

AMENDMENTS TO LB 247

Introduced by Johnson, 37

1 1. Strike the Johnson amendment, AM1086, and all
2 amendments thereto.

3 2. Strike original section 8 and all amendments thereto
4 and insert the following new sections:

5 Sec. 4. Section 71-193.15, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-193.15 A (1) Except as otherwise provided in this
8 section, a licensed dental hygienist shall perform the traditional
9 dental hygiene functions set forth listed in section 71-193.17
10 only when authorized to do so by a licensed dentist who shall be
11 responsible for the total oral health care of the patient.

12 (2) The Department of Health and Human Services
13 Regulation and Licensure in the conduct of public health-related
14 services department may authorize a licensed dental hygienist to
15 conduct preliminary perform the following functions in the conduct
16 of public health-related services in a public health setting or
17 in a health care or related facility: Preliminary charting and
18 screening examinations; , provide oral health education, including
19 workshops and inservice training sessions on dental health; and
20 for patients including the teaching of appropriate plaque control
21 techniques, and perform or provide all of the duties that any
22 dental assistant is authorized to perform.

23 (3)(a) The department may authorize a licensed dental

1 hygienist with three thousand hours of clinical experience in
2 at least four of the preceding five calendar years to perform
3 the following functions in the conduct of public health-related
4 services in a public health setting or in a health care or related
5 facility: Oral prophylaxis to healthy children who do not require
6 antibiotic premedication; pulp vitality testing; and preventive
7 measures, including the application of fluorides, sealants, and
8 other recognized topical agents for the prevention of oral disease.

9 (b) Authorization shall be granted by the department
10 under this subsection upon (i) filing an application with the
11 department, (ii) providing evidence of current licensure and
12 professional liability insurance coverage, and (iii) providing
13 evidence of clinical experience as required under subdivision (a)
14 of this subsection. Authorization may be limited by the department
15 as necessary to protect the public health and safety upon good
16 cause shown and may be renewed in connection with renewal of the
17 dental hygienist's license.

18 (c) A licensed dental hygienist performing dental hygiene
19 functions as authorized under this subsection shall (i) report
20 authorized functions performed by him or her to the department
21 and (ii) advise the patient or recipient of services or his or
22 her authorized representative that such services are preventive in
23 nature and do not constitute a comprehensive dental diagnosis and
24 care.

25 (4) For purposes of this section:

26 (a) Health care or related facility means a hospital,
27 a nursing facility, an assisted-living facility, a correctional

1 facility, a tribal clinic, or a school-based preventive health
2 program; and

3 (b) Public health setting means a federal, state, or
4 local public health department or clinic, community health center,
5 rural health clinic, or other similar program or agency that serves
6 primarily public health care program recipients.

7 Sec. 5. Section 71-193.17, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-193.17 When ~~properly~~ authorized by and under the
10 general supervision of a licensed dentist, a licensed dental
11 hygienist~~,~~ under the general supervision of a licensed dentist,
12 may perform the following intra and extra oral procedures and
13 functions:

14 (1) Oral prophylaxis, periodontal scaling, and root
15 planing which includes supragingival and subgingival debridement;
16 ~~Scaling of teeth, including subgingival regions and root planing~~
17 ~~with hand and ultrasonic instruments;~~

18 (2) Polish all exposed tooth surfaces, including
19 ~~with motor-driven and hand instruments in the oral prophylaxis~~
20 ~~procedure, including polishing amalgam restorations;~~

21 (3) Conduct and assess preliminary charting, probing,
22 ~~and screening examinations, and indexing of dental and periodontal~~
23 ~~disease, with referral, when appropriate, for a dental diagnosis by~~
24 a licensed dentist;

25 (4) Brush biopsies;

26 (5) Pulp vitality testing;

27 ~~(4) Periodontal probing and charting;~~

- 1 ~~(5)~~ (6) Gingival curettage;
- 2 ~~(6)~~ Place and remove periodontal dressings;
- 3 (7) Remove Removal of sutures;
- 4 (8) Provide preventive Preventive measures, such as
- 5 including the application of fluorides, sealants, and other
- 6 recognized topical agents for the prevention of oral disease;
- 7 (9) Provide ~~impressions~~ Impressions for study casts;
- 8 (10) ~~Apply~~ Application of topical desensitizing and
- 9 subgingival agents;
- 10 (11) Provide ~~radiographic~~ Radiographic exposures;
- 11 (12) Provide ~~oral~~ Oral health education, including
- 12 conducting workshops and inservice training sessions on dental
- 13 health; for patients including the teaching of appropriate plaque
- 14 control techniques; and
- 15 (13) Application or administration of antimicrobial
- 16 rinses, fluorides, and other anticariogenic agents; and
- 17 ~~(13)~~ Perform or provide all (14) All of the duties that
- 18 any dental assistant is authorized to perform.

19 Sec. 10. Section 71-101, Revised Statutes Cumulative

20 Supplement, 2006, as amended by section 296, Legislative Bill

21 296, One Hundredth Legislature, First Session, 2007, section 1,

22 Legislative Bill 463, One Hundredth Legislature, First Session,

23 2007, section 1, Legislative Bill 236, One Hundredth Legislature,

24 First Session, 2007, and section 1, Legislative Bill 481, One

25 Hundredth Legislature, First Session, 2007, is amended to read:

26 ~~71-101~~ Sections 1 to 139 of this act, ~~section 4 of this~~

27 ~~act, sections 31 to 38 of this act, the Perfusion Practice Act, and~~

1 the following practice acts shall be known and may be cited as the
2 Uniform Credentialing Act:

- 3 (1) The Advanced Practice Registered Nurse Practice Act;
- 4 (2) The Alcohol and Drug Counseling Practice Act;
- 5 (3) The Athletic Training Practice Act;
- 6 (4) The Audiology and Speech-Language Pathology Practice
7 Act;
- 8 (5) The Certified Nurse Midwifery Practice Act;
- 9 (6) The Certified Registered Nurse Anesthetist Practice
10 Act;
- 11 (7) The Chiropractic Practice Act;
- 12 (8) The Clinical Nurse Specialist Practice Act;
- 13 (9) The Cosmetology, Electrology, Esthetics, Nail
14 Technology, and Body Art Practice Act;
- 15 (10) The Dentistry Practice Act;
- 16 (11) The Emergency Medical Services Practice Act;
- 17 (12) The Environmental Health Specialists Practice Act;
- 18 (13) The Funeral Directing and Embalming Practice Act;
- 19 (14) The Hearing Aid Instrument Dispensers and Fitters
20 Practice Act;
- 21 (15) The Licensed Practical Nurse-Certified Practice Act;
- 22 (16) The Massage Therapy Practice Act;
- 23 (17) The Medical Nutrition Therapy Practice Act;
- 24 (18) The Medical Radiography Practice Act;
- 25 (19) The Medicine and Surgery Practice Act;
- 26 (20) The Mental Health Practice Act;
- 27 (21) The Nurse Practice Act;

1 (22) The Nurse Practitioner Practice Act;
2 (23) The Nursing Home Administrator Practice Act;
3 (24) The Occupational Therapy Practice Act;
4 (25) The Optometry Practice Act;
5 (26) The Perfusion Practice Act;
6 ~~(26)~~ (27) The Pharmacy Practice Act;
7 ~~(27)~~ (28) The Physical Therapy Practice Act;
8 ~~(28)~~ (29) The Podiatry Practice Act;
9 ~~(29)~~ (30) The Psychology Practice Act;
10 ~~(30)~~ (31) The Respiratory Care Practice Act;
11 ~~(31)~~ (32) The Veterinary Medicine and Surgery Practice
12 Act; and
13 ~~(32)~~ (33) The Water Well Standards and Contractors'
14 Practice Act.

15 If there is any conflict between any provision of
16 sections 1 to 139 of this act and any provision of a practice
17 act, the provision of the practice act shall prevail.

18 The Revisor of Statutes shall assign the Uniform
19 Credentialing Act, including the practice acts enumerated in
20 subdivisions (1) through ~~(31)~~ (32) of this section, to consecutive
21 articles within Chapter 38.

22 Sec. 11. Section 71-102, Revised Statutes Cumulative
23 Supplement, 2006, as amended by section 297, Legislative Bill
24 296, One Hundredth Legislature, First Session, 2007, section
25 21, Legislative Bill 463, One Hundredth Legislature, First
26 Session, 2007, and section 2, Legislative Bill 236, One Hundredth
27 Legislature, First Session, 2007, is amended to read:

1 ~~71-102~~ (1) No individual shall engage in the ~~practice~~
2 ~~of perfusion or the~~ following practices unless such individual has
3 obtained a credential under the Uniform Credentialing Act:

4 (a) Acupuncture;

5 (b) Advanced practice nursing;

6 (c) Alcohol and drug counseling;

7 (d) Asbestos abatement, inspection, project design, and
8 training;

9 (e) Athletic training;

10 (f) Audiology;

11 (g) Speech-language pathology;

12 (h) Body art;

13 (i) Chiropractic;

14 (j) Cosmetology;

15 (k) Dentistry;

16 (l) Dental hygiene;

17 (m) Electrology;

18 (n) Emergency medical services;

19 (o) Esthetics;

20 (p) Funeral directing and embalming;

21 (q) Hearing aid instrument dispensing and fitting;

22 (r) Lead-based paint abatement, inspection, project
23 design, and training;

24 (s) Licensed practical nurse-certified;

25 (t) Massage therapy;

26 (u) Medical nutrition therapy;

27 (v) Medical radiography;

- 1 (w) Medicine and surgery;
- 2 (x) Mental health practice;
- 3 (y) Nail technology;
- 4 (z) Nursing;
- 5 (aa) Nursing home administration;
- 6 (bb) Occupational therapy;
- 7 (cc) Optometry;
- 8 (dd) Osteopathy;
- 9 (ee) Perfusion;
- 10 ~~(ee)~~ (ff) Pharmacy;
- 11 ~~(ff)~~ (gg) Physical therapy;
- 12 ~~(gg)~~ (hh) Podiatry;
- 13 ~~(hh)~~ (ii) Psychology;
- 14 ~~(ii)~~ (jj) Radon detection, measurement, and mitigation;
- 15 ~~(jj)~~ (kk) Respiratory care;
- 16 ~~(kk)~~ (ll) Veterinary medicine and surgery;
- 17 ~~(ll)~~ (mm) Public water system operation; and
- 18 ~~(mm)~~ (nn) Constructing or decommissioning water wells and
- 19 installing water well pumps and pumping equipment.

20 (2) No individual shall hold himself or herself out
21 as any of the following until such individual has obtained a
22 credential under the Uniform Credentialing Act for that purpose:

- 23 (a) Registered environmental health specialist;
- 24 (b) Certified marriage and family therapist;
- 25 (c) Certified professional counselor; or
- 26 (d) Social worker.

27 (3) No business shall operate for the provision of any

1 of the following services unless such business has obtained a
2 credential under the Uniform Credentialing Act:

- 3 (a) Body art;
- 4 (b) Cosmetology;
- 5 (c) Emergency medical services;
- 6 (d) Esthetics;
- 7 (e) Funeral directing and embalming;
- 8 (f) Massage therapy; or
- 9 (g) Nail technology.

10 Sec. 12. Section 71-104.01, Revised Statutes Cumulative
11 Supplement, 2006, as amended by section 31, Legislative Bill 463,
12 One Hundredth Legislature, First Session, 2007, and section 2,
13 Legislative Bill 481, One Hundredth Legislature, First Session,
14 2007, is amended to read:

15 ~~71-104.01~~ (1) An applicant for an initial license to
16 practice a profession which is authorized to prescribe controlled
17 substances shall be subject to a criminal background check. Except
18 as provided in subsection (3) of this section, the applicant shall
19 submit with the application a full set of fingerprints which shall
20 be forwarded to the Nebraska State Patrol to be submitted to the
21 Federal Bureau of Investigation for a national criminal history
22 record information check. The applicant shall authorize release of
23 the results of the national criminal history record information
24 check to the department. The applicant shall pay the actual cost of
25 the fingerprinting and criminal background check.

26 (2) This section shall not apply to a dentist who is an
27 applicant for a dental locum tenens under section 455 of this act

1 or to a physician or osteopathic physician who is an applicant for
2 a physician locum tenens under section 694 of this act.

3 (3) An applicant for a temporary educational permit as
4 defined in section ~~71-1,107.01~~ 660 of Legislative Bill 463, One
5 Hundredth Legislature, First Session, 2007, shall have ninety days
6 from the issuance of the permit to comply with subsection (1)
7 of this section and shall have his or her permit suspended after
8 such ninety-day period if the criminal background check is not
9 complete or revoked if the criminal background check reveals that
10 the applicant was not qualified for the permit.

11 Sec. 13. Section 125, Legislative Bill 463, One Hundredth
12 Legislature, First Session, 2007, is amended to read:

13 Sec. 125. (1) Every credential holder, except pharmacist
14 interns and pharmacy technicians, shall, within thirty days of an
15 occurrence described in this subsection, report to the department
16 in such manner and form as the department may require whenever he
17 or she:

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

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

22 (ii) Has engaged in a pattern of incompetent or negligent
23 conduct as defined in section 77 of this act;

24 (iii) Has engaged in unprofessional conduct as defined in
25 section 79 of this act;

26 (iv) Has been practicing while his or her ability
27 to practice is impaired by alcohol, controlled substances,

1 mind-altering substances, or physical, mental, or emotional
2 disability; or

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

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

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

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

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

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

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

26 (iii) An adverse judgment, settlement, or award arising
27 out of a professional liability claim, including a settlement made

1 prior to suit in which the consumer releases any professional
2 liability claim against the credentialed person, or adverse action
3 by an insurance company affecting professional liability coverage.
4 The department may define what constitutes a settlement that would
5 be reportable when a credential holder refunds or reduces a fee or
6 makes no charge for reasons related to a consumer complaint other
7 than costs;

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

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

16 (vi) Loss of membership in, or discipline of a
17 credential related to the applicable profession by, a professional
18 organization due to alleged incompetence, negligence, unethical
19 or unprofessional conduct, or physical, mental, or chemical
20 impairment; or

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

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

25 (a) To the spouse of the credential holder;

26 (b) To a practitioner who is providing treatment to
27 such credential holder in a practitioner-consumer relationship

1 concerning information obtained or discovered in the course of
2 treatment unless the treating practitioner determines that the
3 condition of the credential holder may be of a nature which
4 constitutes a danger to the public health and safety by the
5 credential holder's continued practice; or

6 (c) When a credential holder who is chemically impaired
7 enters the Licensee Assistance Program authorized by section 75 of
8 this act except as otherwise provided in such section.

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

14 Sec. 14. Section 71-1,200, Reissue Revised Statutes
15 of Nebraska, as amended by section 130, Legislative Bill 463,
16 One Hundredth Legislature, First Session, 2007, and section 1,
17 Legislative Bill 152, One Hundredth Legislature, First Session,
18 2007, is amended to read:

19 ~~71-1,200~~ Any insurer shall report to the department, on
20 a form and in the manner specified by the department by rule and
21 regulation, any facts known to the insurer, including, but not
22 limited to, the identity of the credential holder and consumer,
23 when the insurer:

24 (1) Has reasonable grounds to believe that a person
25 required to be credentialed has committed a violation of
26 the provisions of the Uniform Credentialing Act governing
27 the profession of such person whether or not such person is

1 credentialed;

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

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

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

24 Sec. 15. Section 71-1,135.02, Reissue Revised Statutes
25 of Nebraska, as amended by section 23, Legislative Bill 236,
26 One Hundredth Legislature, First Session, 2007, and section 885,
27 Legislative Bill 463, One Hundredth Legislature, First Session,

1 2007, is amended to read:

2 ~~71-1,135-02~~ (1) An optometrist licensed in this state may
3 use topical ocular pharmaceutical agents for diagnostic purposes
4 authorized under subdivision ~~(2)~~ (1)(b) of section ~~71-1,133~~ 877
5 of Legislative Bill 463, One Hundredth Legislature, First Session,
6 2007, if such person ~~submits to the department the required fee~~
7 ~~and~~ is certified by the department, with the recommendation of
8 the ~~Board of Optometry,~~ board, as qualified to use topical ocular
9 pharmaceutical agents for diagnostic purposes.

10 (2) Such certification shall require (a) satisfactory
11 completion of a pharmacology course at an institution accredited
12 by a regional or professional accrediting organization which is
13 recognized by the United States Department of Education and
14 approved by the board and passage of an examination approved
15 by the board or (b) evidence provided by the optometrist of
16 certification in another state for use of diagnostic pharmaceutical
17 agents which is deemed by the board as satisfactory validation of
18 such qualifications.

19 ~~(2)~~ An optometrist licensed in this state may use topical
20 ocular pharmaceutical agents for therapeutic purposes authorized
21 under subdivision ~~(2)~~ or ~~(3)~~ of section ~~71-1,133~~ if such person
22 ~~submits to the department the required fee and is certified by~~
23 ~~the department,~~ with the recommendation of the Board of Optometry,
24 as qualified to use ocular pharmaceutical agents for therapeutic
25 purposes, including the treatment of glaucoma. Such certification
26 shall require (a) satisfactory completion of classroom education
27 and clinical training which emphasizes the examination, diagnosis,

1 and treatment of the eye, ocular adnexa, and visual system offered
2 by a school or college approved by the board and passage of an
3 examination approved by the board or ~~(b)~~ evidence provided by
4 the optometrist of certification in another state for the use of
5 therapeutic pharmaceutical agents which is deemed by the board as
6 satisfactory validation of such qualifications.

7 ~~(3) After January 1, 2000, only an optometrist licensed~~
8 ~~in this state prior to April 30, 1987, may practice optometry~~
9 ~~without meeting the requirements and obtaining certification~~
10 ~~required by subsections (1) and (2) of this section.~~

11 Sec. 16. Section 886, Legislative Bill 463, One Hundredth
12 Legislature, First Session, 2007, is amended to read:

13 Sec. 886. (1) ~~No~~ An optometrist licensed in this state
14 ~~on or after April 30, 1987, shall~~ may use topical ocular
15 pharmaceutical agents for therapeutic purposes authorized under
16 subdivision ~~(1)(e)~~ (1)(b) or (c) of section 877 of this act
17 ~~unless if such person (a) submits to the department evidence of is~~
18 certified by the department, with the recommendation of the board,
19 as qualified to use ocular pharmaceutical agents for therapeutic
20 purposes, including the treatment of glaucoma.

21 (2) Such certification shall require (a) satisfactory
22 completion of a minimum of one hundred hours since January 1, 1984,
23 of which forty hours shall be classroom education and sixty hours
24 shall be supervised clinical training as it applies to optometry
25 with particular emphasis on which emphasizes the examination,
26 diagnosis, and treatment of the eye, ocular adnexa, and visual
27 system offered by a school or college approved by the board, ~~(b)~~

1 ~~passes and passage of an examination approved by the board,~~ (e) ~~has~~
2 ~~been certified by the department, with the recommendation of the~~
3 ~~board, to use topical ocular pharmaceutical agents for therapeutic~~
4 ~~purposes, and (d) has been certified by the department, with the~~
5 ~~recommendation of the board, to use topical ocular pharmaceutical~~
6 ~~agents for diagnostic purposes, or (b) evidence provided by the~~
7 ~~optometrist of certification in another state for the use of~~
8 ~~therapeutic pharmaceutical agents which is deemed by the board as~~
9 ~~satisfactory validation of such qualifications.~~

10 (2) ~~The board may approve for certification pursuant to~~
11 ~~subdivision (1)(a) of this section a therapeutic course or courses~~
12 ~~of instruction, from an institution accredited by a regional or~~
13 ~~professional accrediting organization which is recognized by the~~
14 ~~United States Department of Education, that have been completed~~
15 ~~after January 1, 1984. Such course or courses shall include, but~~
16 ~~not be limited to:~~

17 (a) ~~Review of general pharmacology and therapeutics;~~

18 (b) ~~Review of ocular therapeutic pharmacology;~~

19 (c) ~~Diagnosis and treatment of diseases of the eye,~~
20 ~~ocular adnexa, and visual system;~~

21 (d) ~~Diagnosis of corneal disease and trauma including~~
22 ~~corneal foreign bodies;~~

23 (e) ~~Diagnosis and treatment of anterior segment eye~~
24 ~~diseases;~~

25 (f) ~~Clinical procedures related to the diagnosis and~~
26 ~~treatment of the eye, ocular adnexa, and visual system;~~

27 (g) ~~Ocular manifestations of systemic disease;~~

1 ~~(h) Review of systemic disease syndromes;~~

2 ~~(i) Ocular therapy including management of acute systemic~~
3 ~~emergencies; and~~

4 ~~(j) Consultation criteria in ocular disease and trauma.~~

5 Sec. 17. Section 887, Legislative Bill 463, One Hundredth
6 Legislature, First Session, 2007, is amended to read:

7 Sec. 887. ~~(1) An optometrist who is licensed and~~
8 ~~certified to use pharmaceutical agents for therapeutic purposes~~
9 ~~on July 15, 1998, who graduated from an accredited school of~~
10 ~~optometry prior to January 1, 1996, shall complete the educational~~
11 ~~requirements relative to the treatment of glaucoma, as approved~~
12 ~~by the board, prior to January 1, 2000, and shall complete~~
13 ~~such educational requirements prior to treating glaucoma. Failure~~
14 ~~to complete such education prior to January 1, 2000, shall~~
15 ~~result in the revocation of the licensee's certification to use~~
16 ~~pharmaceutical agents for therapeutic purposes.~~

17 ~~(2) An optometrist who applies for licensure on or~~
18 ~~after July 15, 1998, who graduated from an accredited school of~~
19 ~~optometry prior to January 1, 1996, shall complete the educational~~
20 ~~requirements relative to the treatment of glaucoma, as approved by~~
21 ~~the board, prior to being issued a license to practice optometry.~~

22 ~~(3) An optometrist who graduated from an accredited~~
23 ~~school of optometry after January 1, 1996, shall be deemed to~~
24 ~~have met the educational requirements for certification to use~~
25 ~~pharmaceutical agents for therapeutic purposes which includes the~~
26 ~~treatment and management of glaucoma.~~

27 After January 1, 2000, only an optometrist licensed in

1 this state prior to April 30, 1987, may practice optometry without
2 meeting the requirements and obtaining certification required by
3 sections 15 and 16 of this act.

4 Sec. 18. Section 8, Legislative Bill 236, One Hundredth
5 Legislature, First Session, 2007, is amended to read:

6 Sec. 8. Sections 8 to 19 of this act and section 20 of
7 this act shall be known and may be cited as the Perfusion Practice
8 Act.

9 Sec. 19. Section 12, Legislative Bill 236, One Hundredth
10 Legislature, First Session, 2007, is amended to read:

11 Sec. 12. To be eligible to be licensed as a perfusionist,
12 an applicant shall fulfill the following requirements:

13 ~~(1) Submit a complete application to the department as~~
14 ~~required under the Uniform Licensing Law;~~

15 ~~(2) Pay the fee established and collected as provided in~~
16 ~~sections 71-162 to 71-162.05;~~

17 ~~(3)~~ (1) Submit evidence of successful completion of a
18 perfusion education program with standards established by the
19 Accreditation Committee for Perfusion Education and approved by
20 the Commission on Accreditation of Allied Health Education Programs
21 or a program with substantially equivalent education standards
22 approved by the board; and

23 ~~(4)~~ (2) Submit evidence of successful completion of
24 the certification examinations offered by the American Board of
25 Cardiovascular Perfusion, or its successor, or a substantially
26 equivalent examination approved by the board.

27 Sec. 20. The department shall establish and collect fees

1 for initial licensure and renewal under the Perfusion Practice Act
2 as provided in sections 51 to 57 of Legislative Bill 463, One
3 Hundredth Legislature, First Session, 2007.

4 Sec. 21. Section 897, Legislative Bill 463, One Hundredth
5 Legislature, First Session, 2007, is amended to read:

6 Sec. 897. Sections 897 to 993 of this act and sections
7 31 to 38 of Legislative Bill 236, One Hundredth Legislature, First
8 Session, 2007, shall be known and may be cited as the Pharmacy
9 Practice Act.

10 Sec. 22. Section 932, Legislative Bill 463, One Hundredth
11 Legislature, First Session, 2007, is amended to read:

12 Sec. 932. Pharmacy technician means an individual at
13 least eighteen years of age who is a high school graduate or
14 officially recognized by the State Department of Education as
15 possessing the equivalent degree of education, who has never
16 been convicted of any drug-related misdemeanor or felony, and
17 who, under the written control procedures and guidelines of an
18 employing pharmacy, may perform those functions which do not
19 require professional judgment and which are subject to verification
20 to assist a pharmacist in the practice of pharmacy. registered
21 under sections 31 to 38 of Legislative Bill 236, One Hundredth
22 Legislature, First Session, 2007.

23 Sec. 23. Section 71-1,147, Reissue Revised Statutes of
24 Nebraska, as amended by section 30, Legislative Bill 236, One
25 Hundredth Legislature, First Session, 2007, and section 963,
26 Legislative Bill 463, One Hundredth Legislature, First Session,
27 2007, is amended to read:

1 ~~71-1,147~~ (1) Except as provided for pharmacy technicians
2 in ~~section 986 of this act~~ sections 31 to 38 of this act and
3 for individuals authorized to dispense under a delegated dispensing
4 permit, no person other than a licensed pharmacist, a pharmacist
5 intern, or a practitioner with a pharmacy license shall provide
6 pharmaceutical care, compound and dispense drugs or devices, or
7 dispense pursuant to a medical order. Notwithstanding any other
8 provision of law to the contrary, a pharmacist or pharmacist intern
9 may dispense drugs or devices pursuant to a medical order of
10 a practitioner authorized to prescribe in another state if such
11 practitioner could be authorized to prescribe such drugs or devices
12 in this state.

13 (2) Except as provided for pharmacy technicians in
14 ~~section 986 of this act~~ sections 31 to 38 of this act and
15 for individuals authorized to dispense under a delegated dispensing
16 permit, it shall be unlawful for any person to permit or direct a
17 person who is not a pharmacist intern, a licensed pharmacist, or
18 a practitioner with a pharmacy license to provide pharmaceutical
19 care, compound and dispense drugs or devices, or dispense pursuant
20 to a medical order.

21 (3) It shall be unlawful for any person to coerce
22 or attempt to coerce a pharmacist to enter into a delegated
23 dispensing agreement or to supervise any pharmacy technician for
24 any purpose or in any manner contrary to the professional judgment
25 of the pharmacist. Violation of this subsection by a health care
26 professional regulated pursuant to the Uniform Credentialing Act
27 shall be considered an act of unprofessional conduct. A violation

1 of this subsection by a facility shall be prima facie evidence
2 in an action against the license of the facility pursuant to the
3 Health Care Facility Licensure Act. Any pharmacist subjected to
4 coercion or attempted coercion pursuant to this subsection has a
5 cause of action against the person and may recover his or her
6 damages and reasonable attorney's fees.

7 (4) Violation of this section by an unlicensed person
8 shall be a Class III misdemeanor.

9 Sec. 24. Section 32, Legislative Bill 236, One Hundredth
10 Legislature, First Session, 2007, is amended to read:

11 Sec. 32. (1) A pharmacy technician shall only perform
12 tasks which do not require professional judgment and which are
13 subject to verification to assist a pharmacist in the practice of
14 pharmacy.

15 (2) The functions and tasks which shall not be performed
16 by pharmacy technicians include, but are not limited to:

17 (a) Receiving oral medical orders from a practitioner or
18 his or her agent;

19 (b) Providing patient counseling;

20 (c) Performing any evaluation or necessary clarification
21 of a medical order or performing any functions other than strictly
22 clerical functions involving a medical order;

23 (d) Supervising or verifying the tasks and functions of
24 pharmacy technicians;

25 (e) Interpreting or evaluating the data contained in a
26 patient's record maintained pursuant to section ~~71-1,147.35~~, 965
27 of Legislative Bill 463, One Hundredth Legislature, First Session,

1 2007;

2 (f) Releasing any confidential information maintained by
3 the pharmacy;

4 (g) Performing any professional consultations; and

5 (h) Drug product selection, with regard to an individual
6 medical order, in accordance with the Nebraska Drug Product
7 Selection Act.

8 (3) The director shall, with the recommendation of the
9 board, waive any of the limitations in subsection (2) of this
10 section for purposes of a scientific study of the role of pharmacy
11 technicians approved by the board. Such study shall be based
12 upon providing improved patient care or enhanced pharmaceutical
13 care. Any such waiver shall state the length of the study and
14 shall require that all study data and results be made available
15 to the board upon the completion of the study. Nothing in this
16 subsection requires the board to approve any study proposed under
17 this subsection.

18 Sec. 25. Section 35, Legislative Bill 236, One Hundredth
19 Legislature, First Session, 2007, is amended to read:

20 Sec. 35. (1) A registration to practice as a pharmacy
21 technician may be denied, refused renewal, removed, or suspended
22 or have other disciplinary measures taken against it by the
23 department, with the recommendation of the board, for failure to
24 meet the requirements of or for violation of sections 31 to 38 of
25 this act or the rules and regulations adopted under such sections.

26 (2) If the department proposes to deny, refuse renewal
27 of, or remove or suspend a registration, it shall send the

1 applicant or registrant a notice setting forth the action to be
2 taken and the reasons for the determination. The denial, refusal to
3 renew, removal, or suspension shall become final thirty days after
4 mailing the notice unless the applicant or registrant gives written
5 notice to the department of his or her desire for an informal
6 conference or for a formal hearing.

7 (3) Notice may be served by any method specified in
8 section 25-505.01, or the department may permit substitute or
9 constructive service as provided in section 25-517.02 when service
10 cannot be made with reasonable diligence by any of the methods
11 specified in section 25-505.01.

12 (4) Pharmacy technicians may participate in the
13 Licensee Assistance Program described in section ~~71-172.01~~, 75 of
14 Legislative Bill 463, One Hundredth Legislature, First Session,
15 2007.

16 Sec. 26. Section 36, Legislative Bill 236, One Hundredth
17 Legislature, First Session, 2007, is amended to read:

18 Sec. 36. (1) If a pharmacy technician performs
19 functions requiring professional judgment and licensure as a
20 pharmacist, performs functions not specified under approved written
21 control procedures and guidelines, or performs functions without
22 supervision and such acts are known to the pharmacist supervising
23 the pharmacy technician or the pharmacist in charge or are of such
24 a nature that they should have been known to a reasonable person,
25 such acts may be considered acts of unprofessional conduct on the
26 part of the pharmacist supervising the pharmacy technician or the
27 pharmacist in charge pursuant to section ~~71-147~~, 78 of Legislative

1 Bill 463, One Hundredth Legislature, First Session, 2007, and
2 disciplinary measures may be taken against such pharmacist
3 supervising the pharmacy technician or the pharmacist in charge
4 pursuant to the Uniform ~~Licensing Law~~ Credentialing Act.

5 (2) Acts described in subsection (1) of this section
6 may be grounds for the department, with the recommendation of the
7 board, to apply to the district court in the judicial district in
8 which the pharmacy is located for an order to cease and desist
9 from the performance of any unauthorized acts. On or at any time
10 after such application the court may, in its discretion, issue an
11 order restraining such pharmacy or its agents or employees from the
12 performance of unauthorized acts. After a hearing the court shall
13 either grant or deny the application. Such order shall continue
14 until the court, after a hearing, finds the basis for such order
15 has been removed.

16 Sec. 27. Section 42, Legislative Bill 236, One Hundredth
17 Legislature, First Session, 2007, is amended to read:

18 Sec. 42. Sections 39 to 41 of this act do not apply to
19 the performance of health maintenance activities by designated care
20 aides pursuant to section ~~71-1,132.30~~ 775 of Legislative Bill 463,
21 One Hundredth Legislature, First Session, 2007, or to persons who
22 provide personal assistant services, respite care or habilitation
23 services, or aged and disabled services.

24 Sec. 28. Sections 10, 11, 12, 13, 14, 15, 16, 17, 18,
25 19, 20, 21, 22, 23, 24, 25, 26, 27, 30, and 31 of this act become
26 operative on December 1, 2008. The other sections of this act
27 become operative on their effective date.

1 Sec. 29. Original sections 71-193.15, 71-193.17, and
2 71-2421, Reissue Revised Statutes of Nebraska, and sections 28-401,
3 28-405, 28-412, 71-1,147.35, 71-5403, and 71-7438, Revised Statutes
4 Cumulative Supplement, 2006, are repealed.

5 Sec. 30. Original section 71-1,135.02, Reissue Revised
6 Statutes of Nebraska, as amended by section 23, Legislative
7 Bill 236, One Hundredth Legislature, First Session, 2007, and
8 section 885, Legislative Bill 463, One Hundredth Legislature,
9 First Session, 2007; section 71-1,147, Reissue Revised Statutes
10 of Nebraska, as amended by section 30, Legislative Bill 236,
11 One Hundredth Legislature, First Session, 2007, and section 963,
12 Legislative Bill 463, One Hundredth Legislature, First Session,
13 2007; section 71-1,200, Reissue Revised Statutes of Nebraska,
14 as amended by section 130, Legislative Bill 463, One Hundredth
15 Legislature, First Session, 2007, and section 1, Legislative
16 Bill 152, One Hundredth Legislature, First Session, 2007; section
17 71-101, Revised Statutes Cumulative Supplement, 2006, as amended
18 by section 296, Legislative Bill 296, One Hundredth Legislature,
19 First Session, 2007, section 1, Legislative Bill 463, One Hundredth
20 Legislature, First Session, 2007, section 1, Legislative Bill 236,
21 One Hundredth Legislature, First Session, 2007, and section 1,
22 Legislative Bill 481, One Hundredth Legislature, First Session,
23 2007; section 71-102, Revised Statutes Cumulative Supplement, 2006,
24 as amended by section 297, Legislative Bill 296, One Hundredth
25 Legislature, First Session, 2007, section 21, Legislative Bill 463,
26 One Hundredth Legislature, First Session, 2007, and section 2,
27 Legislative Bill 236, One Hundredth Legislature, First Session,

1 2007; section 71-104.01, Revised Statutes Cumulative Supplement,
2 2006, as amended by section 31, Legislative Bill 463, One Hundredth
3 Legislature, First Session, 2007, and section 2, Legislative Bill
4 481, One Hundredth Legislature, First Session, 2007; sections
5 125, 886, 887, 897, and 932, Legislative Bill 463, One Hundredth
6 Legislature, First Session, 2007; and sections 8, 12, 32, 35, 36,
7 and 42, Legislative Bill 236, One Hundredth Legislature, First
8 Session, 2007, are repealed.

9 Sec. 31. The following sections are outright repealed:
10 Sections 71-1,135.03, 71-1,135.05, and 71-1,147.34, Reissue Revised
11 Statutes of Nebraska, as amended by sections 888, 873, and 987,
12 respectively, Legislative Bill 463, One Hundredth Legislature,
13 First Session, 2007; section 71-1,147.33, Revised Statutes
14 Cumulative Supplement, 2006, as amended by section 986, Legislative
15 Bill 463, One Hundredth Legislature, First Session, 2007; and
16 section 15, Legislative Bill 236, One Hundredth Legislature, First
17 Session, 2007.

18 3. Renumber the remaining sections accordingly.