discovered within the two-year period, the action may be commenced within two years after the date of discovery or after the date of discovery of facts which would reasonably lead to discovery, whichever is earlier. The department shall~~, within thirty days after receipt,~~ remit the civil penalty to the State Treasurer, within thirty days after receipt, for ~~credit to the permanent school fund~~distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 1181. Section 46-1241, Reissue Revised Statutes of Nebraska, is amended to read:

46-1241 Any owner of a water well or a licensed water well contractor who engages in an act of or the business of constructing a water well shall keep and maintain an accurate well log of the construction of each such water well. The well log shall be available to the department for inspection and copying during reasonable hours or the regular business hours of the contractor.

The well log shall include the following information:

(1) Legal description of the water well;

(2) Description and depth of geologic materials encountered;

(3) Depth and diameter or dimension of constructed water

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well and test hole;

(4) Depth and diameter or dimension of excavated hole if applicable;

(5) Depth of formation stabilizer or gravel pack and size of particles if used;

(6) Depth and thickness of grout or other sealing material if applicable;

(7) Casing information, including length, inside diameter, wall thickness, and type of material if applicable;

(8) Screen information, including length, trade name, inside and outside diameter, slot size, and type of material if applicable;

(9) Static water level;

(10) Water level when pumped at the designated rate, giving the rate of pumping and amount of time pumped, if applicable;

(11) Yield of water well in gallons per minute or gallons per hour if applicable;

(12) Signature of water well contractor;

(13) Dates drilling commenced and construction completed;

(14) Intended use of the water well;

(15) Name and address of the owner;

(16) Identification number of any permit for the water well issued pursuant to Chapter 46, article 6, Chapter 66, article 11, or any other law;

(17) Name, address, and license number of any license issued pursuant to the Water Well Standards and Contractors'

~~Licensing~~ Practice Act of any person, other than the owner of the water well, who constructed the water well; and

(18) Other data as the board reasonably requires.

Sec. 1182. Section 54-311, Reissue Revised Statutes of Nebraska, is amended to read:

54-311 It shall be unlawful for the owner or holder of any real estate in the State of Nebraska to leave uncovered any well or other pitfall into which any person or animal may fall or receive injury. Every pitfall shall be filled, adequately covered, or enclosed so as not to constitute a safety hazard. Every well not in use shall be decommissioned or properly placed in inactive status in accordance with the Water Well Standards and Contractors' ~~Licensing~~ Practice Act so as not to constitute a safety hazard.

Sec. 1183. Section 60-4,118.02, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,118.02 (1) There is hereby created the Health Advisory Board which shall consist of six health care providers appointed by the director with the advice and recommendation of the Director of Regulation and Licensure. The members of the board shall consist of one general practice physician, one physician engaged in the practice of ophthalmology, one physician engaged in the practice of orthopedic surgery, one physician engaged in the practice of neurological medicine and surgery, one optometrist, and one psychiatrist. Each member of the board shall be licensed to practice his or her profession pursuant to the Uniform ~~Licensing Law~~Credentialing Act.

(2) Of the initial members of the board, two shall be

appointed for four years, two shall be appointed for three years, and two shall be appointed for two years. Thereafter, each member shall be appointed for a term of four years and until a successor is appointed and qualified. If a vacancy occurs for any reason other than the expiration of a term, the Director of Motor Vehicles may appoint a person licensed in the same type of professional practice as the member being replaced to serve out the unexpired term. Members of the board shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(3) The board shall meet as necessary at the call of the director. At the initial meeting of the board following completion of the initial appointments, the board shall select from among its members a chairperson and shall designate any other officers or committees as it deems necessary. The board may select officers and committees annually or as necessary to fill vacancies and to carry out duties of the board.

Sec. 1184. Section 60-6,261, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,261 Sections 60-6,257 to 60-6,259 shall not apply to the side or rear windows of funeral coaches, hearses, or other vehicles operated in the normal course of business by a funeral establishment licensed under section ~~71-1327~~560 of this act.

Sec. 1185. Section 69-302, Reissue Revised Statutes of Nebraska, is amended to read:

69-302 For purposes of the Mail Order Contact Lens Act:

(1) Contact lens prescription means a written order bearing the original signature of an optometrist or physician or an

oral or electromagnetic order issued by an optometrist or physician that authorizes the dispensing of contact lenses to a patient and meets the requirements of section 69-303;

(2) Department means the Department of Health and Human Services Regulation and Licensure;

(3) Mail-order ophthalmic provider means an entity that ships, mails, or in any manner delivers dispensed contact lenses to Nebraska residents;

(4) Optometrist means a person licensed to practice optometry pursuant to ~~sections 71-1,133 to 71-1,136.09~~the Optometry Practice Act; and

(5) Physician means a person licensed to practice medicine and surgery pursuant to ~~sections 71-1,102 to 71-1,107.14~~the Medicine and Surgery Practice Act.

Sec. 1186. Section 71-1,190, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,190 (1) Every applicant for a license to practice audiology ~~or speech-language pathology~~ shall ~~(1)~~(a)(i) for applicants graduating prior to the operative date of this section, present proof of a master's degree, a doctoral degree, or ~~its~~the equivalent of a master's degree or doctoral degree in audiology ~~or speech-language pathology~~ from an academic program approved by the board, ~~(2)~~and (ii) for applicants graduating on or after the operative date of this section, present proof of a doctoral degree or its equivalent in audiology, (b) present proof of ~~at least nine calendar months~~no less than thirty-six weeks of full-time professional experience or ~~eighteen months of at least~~equivalent

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half-time professional experience in ~~speech-language~~ ~~pathology~~ ~~or~~ audiology, supervised in the area in which licensure is sought, and ~~(3)~~(c) successfully complete an examination approved by ~~the department on recommendation of~~ the board.

(2) Every applicant for a license to practice speech-language pathology shall (a) present proof of a master's degree, a doctoral degree, or the equivalent of a master's degree or doctoral degree in speech-language pathology from an academic program approved by the board, (b) present proof of no less than thirty-six weeks of full-time professional experience or equivalent half-time professional experience in speech-language pathology, supervised in the area in which licensure is sought, and (c) successfully complete an examination approved by the board.

(3) Presentation of official documentation of certification by a nationwide professional accrediting organization approved by the board shall be deemed equivalent to ~~subdivisions (1), (2), and (3)~~the requirements of this section.

Sec. 1187. Section 71-414, Reissue Revised Statutes of Nebraska, is amended to read:

71-414 Health care practitioner facility means the residence, office, or clinic of a practitioner or group of practitioners credentialed under the Uniform ~~Licensing Law~~ Credentialing Act or any distinct part of such residence, office, or clinic.

Sec. 1188. Section 71-425, Reissue Revised Statutes of Nebraska, is amended to read:

71-425 Pharmacy means a facility advertised as a

pharmacy, drug store, hospital pharmacy, dispensary, or any combination of such titles where drugs or devices are dispensed as defined in ~~section 71-1,142~~the Pharmacy Practice Act.

Sec. 1189. Section 71-448, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-448 The department may take disciplinary action against a license issued under the Health Care Facility Licensure Act on any of the following grounds:

(1) Violation of any of the provisions of the Assisted-Living Facility Act, the Health Care Facility Licensure Act, the Nebraska Nursing Home Act, or the rules and regulations adopted and promulgated under such acts;

(2) Committing or permitting, aiding, or abetting the commission of any unlawful act;

(3) Conduct or practices detrimental to the health or safety of a person residing in, served by, or employed at the health care facility or health care service;

(4) A report from an accreditation body or public agency sanctioning, modifying, terminating, or withdrawing the accreditation or certification of the health care facility or health care service;

(5) Failure to allow an agent or employee of the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure access to the health care facility or health care service for the purposes of inspection, investigation, or other information collection

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activities necessary to carry out the duties of such departments;

(6) Discrimination or retaliation against a person residing in, served by, or employed at the health care facility or health care service who has submitted a complaint or information to the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure;

(7) Discrimination or retaliation against a person residing in, served by, or employed at the health care facility or health care service who has presented a grievance or information to the office of the state long-term care ombudsman;

(8) Failure to allow a state long-term care ombudsman or an ombudsman advocate access to the health care facility or health care service for the purposes of investigation necessary to carry out the duties of the office of the state long-term care ombudsman as specified in the rules and regulations adopted and promulgated by the Department of Health and Human Services;

(9) Violation of the Emergency Box Drug Act;

(10) Failure to file a report required by section ~~71-168.02~~130 of this act;

(11) Violation of the Medication Aide Act; or

(12) Failure to file a report of suspected abuse or neglect as required by sections 28-372 and 28-711.

Sec. 1190. Section 71-507, Revised Statutes Cumulative Supplement, 2006 , is amended to read:

71-507 For purposes of sections 71-507 to 71-513:

(1) Alternate facility means a facility other than a

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health care facility that receives a patient transported to the facility by an emergency services provider;

(2) Department means the Department of Health and Human Services Regulation and Licensure;

(3) Designated physician means the physician representing the emergency services provider as identified by name, address, and telephone number on the significant exposure report form. The designated physician shall serve as the contact for notification in the event an emergency services provider believes he or she has had significant exposure to an infectious disease or condition. Each emergency services provider shall designate a physician as provided in subsection (2) of section 71-509;

(4) Emergency services provider means an out-of-hospital emergency care provider certified pursuant to the Emergency Medical Services Practice Act, a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, a funeral director, a paid or volunteer firefighter, a school district employee, and a person rendering emergency care gratuitously as described in section 25-21,186;

(5) Funeral director means a person licensed under section ~~71-1302~~555 of this act or an employee of such a person with responsibility for transport or handling of a deceased human;

(6) Funeral establishment means a business licensed under section ~~71-1327~~560 of this act;

(7) Health care facility has the meaning found in sections 71-419, 71-420, 71-424, and 71-429 or any facility that receives patients of emergencies who are transported to

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the facility by emergency services providers;

(8) Infectious disease or condition means hepatitis B, hepatitis C, meningococcal meningitis, active pulmonary tuberculosis, human immunodeficiency virus, diphtheria, plague, hemorrhagic fevers, rabies, and such other diseases as the department may by rule and regulation specify;

(9) Patient means an individual who is sick, injured, wounded, deceased, or otherwise helpless or incapacitated;

(10) Patient's attending physician means the physician having the primary responsibility for the patient as indicated on the records of a health care facility;

(11) Provider agency means any law enforcement agency, fire department, emergency medical service, funeral establishment, or other entity which employs or directs emergency services providers or public safety officials;

(12) Public safety official means a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, a paid or volunteer firefighter, a school district employee, and any civilian law enforcement employee or volunteer performing his or her duties, other than those as an emergency services provider;

(13) Responsible person means an individual who has been designated by an alternate facility to carry out the facility's responsibilities under sections 71-507 to 71-513. A responsible person may be designated on a case-by-case basis;

(14) Significant exposure means a situation in which the body fluids, including blood, saliva, urine, respiratory secretions, or feces, of a patient or individual have entered

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the body of an emergency services provider or public safety official through a body opening including the mouth or nose, a mucous membrane, or a break in skin from cuts or abrasions, from a contaminated needlestick or scalpel, from intimate respiratory contact, or through any other situation when the patient's or individual's body fluids may have entered the emergency services provider's or public safety official's body or when an airborne pathogen may have been transmitted from the patient or individual to the emergency services provider or public safety official; and

(15) Significant exposure report form means the form used by the emergency services provider to document information necessary for notification of significant exposure to an infectious disease or condition.

Sec. 1191. Section 71-1,104.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

~~71-1,104.01~~ (1) Except as provided in section 71-519 and except for newborn screening tests ordered by physicians to comply with the law of the state in which the infant was born, a physician or an individual to whom the physician has delegated authority to perform a selected act, task, or function shall not order a predictive genetic test without first obtaining the written informed consent of the patient to be tested. Written informed consent consists of a signed writing executed by the patient or the representative of a patient lacking decisional capacity that confirms that the physician or individual acting under the delegated authority of the physician has explained, and the patient or his or her representative understands:

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(a) The nature and purpose of the predictive genetic test;

(b) The effectiveness and limitations of the predictive genetic test;

(c) The implications of taking the predictive genetic test, including the medical risks and benefits;

(d) The future uses of the sample taken to conduct the predictive genetic test and the genetic information obtained from the predictive genetic test;

(e) The meaning of the predictive genetic test results and the procedure for providing notice of the results to the patient; and

(f) Who will have access to the sample taken to conduct the predictive genetic test and the genetic information obtained from the predictive genetic test, and the patient's right to confidential treatment of the sample and the genetic information.

(2) The Department of Health and Human Services Regulation and Licensure shall develop and distribute a model informed consent form for purposes of this section. The department shall include in the model form all of the information required under subsection (1) of this section. The department shall distribute the model form and all revisions to the form to physicians and other individuals subject to this section upon request and at no charge. The department shall review the model form at least annually for five years after the first model form is distributed and shall revise the model form if necessary to make the form reflect the latest developments in medical genetics. The

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department may also develop and distribute a pamphlet that provides further explanation of the information included in the model form.

(3) If a patient or his or her representative signs a copy of the model informed consent form developed and distributed under subsection (2) of this section, the physician or individual acting under the delegated authority of the physician shall give the patient a copy of the signed informed consent form and shall include the original signed informed consent form in the patient's medical record.

(4) If a patient or his or her representative signs a copy of the model informed consent form developed and distributed under subsection (2) of this section, the patient is barred from subsequently bringing a civil action for damages against the physician, or an individual to whom the physician delegated authority to perform a selected act, task, or function, who ordered the predictive genetic test, based upon failure to obtain informed consent for the predictive genetic test.

(5) A physician's duty to inform a patient under this section does not require disclosure of information beyond what a physician reasonably well-qualified to order and interpret the predictive genetic test would know. A person acting under the delegated authority of a physician shall understand and be qualified to provide the information required by subsection (1) of this section.

(6) For purposes of this section:

(a) Genetic information means information about a gene, gene product, or inherited characteristic derived from a genetic

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test;

(b) Genetic test means the analysis of human DNA, RNA, chromosomes, epigenetic status, and those tissues, proteins, and metabolites used to detect heritable or somatic disease-related genotypes or karyotypes for clinical purposes. Tests of tissues, proteins, and metabolites are included only when generally accepted in the scientific and medical communities as being specifically determinative of a heritable or somatic disease-related genetic condition. Genetic test does not include a routine analysis, including a chemical analysis, of body fluids or tissues unless conducted specifically to determine a heritable or somatic disease-related genetic condition. Genetic test does not include a physical examination or imaging study. Genetic test does not include a procedure performed as a component of biomedical research that is conducted pursuant to federal common rule under 21 C.F.R. parts 50 and 56 and 45 C.F.R. part 46, as such regulations existed on January 1, 2003; and

(c) Predictive genetic test means a genetic test for an otherwise undetectable genotype or karyotype relating to the risk for developing a genetically related disease or disability, the results of which can be used to substitute a patient's prior risk based on population data or family history with a risk based on genotype or karyotype. Predictive genetic test does not include diagnostic testing conducted on a person exhibiting clinical signs or symptoms of a possible genetic condition. Predictive genetic testing does not include prenatal genetic diagnosis, unless the prenatal testing is conducted for an adult-onset condition not

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expected to cause clinical signs or symptoms before the age of majority.

Sec. 1192. Section 71-605, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-605 (1) The funeral director and embalmer in charge of the funeral of any person dying in the State of Nebraska shall cause a certificate of death to be filled out with all the particulars contained in the standard form adopted and promulgated by the department. Such standard form shall include a space for veteran status and the period of service in the armed forces of the United States and a statement of the cause of death made by a person holding a valid license as a physician who last attended the deceased. The standard form shall also include the deceased's social security number. Death and fetal death certificates shall be completed by the funeral directors and embalmers and physicians for the purpose of filing with the department and providing child support enforcement information pursuant to section 43-3340.

(2) The physician shall have the responsibility and duty to complete and sign in his or her own handwriting or by electronic means pursuant to section 71-603.01, within twenty-four hours from the time of death, that part of the certificate of death entitled medical certificate of death. In the case of a death when no person licensed as a physician was in attendance, the funeral director and embalmer shall refer the case to the county attorney who shall have the responsibility and duty to complete and sign the death certificate in his or her own handwriting or by electronic means pursuant to section 71-603.01.

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No cause of death shall be certified in the case of the sudden and unexpected death of a child between the ages of one week and three years until an autopsy is performed at county expense by a qualified pathologist pursuant to section 23-1824. The parents or guardian shall be notified of the results of the autopsy by their physician, community health official, or county coroner within forty-eight hours. The term sudden infant death syndrome shall be entered on the death certificate as the principal cause of death when the term is appropriately descriptive of the pathology findings and circumstances surrounding the death of a child.

If the circumstances show it possible that death was caused by neglect, violence, or any unlawful means, the case shall be referred to the county attorney for investigation and certification. The county attorney shall, within twenty-four hours after taking charge of the case, state the cause of death as ascertained, giving as far as possible the means or instrument which produced the death. All death certificates shall show clearly the cause, disease, or sequence of causes ending in death. If the cause of death cannot be determined within the period of time stated above, the death certificate shall be filed to establish the fact of death. As soon as possible thereafter, and not more than six weeks later, supplemental information as to the cause, disease, or sequence of causes ending in death shall be filed with the department to complete the record. For all certificates stated in terms that are indefinite, insufficient, or unsatisfactory for classification, inquiry shall be made to the person completing the certificate to secure the necessary information to correct or

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complete the record.

(3) A completed death certificate shall be filed with the department within five business days after the date of death. If it is impossible to complete the certificate of death within five business days, the funeral director and embalmer shall notify the department of the reason for the delay and file the certificate as soon as possible.

(4) Before any dead human body may be cremated, a cremation permit shall first be signed by the county attorney, or by his or her authorized representative as designated by the county attorney in writing, of the county in which the death occurred on a form prescribed and furnished by the department.

(5) A permit for disinterment shall be required prior to disinterment of a dead human body. The permit shall be issued by the department to a licensed funeral director and embalmer upon proper application. The request for disinterment shall be made by the next of kin of the deceased, as listed in section ~~71-1339~~566 of this act, or a county attorney on a form furnished by the department. The application shall be signed by the funeral director and embalmer who will be directly supervising the disinterment. When the disinterment occurs, the funeral director and embalmer shall sign the permit giving the date of disinterment and file the permit with the department within ten days of the disinterment.

(6) When a request is made under subsection (5) of this section for the disinterment of more than one dead human body, an order from a court of competent jurisdiction shall be submitted to the department prior to the issuance of a permit for disinterment.

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The order shall include, but not be limited to, the number of bodies to be disinterred if that number can be ascertained, the method and details of transportation of the disinterred bodies, the place of reinterment, and the reason for disinterment. No sexton or other person in charge of a cemetery shall allow the disinterment of a body without first receiving from the department a disinterment permit properly completed.

(7) No dead human body shall be removed from the state for final disposition without a transit permit issued by the funeral director and embalmer having charge of the body in Nebraska, except that when the death is subject to investigation, the transit permit shall not be issued by the funeral director and embalmer without authorization of the county attorney of the county in which the death occurred. No agent of any transportation company shall allow the shipment of any body without the properly completed transit permit prepared in duplicate.

(8) The interment, disinterment, or reinterment of a dead human body shall be performed under the direct supervision of a licensed funeral director and embalmer, except that hospital disposition may be made of the remains of a child born dead pursuant to section 71-20,121.

(9) All transit permits issued in accordance with the law of the place where the death occurred in a state other than Nebraska shall be signed by the funeral director and embalmer in charge of burial and forwarded to the department within five business days after the interment takes place.

Sec. 1193. Section 71-906, Revised Statutes Cumulative

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Supplement, 2006, is amended to read:

71-906 Mental health professional means a person licensed to practice medicine and surgery or psychology in this state under the Uniform ~~Licensing~~ ~~Law~~ Credentialing Act or an advanced practice registered nurse licensed under the Advanced Practice Registered Nurse Practice Act who has proof of current certification in a psychiatric or mental health specialty.

Sec. 1194. Section 71-1356, Reissue Revised Statutes of Nebraska, is amended to read:

71-1356 For purposes of the Cremation of Human Remains Act, unless the context otherwise requires:

(1) Alternative container means a container in which human remains are placed in a cremation chamber for cremation;

(2) Authorizing agent means a person vested with the right to control the disposition of human remains pursuant to section ~~71-1339~~566 of this act;

(3) Casket means a rigid container made of wood, metal, or other similar material, ornamented and lined with fabric, which is designed for the encasement of human remains;

(4) Cremated remains means the residue of human remains recovered after cremation and the processing of such remains by pulverization, leaving only bone fragments reduced to unidentifiable dimensions, and the unrecoverable residue of any foreign matter, such as eyeglasses, bridgework, or other similar material, that was cremated with the human remains;

(5) Cremated remains receipt form means a form provided by a crematory authority to an authorizing agent or his or her

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representative that identifies cremated remains and the person authorized to receive such remains;

(6) Cremation means the technical process that uses heat and evaporation to reduce human remains to bone fragments;

(7) Cremation chamber means the enclosed space within which a cremation takes place;

(8) Crematory means a building or portion of a building which contains a cremation chamber and holding facility;

(9) Crematory authority means the legal entity subject to licensure by the department to maintain and operate a crematory and perform cremation;

(10) Crematory operator means a person who is responsible for the operation of a crematory;

(11) Delivery receipt form means a form provided by a funeral establishment to a crematory authority to document the receipt of human remains by such authority for the purpose of cremation;

(12) Department means the Department of Health and Human Services Regulation and Licensure;

(13) Director means the Director of Regulation and Licensure;

(14) Funeral director has the same meaning as in section 71-507;

(15) Funeral establishment has the same meaning as in section ~~71-1301~~552 of this act;

(16) Holding facility means the area of a crematory designated for the retention of human remains prior to cremation

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and includes a refrigerated facility;

(17) Human remains means the body of a deceased person, or a human body part, in any stage of decomposition and includes limbs or other portions of the anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research;

(18) Permanent container means a receptacle made of durable material for the long-term placement of cremated remains; and

(19) Temporary container means a receptacle made of cardboard, plastic, or other similar material in which cremated remains are placed prior to the placement of such remains in an urn or other permanent container.

Sec. 1195. Section 71-1357, Reissue Revised Statutes of Nebraska, is amended to read:

71-1357 A crematory shall not be established, operated, or maintained in this state except by a crematory authority licensed by the department under the Cremation of Human Remains Act. The department shall issue a license to a crematory authority that satisfies the requirements for licensure under the act. Human remains shall not be cremated in this state except at a crematory operated by a crematory authority licensed under the act. ~~Crematory authorities operating crematories on August 31, 2003, which apply for licensure within sixty days after August 31, 2003, shall be presumed to meet requirements for initial or provisional licensure under the act.~~

Sec. 1196. Section 71-1361, Reissue Revised Statutes of

Nebraska, is amended to read:

71-1361 (1) A crematory authority desiring to relocate a crematory shall file a written application with the department at least thirty days prior to the designated date of such relocation. The application shall be accompanied by a fee ~~of not less than fifteen dollars and not more than one hundred fifty dollars, as~~ determined by the department in rules and regulations.

(2) A crematory authority desiring to change ownership of a crematory shall file a written application with the department at least thirty days prior to the designated date of such change. The application shall be accompanied by a fee ~~of not less than fifteen dollars and not more than one hundred fifty dollars, as~~ determined by the department in rules and regulations.

(3) A crematory authority desiring to change its name shall file a written application with the department at least thirty days prior to such change. The application shall be accompanied by a fee ~~of ten dollars~~determined by the department in rules and regulations.

Sec. 1197. Section 71-1363, Reissue Revised Statutes of Nebraska, is amended to read:

71-1363 (1) The fee for an initial or renewal license as a crematory authority shall include a fee ~~of three hundred dollars~~determined by the department in rules and regulations.

(2) If the license application is denied, the license fee shall be returned to the applicant, except that the department may retain up to twenty-five dollars as an administrative fee and may retain the entire license fee if an inspection has been completed

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prior to such denial.

(3) The department shall collect the same fee as provided in subsection (1) of this section for reinstatement of a license that has lapsed or has been suspended. The department shall collect a fee of ten dollars for a duplicate original license.

(4) The department shall collect a fee of twenty-five dollars for a certified statement that a crematory authority is licensed in this state and a fee of five dollars for verification that a crematory authority is licensed in this state.

(5) The department shall adopt and promulgate rules and regulations for the establishment of fees under the Cremation of Human Remains Act.

(6) The department shall collect fees authorized under the act and shall remit such fees to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund. Such fees shall only be used for activities related to the licensure of crematory authorities.

Sec. 1198. Section 71-1373, Reissue Revised Statutes of Nebraska, is amended to read:

71-1373 The right to authorize the cremation of human remains and the final disposition of the cremated remains, except in the case of a minor subject to section 23-1824 and unless other directions have been given by the decedent in the form of a testamentary disposition or a pre-need contract, vests pursuant to section ~~71-1339~~566 of this act.

Sec. 1199. Section 71-17,102, Reissue Revised Statutes of Nebraska, is amended to read:

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71-17,102 For purposes of the Nursing Student Loan Act:

(1) Approved nursing program means a program offered by a public or private institution in this state (a) which consists of courses of instruction in regularly scheduled classes leading to a master of science degree, a bachelor of science degree, an associate degree, or a diploma in nursing or (b) for the preparation for licensure as a licensed practical nurse available to regularly enrolled undergraduate or graduate students;

(2) Department means the Department of Health and Human Services Regulation and Licensure;

(3) Nontraditional student means a student who has not attended classes as a regular full-time student for at least three years; and

(4) Practice of nursing has the definition found in section ~~71-1,132.05~~772 of this act.

Sec. 1200. Section 71-17,113, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-17,113 Beginning January 1, 2006, through December 31, 2007, the Department of Health and Human Services Regulation and Licensure shall charge a fee of one dollar, in addition to any other fee, for each license renewal for a registered nurse or licensed practical nurse pursuant to ~~section 71-1,132.20~~the Nurse Practice Act. Such fee shall be collected at the time of renewal and remitted to the State Treasurer for credit to the Nursing Faculty Student Loan Cash Fund.

Sec. 1201. Section 71-2407, Reissue Revised Statutes of Nebraska, is amended to read:

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71-2407 (1) Any person operating a mail service pharmacy outside of the State of Nebraska shall obtain a mail service pharmacy license prior to shipping, mailing, or in any manner delivering dispensed prescription drugs as defined in section ~~71-1,142~~945 of this act into the State of Nebraska.

(2) To be qualified to hold a mail service pharmacy license, a person shall:

(a) Hold a pharmacy license or permit issued by and valid in the state in which the person is located and from which such prescription drugs will be shipped, mailed, or otherwise delivered;

(b) Be located and operating in a state in which the requirements and qualifications for obtaining and maintaining a pharmacy license or permit are considered by the Department of Health and Human Services Regulation and Licensure, with the approval of the Board of Pharmacy, to be substantially equivalent to the requirements of the Health Care Facility Licensure Act;

(c) Designate the Secretary of State as his, her, or its agent for service of process in this state; and

(d) Employ on a full-time basis at least one pharmacist who holds a current unrestricted pharmacist license issued under the Uniform ~~Licensing~~ ~~Law~~ Credentialing Act who shall be responsible for compliance by the mail service pharmacy with the Mail Service Pharmacy Licensure Act. The mail service pharmacy shall notify the department when such pharmacist is no longer employed by such pharmacy.

(3) To obtain a mail service pharmacy license, a person shall:

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(a) File an application on a form developed by the department; and

(b) Pay a fee equivalent to the fee for a pharmacy license in the State of Nebraska pursuant to section 71-434.

(4) This section does not apply to prescription drugs mailed, shipped, or otherwise delivered by a pharmaceutical company to a laboratory for the purpose of conducting clinical research.

Sec. 1202. Section 71-2411, Reissue Revised Statutes of Nebraska, is amended to read:

71-2411 For purposes of the Emergency Box Drug Act:

(1) Authorized personnel shall mean any medical doctor, doctor of osteopathy, registered nurse, licensed practical nurse, pharmacist, or physician's assistant;

(2) Department shall mean the Department of Health and Human Services Regulation and Licensure;

(3) Drug shall mean any prescription drug or device or legend drug or device defined under section ~~71-1,142~~945 of this act, any nonprescription drug as defined under section ~~71-1,142~~933 of this act, any controlled substance as defined under section 28-405, or any device as defined under section ~~71-1,142~~918 of this act;

(4) Emergency box drugs shall mean drugs required to meet the immediate therapeutic needs of patients when the drugs are not available from any other authorized source in time to sufficiently prevent risk of harm to such patients by the delay resulting from obtaining such drugs from such other authorized source;

(5) Institution shall mean an intermediate care facility,

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an intermediate care facility for the mentally retarded, a mental health center, a nursing facility, and a skilled nursing facility, as such terms are defined in sections 71-420, 71-421, 71-423, 71-424, and 71-429;

(6) Institutional pharmacy shall mean the physical portion of an institution engaged in the compounding, dispensing, and labeling of drugs which is operating pursuant to a pharmacy license issued by the department under the Health Care Facility Licensure Act;

(7) Multiple dose vial shall mean any bottle in which more than one dose of a liquid drug is stored or contained; and

(8) Supplying pharmacist shall mean the pharmacist in charge of an institutional pharmacy or a pharmacist who provides emergency box drugs to an institution pursuant to the Emergency Box Drug Act. Supplying pharmacist shall not include any agent or employee of the supplying pharmacist who is not a pharmacist.

Sec. 1203. Section 71-2412, Reissue Revised Statutes of Nebraska, is amended to read:

71-2412 (1) Each institutional pharmacy shall be directed by a pharmacist, referred to as the pharmacist in charge as defined in section ~~71-1,142~~937 of this act, who is licensed to engage in the practice of pharmacy in this state.

(2) For an institution that does not have an institutional pharmacy or during such times as an institutional pharmacy may be unattended by a pharmacist, drugs may be administered to residents of the institution by authorized personnel of the institution from the contents of emergency boxes

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located within such facility if such drugs and boxes meet all of the following requirements:

(a) All emergency box drugs shall be provided by and all emergency boxes containing such drugs shall be sealed by a supplying pharmacist with the seal on such emergency box to be of such a nature that it can be easily identified if it has been broken;

(b) Emergency boxes shall be stored in a medication room or other secured area within the institution. Only the supplying pharmacist or authorized personnel of the institution shall obtain access to such room or secured area, by key or combination, in order to prevent unauthorized access and to ensure a proper environment for preservation of the emergency box drugs;

(c) The exterior of each emergency box shall be labeled so as to clearly indicate that it is an emergency box for use in emergencies only. The label shall contain a listing of the drugs contained in the box, including the name, strength, route of administration, quantity, and expiration date of each drug, and the name, address, and telephone number of the supplying pharmacist;

(d) The expiration date of an emergency box shall be the earliest date of expiration of any drug contained in the box;

(e) All emergency boxes shall be inspected by the supplying pharmacist or another pharmacist designated by the supplying pharmacist at least once every thirty days to determine the expiration date and quantity of the drugs in the box. Every inspection shall be documented and the record retained by the institution for a period of two years;

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(f) An emergency box shall not contain any multiple dose vials and shall not contain more than ten drugs which are controlled substances; and

(g) All drugs in emergency boxes shall be in the original manufacturer's containers or shall be repackaged by the supplying pharmacist and shall include the manufacturer's name, lot number, drug name, strength, dosage form, NDC number, route of administration, and expiration date on a typewritten label. Any drug which is repackaged shall contain on the label the calculated expiration date. For purposes of the Emergency Box Drug Act, calculated expiration date has the same meaning as in subdivision (7)(b) of section ~~71-1,147.53~~988 of this act.

Sec. 1204. Section 71-2418, Reissue Revised Statutes of Nebraska, is amended to read:

71-2418 (1) The Legislature finds that many controlled substances have useful and legitimate medical and scientific purposes and are necessary to maintain the health and general welfare of the people of Nebraska. Principles of quality medical practice dictate that the people of Nebraska have access to appropriate and effective pain relief.

(2) The Legislature finds that the appropriate application of up-to-date knowledge and treatment modalities can serve to improve the quality of life for those patients who suffer from pain. The Legislature therefor encourages physicians to view effective pain management as a part of quality medical practice for all patients with pain, acute or chronic, including those patients who experience pain as a result of terminal illness.

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(3) The Legislature finds that a physician should be able to prescribe, dispense, or administer a controlled substance in excess of the recommended dosage for the treatment of pain so long as such dosage is not administered for the purpose of causing, or the purpose of assisting in causing, death for any reason and so long as it conforms to policies and guidelines for the treatment of pain adopted by the Board of ~~Examiners~~ ~~in~~ Medicine and Surgery.

(4) The Legislature finds that a health care facility, hospice, or third-party payor should not forbid or restrict the use of controlled substances appropriately administered for the treatment of pain.

Sec. 1205. Section 71-2419, Reissue Revised Statutes of Nebraska, is amended to read:

71-2419 A physician licensed under the ~~Uniform~~ ~~Licensing~~ ~~Law~~ Medicine and Surgery Practice Act who prescribes, dispenses, or administers or a nurse licensed under the Nurse Practice Act or pharmacist licensed under the ~~Uniform~~ ~~Licensing~~ ~~Law~~ Pharmacy Practice Act who administers or dispenses a controlled substance in excess of the recommended dosage for the treatment of pain shall not be subject to discipline under ~~sections~~ ~~71-147~~ ~~to~~ ~~71-161.20~~ ~~or~~ ~~71-1,142~~ ~~to~~ ~~71-1,151~~ ~~or~~ ~~under~~ ~~the~~ ~~Nurse~~ ~~Practice~~ the Uniform Credentialing Act or criminal prosecution under the Uniform Controlled Substances Act when: (1) In the judgment of the physician, appropriate pain management warrants such dosage; (2) the controlled substance is not administered for the purpose of causing, or the purpose of assisting in causing, death for any reason; and (3) the administration of the controlled substance

conforms to policies and guidelines for the treatment of pain adopted by the Board of ~~Examiners~~ ~~in~~ Medicine and Surgery.

Sec. 1206. Section 71-2420, Reissue Revised Statutes of Nebraska, is amended to read:

71-2420 The Board of ~~Examiners~~ ~~in~~ Medicine and Surgery shall adopt policies and guidelines for the treatment of pain to ensure that physicians who are engaged in the appropriate treatment of pain are not subject to disciplinary action, and the board shall consider policies and guidelines developed by national organizations with expertise in pain management for this purpose.

Sec. 1207. Section 71-2421, Reissue Revised Statutes of Nebraska, is amended to read:

71-2421 (1) To protect the public safety, dispensed drugs or devices may be returned to the dispensing pharmacy only under the following conditions:

(a) For immediate destruction by a pharmacist, except that drugs and devices dispensed to residents of a long-term care facility shall be destroyed on the site of the long-term care facility;

(b) In response to a recall by the manufacturer, packager, or distributor;

(c) If a device is defective or malfunctioning; or

(d) Return from a long-term care facility for credit, except that:

(i) No controlled substance may be returned;

(ii) The decision to accept the return of the dispensed drug or device shall rest solely with the pharmacist;

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(iii) The dispensed drug or device shall have been in the control of the long-term care facility at all times;

(iv) The dispensed drug or device shall be in the original and unopened labeled container with a tamper-evident seal intact, as dispensed by the pharmacy. Such container shall bear the expiration date or calculated expiration date and lot number; and

(v) Tablets or capsules shall have been dispensed in a unit dose with a tamper-evident container which is impermeable to moisture and approved by the Board of Pharmacy.

(2) Returned dispensed drugs or devices shall not be retained in inventory nor made available for subsequent dispensing, except as provided in subdivision (1)(d) of this section.

(3) For purposes of this section:

(a) Calculated expiration date means an expiration date on the prepackaged product which is not greater than twenty-five percent of the time between the date of repackaging and the expiration date of the bulk container nor greater than six months from the date of repackaging; and

(b) Dispense, drugs, and devices are defined in ~~section 71-1,142~~<u>the Pharmacy Practice Act</u>.

Sec. 1208. Section 71-2423, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-2423 For purposes of the Cancer Drug Repository Program Act:

(1) Cancer drug means a prescription drug used to treat (a) cancer or its side effects or (b) the side effects of a prescription drug used to treat cancer or its side effects;

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(2) Department means the Department of Health and Human Services Regulation and Licensure;

(3) Health care facility has the definition found in section 71-413;

(4) Health clinic has the definition found in section 71-416;

(5) Hospital has the definition found in section 71-419;

(6) Participant means a physician's office, pharmacy, hospital, or health clinic that has elected to voluntarily participate in the program and that accepts donated cancer drugs under the rules and regulations adopted and promulgated by the department for the program;

(7) Pharmacy has the definition found in section 71-425;

(8) Physician's office means the office of a person licensed to practice medicine and surgery or osteopathic medicine and surgery;

(9) Prescribing practitioner means a health care practitioner licensed under the Uniform ~~Licensing~~ ~~Law~~ Credentialing Act who is authorized to prescribe cancer drugs;

(10) Prescription drug has the definition found in section ~~71-1,142~~945 of this act; and

(11) Program means the cancer drug repository program established pursuant to section 71-2424.

Sec. 1209. Section 71-2431, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-2431 (1) Prescription drugs or devices which have been delivered to a community health center for dispensing to a patient

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of such health center pursuant to a valid prescription, but which are not dispensed or administered to such patient, may be delivered to a pharmacist or pharmacy under contract with the community health center for relabeling and redispensing to another patient of such health center pursuant to a valid prescription, ~~except that~~under the following conditions:

(a) The decision to accept delivery of the drug or device for relabeling and redispensing shall rest solely with the contracting pharmacist or pharmacy;

(b) The drug or device shall have been in the control of the community health center at all times;

(c) The drug or device shall be in the original and unopened labeled container with a tamper-evident seal intact. Such container shall bear the expiration date or calculated expiration date and lot number; and

(d) The relabeling and redispensing is not otherwise prohibited by law.

(2) For purposes of this section:

(a) Administer has the definition found in section ~~71-1,142~~910 of this act;

(b) Calculated expiration date has the definition found in section ~~71-1,147.53~~988 of this act;

(c) Community health center means a community health center established pursuant to the Health Centers Consolidation Act of 1996, 42 U.S.C. 201 et seq., as such act existed on May 7, 2005;

(d) Deliver or delivery has the definition found in section ~~71-1,142~~917 of this act;

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(e) Dispense or dispensing has the definition found in section ~~71-1,142~~921 of this act;

(f) Prescription has the definition found in section ~~71-1,142~~944 of this act; and

(g) Prescription drug or device has the definition found in section ~~71-1,142~~945 of this act.

(3) The Department of Health and Human Services Regulation and Licensure, in consultation with the Board of Pharmacy, may adopt and promulgate rules and regulations to carry out this section.

Sec. 1210. Section 71-2437, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-2437 For purposes of the Immunosuppressant Drug Repository Program Act:

(1) Department means the Department of Health and Human Services Regulation and Licensure;

(2) Immunosuppressant drug means anti-rejection drugs that are used to reduce the body's immune system response to foreign material and inhibit a transplant recipient's immune system from rejecting a transplanted organ. Immunosuppressant drugs are available only as prescription drugs and come in tablet, capsule, and liquid forms. The recommended dosage depends on the type and form of immunosuppressant drug and the purpose for which it is being used. Immunosuppressant drug does not include drugs prescribed for inpatient use;

(3) Participant means a transplant center that has elected to voluntarily participate in the program, that has

submitted written notification to the department of its intent to participate in the program, and that accepts donated immunosuppressant drugs under the rules and regulations adopted and promulgated by the department for the program;

(4) Prescribing practitioner means a health care practitioner licensed under the Uniform Licensing Law who is authorized to prescribe immunosuppressant drugs;

(5) Prescription drug has the definition found in section ~~71-1,142~~945 of this act;

(6) Program means the immunosuppressant drug repository program established pursuant to section 71-2438;

(7) Transplant center means a hospital that operates an organ transplant program, including qualifying patients for transplant, registering patients on the national waiting list, performing transplant surgery, and providing care before and after transplant; and

(8) Transplant program means the organ-specific facility within a transplant center. A transplant center may have transplant programs for the transplantation of hearts, lungs, livers, kidneys, pancreata, or intestines.

Sec. 1211. Section 71-2505, Reissue Revised Statutes of Nebraska, is amended to read:

71-2505 The provisions of sections 71-2503 and 71-2504 shall not apply to the dispensing of poisons or preparation of medicines by those practitioners ~~of the healing arts named in section 71-102,~~ credentialed under the Uniform Credentialing Act who are duly authorized by law to administer or professionally use

those poisons specifically named in section 71-2501.

Sec. 1212. Section 71-2509, Reissue Revised Statutes of Nebraska, is amended to read:

71-2509 The Director of Regulation and Licensure may, by regulation, whenever in his or her opinion such action becomes necessary for the protection of the public, prohibit the sale of any poison, subject to the provisions of this section, except upon the original written order or prescription of those practitioners ~~of the healing arts, named in section 71-102,~~ credentialed under the Uniform Credentialing Act who are duly authorized by law to administer or professionally use those poisons specifically named in section 71-2501. Whenever in the opinion of the director it is in the interest of the public health, he or she is empowered to adopt rules and regulations, not inconsistent with ~~the provisions of~~ sections 71-2501 to 71-2511, further restricting or prohibiting the retail sale of any poison. The rules and regulations must be applicable to all persons alike, and it shall be the duty of the director, upon request, to furnish any person, authorized by sections 71-2501 to 71-2511 to sell or dispense any poisons, with a list of all articles, preparations, and compounds the sale of which is prohibited or regulated by ~~said~~ such sections.

Sec. 1213. Section 71-2510, Reissue Revised Statutes of Nebraska, is amended to read:

71-2510 The provisions of sections 71-2502 to 71-2511 shall not apply to sales of poisons made to those practitioners ~~of the healing arts, named in section 71-102,~~ credentialed under the Uniform Credentialing Act who are duly authorized by law to

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administer or professionally use those poisons specifically named in section 71-2501, to sales made by any manufacturer, wholesale dealer, or licensed pharmacist to another manufacturer, wholesale dealer, or licensed pharmacist, to a hospital, college, school, or scientific or public institution, or to any person using any of such poisons in the arts or for industrial, manufacturing, or agricultural purposes and believed to be purchasing any poison for legitimate use, or to the sales of pesticides used in agricultural and industrial arts or products used for the control of insect or animal pests or weeds or fungus diseases, if in all such cases, except sales for use in industrial arts, manufacturing, or processing, the poisons are labeled in accordance with the provisions of section 71-2502.

Sec. 1214. Section 71-2610.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-2610.01 The State Board of Health shall:

(1) Adopt and promulgate rules and regulations for the government of the professions and occupations licensed, certified, registered, or issued permits by the Department of Health and Human Services Regulation and Licensure, including rules and regulations necessary to implement laws enforced by the department. These professions and occupations are those subject to the ~~Advanced Practice Registered Nurse Licensure Act,~~ the Asbestos Control Act, ~~the Certified Registered Nurse Anesthetist Act, the Clinical Nurse Specialist Practice Act, the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse Practice Act, the Nurse~~

~~Practitioner Act, the Occupational Therapy Practice Act,~~ the Radiation Control Act, the Residential Lead-Based Paint Professions ~~Certification~~ Practice Act, the Uniform Controlled Substances Act, the Uniform ~~Licensing Law~~Credentialing Act, or the Wholesale Drug Distributor Licensing Act;~~,~~ ~~or sections 71-102, 71-3702 to 71-3715, 71-4701 to 71-4719, and 71-6053 to 71-6068;~~

(2) Serve in an advisory capacity for other rules and regulations adopted and promulgated by the department, including those for health care facilities and environmental health services;

(3) Carry out its powers and duties under the Nebraska Regulation of Health Professions Act;

(4) Appoint and remove for cause members of health-related professional boards as provided in sections ~~71-111, 71-112, and 71-118~~61 to 70 of this act;

(5) At the discretion of the board, help mediate issues related to the regulation of health care professions except issues related to the discipline of health care professionals; and

(6) Have the authority to participate in the periodic review of the regulation of health care professions.

All funds rendered available by law may be used by the board in administering and effecting such purposes.

Sec. 1215. Section 71-3501, Reissue Revised Statutes of Nebraska, is amended to read:

71-3501 It is the policy of the State of Nebraska in furtherance of its responsibility to protect occupational and public health and safety and the environment:

(1) To institute and maintain a regulatory program for

sources of radiation so as to provide for:

(a) Compatibility and equivalency with the standards and regulatory programs of the federal government;

(b) A single effective system of regulation within the state; and

(c) A system consonant insofar as possible with those of other states;

(2) To institute and maintain a program to permit development and utilization of sources of radiation for peaceful purposes consistent with the protection of occupational and public health and safety and the environment;

~~(3) To maximize the protection practicable for the citizens of Nebraska from ionizing radiation by establishing requirements for appropriate qualifications of persons practicing medical radiography;~~

~~(4)~~ (3) To provide for the availability of capacity either within or outside the state for the management of low-level radioactive waste generated within the state, except for waste generated as a result of defense or federal research and development activities, and to recognize that such radioactive waste can be most safely and efficiently managed on a regional basis; and

~~(5)~~ (4) To maximize the protection practicable for the citizens of Nebraska from radon or its decay products by establishing requirements for (a) appropriate qualifications for persons providing measurement and mitigation services of radon or its decay products and (b) radon mitigation system installations.

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Sec. 1216. Section 71-3502, Reissue Revised Statutes of Nebraska, is amended to read:

71-3502 It is the purpose of the Radiation Control Act to effectuate the policies set forth in section 71-3501 by providing for:

(1) A program of effective regulation of sources of radiation for the protection of occupational and public health and safety and the environment;

(2) A program to promote an orderly regulatory pattern within the state, among the states, and between the federal government and the state and facilitate intergovernmental cooperation with respect to use and regulation of sources of radiation to the end that duplication of regulation may be minimized;

(3) A program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to sources of radiation; and

(4) A program to permit maximum utilization of sources of radiation consistent with the health and safety of the public.~~; and~~

~~(5) A program which establishes requirements and standards for appropriate education, training, and testing of persons practicing medical radiography.~~

Sec. 1217. Section 71-3503, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-3503 For purposes of the Radiation Control Act, unless the context otherwise requires:

(1) Radiation means ionizing radiation and nonionizing

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radiation as follows:

(a) Ionizing radiation means gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other atomic or nuclear particles or rays but does not include sound or radio waves or visible, infrared, or ultraviolet light; and

(b) Nonionizing radiation means (i) any electromagnetic radiation which can be generated during the operations of electronic products to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment, other than ionizing electromagnetic radiation, and (ii) any sonic, ultrasonic, or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment;

(2) Radioactive material means any material, whether solid, liquid, or gas, which emits ionizing radiation spontaneously. Radioactive material includes, but is not limited to, accelerator-produced material, byproduct material, naturally occurring material, source material, and special nuclear material;

(3) Radiation-generating equipment means any manufactured product or device, component part of such a product or device, or machine or system which during operation can generate or emit radiation except devices which emit radiation only from radioactive material;

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(4) Sources of radiation means any radioactive material, any radiation-generating equipment, or any device or equipment emitting or capable of emitting radiation or radioactive material;

(5) Undesirable radiation means radiation in such quantity and under such circumstances as determined from time to time by rules and regulations adopted and promulgated by the department;

(6) Person means any individual, corporation, partnership, limited liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing;

(7) Registration means registration with the department pursuant to the Radiation Control Act;

(8) Department means the Department of Health and Human Services Regulation and Licensure;

(9) Coordinator means the Director of Regulation and Licensure;

(10) Electronic product means any manufactured product, device, assembly, or assemblies of such products or devices which, during operation in an electronic circuit, can generate or emit a physical field of radiation;

(11) License means:

(a) A general license issued pursuant to rules and regulations adopted and promulgated by the department without the filing of an application with the department or the issuance of

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licensing documents to particular persons to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing radioactive materials;

(b) A specific license, issued to a named person upon application filed with the department pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to the act, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of or devices or equipment utilizing radioactive materials; or

(c) A license issued to a radon measurement specialist, radon measurement technician, radon mitigation specialist, radon mitigation technician, radon measurement business, or radon mitigation business; ~~or~~

~~(d) A license issued to a medical radiographer or limited radiographer;~~

(12) Byproduct material means:

(a) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute byproduct material;

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(13) Source material means:

(a) Uranium or thorium or any combination thereof in any physical or chemical form; or

(b) Ores which contain by weight one-twentieth of one percent or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material;

(14) Special nuclear material means:

(a) Plutonium, uranium 233, or uranium enriched in the isotope 233 or in the isotope 235 and any other material that the United States Nuclear Regulatory Commission pursuant to the provisions of section 51 of the federal Atomic Energy Act of 1954, as amended, determines to be special nuclear material but does not include source material; or

(b) Any material artificially enriched by any material listed in subdivision (14)(a) of this section but does not include source material;

(15) Users of sources of radiation means:

(a) Physicians using radioactive material or radiation-generating equipment for human use;

(b) Natural persons using radioactive material or radiation-generating equipment for education, research, or development purposes;

(c) Natural persons using radioactive material or radiation-generating equipment for manufacture or distribution purposes;

(d) Natural persons using radioactive material or radiation-generating equipment for industrial purposes; and

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(e) Natural persons using radioactive material or radiation-generating equipment for any other similar purpose;

(16) Civil penalty means any monetary penalty levied on a licensee or registrant because of violations of statutes, rules, regulations, licenses, or registration certificates but does not include criminal penalties;

(17) Closure means all activities performed at a waste handling, processing, management, or disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance, and monitoring are necessary at the site following termination of licensed operation;

(18) Decommissioning means final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material, and to carry out any other activities to prepare the site for postoperational care;

(19) Disposal means the permanent isolation of low-level radioactive waste pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to such act;

(20) Generate means to produce low-level radioactive waste when used in relation to low-level radioactive waste;

(21) High-level radioactive waste means:

(a) Irradiated reactor fuel;

(b) Liquid wastes resulting from the operation of the first cycle solvent extraction system or equivalent and the concentrated wastes from subsequent extraction cycles or the

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equivalent in a facility for reprocessing irradiated reactor fuel; and

(c) Solids into which such liquid wastes have been converted;

(22) Low-level radioactive waste means radioactive waste not defined as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in subdivision (12)(b) of this section;

(23) Management of low-level radioactive waste means the handling, processing, storage, reduction in volume, disposal, or isolation of such waste from the biosphere in any manner;

(24) Source material mill tailings or mill tailings means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes, but not including underground ore bodies depleted by such solution extraction processes;

(25) Source material milling means any processing of ore, including underground solution extraction of unmined ore, primarily for the purpose of extracting or concentrating uranium or thorium therefrom and which results in the production of source material and source material mill tailings;

(26) Spent nuclear fuel means irradiated nuclear fuel that has undergone at least one year of decay since being used as a source of energy in a power reactor. Spent nuclear fuel includes the special nuclear material, byproduct material, source material,

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and other radioactive material associated with fuel assemblies;

(27) Transuranic waste means radioactive waste material containing alpha-emitting radioactive elements, with radioactive half-lives greater than five years, having an atomic number greater than 92 in concentrations in excess of one hundred nanocuries per gram;

(28) Licensed practitioner means a person licensed to practice medicine, dentistry, podiatry, chiropractic, osteopathic medicine and surgery, or as an osteopathic physician;

(29) X-ray system means an assemblage of components for the controlled production of X-rays, including, but not limited to, an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system;

~~(30) Limited radiographer means a person licensed to practice medical radiography pursuant to subsection (2) of section 71-3515.01. Limited radiographer does not include a person certified under section 71-176.01;~~

~~(31) Medical radiographer means a person licensed to practice medical radiography pursuant to subsection (1) of section 71-3515.01;~~

~~(32) Medical radiography means the application of radiation to humans for diagnostic purposes, including, but not limited to, adjustment or manipulation of X-ray systems and accessories including image receptors, positioning of patients, processing of films, and any other action that materially affects~~

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~~the radiation dose to patients;~~

~~(33)~~(30) Licensed facility operator means any person or entity who has obtained a license under the Low-Level Radioactive Waste Disposal Act to operate a facility, including any person or entity to whom an assignment of a license is approved by the Department of Environmental Quality; and

~~(34)~~(31) Deliberate misconduct means an intentional act or omission by a person that (a) would intentionally cause a licensee, registrant, or applicant for a license or registration to be in violation of any rule, regulation, or order of or any term, condition, or limitation of any license or registration issued by the department under the Radiation Control Act or (b) constitutes an intentional violation of a requirement, procedure, instruction, contract, purchase order, or policy under the Radiation Control Act by a licensee, a registrant, an applicant for a license or registration, or a contractor or subcontractor of a licensee, registrant, or applicant for a license or registration.

Sec. 1218. Section 71-3505, Reissue Revised Statutes of Nebraska, is amended to read:

71-3505 Matters relative to radiation as they relate to occupational and public health and safety and the environment shall be a responsibility of the department. The department shall:

(1) Develop comprehensive policies and programs for the evaluation and determination of undesirable radiation associated with the production, use, storage, or disposal of radiation sources and formulate, adopt, promulgate, and repeal rules and regulations which may provide (a) for registration or licensure under section

71-3507 or 71-3509 and (b) for registration or licensure of (i) any other source of radiation, (ii) persons providing services for collection, detection, measurement, or monitoring of sources of radiation, including, but not limited to, radon and its decay products, (iii) persons providing services to reduce the effects of sources of radiation, ~~(iv) persons practicing medical radiography, and (v)~~ and (iv) persons practicing industrial radiography, as specified by rule or regulation so as to reasonably protect occupational and public health and safety and the environment in a manner compatible with regulatory programs of the federal government. The department for identical purposes may also adopt and promulgate rules and regulations for the issuance of licenses, either general or specific, to persons for the purpose of using, manufacturing, producing, transporting, transferring, receiving, acquiring, owning, or possessing any radioactive material. Such rules and regulations may prohibit the use of radiation for uses found by the department to be detrimental to occupational and public health or safety or the environment and shall carry out the purposes and policies set out in sections 71-3501 and 71-3502. Such rules and regulations shall not prohibit or limit the kind or amount of radiation purposely prescribed for or administered to a patient by doctors of medicine and surgery, dentistry, osteopathic medicine, chiropractic, podiatry, and veterinary medicine, while engaged in the lawful practice of such profession, or administered by other professional personnel, such as allied health personnel, medical radiographers, limited radiographers, nurses, and laboratory workers, acting under the

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supervision of a licensed practitioner. Violation of rules and regulations adopted and promulgated by the department pursuant to the Radiation Control Act shall be due cause for the suspension, revocation, or limitation of a license issued by the department. Any licensee may request a hearing before the department on the issue of such suspension, revocation, or limitation. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the Administrative Procedure Act. The decision of the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act;

(2) Have the authority to accept and administer loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of its functions, from the federal government and from other sources, public or private;

(3) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to the control of sources of radiation;

(4) Collect and disseminate health education information relating to radiation protection;

(5) Make its facilities available so that any person or any agency may request the department to review and comment on plans and specifications of installations submitted by the person or agency with respect to matters of protection and safety for the control of undesirable radiation;

(6) Be empowered to inspect radiation sources and their shieldings and surroundings for the determination of any possible undesirable radiation or violations of rules and regulations

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adopted and promulgated by the department and provide the owner, user, or operator with a report of any known or suspected deficiencies; and

(7) Collect a fee for emergency response or environmental surveillance, or both, offsite from each nuclear power plant equal to the cost of completing the emergency response or environmental surveillance and any associated report. In no event shall the fee for any nuclear power plant exceed the lesser of the actual costs of such activities or fifty-three thousand dollars per annum. Commencing July 1, 1997, the accounting division of the Department of Administrative Services shall recommend an inflationary adjustment equivalent which shall be based upon the Consumer Price Index for All Urban Consumers of the United States Department of Labor, Bureau of Labor Statistics, and shall not exceed five percent per annum. Such adjustment shall be applied to the annual fee for nuclear power plants. The fee collected shall be credited to the Department of Health and Human Services Regulation and Licensure Cash Fund. This fee shall be used solely for the purpose of defraying the direct costs of the emergency response and environmental surveillance at Cooper Nuclear Station and Fort Calhoun Station conducted by the department. The department may charge additional fees when mutually agreed upon for services, training, or equipment that are a part of or in addition to matters in this section.

Sec. 1219. Section 71-3507, Reissue Revised Statutes of Nebraska, is amended to read:

71-3507 (1) The department shall adopt and promulgate

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rules and regulations for the issuance, amendment, suspension, and revocation of general and specific licenses. Such licenses shall be for byproduct material, source material, special nuclear material, and radioactive material not under the authority of the federal Nuclear Regulatory Commission and for devices or equipment utilizing such materials. The rules and regulations shall provide:

(a) For written applications for a specific license which include the technical, financial, and other qualifications determined by the department to be reasonable and necessary to protect occupational and public health and safety and the environment;

(b) For additional written statements and inspections, as required by the department, at any time after filing an application for a specific license and before the expiration of the license to determine whether the license should be issued, amended, suspended, or revoked;

(c) That all applications and statements be signed by the applicant or licensee;

(d) The form, terms, and conditions of general and specific licenses;

(e) That no license or right to possess or utilize sources of radiation granted by a license shall be assigned or in any manner disposed of without the written consent of the department; and

(f) That the terms and conditions of all licenses are subject to amendment by rules, regulations, or orders issued by the department.

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(2) The department may require registration or licensing of radioactive material not enumerated in subsection (1) of this section in order to maintain compatibility and equivalency with the standards and regulatory programs of the federal government or to protect the occupational and public health and safety and the environment.

~~(3)~~ (3)(a) The department shall require licensure of persons providing measurement and mitigation services of radon or its decay products in order to protect the occupational and public health and safety and the environment.

(b) The department shall adopt and promulgate rules and regulations establishing education, experience, training, examination, and continuing competency requirements for radon measurement specialists, radon measurement technicians, radon mitigation specialists, and radon mitigation technicians. Application for such licenses shall be made as provided in the Uniform Credentialing Act. Such persons shall be credentialed in the same manner as an individual under subsection (1) of section 23 of this act and shall be subject to disciplinary action pursuant to section 71-3517. Continuing competency requirements may include, but not be limited to, one or more of the continuing competency activities listed in section ~~71-161.09~~48 of this act.

(c) The department shall adopt and promulgate rules and regulations establishing staffing, proficiency, quality control, reporting, worker health and safety, equipment, and record-keeping requirements for radon measurement businesses and radon mitigation businesses and mitigation system installation requirements for

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radon mitigation businesses.

~~(4) The department shall license persons practicing medical radiography, including medical radiographers and limited radiographers, in order to protect the occupational and public health and safety and the environment. The licenses shall be renewed biennially. For medical radiographers and limited radiographers, the department shall adopt and promulgate rules and regulations establishing examination requirements for licensure, continuing competency requirements for renewal of a license, and approval requirements for examinations. Continuing education is sufficient to meet continuing competency requirements. Continuing competency requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a licensed person may select as an alternative to continuing education. For medical radiographers, the department shall adopt and promulgate rules and regulations establishing requirements for education and training and for approval of courses of training. Persons authorized under sections 71-193.15 and 71-193.17 to practice as dental hygienists and dental assistants who meet the requirements of section 71-193.13 shall not be required to be licensed under this section.~~

~~(5)~~ (4) The department may exempt certain sources of radiation or kinds of uses or users from licensing or registration requirements established under the Radiation Control Act when the department finds that the exemption will not constitute a significant risk to occupational and public health and safety and the environment.

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~~(6)~~ (5) The department may provide by rule and regulation for the recognition of other state or federal licenses compatible and equivalent with the standards established by the department for Nebraska licensees.

~~(7)~~ (6) The department may accept accreditation for an industrial radiographer by a recognized independent accreditation body, a public agency, or the federal Nuclear Regulatory Commission, which has standards that are at least as stringent as those of the State of Nebraska, as evidence that the industrial radiographer complies with the rules and regulations adopted and promulgated pursuant to the act. The department may adopt and promulgate rules and regulations which list accreditation bodies, public agencies, and federal programs that meet this standard.

~~(8)~~ (7) The department may enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with the act and rules and regulations adopted and promulgated pursuant to the act, except that entry into areas under the jurisdiction of the federal government shall be effected only with the concurrence of the federal government or its duly designated representative.

~~(9)~~ (8) The department shall cause to be registered with the department such sources of radiation as the department determines to be reasonably necessary to protect occupational and public health and safety and the environment as follows:

(a) The department shall, by public notice, establish a date on or before which date such sources of radiation shall be registered with the department, and the department shall provide

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appropriate forms for such registration. Each application for registration shall be in writing and shall state such information as the department by rules or regulations may determine to be necessary and reasonable to protect occupational and public health and safety and the environment;

(b) Registration of sources of radiation shall be an initial registration with appropriate notification to the department in the case of alteration of equipment, acquisition of new sources of radiation, or the transfer, loss, or destruction of sources of radiation and shall include the registration of persons installing or servicing sources of radiation;

(c) Failure to register or reregister sources of radiation in accordance with rules and regulations adopted and promulgated by the department shall be subject to a fine of not less than fifty dollars nor more than two hundred dollars; and

(d) The department may provide by rule and regulation for reregistration of sources of radiation.

~~(10)~~ (9) The results of any surveys or inspections of sources of radiation conducted by the department shall be public records subject to sections 84-712 to 84-712.09. In addition, the following information shall be deemed confidential:

(a) The names of individuals in dosimetry reports;

(b) Emergency response procedures which would present a clear threat to security or disclose names of individuals; and

(c) Any other information that is likely to present a clear threat to the security of radioactive material. The department shall make such reports of results of surveys or

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inspections available to the owner or operator of the source of radiation together with any recommendations of the department regarding deficiencies noted.

~~(11)~~ (10) The department shall have the right to survey or inspect again any source of radiation previously surveyed without limitation of the number of surveys or inspections conducted on a given source of radiation.

~~(12)~~ (11) The department may enter into contracts with persons or corporations to perform the inspection of X-ray radiation-generating equipment or devices which emit radiation from radioactive materials and to aid the department in the administration of the act.

Sec. 1220. Section 71-3508.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-3508.03 (1) The department shall establish by rule and regulation annual fees for the radioactive materials licenses, for inspections of radioactive materials, for the registration and inspection of radiation-generating equipment and other sources of radiation, and for radon measurement and mitigation business licenses and inspections of radon mitigation systems installations under the Radiation Control Act. The annual fee for registration and inspection of X-ray radiation generating equipment used to diagnose conditions in humans or animals shall not exceed seventy dollars per X-ray machine. The department shall also establish by rule and regulation additional fees for environmental surveillance activities performed by the department to assess the radiological impact of activities conducted by licensees and registrants. Such

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activities shall not duplicate surveillance programs approved by the federal Nuclear Regulatory Commission and conducted by entities licensed by such commission. No fee shall exceed the actual cost to the department for administering the act. The fees collected shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund and shall be used solely for the purpose of defraying the direct and indirect costs of administering the act. The department shall collect such fees.

(2) The department may, upon application by an interested person or on its own initiative, grant such exemptions from the requirements of this section as it determines are in the public interest. Applications for exemption under this subsection may include, but shall not be limited to, the use of licensed materials for educational or noncommercial displays or scientific collections.

(3) When a registrant or licensee fails to pay the applicable fee, the department may suspend or revoke the registration or license or may issue an appropriate order.

(4) The department shall establish and collect fees for licenses for individuals engaged in radon detection, measurement, and mitigation as provided in ~~section 71-162~~sections 54 to 60 of this act.

Sec. 1221. Section 71-3515, Reissue Revised Statutes of Nebraska, is amended to read:

71-3515 It shall be unlawful for any person to use, manufacture, produce, distribute, sell, transport, transfer,

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install, repair, receive, acquire, own, or possess any source of radiation unless registered with or licensed by the department as required by the Medical Radiography Practice Act or section 71-3505, 71-3507, or 71-3509.

Sec. 1222. Section 71-3517, Reissue Revised Statutes of Nebraska, is amended to read:

71-3517 (1) Any person who violates any of the provisions of the Radiation Control Act shall be guilty of a Class IV misdemeanor.

(2) In addition to the penalty provided in subsection (1) of this section, any person who violates any provision of the Radiation Control Act or any rule, regulation, or order issued pursuant to such act or any term, condition, or limitation of any license or registration certificate issued pursuant to such act shall be subject to:

(a) License revocation, suspension, modification, condition, or limitation;

(b) The imposition of a civil penalty; or

(c) The terms of any appropriate order issued by the department.

(3) Whenever the department proposes to subject a person to the provisions of subsection (2) of this section, the department shall notify the person in writing (a) setting forth the date, facts, and nature of each act or omission with which the person is charged, (b) specifically identifying the particular provision or provisions of the section, rule, regulation, order, license, or registration certificate involved in the violation, and (c) of the

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sanction or order to be imposed. If a civil penalty is imposed, the notice shall include a statement that it can be collected by civil action. The notice shall be delivered to each alleged violator by personal service, by certified or registered mail to his or her last-known address, or by publication. Notice by publication shall only be made if personal service or service by mail cannot be effectuated. The sanction or order in the notice shall become final thirty days after the mailing of the notice unless the applicant, registrant, or licensee, within the thirty-day period, requests, in writing, a hearing before the department. If the notice is served by personal service or publication, the sanction or order shall become final thirty days after completion of such service unless the applicant, registrant, or licensee, within the thirty-day period, requests, in writing, a hearing before the department.

(4) Hearings held pursuant to subsection (3) of this section shall be held in accordance with rules and regulations adopted and promulgated by the department and shall provide for the alleged violator to present such evidence as may be proper. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the rules and regulations of the department. A full and complete record shall be kept of the proceedings.

(5) Following the hearing, the director shall determine whether the charges are true or not, and if true, the director may (a) issue a declaratory order finding the charges to be true, (b) revoke, suspend, modify, condition, or limit the license, (c) impose a civil penalty in an amount not to exceed ten thousand

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dollars for each violation, or (d) enter an appropriate order. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty and the amount of the penalty shall be based on the severity of the violation. A copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by either certified or registered mail to the alleged violator. The decision may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(6) Any civil penalty assessed and unpaid under subsection (5) of this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property. The department shall, within thirty days from receipt, ~~transmit~~ remit any collected civil penalty to the State Treasurer for ~~deposit in the permanent school fund~~distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(7) In addition to the provisions of this section, radon measurement specialists, radon measurement technicians, radon mitigation specialists, and radon mitigation technicians shall be subject to the reporting, investigatory, and disciplinary provisions of sections 79 to 88, 109, 112 to 129, and 140 to 142 of this act. In addition to the grounds for disciplinary action found in the Uniform Credentialing Act, a license issued to a

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specialist or technician may be disciplined for any violation of the Radiation Control Act or the rules and regulations adopted and promulgated under the act.

Sec. 1223. (1) All rules and regulations adopted prior to the operative date of this section under the Radiation Control Act shall continue to be effective to the extent not in conflict with the changes made by this legislative bill until revised, amended, repealed, or nullified pursuant to law.

(2) All licenses or other forms of approval issued prior to the operative date of this section in accordance with the Radiation Control Act shall remain valid as issued for purposes of the changes made by this legislative bill unless revoked or their effectiveness is otherwise terminated pursuant to law.

(3) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to the operative date of this section under the Radiation Control Act shall be subject to the provisions of the act as they existed prior to the operative date of this section.

Sec. 1224. Section 71-3519, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-3519 Sections 71-3501 to 71-3520 and section 1223 of this act shall be known and may be cited as the Radiation Control Act.

Sec. 1225. Section 71-4305, Reissue Revised Statutes of Nebraska, is amended to read:

71-4305 (1) The Department of Health and Human Services Regulation and Licensure shall make at least one inspection every

year of each swimming pool to determine that such swimming pool complies with the minimum sanitary and safety requirements.

(2) The owner and operator of any swimming pool shall submit such operation and analytical records as may be requested at any time by the department to determine the sanitary and safety condition of the swimming pool.

(3) The department shall adopt and promulgate rules and regulations which classify swimming pools on the basis of criteria deemed appropriate by the department. The department shall charge engineering firms, swimming pool owners, and other appropriate parties fees established by rules and regulations for the review of plans and specifications of a swimming pool, the issuance of a license or permit, the inspection of a swimming pool, and any other services rendered at a rate which defrays no more than the actual cost of the services provided. All fees shall be paid as a condition of annual renewal of licensure or of continuance of licensure. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund. The department shall not charge a municipal corporation an inspection fee for an inspection of a swimming pool owned by such municipal corporation.

(4) The department shall establish and collect fees for certificates of competency for swimming pool operators as provided in ~~section 71-162~~sections 54 to 60 of this act.

Sec. 1226. Section 71-4807, Reissue Revised Statutes of Nebraska, is amended to read:

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71-4807 (1) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he or she may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons under obligation to dispose of the body.

(2) The time of death shall be determined by a physician who attends the donor at his or her death or, if none, the physician who certifies the death. This physician shall not participate in the procedures for removing or transplanting a part, except the enucleation of eyes. An appropriately qualified designee of a physician with training in ophthalmologic techniques or a funeral director and embalmer licensed pursuant to ~~section 71-1302~~ the Funeral Directing and Embalming Practice Act upon (a) successfully completing a course in eye enucleation and (b) receiving a certificate of competence from the Department of Ophthalmology, College of Medicine of the University of Nebraska, may enucleate the eyes of the donor.

(3) A person who acts in good faith in accord with the terms of the Uniform Anatomical Gift Act or under the anatomical gift laws of another state shall not be liable for damages in any civil action or subject to prosecution in any criminal proceeding for his or her act.

(4) The Uniform Anatomical Gift Act shall be subject to

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the laws of this state prescribing powers and duties with respect to autopsies.

Sec. 1227. Section 71-4810, Reissue Revised Statutes of Nebraska, is amended to read:

71-4810 No physician, surgeon, hospital, blood bank, tissue bank, funeral director and embalmer licensed under ~~section 71-1302~~the Funeral Directing and Embalming Practice Act, or other person or entity who donates, obtains, prepares, transplants, injects, transfuses, or otherwise transfers, or who assists or participates in obtaining, preparing, transplanting, injecting, transfusing, or transferring any tissue, organ, blood, or component thereof from one or more human beings, living or dead, to another human being, shall be liable in damages as a result of any such activity, save and except that each such person or entity shall remain liable in damages for his, her, or its own negligence or willful misconduct.

Sec. 1228. Section 71-4813, Reissue Revised Statutes of Nebraska, is amended to read:

71-4813 When an autopsy is performed by the physician authorized by the county coroner to perform such autopsy, the physician or an appropriately qualified designee with training in ophthalmologic techniques, as provided for in subsection (2) of section 71-4807, may remove eye tissue of the decedent for the purpose of transplantation. The physician may also remove the pituitary gland for the purpose of research and treatment of hypopituitary dwarfism and of other growth disorders. Removal of the eye tissue or the pituitary gland shall only take place if the:

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(1) Autopsy was authorized by the county coroner;

(2) County coroner receives permission from the person having control of the disposition of the decedent's remains pursuant to section ~~71-1339~~566 of this act; and

(3) Removal of eye tissue or of the pituitary gland will not interfere with the course of any subsequent investigation or alter the decedent's post mortem facial appearance.

The removed eye tissue or pituitary gland shall be transported to the Director of Regulation and Licensure or any desired institution or health facility as prescribed by section ~~71-1341~~568 of this act.

Sec. 1229. Section 71-51,102, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-51,102 (1) For purposes of this section:

(a) Automated external defibrillator means a device that:

(i) Is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia and is capable of determining, without intervention of an operator, whether defibrillation should be performed; and

(ii) Automatically charges and requests delivery of an electrical impulse to an individual's heart when it has identified a condition for which defibrillation should be performed;

(b) Emergency medical service means an emergency medical service as defined in section ~~71-5175~~496 of this act;

(c) Health care facility means a health care facility as defined in section 71-413;

(d) Health care practitioner facility means a health care

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practitioner facility as defined in section 71-414; and

(e) Health care professional means any person who is licensed, certified, or registered by the Department of Health and Human Services Regulation and Licensure and who is authorized within his or her scope of practice to use an automated external defibrillator.

(2) Except for the action or omission of a health care professional acting in such capacity or in a health care facility, no person who delivers emergency care or treatment using an automated external defibrillator shall be liable in any civil action to respond in damages as a result of his or her acts of commission or omission arising out of and in the course of rendering such care or treatment in good faith. Nothing in this subsection shall be construed to (a) grant immunity for any willful, wanton, or grossly negligent acts of commission or omission or (b) limit the immunity provisions for certain health care professionals as provided in section ~~71-5194~~521 of this act.

(3) A person acquiring an automated external defibrillator shall notify the local emergency medical service of the existence, location, and type of the defibrillator and of any change in the location of such defibrillator unless the defibrillator was acquired for use in a private residence, a health care facility, or a health care practitioner facility.

Sec. 1230. Section 71-51,103, Reissue Revised Statutes of Nebraska, is amended to read:

71-51,103 There is hereby created the Nebraska Emergency Medical System Operations Fund. The fund may receive gifts,

bequests, grants, fees, or other contributions or donations from public or private entities. The fund shall be used to carry out the purposes of the Statewide Trauma System Act and the Emergency Medical Services Practice Act, including activities related to the design, maintenance, or enhancement of the statewide trauma system, support of emergency medical services programs, and support for the emergency medical services programs for children. The Director of Regulation and Licensure shall annually, on or before January 1, submit a report to the Legislature which includes a general accounting of the income and expenditures of the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 1231. Section 71-5301, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-5301 For purposes of the Nebraska Safe Drinking Water Act, unless the context otherwise requires:

(1) Council means the Advisory Council on Public Water Supply;

(2) Director means the Director of Regulation and Licensure or his or her authorized representative;

(3) Designated agent means any political subdivision or corporate entity having the demonstrated capability and authority to carry out in whole or in part the Nebraska Safe Drinking Water Act and with which the Director of Regulation and Licensure has consummated a legal and binding contract covering specifically delegated responsibilities;

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(4) Major construction, extension, or alteration means those structural changes that affect the source of supply, treatment processes, or transmission of water to service areas but does not include the extension of service mains within established service areas;

(5) Operator means the individual or individuals responsible for the continued performance of the water supply system or any part of such system during assigned duty hours;

(6) Owner means any person owning or operating a public water system;

(7) Person means any individual, corporation, firm, partnership, limited liability company, association, company, ~~corporation~~trust, estate, public or private institution, group, agency, political subdivision, or other entity or any legal successor, representative, agent, or agency of any of such entities;

(8) Water supply system means all sources of water and their surroundings under the control of one owner and includes all structures, conduits, and appurtenances by means of which such water is collected, treated, stored, or delivered except service pipes between street mains and buildings and the plumbing within or in connection with the buildings served;

(9)(a) Public water system means a system for providing the public with water for human consumption through pipes or~~,~~ ~~after August 5, 1998,~~ other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days per

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year. Public water system includes (i) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system and (ii) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Public water system does not include a special irrigation district. A public water system is either a community water system or a noncommunity water system.

(b) Service connection does not include a connection to a system that delivers water by a constructed conveyance other than a pipe if (i) the water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, cooking, and other similar uses, (ii) the department determines that alternative water to achieve the equivalent level of public health protection provided by the Nebraska Safe Drinking Water Act and rules and regulations under the act is provided for residential or similar uses for drinking and cooking, or (iii) the department determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the Nebraska Safe Drinking Water Act and the rules and regulations under the act.

(c) Special irrigation district means an irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use if the system or the

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residential or similar users of the system comply with exclusion provisions of subdivision (b)(ii) or (iii) of this subdivision;

(10) Drinking water standards means rules and regulations adopted and promulgated pursuant to section 71-5302 which (a) establish maximum levels for harmful materials which, in the judgment of the Director of Regulation and Licensure, may have an adverse effect on the health of persons and (b) apply only to public water systems;

(11) Lead free (a) when used with respect to solders and flux means solders and flux containing not more than two-tenths percent lead, (b) when used with respect to pipes and pipe fittings means pipes and pipe fittings containing not more than eight percent lead, and (c) when used with respect to plumbing fittings and fixtures intended by the manufacturer to dispense water for human ingestion means fittings and fixtures that are in compliance with standards established in accordance with 42 U.S.C. 300g-6(e) as such section existed on July 16, 2004;

(12) Community water system means a public water system that (a) serves at least fifteen service connections used by year-round residents of the area served by the system or (b) regularly serves at least twenty-five year-round residents;

(13) Noncommunity water system means a public water system that is not a community water system;

(14) Nontransient noncommunity water system means a public water system that is not a community water system and that regularly serves at least twenty-five of the same individuals over six months per year; and

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(15) Small system means a public water system that regularly serves less than ten thousand individuals.~~; and~~

~~(16) Probation means a disciplinary action not to exceed two years in length during which a certificate holder may continue to operate under terms and conditions fixed by the order of probation.~~

Sec. 1232. Section 71-5303, Reissue Revised Statutes of Nebraska, is amended to read:

71-5303 (1) No person shall operate or maintain a public water system without first obtaining a permit to operate such system from the director. No fee shall be charged for the issuance of such permit.

(2) The director shall inspect public water systems and report findings to the owner, publish a list of those systems not in compliance, and promote the training of ~~and certify the competence of~~ operators. The director may deny~~,~~ or revoke~~, suspend, or refuse renewal of~~ a permit, ~~or certification, place a certificate holder on probation,~~ issue administrative orders scheduling action to be taken, take emergency action as provided in section 71-5304.01, and seek a temporary or permanent injunction or such other legal process as is deemed necessary to obtain compliance with the Nebraska Safe Drinking Water Act.

(3) ~~The Department of Health and Human Services Regulation and Licensure may deny, revoke, suspend, or refuse to renew a permit or certification or place a certificate holder on probation~~A permit may be denied or revoked for noncompliance with the act, the rules and regulations adopted and promulgated under

the act, or the terms of a variance or exemption issued pursuant to section 71-5310.

(4) Any person shall be granted, upon request, an opportunity for a hearing before the department under the Administrative Procedure Act prior to the denial or revocation of a permit. ~~or certification or the placement of a certificate holder on probation.~~ The denial~~,~~ or revocation~~, or the placement on probation by the department~~ may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 1233. Section 71-5305.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-5305.02 The Department of Health and Human Services Regulation and Licensure shall develop a capacity development strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity pursuant to section 71-5305.01. The department shall consider and solicit public comment on:

(1) The methods or criteria the department will use to identify and prioritize the public water systems most in need of improving technical, managerial, and financial capacity;

(2) A description of the institutional, regulatory, financial, tax, or legal factors at the federal, state, or local level that encourage or impair capacity development;

(3) A description of how the department will:

(a) Assist public water systems in complying with the Nebraska Safe Drinking Water Act;

(b) Encourage the development of partnerships between

public water systems to enhance the technical, managerial, and financial capacity of the systems; and

(c) Assist public water systems in the training and ~~certification~~ licensure of operators; and

(4) A description of how the department will establish a baseline and measure improvements in capacity with respect to the act.

Sec. 1234. Section 71-5307, Reissue Revised Statutes of Nebraska, is amended to read:

71-5307 No public water system shall be issued or otherwise hold a permit to operate a public water system, granted by the department, unless its operator possesses a ~~certificate of competency~~ license issued by the department.

Sec. 1235. Section 71-5308, Reissue Revised Statutes of Nebraska, is amended to read:

71-5308 ~~(1)~~ Application for a ~~certificate of competency~~ license to act as a ~~certified~~licensed operator of a public water system shall be made ~~upon forms prepared by the director and shall contain such information as the director, by rule and regulation, deems necessary. If the applicant is an individual, the application shall include the applicant's social security number.~~as provided in the Uniform Credentialing Act. The department shall establish and collect fees for ~~certificates of competency~~licenses as provided in ~~section 71-162~~sections 54 to 60 of this act. An operator shall be licensed in the same manner as an individual under subsection (1) of section 23 of this act and shall be subject to the reporting, investigatory, and disciplinary provisions of sections 79 to 88,

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109, 112 to 129, and 140 to 142 of this act. In addition to the grounds for disciplinary action found in the Uniform Credentialing Act, a license issued under the Nebraska Safe Drinking Water Act may be disciplined for any violation of the act or the rules and regulations adopted and promulgated under the act.

An individual holding a certificate as a certified operator of a public water system under the Nebraska Safe Drinking Water Act on December 1, 2008, shall be deemed to be holding a license under the Uniform Credentialing Act and the Nebraska Safe Drinking Water Act on such date. The certificate holder may continue to practice under such certificate as a license in accordance with such acts until the certificate would have expired under its terms.

~~(2) Certificates of competency to act as certified operators of public water systems shall be issued by the department for the calendar years applied for and shall expire at midnight on December 31 of the third year. Certificates of competency may be renewed triennially upon application and completion of continuing competency requirements established by the department in rules and regulations. The requirements may include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09. The department shall notify each certificate holder at least ninety days before the expiration of the certificate by a letter addressed to him or her at his or her last place of residence as noted upon its records.~~

~~(3) The department shall, within thirty days after receipt of an application, make an investigation and, if found~~

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~~in compliance with regulations adopted pursuant to section 71-5309, shall issue a certificate of competency, valid until midnight of December 31 of the third year.~~

Sec. 1236. Section 71-5309, Reissue Revised Statutes of Nebraska, is amended to read:

71-5309 (1) The director shall adopt and promulgate minimum necessary rules and regulations governing the qualifications of operators of public water systems. In adopting such rules and regulations, the director shall give consideration to the levels of training and experience which are required, in the opinion of the director, to insure to the greatest extent possible that the public water systems shall be operated in such a manner that (a) maximum efficiency can be attained, (b) interruptions in service will not occur, (c) chemical treatment of the water will be adequate to maintain purity and safety, and (d) harmful materials will not enter the public water system.

(2) The director may require, by rule and regulation, that the applicant for a ~~certificate of competency~~ license successfully pass an examination on the subject of operation of a public water system. The rules and regulations, and any tests so administered, may set out different requirements for public water systems based on one or more of the following: Physical size of the facilities, number of persons served, system classification, source of water, treatment technique and purpose, and distribution complexity, so long as the criteria set forth in this section are followed.

~~(2) Any such certificate of competency may be denied,~~

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~~suspended, revoked, or refused renewal by the director for due cause. The holder of a certificate of competency may also be placed on probation by the director for due cause. Due cause shall include, but not be limited to, (a) fraud in processing the certificate, (b) habitual intoxication or addiction to the use of drugs, (c) conviction of a felony, (d) physical or mental incapacity to perform professional duties, (e) violation of any of the provisions of the Nebraska Safe Drinking Water Act or any rules or regulations adopted and promulgated under such act, and (f) failure to pay the required fee. If a certificate holder is placed on probation, his or her certificate may be revoked if the probationary requirements are not followed. Except in cases of failure to pay the required fees, no certificate of competency shall be denied, suspended, or revoked except after due notice and opportunity for a hearing. Any denial, suspension, or revocation of such certificate of competency or the placement of a certificate holder on probation may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.~~

Sec. 1237. Section 71-5311, Reissue Revised Statutes of Nebraska, is amended to read:

71-5311 (1) There is hereby established the Advisory Council on Public Water Supply which shall advise and assist the department in administering the Nebraska Safe Drinking Water Act.

(2) The council shall be composed of seven members appointed by the Governor, (a) one of whom shall be a professional engineer, (b) one of whom shall be a licensed physician, (c) two of whom shall be consumers of a public water system, (d) two

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of whom shall be operators of a public water system who possess a ~~certificate of competency~~ license issued by the Department of Health and Human Services Regulation and Licensure to operate a public water system. One such operator shall represent a system serving a population of five thousand or less, and one such operator shall represent a system serving a population of more than five thousand, and (e) one of whom shall be, at the time of appointment, (i) an individual who owns a public water system, (ii) a member of the governing board of a public or private corporation which owns a public water system, or (iii) in the case of a political subdivision which owns a public water system, a member of the subdivision's governing board or board of public works or similar board which oversees the operation of a public water system.

~~Any owner or operator of a public water system serving on the council on March 2, 1989, shall continue to serve until the term of such member expires. As his or her term expires, such owner or operator shall be replaced by a person qualified as prescribed in subdivisions (d) and (e) of this subsection respectively.~~

(3) All members shall be appointed for three-year terms. No member shall serve more than three consecutive three-year terms. Each member shall hold office until the expiration of his or her term or until a successor has been appointed. Any vacancy occurring in council membership, other than by expiration of term, shall be filled within sixty days by the Governor by appointment from the appropriate category for the unexpired term.

(4) The council shall meet not less than once each year.

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Special meetings of the council may be called by the director or upon the written request of any two members of the council explaining the reason for such meeting. The place of the meeting shall be set by the director. Such officers as the council deems necessary shall be elected every three years beginning with the first meeting in the year 1990. A majority of the members of the council shall constitute a quorum for the transaction of business. Representatives of the department shall attend each meeting. Every act of the majority of the members of the council shall be deemed to be the act of the council.

(5) No member of the council shall receive any compensation, but each member shall be entitled, while serving on the business of the council, to receive his or her travel and other necessary expenses while so serving away from his or her place of residence as provided in sections 81-1174 to 81-1177.

Sec. 1238. (1) All rules and regulations adopted prior to the operative date of this section under the Nebraska Safe Drinking Water Act shall continue to be effective to the extent not in conflict with the changes made by this legislative bill until revised, amended, repealed, or nullified pursuant to law.

(2) All certificates or other forms of approval issued prior to the operative date of this section in accordance with the Nebraska Safe Drinking Water Act shall remain valid as issued for purposes of the changes made by this legislative bill unless revoked or their effectiveness is otherwise terminated pursuant to law.

(3) Any suit, action, or other proceeding, judicial or

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administrative, which was lawfully commenced prior to the operative date of this section under the Nebraska Safe Drinking Water Act shall be subject to the provisions of the act as they existed prior to the operative date of this section.

Sec. 1239. Section 71-5313, Reissue Revised Statutes of Nebraska, is amended to read:

71-5313 Sections 71-5301 to 71-5313 and section 1238 of this act shall be known and may be cited as the Nebraska Safe Drinking Water Act.

Sec. 1240. Section 71-5402, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-5402 For purposes of the Nebraska Drug Product Selection Act, unless the context otherwise requires:

(1) Bioequivalent means drug products: (a) That are legally marketed under regulations promulgated by the federal Food and Drug Administration; (b) that are the same dosage form of the identical active ingredients in the identical amounts as the drug product prescribed; (c) that comply with compendial standards and are consistent from lot to lot with respect to (i) purity of ingredients, (ii) weight variation, (iii) uniformity of content, and (iv) stability; and (d) for which the federal Food and Drug Administration has established bioequivalent standards or has determined that no bioequivalence problems exist;

(2) Board means the Board of Pharmacy;

(3) Brand name means the proprietary or trade name selected by the manufacturer, distributor, or packager for a drug product and placed upon the labeling of such product at the time

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of packaging;

(4) Chemically equivalent means drug products that contain amounts of the identical therapeutically active ingredients in the identical strength, quantity, and dosage form and that meet present compendial standards;

(5) Department means the Department of Health and Human Services Regulation and Licensure;

(6) Drug product means any drug or device as defined in section ~~71-1,142~~945 of this act;

(7) Drug product select means to dispense, without the practitioner's express authorization, an equivalent drug product in place of the brand-name drug product contained in a medical order of such practitioner;

(8) Equivalent means drug products that are both chemically equivalent and bioequivalent;

(9) Generic name means the official title of a drug or drug combination as determined by the United States Adopted Names Council and accepted by the federal Food and Drug Administration of those drug products having the same active chemical ingredients in the same strength and quantity;

(10) Medical order has the definition found in section ~~71-1,142~~932 of this act;

(11) Pharmacist means a pharmacist licensed under the ~~Uniform Licensing Law~~Pharmacy Practice Act; and

(12) Practitioner has the definition found in section ~~71-1,142~~942 of this act.

Sec. 1241. Section 71-5654, Revised Statutes Cumulative

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Supplement, 2006, is amended to read:

71-5654 The Nebraska Rural Health Advisory Commission is hereby created as the direct and only successor to the Commission on Rural Health Manpower. The Nebraska Rural Health Advisory Commission shall consist of thirteen members as follows:

(1) The Director of Regulation and Licensure or his or her designee and the Director of Health and Human Services or his or her designee; and

(2) Eleven members to be appointed by the Governor with the advice and consent of the Legislature as follows:

(a) One representative of each medical school located in the state involved in training family physicians and one physician in family practice residency training; and

(b) From rural areas one physician, one consumer representative, one hospital administrator, one nursing home administrator, one nurse, one physician assistant, one mental health practitioner or psychologist licensed under the requirements of section ~~71-1,206.15~~1057 of this act or the equivalent thereof, and one dentist.

Members shall serve for terms of three years. When a vacancy occurs, appointment to fill the vacancy shall be made for the balance of the term. All appointed members shall be citizens and residents of Nebraska. The appointed membership of the commission shall, to the extent possible, represent the three congressional districts equally.

Sec. 1242. Section 71-5662, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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71-5662 (1) To be eligible for a student loan under the Rural Health Systems and Professional Incentive Act, an applicant or a recipient shall be enrolled or accepted for enrollment in an accredited medical or dental education program or physician assistant education program or an approved mental health practice program in Nebraska.

(2) To be eligible for loan repayment under the act, an applicant or a recipient shall be a pharmacist, a dentist, a physical therapist, an occupational therapist, a mental health practitioner, a psychologist licensed under the requirements of section ~~71-1,206.15~~1057 of this act or the equivalent thereof, an advanced practice registered nurse, a physician assistant, or a physician in an approved specialty and shall be licensed to practice in Nebraska, not be enrolled in a residency program, not be practicing under a provisional or temporary license, and enter practice in a designated health profession shortage area in Nebraska.

Sec. 1243. Section 71-6038, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-6038 For purposes of sections 71-6038 to 71-6042 and section 1248 of this act:

(1) Complicated feeding problems include, but are not limited to, difficulty swallowing, recurrent lung aspirations, and tube or parenteral or intravenous feedings;

(2) Department means the Department of Health and Human Services Regulation and Licensure;

(3) Nursing assistant means any person employed by a

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nursing home for the purpose of aiding a licensed registered or practical nurse through the performance of nonspecialized tasks related to the personal care and comfort of residents other than a paid dining assistant or a licensed registered or practical nurse;

(4) Nursing home means any facility or a distinct part of any facility that provides care as defined in sections 71-420, 71-421, 71-422, 71-424, and 71-429; and

(5) Paid dining assistant means any person employed by a nursing home for the purpose of aiding a licensed registered or practical nurse through the feeding of residents other than a nursing assistant or a licensed registered or practical nurse.

Sec. 1244. Section 71-6039, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-6039 (1) No person shall act as a nursing assistant in a nursing home unless such person:

(a) Is at least sixteen years of age and has not been convicted of a crime involving moral turpitude;

(b) Is able to speak and understand the English language or a language understood by a substantial portion of the nursing home residents; and

(c) Has successfully completed a basic course of training approved by the department for nursing assistants within one hundred twenty days of initial employment in the capacity of a nursing assistant at any nursing home. ~~if employment begins after January 1, 1984.~~

(2) The department may prescribe a curriculum for training nursing assistants and may adopt and promulgate rules

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and regulations for such courses of training. The content of the courses of training and competency evaluation programs shall be consistent with federal requirements unless exempted. The department may approve courses of training if such courses of training meet the requirements of this section. Such courses of training shall include instruction on the responsibility of each nursing assistant to report suspected abuse or neglect pursuant to sections 28-372 and 28-711. Nursing homes may carry out approved courses of training within the nursing home, except that nursing homes may not conduct the competency evaluation part of the program. The prescribed training shall be administered by a licensed registered nurse.

(3) For nursing assistants at intermediate care facilities for the mentally retarded, such courses of training shall be no less than twenty hours in duration and shall include at least fifteen hours of basic personal care training and five hours of basic therapeutic and emergency procedure training, and for nursing assistants at all nursing homes other than intermediate care facilities for the mentally retarded, such courses shall be no less than seventy-five hours in duration.

(4) This section shall not prohibit any facility from exceeding the minimum hourly or training requirements.

Sec. 1245. Section 71-6040, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-6040 The department shall approve all courses, lectures, seminars, course materials, or other instructional programs used to meet the requirements of sections 71-6038 to

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71-6042 and section 1248 of this act.

Sec. 1246. Section 71-6041, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-6041 To protect the health, safety, and welfare of nursing home residents and the public, the department shall adopt and promulgate such rules and regulations as are necessary for the effective administration of sections 71-6038 to 71-6042 and section 1248 of this act. Such rules and regulations shall be consistent with federal requirements developed by the United States Department of Health and Human Services.

Sec. 1247. Section 71-6042, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-6042 The department shall have the authority to enforce sections 71-6038 to 71-6042 and section 1248 of this act and rules and regulations adopted under section 71-6041 by any of the following means: Denial, suspension, restriction, or revocation of a nursing home's license, refusal of the renewal of a nursing home's license, restriction of a nursing home's admissions, or any other enforcement provision granted to the department.

Sec. 1248. Nursing assistants and paid dining assistants are eligible to participate in the Licensee Assistance Program as prescribed by section 78 of this act.

Sec. 1249. Section 71-6211, Reissue Revised Statutes of Nebraska, is amended to read:

71-6211 Health professional group not previously regulated shall mean those persons or groups who are not currently licensed or otherwise regulated under ~~Chapter 71~~the

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Uniform Credentialing Act, who are determined by the director to be qualified by training, education, or experience to perform the functions prescribed in this section, and whose principal functions, customarily performed for remuneration, are to render services directly or indirectly to individuals for the purpose of:

(1) Preventing physical, mental, or emotional injury or illness, excluding persons acting in their capacity as clergy;

(2) Facilitating recovery from injury or illness; or

(3) Providing rehabilitative or continuing care following injury or illness.

Sec. 1250. Section 71-6218, Reissue Revised Statutes of Nebraska, is amended to read:

71-6218 Regulated health professions shall mean those persons or groups who are currently licensed or otherwise regulated under ~~Chapter 71~~the Uniform Credentialing Act, who are qualified by training, education, or experience to perform the functions prescribed in this section, and whose principal functions, customarily performed for remuneration, are to render services directly or indirectly to individuals for the purpose of:

(1) Preventing physical, mental, or emotional injury or illness;

(2) Facilitating recovery from injury or illness; or

(3) Providing rehabilitative or continuing care following injury or illness.

Sec. 1251. Section 71-6301, Reissue Revised Statutes of Nebraska, is amended to read:

71-6301 For purposes of the Asbestos Control Act, unless

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the context otherwise requires:

(1) Asbestos means asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite;

(2) Asbestos encapsulation project means activities which include the coating of asbestos-containing surface material with a bridging or penetrating type of sealing material for the intended purpose of preventing the continued release of asbestos fibers from the material into the air. Such project does not include the repainting of a previously painted nonfriable asbestos-containing surface which is not damaged primarily for improving the appearance of such surface;

(3) Asbestos enclosure project means activities which physically isolate friable asbestos and which control and contain fibers released from asbestos-containing material by constructing a permanent airtight barrier between the asbestos-containing material and the occupied building space;

(4) Asbestos occupation means an inspector, management planner, project designer, project monitor, supervisor, or worker;

(5) Asbestos project means an asbestos enclosure project, an asbestos encapsulation project, an asbestos removal project, an asbestos-related demolition project, or an asbestos-related dismantling project but does not include (a) any activities which affect three square feet or less or three linear feet or less of asbestos-containing material on or in a structure or equipment or any appurtenances thereto or (b) any activities physically performed by a homeowner, a member of the homeowner's family, or an unpaid volunteer on or in the homeowner's residential property of

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four units or less;

(6) Asbestos removal project means activities which include the physical removal of friable asbestos-containing material from the surface of a structure or from equipment which is intended to remain in place after the removal. Such project also includes the physical removal of asbestos from a structure or equipment after such structure or equipment has been removed as part of an asbestos-related dismantling project;

(7) Asbestos-related demolition project means activities which include the razing of all or a portion of a structure which contains friable asbestos-containing materials or other asbestos-containing materials which may become friable when such materials are cut, crushed, ground, ~~abraided~~abraded, or pulverized;

(8) Asbestos-related dismantling project means activities which include the disassembly, handling, and moving of the components of any structure or equipment which has been coated with asbestos-containing material without first removing such material from the structure or from the equipment;

(9) Business entity means a partnership, limited liability company, firm, association, corporation, sole proprietorship, public entity, or other public or private business concern involved in an asbestos project except an entity solely involved as a management planner or project designer;

~~(10) Certificate means an authorization issued by the department permitting an individual person to work in an asbestos occupation;~~

~~(11)~~ (10) Demolition means the wrecking, razing, or

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removal of any structure or load-supporting structural item of any structure, including any related material handling operations, and includes the intentional burning of any structure;

~~(12)~~ (11) Department means the Department of Health and Human Services Regulation and Licensure;

~~(13)~~ (12) Director means the Director of Regulation and Licensure or his or her designee;

~~(14)~~ (13) Enclosure means the construction of an airtight, impermeable, permanent barrier around asbestos-containing material to control the release of asbestos fibers into the air;

~~(15)~~ (14) Friable asbestos means asbestos in a form which can be crumbled, pulverized, or reduced to powder by hand pressure;

~~(16)~~ (15) Inspector means an individual who is ~~certified~~ licensed by the department to identify and assess the condition of asbestos-containing material;

~~(17)~~ (16) Instructor means an individual who is approved by the department to teach an asbestos-related training course;

~~(18)~~ (17) License means an authorization issued by the department ~~permitting a business entity to engage in an asbestos project~~to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization;

~~(19)~~ (18) Management planner means an individual who is ~~certified~~ licensed by the department to assess the hazard of materials containing asbestos, to determine the appropriate response actions, and to write management plans;

~~(20)~~ (19) Project designer means an individual who is

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~~certified~~ licensed by the department to formulate plans and write specifications for conducting asbestos projects;

~~(21)~~ (20) Project monitor means an individual who is ~~certified~~ licensed by the department to observe abatement activities performed by contractors, to represent the building owner to ensure work is completed according to specifications and in compliance with statutes and regulations, and to perform air monitoring to determine final clearance;

~~(22)~~ (21) Project review means review of a licensed business entity's proposed asbestos project;

~~(23)~~ (22) Renovation means the altering of a structure, one or more structural items, or one or more equipment items in any way, including any asbestos project performed on a structure, structural item, or equipment item;

~~(24)~~ (23) Supervisor means an individual who is ~~certified~~ licensed by the department to supervise and direct an asbestos project in accordance with the Asbestos Control Act and the rules and regulations adopted and promulgated pursuant to such act; and

~~(25)~~ (24) Worker means an individual who is ~~certified~~ licensed by the department to clean, handle, repair, remove, encapsulate, haul, dispose of, or otherwise work with asbestos material in a nonsupervisory capacity.

Sec. 1252. Section 71-6303, Reissue Revised Statutes of Nebraska, is amended to read:

71-6303 (1) The department shall administer the Asbestos Control Act.

(2) The department shall adopt and promulgate rules and

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regulations necessary to carry out the act. The department shall adopt state standards governing asbestos projects and may adopt or incorporate part or all of any federal standards in the state standards so long as state standards are no less stringent than federal standards.

~~(3)~~ (3)(a) The department shall prescribe fees based upon the following schedule:

~~(a)~~ (i) For a business entity license or license renewal, not less than two thousand dollars or more than five thousand dollars;

~~(b)~~ (ii) For waiver on an emergency basis of a business entity license, not less than two thousand dollars or more than five thousand dollars;

~~(c)~~ (iii) For waiver of a license for a business entity not primarily engaged in asbestos projects, not less than two thousand dollars or more than five thousand dollars;

~~(d)~~ (iv) For approval of an initial training course, not less than one thousand dollars or more than two thousand five hundred dollars, which fee shall include one onsite inspection if the inspection is required by the department;

~~(e)~~ (v) For approval of a review course or a four-hour course on Nebraska law, rules, and regulations, not less than five hundred dollars or more than one thousand dollars, which fee shall include one onsite inspection if the inspection is required by the department;

~~(f)~~ (vi) For an onsite inspection of an asbestos project other than an initial inspection, not less than one hundred fifty

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dollars or more than two hundred fifty dollars. Such fees shall not be assessed for more than three onsite inspections per year during the period an actual asbestos project is in progress; and

~~(g)~~ (vii) For a project review of each asbestos project of a licensed business entity which is equal to or greater than two hundred sixty linear feet or any combination which is equal to or greater than one hundred sixty square feet and linear feet, including any initial onsite inspection, not less than two hundred dollars or more than five hundred dollars.

(b) Any ~~such~~ business applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of three hundred dollars for a license and one hundred dollars for approval of a training course shall be retained by the department.

(c) All fees shall be based on the costs of administering the Asbestos Control Act. In addition to the fees prescribed in this section, the department may charge and receive the actual costs for board, room, and travel by employees in excess of three hundred dollars, which costs shall not exceed the amounts allowable in sections 81-1174 to 81-1177. All such fees collected by the department shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the act.

(4) At least once a year during the continuation of an asbestos project, the department shall conduct an onsite inspection

of each licensed business entity's procedures for performing asbestos projects.

(5) The department may enter into agreements or contracts with public agencies to conduct any inspections required under the act.

(6) The department shall adopt and promulgate rules and regulations defining work practices for asbestos projects. The department may provide for alternatives to specific work practices when the health, safety, and welfare of all classes of asbestos occupations and the general public are adequately protected.

(7) The department may apply for and receive funds from the federal government and any other public or private entity for the purposes of administering the act.

~~(8) The department shall establish and collect fees for issuance and renewal of certificates as provided in section 71-162 for persons certified under section 71-6310. The department shall adopt and promulgate rules and regulations to establish continuing competency requirements for persons certified under the act. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a certified person may select as an alternative to continuing education.~~

Sec. 1253. Section 71-6304, Reissue Revised Statutes of Nebraska, is amended to read:

71-6304 To qualify for a license, a business entity shall:

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(1) Own or demonstrate immediate and continuing access to and maintain in operable condition modern and effective equipment, as prescribed by the department, which is designed for use in asbestos projects;

(2) Ensure that each employee or agent of the business entity who will come into contact with asbestos or who will be present on an asbestos project is ~~certified~~ licensed as required by the Asbestos Control Act;

(3) Demonstrate to the satisfaction of the department that the business entity is capable of complying with all applicable requirements, procedures, and standards pertaining to the asbestos project;

(4) Have access to at least one approved asbestos disposal site for deposit of all asbestos waste that the business entity will generate during the term of the license; and

(5) Meet any other standards which the department may deem necessary to protect the health, safety, and welfare of all classes of asbestos occupations and the general public.

Sec. 1254. Section 71-6305, Reissue Revised Statutes of Nebraska, is amended to read:

71-6305 (1) To apply for a license, a business entity shall submit an application to the department in the form required by the department and shall pay the fee prescribed by the department.

(2) The application shall include, but not be limited to:

(a) The name, address, and nature of the business entity;

(b) A statement that all ~~persons~~ individuals who will

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engage in any asbestos project for the ~~licensee~~ business entity will be ~~certified~~ licensed as required by the Asbestos Control Act;

(c) A description of the protective clothing and respirators that the business entity will use;

(d) The name and address of each asbestos disposal site that the business entity will use;

(e) A description of the site decontamination procedures that the business entity will use;

(f) A description of the removal, enclosure, encapsulation, demolition, dismantling, and maintenance methods that the business entity will use;

(g) A description of the procedures that the business entity will use for handling waste containing asbestos;

(h) A description of the air monitoring procedures that the business entity will use;

(i) A description of the procedures that the business entity will use in cleaning up the asbestos project;

(j) The signature of the chief executive officer of the business entity or his or her designee; and

(k) Such other information as may be necessary for the efficient administration and enforcement of the act and for the protection of the health, safety, and welfare of the general public and all classes of asbestos occupations.

Sec. 1255. Section 71-6306, Reissue Revised Statutes of Nebraska, is amended to read:

71-6306 (1) A license ~~or~~ ~~certificate~~ of a business entity shall expire on the first anniversary of its effective date unless

it is renewed for one year as provided in this section.

(2) At least thirty days before the license ~~or certificate~~ expires, the department shall send to the licensee ~~or certificate holder~~ at his or her last-known address a renewal notice which states:

(a) The date on which the current license ~~or certificate~~ expires;

(b) The date by which the renewal application must be received by the department for the renewal to be issued and mailed before the license ~~or certificate~~ expires; and

(c) The amount of the renewal fee.

(3) Before the license ~~or certificate~~ expires, the licensee ~~or certificate holder~~ may renew it for an additional one-year period if the licensee: ~~or certificate holder:~~

(a) Is otherwise entitled to be licensed; ~~or certificated;~~

(b) Submits a renewal application to the department in the form required by the department; and

(c) Pays the renewal fee prescribed by the department.

Sec. 1256. Section 71-6307, Reissue Revised Statutes of Nebraska, is amended to read:

71-6307 The licensee or a business entity, whether excepted from the requirements for licensure by section 71-6302 or whether operating under a waiver, shall keep a record of each asbestos project and shall make the record available to the department at any reasonable time. All such records shall be kept for at least thirty years. Each record shall include:

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(1) The name, address, and ~~certificate~~ license number of the individual who supervised the asbestos project and of each employee or agent who worked on the project;

(2) The location and description of the project and the amount of asbestos material that was removed;

(3) The starting and completion dates of each instance of asbestos encapsulation, demolition, dismantling, maintenance, or removal;

(4) A summary of the procedures that were used to comply with all applicable standards;

(5) The name and address of each asbestos disposal site where the waste containing asbestos was deposited; and

(6) Such other information as the department may deem necessary for the efficient administration and enforcement of the Asbestos Control Act and for the protection of the health, safety, and welfare of all classes of asbestos occupations and the general public.

Sec. 1257. Section 71-6309, Reissue Revised Statutes of Nebraska, is amended to read:

71-6309 (1) In the event of an emergency in which, in the opinion of the director, there is created a situation of present and severe danger which poses an immediate threat to the public health, safety, and welfare, the director may waive the requirement for licensure ~~or~~ ~~certification~~ of an individual or business entity upon application and payment of the fee prescribed by the department. Such emergency waiver shall be limited to the time required to take protective measures.

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(2) The department may, on a case-by-case basis, approve an alternative to a specific worker protection requirement for an asbestos project if the business entity submits a written description of the alternative procedure and demonstrates to the department's satisfaction that the proposed alternative procedure provides equivalent protection to the health, safety, and welfare of all classes of asbestos occupations and the general public.

(3) If the business entity is not primarily engaged in asbestos projects, the department may waive the requirement for a license upon application and payment of the fee prescribed by the department if worker protection requirements are met or an alternative procedure is approved pursuant to subsection (2) of this section and the health, safety, and welfare of the general public is protected.

Sec. 1258. Section 71-6310, Reissue Revised Statutes of Nebraska, is amended to read:

71-6310 (1) An individual ~~person~~ shall not be eligible to work on an asbestos project unless the ~~person holds a certificate~~ individual holds the appropriate class of license issued by the department. Application for a license shall be made as provided in the Uniform Credentialing Act. An individual shall be credentialed in the same manner as an individual under subsection (1) of section 23 of this act and shall be subject to the disciplinary provisions of the act as provided in section 71-6314.

(2) The department shall issue the following classes of ~~certificates~~licenses: Worker; supervisor; inspector; management planner; project monitor; and project designer. To qualify for a

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~~certificate~~ license of a particular class, ~~a person~~ an individual shall have (a) successfully completed a training course approved or administered by the department, (b) been examined by a physician within the preceding year and declared by the physician to be physically capable of working while wearing a respirator, and (c) passed an examination approved or administered by the department with at least the minimum score prescribed by the department. An individual holding such a certificate on December 1, 2008, shall be deemed to be holding a license under the Uniform Credentialing Act and the Asbestos Control Act on such date. The certificate holder may continue to practice under such certificate as a license in accordance with such acts until the certificate would have expired under its terms.

~~(3) A certificate or renewal certificate shall be valid for one year from the date of issuance. To qualify for a renewal certificate, the applicant shall meet the requirements of section 71-6310.02.~~

~~(4) An application for a certificate, a renewal certificate, or approval shall be submitted to the department on a form prescribed by the department, shall include the applicant's social security number, and shall be accompanied by the prescribed fee.~~

~~(5)~~ (3) As an alternative to the qualifications in subdivision (2)(a) of this section, ~~a person~~ an individual shall have completed a fully accredited United States Environmental Protection Agency Asbestos Hazard Emergency Response Act of ~~1976~~ 1986 training program or the ~~person~~ individual shall be currently

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accredited by a United States Environmental Protection Agency fully accredited state asbestos model accreditation plan adopted pursuant to 40 C.F.R. 763. In addition to the alternative qualifications, the ~~person~~ individual shall successfully complete a four-hour course approved by the department on Nebraska law, rules, and regulations and shall pass an examination thereon which shall be approved and may be administered by the department.

~~(6)~~ (4) The department may issue a limited ~~certificate~~ license to a project designer or management planner who does not intend to enter any management plan, project design, or asbestos project worksite. An applicant for a limited ~~certificate~~ license under this subsection shall not be required to comply with the requirements of subdivision (2)(b) of this section. A holder of a limited ~~certificate~~ license shall not enter any management plan, project design, or asbestos project worksite. The limitation shall be endorsed upon the ~~certificate~~license. Violation of the limitation shall be grounds for disciplinary action against the ~~certificate~~ license pursuant to section 71-6314. An individual holding a limited certificate on December 1, 2008, shall be deemed to be holding a limited license under the Uniform Credentialing Act and the Asbestos Control Act on such date. The certificate holder may continue to practice under such limited certificate as a limited license in accordance with such acts until the limited certificate would have expired under its terms.

~~(7)~~ (5) The department shall approve instructors of training courses. To qualify for approval, an individual shall have (a) graduated from high school or obtained a general educational

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development certificate or equivalent document as determined by the department, (b) successfully completed an approved four-hour course on Nebraska law, rules, and regulations, and (c) at least one year of actual work experience in the asbestos industry.

Sec. 1259. Section 71-6310.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-6310.01 (1) The department shall approve training courses for each classification of asbestos occupation. Applicants for course approval shall meet the requirements for each course and shall submit an application on forms provided by the department together with the prescribed fee. Approved course providers shall use only approved instructors to teach each training course. The department shall conduct onsite inspections of the training courses offered by course providers.

(2) In order to be approved by the department, an initial inspector training course shall meet the following requirements: A three-day training course including lectures, demonstrations, a field trip, at least four hours of hands-on training, individual respirator-fit testing, and a written examination; background information on asbestos and potential health effects related to exposure to asbestos; functions, qualifications, and the role of inspectors; legal liabilities and defenses; understanding building systems; public, employee, and occupant relations; preinspection planning and review of previous inspection records and inspecting for friable and nonfriable asbestos-containing material and assessing the condition of asbestos-containing material; bulk sampling and documentation of asbestos; inspector respiratory

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protection and personal protective equipment; and record keeping and inspection report writing, regulatory review, and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(3) In order to be approved by the department, an initial management planner training course shall meet the following requirements: A three-day inspector training course as outlined in subsection (2) of this section and a two-day management planner training course including lectures, demonstrations, and a written examination; course overview; evaluation and interpretation of survey results, hazard assessment, and legal implications; evaluation and selection of control options; role of other professionals; developing an operations and maintenance plan; and regulatory review, record keeping for the management planner, assembling and submitting the management plan, financing abatement actions, and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(4) In order to be approved by the department, an initial project designer training course shall meet the following requirements: A three-day training course including lectures, demonstrations, a field trip, and a written examination; background information on asbestos and potential health effects related to asbestos exposure; overview of abatement construction projects;

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safety system design specifications, employee personal protective equipment, and additional safety hazards; fiber aerodynamics and control, designing abatement solutions, final clearance process, and budgeting and cost estimation; writing abatement specifications and preparing abatement drawings; contract preparation and administration and legal liabilities and defenses; replacement of asbestos with asbestos-free substitutes; role of other consultants; occupied buildings; and relevant federal, state, and local regulatory requirements and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(5) In order to be approved by the department, an initial project monitor training course shall meet the following requirements: A five-day asbestos training course including lectures, demonstrations, at least six hours of hands-on training, and a written examination; roles and responsibilities of the project monitor; characteristics of asbestos and asbestos-containing materials; federal and state asbestos regulation overview; understanding building construction and building systems; asbestos abatement contracts, specifications, and drawings; response actions and abatement practices; asbestos abatement equipment; personal protective equipment; air monitoring strategies; safety and health issues other than asbestos; conducting visual inspections; final clearance process; legal responsibilities and liabilities of project monitors; record

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keeping and report writing; and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(6) In order to be approved by the department, an initial supervisor training course shall meet the following requirements: A five-day asbestos training course including lectures, demonstrations, at least fourteen hours of hands-on training, individual respirator-fit testing, and a written examination; the physical characteristics of asbestos and asbestos-containing materials and potential health effects related to asbestos exposure; employee personal protective equipment, state-of-the-art work practices, personal hygiene, additional safety hazards, medical monitoring, and air monitoring; relevant federal, state, and local regulatory requirements; respiratory protection programs, medical surveillance programs, and insurance and liability issues; record keeping for asbestos abatement projects and supervisory techniques for asbestos abatement activity; contract specifications; and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(7) In order to be approved by the department, an initial worker training course shall meet the following requirements: A four-day training course including lectures, demonstrations,

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at least fourteen hours of hands-on training, individual respirator-fit testing, and a written examination; physical characteristics of asbestos, potential health effects related to asbestos exposure, employee personal protective equipment, state-of-the-art work practices, personal hygiene, additional safety hazards, medical monitoring, and air monitoring; relevant federal, state, and local regulatory requirements, procedures, and standards; establishment of respiratory protection programs; and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(8) In order to be approved by the department, a course on Nebraska law, rules, and regulations required by subsection ~~(5)~~ (3) of section 71-6310 shall consist of at least four hours of training on Nebraska law, rules, and regulations relating to asbestos. The written examination shall be approved and may be administered by the department. The passing score shall be determined by the department.

Sec. 1260. Section 71-6310.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-6310.02 (1) Any ~~person~~ ~~certified~~ individual licensed in any of the asbestos occupations prescribed in section 71-6310, as a condition for ~~certificate~~ license renewal, shall complete continuing competency activities as required by the department ~~pursuant to section 71-6303~~ and shall be examined and approved by a physician as prescribed for initial applicants in section

71-6310. The ~~certificate~~ ~~holder~~ licensee shall submit evidence as required by the department of satisfaction of the requirements of this section.

(2) The department shall adopt and promulgate rules and regulations to establish the continuing competency requirements pursuant to the Uniform Credentialing Act. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 48 of this act which a licensee may select as an alternative to continuing education.

Sec. 1261. Section 71-6310.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-6310.03 If a project designer or a project monitor is selected by the structure's owner or operator for an asbestos project, the project designer and project monitor shall be responsible for the following:

(1) Project designers shall prepare plans and specifications for business entities conducting asbestos projects. The plans and specifications shall be consistent with the criteria, requirements, and best interests of the structure's owner or operator and the requirements of the Asbestos Control Act. The project designer shall represent the owner or operator and ensure that these objectives are achieved by the business entity conducting the project throughout the project;

(2) Prior to preparing plans and specifications for any renovation project, a project designer shall ensure that any

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equipment items and any structural items of a structure affected by the renovation were inspected and assessed by a ~~certified~~ licensed inspector. Prior to preparing plans and specifications for any demolition, a project designer shall ensure that the entire structure was inspected and assessed by a ~~certified~~ licensed inspector. No dismantling or salvage operation shall begin before the inspection and assessment is completed;

(3) If a project designer or project monitor is selected by the owner or operator of the structure on or in which the asbestos project is conducted, he or she shall be independent of the business entity selected to perform the asbestos project. A private or public business entity which uses its own trained and ~~certified~~ licensed employees to perform asbestos projects may also use its own employees who are trained and ~~certified~~ licensed as project designers or project monitors to design and monitor projects conducted on or in its own structures; and

(4) If a project designer or project monitor is selected by the structure's owner or operator for an asbestos project, the project designer or project monitor shall oversee the activities of a business entity conducting an asbestos project to ensure that the requirements of the Asbestos Control Act and the rules and regulations adopted and promulgated pursuant to the act are met. Prior to allowing an asbestos project site to be returned to normal occupancy or function, a project designer or project monitor shall ensure that all waste, debris, and residue have been removed from the site in compliance with the act and the rules and regulations adopted and promulgated pursuant to the act.

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Sec. 1262. The department shall establish and collect fees for issuance and renewal of licenses as provided in sections 54 to 60 of this act for individuals licensed under section 71-6310.

Sec. 1263. Section 71-6312, Reissue Revised Statutes of Nebraska, is amended to read:

71-6312 (1) ~~A person~~ An individual or business entity which engages in an asbestos project without a valid license, except as otherwise provided in the Asbestos Control Act, shall be assessed a civil penalty of not less than five thousand dollars nor more than twenty-five thousand dollars for the first offense and not less than twenty-five thousand dollars nor more than one hundred thousand dollars for a second or subsequent offense. Each day a violation continues shall constitute a separate offense.

(2) ~~A person~~ An individual who engages in an asbestos occupation without a valid ~~certificate~~license, except as otherwise provided in the act, shall be assessed a civil penalty of not less than five hundred dollars nor more than five thousand dollars for the first offense and not less than one thousand dollars nor more than fifteen thousand dollars for the second or subsequent offense. Each day a violation continues shall constitute a separate offense.

(3) Any business entity which knowingly engages in an asbestos project but which uses employees who do not hold a ~~certificate~~ license shall be assessed a civil penalty of not less than five hundred dollars nor more than five thousand dollars for the first offense and not less than five thousand dollars nor more than ten thousand dollars for a second or subsequent offense. Each

day a violation continues shall constitute a separate offense.

(4) The civil penalties prescribed in subsections (1), (2), and (3) of this section shall be assessed in a civil action brought for such purpose by the Attorney General in the district court of the county in which the violation occurred.

(5) ~~A person~~ An individual or business entity which has been assessed a civil penalty under this section and subsequently engages in an asbestos project or an asbestos occupation without a valid ~~certificate or~~ license or using employees who do not hold a ~~certificate~~license, except as otherwise provided in the Asbestos Control Act:

(a) For a first offense, shall be guilty of a Class I misdemeanor; and

(b) For a second or subsequent offense, shall be guilty of a Class IV felony.

Sec. 1264. Section 71-6313, Reissue Revised Statutes of Nebraska, is amended to read:

71-6313 The Attorney General may institute an action in the name of the state for an injunction or other process against any business entity or ~~person~~ individual to restrain or prevent any violation of the Asbestos Control Act or of any rules and regulations adopted and promulgated pursuant to such act.

Sec. 1265. Section 71-6314, Reissue Revised Statutes of Nebraska, is amended to read:

71-6314 (1) When the department determines that a ~~licensee~~ business entity that holds a license has violated the Asbestos Control Act or any rule and regulation adopted and

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promulgated pursuant to the act, the department may, rather than initially instituting disciplinary proceedings pursuant to subsection (2) of this section, within seven working days after a finding of a violation is made, issue a citation to the licensee. The citation shall be served upon the licensee personally or by certified mail. Each citation shall specifically describe the nature of the violation and identify the statute, rule, or regulation violated. When a citation is served upon the licensee, the licensee shall have seven working days to remedy the violation. If such violation has not been remedied at the end of such time, the department may take such other action as is deemed appropriate pursuant to the Asbestos Control Act and the Administrative Procedure Act.

(2) Independent of the provisions of subsection (1) of this section, a license~~,~~ ~~certificate,~~ or approval issued pursuant to the Asbestos Control Act may be denied, refused renewal, suspended, or revoked when the applicant~~,~~ or licensee~~,~~ ~~or~~ ~~certificate~~ ~~holder~~ violates any of the provisions of the act, fraudulently or deceptively obtains or attempts to obtain a license~~,~~ ~~certificate,~~ or approval, fails at any time to meet the qualifications for a license~~,~~ ~~certificate,~~ or approval, fails to comply with rules and regulations adopted and promulgated pursuant to the act, fails to meet any applicable state standard for asbestos projects, or employs or permits an ~~uncertified~~ ~~person~~ unlicensed individual to work in an asbestos occupation. An individual shall be subject to the reporting, investigatory, and disciplinary provisions of sections 79 to 88, 109, 112 to 129, and

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140 to 142 of this act for any of the grounds for disciplinary action found in the Uniform Credentialing Act and for any violation of the Asbestos Control Act or the rules and regulations adopted and promulgated under the acts.

(3) In addition to the disciplinary actions provided for in subsection (2) of this section, the department may assess a civil penalty of not less than one thousand dollars nor more than twenty-five thousand dollars for each offense committed by any business entity licensed under the ~~act~~ Asbestos Control Act or not less than one hundred dollars nor more than five thousand dollars for each offense committed by ~~a person certified~~ an individual licensed under the act for violation of the act or any rule or regulation adopted and promulgated pursuant thereto. Each day a violation continues shall constitute a separate offense.

(4) Whenever the department determines to deny, refuse to renew, suspend, or revoke a license~~, certificate,~~ or approval or assess a civil penalty, it shall send to the applicant~~,~~ or licensee~~, or certificate holder~~ a notice setting forth the particular reasons for the determination. The denial, suspension, refusal to renew, revocation, or assessment of a civil penalty shall become final thirty days after the mailing of the notice unless the applicant~~, certificate holder,~~ or licensee gives written notice to the department of a desire for a hearing. If a hearing is requested, the applicant~~, certificate holder,~~ or licensee shall be given a hearing before the department and shall have the right to present such evidence as may be proper. On the basis of such evidence, the determination shall be affirmed, modified, or set

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aside, and a copy of such decision setting forth the findings of fact and the particular reasons upon which such decision was based shall be sent by certified mail to the applicant~~, certificate holder,~~ or licensee. The decision shall become a final decision of the department and may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(5) Hearings held pursuant to this section shall be held in accordance with the Administrative Procedure Act and the rules and regulations adopted and promulgated by the department under such act.

(6) Any civil penalty assessed and unpaid under the Asbestos Control Act shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property. The department shall, within thirty days of receipt, ~~transmit~~ remit any collected civil penalty to the State Treasurer for ~~deposit in the permanent school fund~~distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 1266. (1) All rules and regulations adopted prior to the operative date of this section under the Asbestos Control Act shall continue to be effective to the extent not in conflict with the changes made by this legislative bill until revised, amended, repealed, or nullified pursuant to law.

(2) All licenses, certificates, or other forms of approval issued prior to the operative date of this section in

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accordance with the Asbestos Control Act shall remain valid as issued for purposes of the changes made by this legislative bill unless revoked or their effectiveness is otherwise terminated pursuant to law.

(3) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to the operative date of this section under the Asbestos Control Act shall be subject to the provisions of the act as they existed prior to the operative date of this section.

Sec. 1267. Section 71-6317, Reissue Revised Statutes of Nebraska, is amended to read:

71-6317 Sections 71-6301 to 71-6317 and sections 1262 and 1266 of this act shall be known and may be cited as the Asbestos Control Act.

Sec. 1268. Section 71-6318, Reissue Revised Statutes of Nebraska, is amended to read:

71-6318 Sections 71-6318 to 71-6331.01 and section 1293 of this act shall be known and may be cited as the Residential Lead-Based Paint Professions ~~Certification~~ Practice Act.

Sec. 1269. Section 71-6318.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-6318.01 (1) The Residential Lead-Based Paint Professions ~~Certification~~ Practice Act contains procedures and requirements for the accreditation of training programs, procedures and requirements for the ~~certification~~ licensure of individuals and firms engaged in lead-based paint activities, and work practice standards for performing lead-based paint activities. The act

also requires that, except as otherwise provided in the act, all lead-based paint activities be performed by ~~certified~~ licensed individuals and firms.

(2) The act applies to all individuals and firms who are engaged in lead-based paint activities, except persons who perform lead-based paint activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed or unless a child residing in the building has been identified as having an elevated blood-lead level.

(3) While the act establishes specific requirements for performing lead-based paint activities should they be undertaken, nothing in the act requires that the owner or occupant undertake any particular lead-based paint activity.

Sec. 1270. Section 71-6319.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-6319.01 For purposes of the Residential Lead-Based Paint Professions ~~Certification~~ Practice Act, the definitions found in sections 71-6319.02 to 71-6319.40 apply.

Sec. 1271. Section 71-6319.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-6319.02 Abatement or abatement project means any measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes, but is not limited to:

(1) The removal of lead-based paint and lead-contaminated

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dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil;

(2) All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures; and

(3)(a) Projects for which there is a written contract or other documentation which provides that a firm or an individual will be conducting activities in or to a residential dwelling or child-occupied facility that (i) will result in the permanent elimination of lead-based paint hazards or (ii) are designed to permanently eliminate lead-based paint hazards and are described in subdivision (1) or (2) of this section;

(b) Projects resulting in the permanent elimination of lead-based paint hazards conducted by firms or individuals ~~certified~~ licensed in accordance with the ~~department~~ Residential Lead-Based Paint Professions Practice Act unless such projects are excluded from the definition of abatement or abatement project under this section;

(c) Projects resulting in the permanent elimination of lead-based paint hazards conducted by firms or individuals who or which, through company name or promotional literature, hold themselves out to be in the business of performing lead-based paint activities unless such projects are excluded from the definition of abatement or abatement project under this section; or

(d) Projects resulting in the permanent elimination of lead-based paint hazards that are conducted in response to state or

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local abatement orders.

Abatement does not include renovation, remodeling, landscaping, or other activities when such activities are not designed to permanently eliminate lead-based paint hazards but instead are designed to repair, restore, or remodel a structure or dwelling even if such activities may incidentally result in a reduction or elimination of lead-based paint hazards. Abatement does not include interim controls, operations, and maintenance activities or other measures and activities designed to temporarily but not permanently reduce lead-based paint hazards.

Sec. 1272. Section 71-6319.04, Reissue Revised Statutes of Nebraska, is amended to read:

71-6319.04 ~~Certified~~ Licensed abatement worker means an individual who has been trained by an accredited training program and ~~certified~~ licensed by the department to perform abatement projects.

Sec. 1273. Section 71-6319.05, Reissue Revised Statutes of Nebraska, is amended to read:

71-6319.05 ~~Certified~~ Licensed firm means a firm to which the department has issued a ~~certificate of approval~~license.

Sec. 1274. Section 71-6319.06, Reissue Revised Statutes of Nebraska, is amended to read:

71-6319.06 ~~Certified~~ Licensed inspector means an individual who has been trained by an accredited training program and ~~certified~~ licensed by the department to conduct inspections and sample for the presence of lead in dust and soil for the purposes of abatement clearance testing.

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Sec. 1275. Section 71-6319.07, Reissue Revised Statutes of Nebraska, is amended to read:

71-6319.07 ~~Certified~~ Licensed project designer means an individual who has been trained by an accredited training program and ~~certified~~ licensed by the department to prepare abatement project designs, occupant protection plans, and abatement reports.

Sec. 1276. Section 71-6319.08, Reissue Revised Statutes of Nebraska, is amended to read:

71-6319.08 ~~Certified~~ Licensed risk assessor means an individual who has been trained by an accredited training program and ~~certified~~ licensed by the department to conduct risk assessments and to sample for the presence of lead in dust and soil for the purposes of abatement clearance testing.

Sec. 1277. Section 71-6319.09, Reissue Revised Statutes of Nebraska, is amended to read:

71-6319.09 ~~Certified~~ Licensed supervisor means an individual who has been trained by an accredited training program and ~~certified~~ licensed by the department to supervise and conduct abatement projects and to prepare occupant protection plans and abatement reports.

Sec. 1278. Section 71-6319.10, Reissue Revised Statutes of Nebraska, is amended to read:

71-6319.10 ~~Certified~~Licensed visual lead-hazard advisor means an individual who has been trained by an accredited training program and ~~certified~~ licensed by the department to conduct a visual lead-hazard screen.

Sec. 1279. Section 71-6319.29, Reissue Revised Statutes

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of Nebraska, is amended to read:

71-6319.29 Lead-based paint profession means one of the specific types or categories of lead-based paint activities identified in the Residential Lead-Based Paint Professions ~~Certification~~ Practice Act for which individuals may receive training from an accredited training program and become ~~certified~~ licensed by the department.

Sec. 1280. Section 71-6319.40, Reissue Revised Statutes of Nebraska, is amended to read:

71-6319.40 Visual lead-hazard screen means a visual assessment to determine the presence of deteriorated paint or other potential sources of lead-based paint hazards in a residential dwelling or child-occupied facility. Visual lead-hazard screen includes a written report explaining the results and limitations of the assessment. The written report will be provided to the person requesting the inspection, the residents of the dwelling, and the owner of the dwelling or child-occupied facility. A ~~certified~~ licensed visual lead-hazard advisor shall retain a copy of the report in his or her files for three years.

Sec. 1281. Section 71-6320, Reissue Revised Statutes of Nebraska, is amended to read:

71-6320 Except as otherwise provided in the Residential Lead-Based Paint Professions ~~Certification~~ Practice Act, a firm shall not engage in an abatement project unless the firm holds a ~~certificate~~ license for that purpose.

Sec. 1282. Section 71-6321, Reissue Revised Statutes of Nebraska, is amended to read:

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71-6321 (1) The department shall administer the Residential Lead-Based Paint Professions ~~Certification~~ Practice Act.

(2) The department shall adopt and promulgate rules and regulations necessary to carry out such act. The department shall adopt state standards governing abatement projects and may adopt or incorporate part or all of any federal standards in such state standards so long as state standards are no less stringent than federal standards.

(3) The department shall prescribe fees based upon the following schedule:

(a) For an annual firm ~~certificate or certificate~~ license or license renewal, not less than two hundred dollars or more than five hundred dollars;

(b) For accreditation of a training program, not less than one thousand dollars or more than two thousand five hundred dollars, which fee shall include one onsite inspection if such inspection is required by the department;

(c) For accreditation of a review course or a course on Nebraska law, rules, and regulations, not less than five hundred dollars or more than one thousand dollars, which fee shall include one onsite inspection if such inspection is required by the department;

(d) For onsite inspections other than initial inspections, not less than one hundred fifty dollars or more than two hundred fifty dollars. Such fees shall not be assessed for more than three onsite inspections per year during the period an actual

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abatement project is in progress; and

(e) For a project review of each abatement project of a ~~certified~~ licensed firm, not less than two hundred dollars or more than five hundred dollars.

Any ~~such~~ business applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of one hundred dollars for a firm ~~certificate~~ license and for accreditation of a training program shall be retained by the department.

All fees shall be based on the costs of administering the act. In addition to the fees prescribed in this section, the department may charge and receive the actual costs for board, room, and travel by employees in excess of three hundred dollars, which costs shall not exceed the amounts allowable in sections 81-1174 to 81-1177. All such fees collected by the department shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the act.

(4) At least once a year during the continuation of an abatement project the department shall conduct an onsite inspection of each ~~certified~~ licensed firm's procedures for performing abatement projects.

(5) The department may enter into agreements or contracts with public agencies to conduct any inspections required under the act if such agencies have the appropriate ~~certification~~ licensure or accreditation as described in the act.

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(6) The department shall adopt and promulgate rules and regulations defining work practices for abatement projects, for the ~~certification~~ licensure of lead-based paint professions, for the accreditation of training programs, for the accreditation of training program providers, for the dissemination of prerenovation information to homeowners and occupants, for the facilitation of compliance with federal lead-based paint hazard control grant programs, and for the implementation of lead-based paint compliance monitoring and enforcement activities. The department may provide for alternatives to specific work practices when the health, safety, and welfare of all classes of lead-based paint professions and the general public are adequately protected.

(7) The department may apply for and receive funds from the federal government and any other public or private entity for the purposes of administering the act. Any funds applied for, received, or used by the department or any political subdivision from the federal government or any public entity may be used only to abate lead-based paint hazards and for the administration of lead-based paint programs which address health and environmental hazards caused by lead-based paint.

~~(8) The department shall establish and collect certification fees and recertification fees as provided in section 71-162 for individuals certified under section 71-6326. The department shall adopt and promulgate rules and regulations to establish continuing competency requirements for persons certified under the act. Continuing education is sufficient to meet continuing competency requirements. The requirements may also~~

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~~include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a certified person may select as an alternative to continuing education.~~

Sec. 1283. Section 71-6322, Reissue Revised Statutes of Nebraska, is amended to read:

71-6322 To qualify for a ~~certificate~~license, a firm shall:

(1) Own or demonstrate immediate and continuing access to and maintain in operable condition modern and effective equipment, as prescribed by the department, which is designed for use in abatement projects;

(2) Ensure that each employee or agent of the firm who will participate in an abatement project is ~~certified~~ licensed as required by the Residential Lead-Based Paint Professions ~~Certification~~ Practice Act;

(3) Demonstrate to the satisfaction of the department that the firm is capable of complying with all applicable requirements, procedures, and standards pertaining to abatement projects; and

(4) Meet any other standards which the department may deem necessary to protect the health, safety, and welfare of all classes of lead-based paint professions and the general public.

Sec. 1284. Section 71-6323, Reissue Revised Statutes of Nebraska, is amended to read:

71-6323 (1) To apply for a ~~certificate~~license, a firm shall submit an application to the department in the form required by the department and shall pay the fee prescribed by

the department.

(2) The application shall include, but not be limited to:

(a) The name, address, and nature of the firm;

(b) A statement that all individuals who will engage in any abatement project for the ~~certificate~~ ~~holder~~ firm will be ~~certified~~ licensed as required by the Residential Lead-Based Paint Professions ~~Certification~~ Practice Act;

(c) A description of the removal, enclosure, encapsulation, demolition, dismantling, and maintenance methods that the firm will use;

(d) A description of the procedures that the firm will use for handling lead-containing waste;

(e) A description of the procedures that the firm will use in cleaning up the abatement project;

(f) The signature of the chief executive officer of the firm or his or her designee; and

(g) Such other information as may be necessary for the efficient administration and enforcement of the act and for the protection of the health, safety, and welfare of all classes of lead-based paint professions and the general public.

(3) A firm holding a certificate on December 1, 2008, shall be deemed to be holding a license under the Residential Lead-Based Paint Professions Practice Act and the Uniform Credentialing Act on such date. The certificate holder may continue to practice under such certificate as a license in accordance with such acts until the certificate would have expired under its terms.

Sec. 1285. Section 71-6326, Reissue Revised Statutes of

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Nebraska, is amended to read:

71-6326 (1) An individual shall not be eligible to work on an abatement project unless the individual holds a ~~certificate~~ license issued by the department.

(2) The department shall issue the following classes of ~~certificates~~licenses: Worker, supervisor, inspector, risk assessor, visual lead-hazard advisor, elevated blood-lead level inspector, and project designer. To qualify for a ~~certificate~~ license of a particular class, an individual shall have (a) successfully completed a training course approved or administered by the department, (b) passed an examination approved or administered by the department with at least the minimum score prescribed by the department, and (c) for the classes of worker and supervisor, been examined by a physician within the preceding year and declared by the physician to be physically capable of working while wearing a respirator.

(3) An individual holding such a certificate on December 1, 2008, shall be deemed to be holding a license under the Residential Lead-Based Paint Professions Practice Act and the Uniform Credentialing Act on such date. The certificate holder may continue to practice under such certificate as a license in accordance with such acts until the certificate would have expired under its terms.

~~(3) A certificate or renewal certificate shall be valid for three years from the date of issuance. To qualify for a renewal certificate, the applicant shall meet the requirements of section 71-6327.~~

~~(4) Applications for certificates and renewal certificates shall be submitted to the department on forms prescribed by the department and shall be accompanied by the prescribed fee.~~

Sec. 1286. Section 71-6327, Reissue Revised Statutes of Nebraska, is amended to read:

71-6327 ~~Any individual certified~~ (1) An applicant for a license in any of the lead-based paint professions prescribed in the Residential Lead-Based Paint Professions ~~Certification Act, as a condition for certificate renewal, shall complete continuing competency activities as required by the department pursuant to section 71-6321~~Practice Act shall be made as provided in the Uniform Credentialing Act. An individual shall be credentialed in the same manner as an individual under subsection (1) of section 23 of this act and shall be subject to the disciplinary provisions of the Uniform Credentialing Act as provided in section 71-6331. The department shall establish and collect license and renewal fees as provided in sections 54 to 60 of this act.

(2) The department shall adopt and promulgate rules and regulations to establish the continuing competency requirements pursuant to the Uniform Credentialing Act. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 48 of this act which a licensee may select as an alternative to continuing education.

Sec. 1287. Section 71-6328, Reissue Revised Statutes of

Nebraska, is amended to read:

71-6328 No state agency, county, city, village, school district, or other political subdivision shall accept a bid in connection with any abatement project from a firm which does not hold a ~~certificate~~ license from the department at the time the bid is submitted.

Sec. 1288. Section 71-6328.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-6328.01 Any individual or firm who or which has been issued a license, a certificate, or accreditation for training in another state which (1) has a licensure, certification, or accreditation program approved by the federal Environmental Protection Agency, (2) has licensure, accreditation, certification, education, and experience requirements substantially equal to or greater than those adopted by this state, and (3) grants equal licensure, certification, and accreditation privileges to individuals and firms ~~certified~~ licensed or accredited and residing in this state may be issued an equivalent ~~certificate~~ license or accreditation in Nebraska upon terms and conditions determined by the department. The terms and conditions may reduce the time period ~~established under subsection (3) of section 71-6326~~ the license is valid and the fee requirements.

Sec. 1289. Section 71-6329, Reissue Revised Statutes of Nebraska, is amended to read:

71-6329 (1) A firm which engages in an abatement project without a valid ~~certificate~~ license as provided in the Residential Lead-Based Paint Professions ~~Certification~~ Practice Act shall be

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assessed a civil penalty of not less than five thousand dollars nor more than twenty-five thousand dollars for the first offense and not less than twenty-five thousand dollars nor more than one hundred thousand dollars for a second or subsequent offense. Each day a violation continues shall constitute a separate offense.

(2) An individual who engages in a lead-based paint profession without a valid ~~certificate~~ license shall be assessed a civil penalty of not less than five hundred dollars nor more than five thousand dollars for the first offense and not less than one thousand dollars nor more than fifteen thousand dollars for the second or subsequent offense. Each day a violation continues shall constitute a separate offense.

(3) Any firm which knowingly engages in an abatement project but which uses employees who do not hold ~~certificates~~ licenses shall be assessed a civil penalty of not less than five thousand dollars nor more than twenty-five thousand dollars for the first offense and not less than twenty-five thousand dollars nor more than one hundred thousand dollars for a second or subsequent offense. Each day a violation continues shall constitute a separate offense.

(4) Any firm conducting an accredited training program which knowingly engages in issuing fraudulent ~~certificates~~ licenses or fails to conduct its training program in accordance with its accreditation shall, in addition to having its accreditation revoked, pay a civil penalty of not less than five thousand dollars nor more than twenty-five thousand dollars.

(5) The civil penalties prescribed in subsections (1),

(2), (3), and (4) of this section shall be assessed in a civil action brought for such purpose by the Attorney General or the county attorney in the district court of the county in which the violation occurred.

(6) An individual or firm which has been assessed a civil penalty under this section and subsequently engages in an abatement project or a lead-based paint profession without a valid ~~certificate~~ license or using employees who do not hold ~~certificates~~licenses, conducts training programs without being accredited by the department, or issues fraudulent ~~certificates~~licenses, except as otherwise provided in the act:

(a) For a first offense, shall be guilty of a Class I misdemeanor; and

(b) For a second or subsequent offense, shall be guilty of a Class IV felony.

Sec. 1290. Section 71-6330, Reissue Revised Statutes of Nebraska, is amended to read:

71-6330 Upon the request of the department, the Attorney General or appropriate county attorney shall institute without delay an action in the name of the state for proceedings appropriate against any individual or firm to restrain or prevent any violation of the Residential Lead-Based Paint Professions ~~Certification~~ Practice Act or of any rules and regulations adopted and promulgated pursuant to the act.

Sec. 1291. Section 71-6331, Reissue Revised Statutes of Nebraska, is amended to read:

71-6331 (1) An application or a ~~certificate~~ license

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under the Residential Lead-Based Paint Professions ~~Certification~~ Practice Act may be denied, refused renewal, suspended, or revoked if the applicant or ~~certificate~~ ~~holder~~ licensee violates any of the provisions of the act, fraudulently or deceptively obtains or attempts to obtain a ~~certificate~~license, fails at any time to meet the qualifications for a ~~certificate~~license, fails to comply with rules and regulations adopted and promulgated pursuant to the act, fails to meet any applicable state standard for abatement projects, or employs or permits an ~~uncertified~~ unlicensed individual to work in a lead-based paint profession. An individual shall be subject to the reporting, investigatory, and disciplinary provisions of sections 79 to 88, 109, 112 to 129, and 140 to 142 of this act for any of the grounds for disciplinary action found in the Uniform Credentialing Act and for any violation of the Residential Lead-Based Paint Professions Practice Act or the rules and regulations adopted and promulgated under the acts.

(2) In addition to the disciplinary actions provided for in subsection (1) of this section, the department may assess a civil penalty of not less than one thousand dollars nor more than three thousand dollars for each offense committed by any firm ~~certified~~ licensed under the act ~~or not less than one hundred dollars nor more than five thousand dollars for each offense committed by an individual certified under the act~~ for violation of the act or any rule or regulation adopted and promulgated pursuant thereto. Each day a violation continues shall constitute a separate offense.

(3) Whenever the department determines to deny, refuse

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to renew, suspend, or revoke a ~~certificate~~ firm license or assess a civil penalty on a firm, it shall send to the applicant or ~~certificate~~ ~~holder~~ licensee a notice setting forth the particular reasons for the determination. The denial, suspension, refusal to renew, revocation, or assessment of a civil penalty shall become final thirty days after the mailing of the notice unless the applicant or ~~certificate~~ ~~holder~~ licensee gives written notice to the department of a desire for a hearing. If a hearing is requested, the applicant or ~~certificate~~ ~~holder~~ licensee shall be given a hearing before the department and shall have the right to present such evidence as may be proper. On the basis of such evidence, the determination shall be affirmed, modified, or set aside, and a copy of such decision setting forth the findings of fact and the particular reasons upon which such decision was based shall be sent by certified mail to the applicant or ~~certificate~~ ~~holder~~licensee. The decision shall become a final decision of the department and may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

(4) Hearings held pursuant to this section shall be held in accordance with the Administrative Procedure Act.

(5) Any civil penalty assessed and unpaid under the Residential Lead-Based Paint Professions ~~Certification~~ Practice Act shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property. The department shall, within

thirty days of receipt, remit any collected civil penalty to the State Treasurer for ~~credit to the permanent school fund~~distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 1292. Section 71-6331.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-6331.01 Sections 25-21,254 to 25-21,264 do not apply to the Residential Lead-Based Paint Professions ~~Certification~~ Practice Act.

Sec. 1293. (1) All rules and regulations adopted prior to the operative date of this section under the Residential Lead-Based Paint Professions Certification Act shall continue to be effective under the Residential Lead-Based Paint Professions Practice Act to the extent not in conflict with the changes made by this legislative bill until revised, amended, repealed, or nullified pursuant to law.

(2) All licenses, certificates, or other forms of approval issued prior to the operative date of this section in accordance with the Residential Lead-Based Paint Professions Certification Act shall remain valid as issued for purposes of the changes made by this legislative bill in the Residential Lead-Based Paint Professions Practice Act unless revoked or their effectiveness is otherwise terminated pursuant to law.

(3) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to the operative date of this section under the Residential Lead-Based Paint Professions Certification Act shall be subject to the

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provisions of the act as they existed prior to the operative date of this section.

Sec. 1294. Section 71-6721, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-6721 For purposes of the Medication Aide Act:

(1) Ability to take medications independently means the individual is physically capable of (a) the act of taking or applying a dose of a medication, (b) taking or applying the medication according to a specific prescription or recommended protocol, and (c) observing and monitoring himself or herself for desired effect, side effects, interactions, and contraindications of the medication and taking appropriate actions based upon those observations;

(2) Administration of medication includes, but is not limited to (a) providing medications for another person according to the five rights, (b) recording medication provision, and (c) observing, monitoring, reporting, and otherwise taking appropriate actions regarding desired effects, side effects, interactions, and contraindications associated with the medication;

(3) Caretaker means a parent, foster parent, family member, friend, or legal guardian who provides care for an individual;

(4) Child care facility means an entity or a person licensed under the Child Care Licensing Act;

(5) Competent individual means an adult who is the ultimate recipient of medication and who has the capability and capacity to make an informed decision about taking medications;

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(6) Department means the Department of Health and Human Services Regulation and Licensure;

(7) Direction and monitoring means the acceptance of responsibility for observing and taking appropriate action regarding any desired effects, side effects, interactions, and contraindications associated with the medication by a (a) competent individual for himself or herself, (b) caretaker, or (c) licensed health care professional;

(8) Facility means a health care facility or health care service as defined in section 71-413 or 71-415 or an entity or person certified by the Department of Health and Human Services Regulation and Licensure or the Department of Health and Human Services Finance and Support to provide home and community-based services;

(9) Five rights means getting the right drug to the right recipient in the right dosage by the right route at the right time;

(10) Health care professional means an individual for whom administration of medication is included in the scope of practice;

(11) Home means the residence of an individual but does not include any facility or school;

(12) Intermediate care facility for the mentally retarded has the definition found in section 71-421;

(13) Informed decision means a decision made knowingly, based upon capacity to process information about choices and consequences, and made voluntarily;

(14) Medication means any prescription or nonprescription

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drug intended for treatment or prevention of disease or to affect body function in humans;

(15) Medication aide means an individual who is listed on the medication aide registry operated by the Department of Health and Human Services Regulation and Licensure;

(16) Nonprescription drug has the definition found in section ~~71-1,142~~933 of this act;

(17) Nursing home means any facility or a distinct part of any facility that provides care as defined in sections 71-420, 71-422, 71-424, and 71-429;

(18) Prescription drug has the definition of prescription drug or device as found in section ~~71-1,142~~945 of this act;

(19) Provision of medication means the component of the administration of medication that includes giving or applying a dose of a medication to an individual and includes helping an individual in giving or applying such medication to himself or herself;

(20) PRN means an administration scheme in which a medication is not routine, is taken as needed, and requires assessment for need and effectiveness;

(21) Recipient means a person who is receiving medication;

(22) Routine, with reference to medication, means the frequency of administration, amount, strength, and method are specifically fixed; and

(23) School means an entity or person meeting the requirements for a school set by Chapter 79.

Sec. 1295. Section 71-6726, Reissue Revised Statutes of Nebraska, is amended to read:

71-6726 (1) To register as a medication aide, an individual shall (a) have successfully completed the requirements in section 71-6725, (b) be at least eighteen years of age, (c) be of good moral character, (d) file an application with the department, and (e) pay the applicable fee.

(2) An applicant or medication aide shall report to the department, in writing, any conviction for a felony or misdemeanor. A conviction is not a disqualification for placement on the registry unless it relates to the standards identified in ~~such~~ section 71-6725 or it reflects on the moral character of the applicant or medication aide.

(3) An applicant or medication aide may report any pardon or setting aside of a conviction to the department. If a pardon or setting aside has been obtained, the conviction for which it was obtained shall not be maintained on the Medication Aide Registry.

Sec. 1296. Section 71-6727, Reissue Revised Statutes of Nebraska, is amended to read:

71-6727 (1) The department shall list each medication aide registration in the Medication Aide Registry as a Medication ~~Aide-Nursing Home~~Aide-40-Hour, Medication ~~Aide-Intermediate Care Facility for the Mentally Retarded, Medication Aide-Assisted-Living~~Aide-20-Hour, or Medication Aide. A listing in the registry shall be valid for the term of the registration and upon renewal unless such listing is refused renewal or is removed as provided in section 71-6730.

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(2) The registry shall contain the following information on each individual who meets the conditions in section 71-6726: (a) The individual's full name; (b) information necessary to identify individuals, including those qualified to provide medications in nursing homes, intermediate care facilities for the mentally retarded, or assisted-living facilities; (c) any conviction of a felony or misdemeanor reported to the department; and (d) other information as the department may require by rule and regulation.

Sec. 1297. Section 71-6728, Reissue Revised Statutes of Nebraska, is amended to read:

71-6728 Registration as a medication aide shall be renewed ~~triennially~~ biennially based upon competency. The department may prescribe by rule and regulation how a medication aide can show competency for purposes of renewal. Payment of the applicable fee shall be a condition of renewal. After the operative date of this section, any registration that is renewed shall expire two years after the date the registration would have expired if it had not been renewed. A medication aide who provides medication aide services prior to registration or after the date the registration expires shall be subject to the civil penalty prescribed in section 101 of this act.

Sec. 1298. Section 71-6732, Reissue Revised Statutes of Nebraska, is amended to read:

71-6732 Except as provided by section 71-6731, an applicant or registrant who desires to contest an action or to further contest an affirmed or modified action shall do so in the manner provided in the Administrative Procedure Act for contested

cases. If the Director of Regulation and Licensure is not a physician, a contested action shall be decided by the chief medical officer. The hearings on a petition for judicial review of any final decision regarding an action for an alleged violation shall be set for hearing at the earliest possible date. The times for pleadings and hearings in such action shall be set by the judge of the court with the object of securing a decision at the earliest possible time.

Sec. 1299. Section 71-6734, Reissue Revised Statutes of Nebraska, is amended to read:

71-6734 The department shall establish and collect fees for credentialing activities under the Medication Aide Act as provided in ~~section 71-162~~sections 54 to 60 of this act.

Sec. 1300. Section 71-6742, Reissue Revised Statutes of Nebraska, is amended to read:

71-6742 ~~Any person who, on July 1, 1999, is approved by the department to act as a care staff member or medication assistant shall automatically and without payment of any fee be registered as a medication aide.~~Medication aides are eligible to participate in the Licensee Assistance Program as prescribed by section 78 of this act.

Sec. 1301. Section 71-7001, Reissue Revised Statutes of Nebraska, is amended to read:

71-7001 For purposes of sections 71-7001 to 71-7013:

(1) Department means the Department of Health and Human Services;

(2) Mammogram means the X-ray resulting from mammography;

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(3) Mammography means radiological examination of the breast for the purpose of obtaining a mammogram which enables a physician to assess the presence, size, location, and extent of cancerous or potentially cancerous tissue;

(4) Mammogram supplier means a public, private, for-profit, or not-for-profit agency or health care facility that provides mammography;

(5) Screening mammogram means the X-ray resulting from screening mammography;

(6) Screening mammography means radiological examination of the breast of asymptomatic women for the early detection of breast cancer, which examination includes (a) a cranio-caudal and a medial lateral oblique view of each breast and (b) a licensed radiologist's interpretation of the results of the procedure. Screening mammography does not include diagnostic mammography, additional projections required for lesion definition, breast ultrasound, or any breast interventional procedure;

(7) Medical radiographer means a person licensed pursuant to ~~subsection (1) of section 71-3515.01~~section 659 of this act, other than a licensed practitioner or a licensed physician assistant, who practices medical radiography under the supervision of a licensed practitioner;

(8) False negative result means a mammogram which indicates no possible cancer when a cancer exists;

(9) False positive result means a mammogram which indicates a possible cancer when none exists;

(10) Professional component means the interpretation

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of a screening mammogram and a written report regarding the interpretation provided by a mammogram supplier; and

(11) Technical component means a screening mammogram and all other services provided by a mammogram supplier.

Sec. 1302. Section 71-7427, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-7427 Sections 71-7427 to 71-7463 and sections 1306 to 1309 of this act shall be known and may be cited as the Wholesale Drug Distributor Licensing Act.

Sec. 1303. Section 71-7436, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-7436 Emergency medical reasons means the alleviation of a temporary shortage by transfers of prescription drugs between any of the following: (1) Holders of pharmacy licenses, (2) health care practitioner facilities as defined in section 71-414, (3) hospitals as defined in section 71-419, and (4) practitioners as defined in section ~~71-1,142~~942 of this act.

Sec. 1304. Section 71-7454, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-7454 (1) No wholesale drug distributor, manufacturer, or pharmacy shall knowingly purchase or receive any prescription drug from any source other than a person or entity licensed under the Wholesale Drug Distributor Licensing Act except transfers for emergency medical reasons, the gross dollar value of which shall not exceed five percent of the total prescription drug sales revenue of the transferor or transferee holder of a pharmacy license or practitioner as defined in section ~~71-1,142~~942 of this

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act during the immediately preceding calendar year, and except as otherwise provided in the act.

(2) A wholesale drug distributor may receive returns or exchanges of prescription drugs from a pharmacy, chain pharmacy warehouse, health care practitioner facility as defined in section 71-414, or hospital as defined in section 71-419 pursuant to the terms and conditions agreed upon between such wholesale drug distributor and such pharmacy, chain pharmacy warehouse, health care practitioner facility, or hospital. Such returns and exchanges shall not be subject to sections 71-7455 to 71-7457. A wholesale drug distributor shall not receive from a pharmacy, chain pharmacy warehouse, health care practitioner facility, or hospital an amount or quantity of a prescription drug greater than the amount or quantity that was originally sold by the wholesale drug distributor to such pharmacy, chain pharmacy warehouse, health care practitioner facility, or hospital.

(3) A manufacturer or wholesale drug distributor shall furnish prescription drugs only to persons licensed by the department and shall verify such licensure before furnishing prescription drugs to a person not known to the manufacturer or wholesale drug distributor.

(4) Prescription drugs furnished by a manufacturer or wholesale drug distributor shall be delivered only to the premises listed on the license, except that a manufacturer or wholesale drug distributor may furnish prescription drugs to a person licensed by the department or his or her agent at the premises of the manufacturer or wholesale drug distributor if:

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(a) The identity and authorization of the recipient is properly established; and

(b) This method of receipt is employed only to meet the prescription drug needs of a particular patient of the person licensed by the department.

(5) Prescription drugs may be furnished to a hospital pharmacy receiving area. Receipt of such drugs shall be acknowledged by written receipt signed by a pharmacist or other authorized personnel. The receipt shall contain the time of delivery and the type and quantity of the prescription drug received. Any discrepancy between the signed receipt and the type and quantity of prescription drug actually received shall be reported by the receiving authorized pharmacy personnel to the delivering manufacturer or wholesale drug distributor by the next business day after the delivery to the pharmacy receiving area.

(6) A manufacturer or wholesale drug distributor shall only accept payment or allow the use of credit to establish an account for the purchase of prescription drugs from the owner or owners of record, the chief executive officer, or the chief financial officer listed on the license of a person or entity legally authorized to receive prescription drugs. Any account established for the purchase of prescription drugs shall bear the name of such licensee.

Sec. 1305. Section 71-7457, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-7457 (1) A wholesale drug distributor license may be denied, refused renewal, suspended, limited, or revoked by

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the Director of Regulation and Licensure when the director finds that the applicant or licensee has violated any provisions of the Wholesale Drug Distributor Licensing Act or of the rules and regulations adopted and promulgated under the act or has committed any acts or offenses set forth in section ~~71-147, 71-148, or~~81 or 82 of this act or section 71-7459. All actions and proceedings shall be carried out as specified in sections ~~71-147 to 71-161.19~~80 to 118 of this act.

(2) For purposes of this section, applicant or licensee includes, but is not limited to, the board of directors, chief executive officer, and other officers of the applicant or the entity to which the license is issued and the manager of each site if more than one site is located in this state.

Sec. 1306. Every wholesale drug distributor licensed under the Wholesale Drug Distributor Licensing Act shall be subject to and comply with sections 127 to 129 of this act relating to reporting and investigations.

Sec. 1307. (1) A health care facility licensed under the Health Care Facility Licensure Act or a peer review organization or professional association relating to a profession regulated under the Wholesale Drug Distributor Licensing Act shall report to the department, on a form and in the manner specified by the department, any facts known to the facility, organization, or association, including, but not limited to, the identity of the credential holder and consumer, when the facility, organization, or association:

(a) Has made payment due to adverse judgment, settlement,

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or award of a professional liability claim against it or a licensee, including settlements made prior to suit, arising out of the acts or omissions of the licensee; or

(b) Takes action adversely affecting the privileges or membership of a licensee in such facility, organization, or association due to alleged incompetence, professional negligence, unprofessional conduct, or physical, mental, or chemical impairment.

The report shall be made within thirty days after the date of the action or event.

(2) A report made to the department under this section shall be confidential. The facility, organization, association, or person making such report shall be completely immune from criminal or civil liability of any nature, whether direct or derivative, for filing a report or for disclosure of documents, records, or other information to the department under this section. Nothing in this subsection shall be construed to require production of records protected by section 25-12,123, 71-2048, or 71-7903 or patient safety work product under the Patient Safety Improvement Act except as otherwise provided in any of such sections or such act.

(3) Any health care facility, peer review organization, or professional association that fails or neglects to make a report or provide information as required under this section is subject to a civil penalty of five hundred dollars for the first offense and a civil penalty of up to one thousand dollars for a subsequent offense. Any civil penalty collected under this subsection shall be remitted to the State Treasurer to be disposed of in accordance

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with Article VII, section 5, of the Constitution of Nebraska.

(4) For purposes of this section, the department shall accept reports made to it under the Nebraska Hospital-Medical Liability Act or in accordance with national practitioner data bank requirements of the federal Health Care Quality Improvement Act of 1986, as the act existed on January 1, 2007, and may require a supplemental report to the extent such reports do not contain the information required by the department.

Sec. 1308. (1) Unless such knowledge or information is based on confidential medical records protected by the confidentiality provisions of the federal Public Health Services Act, 42 U.S.C. 290dd-2, and federal administrative rules and regulations, as such act and rules and regulations existed on January 1, 2007:

(a) Any insurer having knowledge of any violation of any provision of the Wholesale Drug Distributor Licensing Act governing the profession of the person being reported whether or not such person is licensed shall report the facts of such violation as known to such insurer to the department; and

(b) All insurers shall cooperate with the department and provide such information as requested by the department concerning any possible violations by any person required to be licensed whether or not such person is licensed.

(2) Such reporting shall be done on a form and in the manner specified pursuant to sections 133 and 134 of this act. Such reports shall be subject to sections 135 to 139 of this act.

Sec. 1309. The clerk of any county or district court

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in this state shall report to the department the conviction of any person licensed by the department under the Wholesale Drug Distributor Licensing Act of any felony or of any misdemeanor involving the use, sale, distribution, administration, or dispensing of a controlled substance, alcohol or chemical impairment, or substance abuse and shall also report a judgment against any such licensee arising out of a claim of professional liability. The Attorney General or city or county prosecutor prosecuting any such criminal action and plaintiff in any such civil action shall provide the court with information concerning the license of the defendant or party. Notice to the department shall be filed within thirty days after the date of conviction or judgment in a manner agreed to by the director and the State Court Administrator.

Sec. 1310. Section 71-7702, Reissue Revised Statutes of Nebraska, is amended to read:

71-7702 For purposes of the Health Care Facility-Provider Cooperation Act:

(1) Community planning shall mean a plan which identifies (a) health-care-related resources, facilities, and services within the community, (b) the health care needs of the community, (c) gaps in services, (d) duplication of services, and (e) ways to meet health care needs;

(2) Cooperative agreement shall mean an agreement among two or more health care facilities or other providers for the sharing, allocation, or referral of patients, personnel, instructional programs, equipment, support services and facilities,

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or medical, diagnostic, or laboratory facilities or procedures or other services traditionally offered or purchased by health care facilities or other providers;

(3) Department shall mean the Department of Health and Human Services Regulation and Licensure;

(4) Health care facility shall mean:

(a) Any facility required to be licensed under the Health Care Facility Licensure Act or, if in another state, licensed in such state; and

(b) Any parent of a health care facility, health care facility subsidiary, or health care facility affiliate that provides medical or medically related diagnostic and laboratory services or engages in ancillary activities supporting those services; and

(5) Provider shall mean any person licensed to provide health care services under ~~Chapter 71~~ the Uniform Credentialing Act and engaged in the practice of medicine and surgery, osteopathic medicine, pharmacy, optometry, podiatry, physical therapy, or nursing.

Sec. 1311. Section 71-7901, Reissue Revised Statutes of Nebraska, is amended to read:

71-7901 Any health clinic as defined in section 71-416 and any other organization or association of health practitioners or providers licensed pursuant to ~~Chapter 71~~ the Uniform Credentialing Act may cause a peer review committee to be formed and operated or may contract with an outside peer review committee for the purpose of reviewing, from time to time, the medical care

provided by such health clinic, organization, or association and for assisting individual practitioners or providers practicing in such clinics, organizations, or associations in maintaining and providing a high standard of medical care.

Sec. 1312. Section 71-8228, Reissue Revised Statutes of Nebraska, is amended to read:

71-8228 Regional medical director means a physician licensed under the Uniform ~~Licensing~~ ~~Law~~ Credentialing Act who shall report to the Director of Regulation and Licensure and carry out the regional plan for his or her region.

Sec. 1313. Section 71-8231, Reissue Revised Statutes of Nebraska, is amended to read:

71-8231 State trauma medical director means a physician licensed under the Uniform ~~Licensing~~ ~~Law~~ Credentialing Act who reports to the Director of Regulation and Licensure and carries out duties under the Statewide Trauma System Act.

Sec. 1314. Section 71-8253, Reissue Revised Statutes of Nebraska, is amended to read:

71-8253 (1) If there are conflicts between the Statewide Trauma System Act and the Emergency Medical Services Practice Act pertaining to out-of-hospital emergency medical services, the Emergency Medical Services Practice Act shall control.

(2) Nothing in the Statewide Trauma System Act shall limit a patient's right to choose the physician, hospital, facility, rehabilitation center, specialty level burn or pediatric trauma center, or other provider of health care services.

Sec. 1315. Section 71-8402, Reissue Revised Statutes of

Nebraska, is amended to read:

71-8402 For purposes of sections 71-8401 to 71-8407:

(1) Medical records means a provider's record of a patient's health history and treatment rendered;

(2) Mental health medical records means medical records or parts thereof created by or under the direction or supervision of a licensed psychiatrist, a licensed psychologist, or a mental health practitioner licensed or certified pursuant to ~~sections 71-1,295 to 71-1,338~~the Mental Health Practice Act;

(3) Patient includes a patient or former patient;

(4) Patient request or request of a patient includes the request of a patient's guardian or other authorized representative; and

(5) Provider means a physician, psychologist, chiropractor, dentist, hospital, clinic, and any other licensed or certified health care practitioner or entity.

Sec. 1316. Section 71-8709, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-8709 Provider means a person that is either:

(1) A facility licensed under the Health Care Facility Licensure Act; or

(2) A health care professional licensed under the ~~Nurse Practice Act or the Uniform Licensing Law~~Uniform Credentialing Act.

Sec. 1317. Section 77-2704.09, Revised Statutes Cumulative Supplement, 2006, is amended to read:

77-2704.09 (1) Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the

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storage, use, or other consumption in this state of insulin and the following when sold for a patient's use under a prescription and which are of the type eligible for coverage under the medical assistance program established pursuant to the Medical Assistance Act: Drugs, not including over-the-counter drugs; durable medical equipment; home medical supplies; prosthetic devices; oxygen; oxygen equipment; and mobility enhancing equipment.

(2) For purposes of this section:

(a) Drug means a compound, substance, preparation, and component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages:

(i) Recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and any supplement to any of them;

(ii) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

(iii) Intended to affect the structure or any function of the body;

(b) Durable medical equipment means equipment which can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, is appropriate for use in the home, and is not worn in or on the body. Durable medical equipment includes repair and replacement parts for such equipment;

(c) Home medical supplies means supplies primarily and customarily used to serve a medical purpose which are appropriate

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for use in the home and are generally not useful to a person in the absence of illness or injury;

(d) Mobility enhancing equipment means equipment which is primarily and customarily used to provide or increase the ability to move from one place to another, which is not generally used by persons with normal mobility, and which is appropriate for use either in a home or a motor vehicle. Mobility enhancing equipment includes repair and replacement parts for such equipment. Mobility enhancing equipment does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer;

(e) Over-the-counter drug means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. 201.66, as such regulation existed on January 1, 2003. The over-the-counter drug label includes a drug facts panel or a statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation;

(f) Oxygen equipment means oxygen cylinders, cylinder transport devices including sheaths and carts, cylinder studs and support devices, regulators, flowmeters, tank wrenches, oxygen concentrators, liquid oxygen base dispensers, liquid oxygen portable dispensers, oxygen tubing, nasal cannulas, face masks, oxygen humidifiers, and oxygen fittings and accessories;

(g) Prescription means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized under ~~(i) the Advanced Practice Registered Nurse Act prior to July 1, 2007,~~

~~and the Certified Registered Nurse Anesthetist Act, the Nebraska Certified Nurse Midwifery Practice Act, or the Nurse Practitioner Act on and after July 1, 2007, (ii) Chapter 71, article 1, or (iii) sections 71-4701 to 71-4719~~the Uniform Credentialing Act; and

(h) Prosthetic devices means a replacement, corrective, or supportive device worn on or in the body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction, or support a weak or deformed portion of the body, and includes any supplies used with such device and repair and replacement parts.

Sec. 1318. Section 77-3504, Reissue Revised Statutes of Nebraska, is amended to read:

77-3504 Household income means the total federal adjusted gross income, as defined in the Internal Revenue Code, plus (1) any Nebraska adjustments increasing the total federal adjusted gross income, (2) any interest or dividends received by the owner regarding obligations of the State of Nebraska or any political subdivision, authority, commission, or instrumentality thereof to the extent excluded in the computation of gross income for federal income tax purposes, and (3) any social security or railroad retirement benefit to the extent excluded in the computation of gross income for federal income tax purposes, of the claimant and spouse, and any additional owners who are natural persons and who occupy the homestead, for the taxable year of the claimant immediately prior to the year for which the claim for exemption is made, less all medical expenses actually incurred and paid by the claimant, his or her spouse, or any owner-occupant which are

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in excess of four percent of household income calculated prior to the deduction for medical expenses. For purposes of this section, medical expenses means the costs of health insurance premiums and the costs of goods and services purchased from a person licensed under ~~Chapter 71, article 1 or 47,~~ the Uniform Credentialing Act or a health care facility or health care service licensed under the Health Care Facility Licensure Act for purposes of restoring or maintaining health, including insulin and prescription medicine, but not including nonprescription medicine.

Sec. 1319. Section 80-325, Revised Statutes Cumulative Supplement, 2006, is amended to read:

80-325 The administrator of the Nebraska veterans homes shall be a licensed nursing home administrator licensed under ~~sections 71-6053 to 71-6068~~the Nursing Home Administrator Practice Act. Qualified applicants for the position of administrator who were discharged or otherwise separated with a characterization of honorable from the armed forces of the United States during a period of war as defined in section 80-401.01 shall be given a preference over other applicants.

Sec. 1320. Section 81-2,281, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,281 (1) The department shall enforce the Nebraska Pure Food Act. The department may contract with any political subdivision or state agency it deems qualified to conduct any or all regulatory functions authorized pursuant to the act except those functions relating to the issuance, suspension, or revocation of permits or any order of probation. Holders of permits issued

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pursuant to the act who are regularly inspected by political subdivisions under contract with the department shall be exempt from the inspection fees prescribed in section 81-2,270 if such holders pay license or inspection fees to the political subdivision performing the inspections.

(2) It shall be the responsibility of the regulatory authority to inspect food establishments and food processing plants as often as required by the act. An inspection of a salvage operation shall be performed at least once every three hundred sixty-five days of operation. Additional inspections shall be performed as often as is necessary for the efficient and effective enforcement of the act.

(3) All inspections conducted pursuant to the act shall be performed by persons who are registered environmental health specialists or trainees as defined in section ~~71-3702~~530 or 531 of this act.

(4) Duly authorized personnel of the regulatory authority after showing proper identification shall have access at all reasonable times to food establishments, food processing plants, or salvage operations required by the act to obtain a permit to perform authorized regulatory functions. Such functions shall include, but not be limited to, inspections, checking records maintained in the establishment or other locations to obtain information pertaining to food and supplies purchased, received, used, sold, or distributed, copying and photographing violative conditions, and examining and sampling food. When samples are taken, the inspectors shall pay or offer to pay for samples

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taken. The authorized personnel shall also have access to the records of salvage operations pertaining to distressed salvageable and salvaged merchandise purchased, received, used, sold, or distributed.

(5) Regulatory activities performed by a political subdivision or state agency under contract shall conform with the provisions of the act and such activities shall have the same effect as those performed by the department. Any interference with the regulatory authority's duty to inspect shall be an interference with the department's duties for the purposes of section 81-2,273.

Sec. 1321. Section 81-657, Revised Statutes Cumulative Supplement, 2006, is amended to read:

81-657 (1) If a person with brain or head injury is not admitted to a hospital within the state but is treated in this state in the office of a physician or psychologist licensed under the Uniform ~~Licensing~~ ~~Law~~Credentialing Act, the treating physician or psychologist shall report the brain or head injury to the department within thirty days after identification of the person sustaining such injury. Each treating physician or psychologist shall be required to report each brain or head injury only one time.

(2) Each hospital and each rehabilitation center located within a hospital in the State of Nebraska shall annually report to the department a brain or head injury which results in admission or treatment.

(3) The report shall contain the following information about the person sustaining the injury:

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(a) Name;

(b) Social security number;

(c) Date of birth;

(d) Gender;

(e) Residence;

(f) Date of the injury;

(g) Final diagnosis or classification of the injury according to the International Classification of Disease, Clinical Modification Coding System, as adopted by the department;

(h) Cause of the injury and, if practicable, whether the injury resulted from an accident involving the use of alcohol;

(i) Place or site of occurrence of the injury;

(j) Identification of the reporting source;

(k) Dispensation upon discharge;

(l) Payor source; and

(m) Any additional information the department can demonstrate is reasonable in order to implement the purposes stated in section 81-653.

Sec. 1322. Section 81-6,102, Reissue Revised Statutes of Nebraska, is amended to read:

81-6,102 (1) If a resident of this state is diagnosed with Parkinson's disease or a related movement disorder within this state in the office of a physician licensed under the Uniform ~~Licensing~~ ~~Law~~Credentialing Act, the physician shall file a report of the diagnosis and pertinent information with the department within sixty days after the diagnosis.

(2) An individual resident of this state who has been

diagnosed with Parkinson's disease or a related movement disorder by a licensed physician may file a report with the department providing relevant information. The department shall provide for validation of individual reports.

(3) A report filed under this section shall contain the following information about the person diagnosed with Parkinson's disease or a related movement disorder:

(a) Name;

(b) Social security number;

(c) Date of birth;

(d) Gender;

(e) Address at time of diagnosis;

(f) Current address;

(g) Date of diagnosis;

(h) Physician;

(i) Identification of reporting source; and

(j) Any additional information the department demonstrates is reasonable to implement the Parkinson's Disease Registry Act.

Sec. 1323. Section 81-3201, Revised Statutes Cumulative Supplement, 2006, is amended to read:

81-3201 (1) The Governor shall appoint a Director of Regulation and Licensure for the Department of Health and Human Services Regulation and Licensure who shall (a) have administrative experience in an executive capacity and some special training in public health work and (b) be either a graduate of a recognized school of medicine and licensed to practice medicine

and surgery in the State of Nebraska or a person with a recognized and demonstrated expertise in and knowledge of health and human services delivery. The director shall report to the Governor and serve full time at the pleasure of the Governor. The director shall be subject to confirmation by a majority vote of the members of the Legislature as provided in section 81-102.

(2) If the director appointed under subsection (1) of this section is not a licensed physician, the Governor shall appoint a chief medical officer to be responsible for oversight of health issues for the Nebraska Health and Human Services System. The chief medical officer shall report to the Governor and serve full time at the pleasure of the Governor and shall be subject to confirmation by a majority of the members of the Legislature. The chief medical officer shall be a graduate of a recognized school of medicine and licensed to practice medicine and surgery in the State of Nebraska and have some special training in public health work. If a chief medical officer is appointed, he or she shall perform the duties under the Uniform ~~Licensing~~ ~~Law~~ Credentialing Act specified in section ~~71-155.01~~ 103 of this act and shall be the final decisionmaker in contested cases of (a) the health care facilities defined in the Health Care Facility Licensure Act arising under the act and sections 71-6042 and 81-604.03 and (b) occupations defined in subdivisions (3) and (5) of section 71-6038.

Sec. 1324. Sections 1 to 1185, 1187 to 1323, 1326, and 1327 of this act become operative on December 1, 2008. The other sections of this act become operative on their effective date.

Sec. 1325. Original section 71-1,190, Reissue Revised

Statutes of Nebraska, is repealed.

Sec. 1326. Original sections 25-12,123, 25-21,247, 27-504, 43-129, 43-146.03, 44-792, 44-2804, 44-2902, 44-32,170, 44-4110, 46-604, 46-1201, 46-1202, 46-1203, 46-1204.01, 46-1205, 46-1205.01, 46-1207.01, 46-1209, 46-1210, 46-1213, 46-1214, 46-1214.01, 46-1218, 46-1219, 46-1223, 46-1223.01, 46-1224, 46-1225, 46-1227, 46-1229, 46-1230, 46-1231, 46-1233, 46-1235, 46-1240, 46-1241, 54-311, 60-4,118.02, 60-6,261, 69-302, 71-103, 71-105, 71-108, 71-111, 71-112.03, 71-115.01, 71-117, 71-118, 71-120, 71-122, 71-124, 71-124.01, 71-125, 71-128, 71-129, 71-133, 71-138, 71-139, 71-145, 71-147.01, 71-147.02, 71-148, 71-149, 71-150, 71-152, 71-153, 71-154, 71-155, 71-155.01, 71-155.03, 71-156, 71-157, 71-158, 71-159, 71-161.01, 71-161.02, 71-161.03, 71-161.04, 71-161.06, 71-161.09, 71-161.10, 71-161.11, 71-161.13, 71-161.14, 71-161.15, 71-161.16, 71-161.19, 71-162.01, 71-162.03, 71-162.04, 71-162.05, 71-164, 71-164.01, 71-166, 71-167, 71-168.01, 71-169, 71-170, 71-171, 71-171.01, 71-171.02, 71-172.01, 71-173, 71-174, 71-174.02, 71-175, 71-176, 71-176.01, 71-177, 71-178, 71-179, 71-180, 71-181, 71-182, 71-183, 71-183.02, 71-185, 71-185.01, 71-185.02, 71-188, 71-189, 71-191, 71-193.04, 71-193.13, 71-193.14, 71-193.15, 71-193.17, 71-193.18, 71-193.19, 71-193.20, 71-193.23, 71-193.25, 71-193.26, 71-193.27, 71-193.28, 71-193.29, 71-193.30, 71-193.31, 71-193.32, 71-193.33, 71-193.34, 71-193.35, 71-1,104, 71-1,105, 71-1,107.01, 71-1,107.03, 71-1,107.06, 71-1,107.07, 71-1,107.08, 71-1,107.09, 71-1,107.11, 71-1,107.13, 71-1,107.14, 71-1,107.15, 71-1,107.16, 71-1,107.17, 71-1,107.18, 71-1,107.19, 71-1,107.20, 71-1,107.21,

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71-6323, 71-6326, 71-6327, 71-6328, 71-6328.01, 71-6329, 71-6330, 71-6331, 71-6331.01, 71-6726, 71-6727, 71-6728, 71-6732, 71-6734, 71-6742, 71-7001, 71-7702, 71-7901, 71-8228, 71-8231, 71-8253, 71-8402, 77-3504, 81-2,281, and 81-6,102, Reissue Revised Statutes of Nebraska, sections 12-1208, 25-21,188.02, 28-328, 28-401, 28-401.01, 28-409, 28-414, 28-1013, 28-1301, 29-2261, 29-4013, 43-1302, 44-526, 46-602, 46-602.01, 46-1217, 46-1238, 46-1239, 71-101, 71-102, 71-104.01, 71-107, 71-110, 71-110.01, 71-112, 71-113, 71-114, 71-116, 71-121, 71-121.01, 71-131, 71-147, 71-162, 71-162.02, 71-163, 71-168, 71-168.02, 71-183.01, 71-185.03, 71-190, 71-193.01, 71-193.02, 71-193.03, 71-1,102, 71-1,103, 71-1,104.01, 71-1,107.30, 71-1,132.07, 71-1,132.08, 71-1,132.11, 71-1,132.18, 71-1,143, 71-1,143.01, 71-1,144, 71-1,146, 71-1,146.01, 71-1,147.33, 71-1,147.35, 71-1,148, 71-1,155, 71-1,206.14, 71-1,206.18, 71-1,206.34, 71-1,312, 71-1,339, 71-1,351, 71-1,352, 71-1,353, 71-1,354, 71-1,355, 71-1,356, 71-1,357, 71-1,358, 71-1,359, 71-1,361, 71-1,362, 71-1,363, 71-1,364, 71-1,365, 71-1,366, 71-1,368, 71-1,369, 71-1,370, 71-1,371, 71-1,372, 71-1,373, 71-1,374, 71-1,375, 71-1,376, 71-1,377, 71-1,378, 71-1,379, 71-1,380, 71-1,381, 71-1,382, 71-1,383, 71-1,384, 71-1,385, 71-1,386, 71-1,387, 71-1,388, 71-340, 71-341, 71-342, 71-343, 71-346.01, 71-346.02, 71-346.03, 71-346.04, 71-356.04, 71-358.01, 71-362.01, 71-363.01, 71-364, 71-365.01, 71-368, 71-370.01, 71-370.02, 71-371, 71-374, 71-385.01, 71-385.02, 71-386, 71-387, 71-389, 71-396, 71-398, 71-3,100, 71-3,102, 71-3,105, 71-3,106, 71-3,106.01, 71-3,119.02, 71-3,119.03, 71-3,137, 71-3,139, 71-3,140, 71-3,141, 71-3,147, 71-3,150, 71-3,169,

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Sec. 1327. The following sections are outright repealed: Sections 46-1208.01, 46-1219.01, 46-1220, 46-1222, 46-1226, 46-1232, 46-1235.01, 46-1235.02, 46-1236, 46-1237, 46-1237.01, 46-1237.02, 46-1237.03, 46-1240.02, 46-1240.03, 46-1240.04, 46-1240.05, 71-101.01, 71-104, 71-106, 71-112.01, 71-119, 71-123, 71-132, 71-139.01, 71-140, 71-141, 71-142, 71-143, 71-144, 71-151, 71-160, 71-161.05, 71-161.07, 71-161.12, 71-161.17, 71-161.18, 71-161.20, 71-165, 71-172, 71-172.02, 71-174.01,

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71-175.01, 71-176.03, 71-179.01, 71-184, 71-186, 71-193.05, 71-193.16, 71-193.21, 71-193.22, 71-193.24, 71-1,104.06, 71-1,106, 71-1,107, 71-1,107.02, 71-1,107.04, 71-1,107.05, 71-1,107.10, 71-1,107.12, 71-1,107.24, 71-1,107.26, 71-1,107.27, 71-1,132.09, 71-1,132.10, 71-1,132.12, 71-1,132.20, 71-1,132.21, 71-1,132.29, 71-1,132.35, 71-1,132.36, 71-1,132.48, 71-1,132.53, 71-1,136.03, 71-1,136.09, 71-1,144.01, 71-1,147.16, 71-1,147.17, 71-1,151, 71-1,154, 71-1,157, 71-1,160, 71-1,162, 71-1,186.01, 71-1,190.01, 71-1,191, 71-1,192, 71-1,193, 71-1,195.03, 71-1,203, 71-1,206.05, 71-1,206.11, 71-1,206.12, 71-1,206.17, 71-1,206.19, 71-1,206.28, 71-1,206.31, 71-1,288, 71-1,234, 71-1,242, 71-1,282, 71-1,290, 71-1,291, 71-1,291.01, 71-1,292, 71-1,294, 71-1,313, 71-1,315, 71-1,316, 71-1,320, 71-1,321, 71-1,322, 71-1,324, 71-1,326, 71-1,327, 71-1,328, 71-1,330, 71-1,331, 71-1,333, 71-1,338, 71-1,340, 71-1,341, 71-1,342, 71-1,349, 71-354, 71-355, 71-363, 71-373, 71-378, 71-379, 71-380, 71-391, 71-392, 71-393, 71-394.01, 71-3,103, 71-3,107, 71-3,108, 71-3,112, 71-3,115, 71-3,132, 71-3,155, 71-3,165, 71-3,166, 71-3,167, 71-3,168, 71-3,171, 71-3,172, 71-3,173, 71-3,175, 71-3,176, 71-3,178, 71-3,182, 71-3,185, 71-3,188, 71-3,189, 71-3,190, 71-3,196, 71-3,197, 71-3,198, 71-3,202, 71-3,205, 71-3,209, 71-1326, 71-1329, 71-1332, 71-1333.01, 71-1333.02, 71-1333.03, 71-1345, 71-1354, 71-1710, 71-1745, 71-1761, 71-1762, 71-1764, 71-1774, 71-1782, 71-1784, 71-1787, 71-1788, 71-1791, 71-1793, 71-1794, 71-3705, 71-3705.01, 71-3707, 71-3708, 71-3708.01, 71-3709, 71-3711, 71-3712, 71-3715, 71-4702.01, 71-4706, 71-4709.01, 71-4710, 71-4711, 71-4714, 71-4715.01, 71-4716, 71-4717, 71-4719, 71-5180, 71-5181, 71-5182,

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71-5192, 71-51,100, 71-6053, 71-6057, 71-6059, 71-6061, 71-6064, 71-6066, 71-6067, 71-6068, 71-6109, 71-6110, 71-6111, and 71-6112, Reissue Revised Statutes of Nebraska, and sections 46-1233.01, 71-139.02, 71-1,132.05, 71-1,142, 71-1,198, 71-1,360, 71-1,367, 71-1,389, 71-375, 71-376, 71-377, 71-397, 71-3,145, 71-3,174, 71-3,179, 71-1721.07, 71-1723, 71-1724.02, 71-1725, 71-1726, 71-1726.02, 71-1736.01, 71-1736.03, 71-1737, 71-17,122, 71-17,123, 71-17,124, 71-17,125, 71-17,127, 71-17,129, 71-17,130, 71-17,139, 71-17,140, and 71-17,141, Revised Statutes Cumulative Supplement, 2006.